

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66911; File No. SR-ICEEU-2012-05)

May 3, 2012

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change to Amend the ICE Clear Europe Limited CDS Procedures, Finance Procedures, and Rules With Respect to the Calculation and Payment of Interest on Mark-To-Market Margin on CDS Transactions

I. Introduction

On March 12, 2012, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-ICEEU-2012-05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).<sup>1</sup> The proposed rule change was published for comment in the Federal Register on March 26, 2012.<sup>2</sup> The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICE Clear Europe proposed rule and CDS procedural amendments intended to modify the terms of the calculation and payment of interest on mark-to-market margin for CDS transactions. The amendments will provide further detail for calculation of interest on mark-to-market margin for CDS at the position level, but will not change the overall calculation of that interest. The amendments will also move payment of such interest from a monthly to a daily basis.

The proposed rule changes consist of operational changes to the Rules, CDS Procedures and Finance Procedures in relation to the calculation and payment of interest on the mark-to-

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> Securities Exchange Act Release No. 34-66629 (March 20, 2012), 77 FR 17537 (March 26, 2012).

market margin for CDS transactions on a daily basis. The amendments also clarify, consistent with ICE Clear Europe's current practice, that mark-to-market margin and variation margin may be required to be provided by the clearing member to the clearing house or vice versa. ICE Clear Europe consulted on the proposed rule changes with its CDS Risk Committee, which supports the proposed rule changes.

ICE Clear Europe proposed to update Parts 1 and 3 of its CDS Procedures to state more clearly the daily calculation of interest on mark-to-market margin for CDS transactions and to provide further detail about such calculations. The new definitions of "Daily Aggregate MTM Interest Amount," "Mark-to-Market Interest," and "Mark-to-Market Margin Balance" and the provisions of Part 3 of the CDS Procedures reflect these changes. "Daily Aggregate MTM Interest Amount" means for any Clearing Member for a currency on any day the sum of the Mark-to-Market Margin Balances in such currency for that day in respect of that Clearing Member. The Daily Aggregate MTM Interest Amount will be determined separately in respect of the Clearing Member's Proprietary Account and any relevant customer account. Where the Daily Aggregate MTM Interest Amount is positive, it will be owed by ICE Clear Europe to the relevant Clearing Member; where it is negative, the relevant Clearing Member will owe the absolute value of the Daily Aggregate MTM Interest Amount to ICE Clear Europe. "Mark-to-Market Interest" will mean interest calculated daily in accordance with the market convention for the relevant currency by applying the applicable overnight rate. "Mark-to-Market Margin Balance" will mean the sum of all Mark-to-Market Margin delivered up to, but excluding that day, by the relevant Clearing Member in respect of such CDS Contract to ICE Clear Europe less all Mark-to-Market Margin delivered up to, but excluding that day, by ICE Clear Europe in respect of such CDS Contract to such Clearing Member, as determined at the close of business

on such day. Pursuant to the amendments to Section 3.1 of the CDS Procedures and 6.11(h)(iv) of the Finance Procedures, interest on Mark-to-Market Margin will be payable on a daily, rather than a monthly basis, although the interest calculation is substantially unchanged.

### III. Discussion

Section 19(b)(2)(C) of the Act<sup>3</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act<sup>4</sup> requires, among other things, that the rules of a clearing agency be designed to promote the safeguarding of securities and funds, which are in the custody or control of the clearing agency or for which it is responsible.

By amending rules and procedures which allow ICE Clear Europe to effectively manage risk, the proposed rule change will assure the safeguarding of securities and funds, which are in the custody or control of ICE Clear Europe or for which it is responsible. As a result, the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder.

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<sup>3</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (File No. SR-ICEEU-2012-05) be, and hereby is, approved.<sup>7</sup>

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Kevin O'Neill  
Deputy Secretary

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<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 17 CFR 200.30-3(a)(12).