

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70201; File No. SR-ICEEU-2013-11)

August 14, 2013

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Related to Enhanced Margin and Guaranty Fund Methodology

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 14, 2013, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed changes as described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe proposes to adopt changes to the enhanced margin and guaranty fund methodology (the “Decomp Model”)<sup>3</sup> of ICE Clear Europe Limited (“ICE Clear Europe”) for cleared credit default swaps (“CDS”) that address specific wrong way risk from cleared index CDS positions and the liquidation period used in determining the initial margin requirement for customer CDS positions.

ICE Clear Europe has developed its Decomp Model, as previously approved by the Commission, to permit appropriate portfolio margining between related index and single-name

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission has previously approved the Decomp Model. See Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Enhanced Margin Methodology, Exchange Act Release No. 34-68955 (Feb. 20, 2013), 78 Fed. Reg. 13130 (Feb. 26, 2013) (SR-ICEEU-2012-11).

CDS positions by recognizing that index CDS instruments are for risk management purposes essentially a composition of specific single-name CDS.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for proposing changes to the Decomp Model. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In anticipation of the launch of customer clearing in CDS, and in furtherance of the ongoing European regulatory reform program designed to improve the safety and soundness of the European derivatives markets, ICE Clear Europe proposes to adopt certain enhancements to the Decomp Model to address so-called specific wrong-way risk ("Specific Wrong-Way Risk"), which is additional risk arising from the fact that certain index CDS contracts include as reference entities Clearing Members or affiliates of Clearing Members ("self-referencing CDS"). Although ICE Clear Europe does not permit a Clearing Member to enter into or maintain a single-name CDS referencing itself or an affiliate, a self-referencing CDS position may arise through an index CDS where the Clearing Member or an affiliate is a component of the index.

Under the enhancements to the Decomp Model, ICE Clear Europe will require an additional contribution to the CDS Guaranty Fund from those Clearing Members that present Specific Wrong-Way Risk, up to a defined threshold. The additional Guaranty Fund contribution amount is based on the highest uncollateralized loss-given-default exposure among

any of such self-referencing CDS positions of Clearing Members. In addition, each such Clearing Member will be required to provide additional initial margin to collateralize any Specific Wrong-Way Risk presented by its positions in excess of such threshold.

The proposed amendments would also enhance the CDS Guaranty Fund calculation methodology to cover the uncollateralized losses that would result from up to five single names - two Clearing Members and three other single names - that would cause the greatest losses when entering a state of default. Consequently, the amount of uncollateralized loss may increase in cases when the Clearing Members chosen to size the Guaranty Fund are reference entities in index CDS contracts.

ICE Clear Europe also proposes to change the liquidation period for calculation of initial margin for customer CDS positions. Currently, the Decomp Model provides portfolio risk coverage against at least 5-day market realizations. ICE Clear Europe intends to facilitate porting of client positions for a period of 2 days following the default of a Clearing Member. In order to account for situations when it may not be possible to port after the initial porting period, resulting in liquidation, the risk horizon for liquidation of customer CDS portfolios would be extended to 7 days. The increased liquidation period used in determining the initial margin requirement for customer CDS positions will only apply to the spread response, basis and interest rate risk components.

The ICE Clear Europe CDS Risk Policy, the CDS Risk Model Description methodology document, CDS Back-Testing Framework and CDS Default Management Framework have been updated to account for the above mentioned enhancements.

ICE Clear Europe believes that the changes will facilitate the prompt and accurate settlement and risk management of security-based swaps and contribute to the safeguarding of

securities and funds associated with security-based swap transactions. ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition.

ICE Clear Europe believes that the amendments are consistent with the requirements of Section 17A<sup>4</sup> of the Act and regulations thereunder applicable to it, including the standards under Rule 17Ad-22.<sup>5</sup> In particular, the amendments will enhance the clearinghouse's margin methodology by more accurately addressing Specific Wrong Way Risk presented by index CDS positions of Clearing Members. They will also enhance the Guaranty Fund calculation methodology, and adjust the liquidation period for customer positions used in calculating initial margin for CDS. In ICE Clear Europe's view, the amendments will therefore promote the prompt and accurate clearance and settlement of securities transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>6</sup> Furthermore, the revisions will enhance ICE Clear Europe's financial resources, consistent with the requirements of Rule 17Ad-22(b),<sup>7</sup> by requiring additional initial margin and CDS Guaranty Fund contributions to address Specific Wrong Way Risk. They will also promote the efficient use of margin for the clearinghouse and its clearing members and their customers, by enabling the clearinghouse to provide appropriate portfolio margining treatment between single-name and index CDS positions. The other amendments will similarly enhance ICE Clear Europe's

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<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 17 CFR 240.17Ad-22.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 17 CFR 240.17Ad-22(b).

financial resources, but adjusting the CDS Guaranty Fund contribution methodology and increasing the liquidation horizon for customer positions.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any material impact, or impose a material burden, on competition, and further believes that any such impact is necessary and appropriate in furtherance of the Act. The proposed amendments are intended to enhance the margin and Guaranty Fund methodology for CDS to address certain risks, including Specific Wrong Way Risk presented by Clearing Members, as discussed above, and to adjust the liquidation horizon to a level that ICE Clear Europe believes appropriate for default management purposes. Although the amendments may result in an increase in margin and/or Guaranty Fund levels applicable to Clearing Members and their customers as a result of these risks, ICE Clear Europe believes that these changes will properly align margin and Guaranty Fund levels to the risks presented by Clearing Members and their customers. As a result, ICE Clear Europe is of the view that these changes are necessary and appropriate in furtherance of the Act and the Commission's regulations thereunder, including the financial resources and risk management requirements of Rule 17Ad-22.<sup>8</sup> Furthermore, ICE Clear Europe does not believe that the proposed changes, and any such resulting increase in margin or Guaranty Fund requirements, would significantly affect the ability of Clearing Members or other market participants to continue to clear CDS, consistent with the risk management requirements of the clearing house, or otherwise limit market participants' choices for selecting clearing services. For the foregoing reasons, the proposed changes do not, in ICE Clear Europe's view, impose any unnecessary or inappropriate burden on competition.

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<sup>8</sup> 17 CFR 240.17Ad-22.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, CDS Clearing Members or Others

ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe. As noted above, ICE Clear Europe has consulted extensively with CDS Clearing Members and others in developing changes to the Decomp Model.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2013-11 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICEEU-2013-11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at [https://www.theice.com/publicdocs/regulatory\\_filings/ICEU\\_SEC\\_081313.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEU_SEC_081313.pdf).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2013-11 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).