

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-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.

*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>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.

<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).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66916; File No. SR-ICC-2012-03]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Reduce the Current Level of Risk Mutualization Among Clearing Participants and To Modify the Initial Margin Risk Model So That It Is Easier for Clearing Participants To Measure Their Recovery Rate Risk Exposure

May 3, 2012.

#### I. Introduction

On March 8, 2012, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICC-2012-03 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> The proposed rule change was published for comment in the **Federal Register** on March 26, 2012.<sup>3</sup> The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

This rule change permits ICC to make two modifications to its risk model for clearing credit default swaps ("CDS") contracts. For the first modification ("Modification #1"), ICC is reducing the current level of risk mutualization among its clearing participants by modifying its initial margin model to collateralize the loss that would occur from the single name CDS that causes the greatest loss entering a state of default. For the second modification ("Modification #2"), ICC is modifying its initial margin model to make clearing participants' risk requirements more transparent by removing the conditional recovery rate stress-scenarios and adding a new standalone recovery rate sensitivity component that is computed by considering changes in recovery rate assumptions and their impact on the net asset value of the clearing portfolio.

ICC represents that Modification #1 will reduce the level of default resources held in ICC's mutualized guaranty fund and increase the level of default resources held in initial margin. ICC is implementing this by incorporating into its initial margin

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

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

<sup>3</sup> Securities Exchange Act Release No. 34-66631 (March 20, 2012), 77 FR 17536 (March 26, 2012).

model the single name CDS that causes the greatest loss when entering a state of default (*i.e.*, the single name CDS that results in the greatest amount of loss when stress-tested). This change collateralizes the loss that would occur from the single name CDS that causes the greatest loss entering a state of default. Consequently, the amount of uncollateralized loss that would result from the three single name CDS contracts causing the greatest cumulative losses when entering a state of default is reduced, thereby reducing the amount of required guaranty fund contributions from clearing participants. ICC represents that the decrease in the guaranty fund and the increase in initial margin requirements are not symmetrical. Instead, based upon current portfolios, ICC approximates that for every \$1 decrease to the guaranty fund there will be a corresponding increase to the initial margin requirements of approximately \$5.

ICC represents that Modification #2 will make it easier for clearing participants to evaluate the risk of their CDS clearing portfolio as measured by the impact of changing recovery rate assumptions. ICC is implementing this by removing the conditional recovery rate stress-scenarios and adding a new standalone recovery rate sensitivity component that is computed by considering changes in recovery rate assumptions that impact the net asset value of the CDS clearing portfolio. ICC argues that by making it easier for market participants to measure their risk, Modification #2 is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it.

### III. Discussion

Section 19(b)(2)(C) of the Act<sup>4</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>5</sup> requires, among other things, that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of

the clearing agency or for which it is responsible.

Modification #1 will require each clearing participant to collateralize its greatest single name CDS exposure that it creates for other clearing participants. As such, Modification #1 will require clearing participants to bear a greater portion of the loss resulting from their default and also increases the amount of risk requirements ICC collects, thereby assuring the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible. Modification #2 will require ICC to separately estimate requirements using various recovery rate assumptions and improve the ability of clearing participants to identify the impact of considering various changes to recovery rate assumptions on the net asset value of their CDS clearing portfolios, thereby removing an impediment to the prompt and accurate clearance and settlement of securities transactions.

### 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>6</sup> and the rules thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-ICC-2012-03) be, and hereby is, approved.<sup>8</sup>

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

**Kevin O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66915; File No. SR-NASDAQ-2012-053]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Investor Support Program Under Rule 7014 and To Amend NASDAQ's Schedule of Execution and Routing Fees and Rebates Under Rule 7018

May 3, 2012.

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 April 25, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASDAQ proposes to modify the Investor Support Program under Rule 7014, and to amend NASDAQ's schedule of execution and routing fees and rebates under Rule 7018. NASDAQ will implement the proposed change on May 1, 2012. The text of the proposed rule change is available at [nasdaq.cchwallstreet.com](http://nasdaq.cchwallstreet.com), at NASDAQ's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</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>9</sup> 17 CFR 200.30-3(a)(12).

<sup>4</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

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

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