

the Commission summarily may temporarily suspend a proposed rule change changing a TAF rate filed pursuant to Section 19(b)(3)(A) of the Act within 60 days of filing “if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of [the Act].”<sup>16</sup> As noted above, FINRA anticipates filing proposed changes to TAF rates (either to increase or to decrease a rate) only when necessary to account for changes in trading volume with the goal of making the TAF revenue-neutral for FINRA (i.e., FINRA aims to receive a substantially similar amount in revenue from the TAF from year to year).

The effective date of the proposed rule change will be July 1, 2012. FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice*.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>17</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Because of the recent decrease in trading volumes in the equity markets described above, FINRA believes that the proposed rate change to the TAF is now necessary to ensure that FINRA can continue to maintain a robust regulatory program and meet its regulatory obligations effectively while attempting to remain revenue neutral.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

## 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 (i)

as the Commission may designate up to 90 days of such date 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 such 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-023 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-FINRA-2012-023. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 the filing will also be available for inspection and copying at principal office of FINRA. 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 publicly available. All submissions should refer to File Number SR-FINRA-2012-023 and should be submitted on or before May 31, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66922; File No. SR-ICC-2012-05]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Granting Accelerated Approval of Proposed Rule Change to Membership Qualifications

May 4, 2012.

## I. Introduction

On April 3, 2012, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-ICC-2012-05 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 April 12, 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 on an accelerated basis.

## II. Description

The purpose of proposed rule change is to revise Rule 201(b)(ii) to incorporate the Commodity Futures Trading Commission (“CFTC”) mandated \$50,000,000 minimum adjusted net capital requirement for all ICC Clearing Participants. For a Participant that is not a Futures Commission Merchant (“FCM”) or a Broker-Dealer, there is no standard equivalent to “adjusted net capital” which can be utilized across all

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<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. 34-66766 (April 6, 2012), 77 FR 22019 (April 12, 2012). In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements is incorporated into the discussion of the proposed rule change in Section II below.

<sup>16</sup> 15 U.S.C. 78s-3(b)(3)(C) [sic].

<sup>17</sup> 15 U.S.C. 78o-3(b)(5).

types of Clearing Participant entities. Therefore, Rule 201(b)(ii)(C) places the burden on the Clearing Participant to demonstrate that its capital exceeds the capital requirement that would be applicable to it if it were an FCM, as determined pursuant to a methodology acceptable to ICC.

In addition, in order to promote compliance with the capital adequacy requirements, Rule 201(b)(i) is amended to provide that a Clearing Participant must be regulated for capital adequacy by a competent authority such as the CFTC, SEC, Federal Reserve Board, Office of the Comptroller of the Currency, U.K. Financial Services Authority, or any other regulatory body ICC designates from time to time for this purpose, or is an affiliate of an entity that satisfies the capital adequacy regulatory requirement and is subject to consolidated holding company group supervision.

Further, ICC is revising Rule 209 (Risk-Based Capital Requirement) to provide that if at any time and for so long as a Clearing Participant has a required contribution to the ICC General Guaranty Fund that exceeds 25% of its "excess net capital," ICC may (in addition to imposing the trading activity limitations provided for in ICC Rule 203(b)) require such Clearing Participant to prepay and maintain with ICE Clear Credit an amount up to the Clearing Participant's assessment obligation. ICC Rule 102, the definitional section of the Rules, has been amended to define "excess net capital" as the amount reported on Form 1-FR-FCM or FOCUS Report or as otherwise reported to the CFTC under CFTC Rule 1.12. For a Participant that is not an FCM or a Broker-Dealer, there is no standard equivalent to "excess net capital" which can be utilized across all types of Clearing Participant entities. Therefore, Rule 102 places the burden on the Clearing Participant to demonstrate that its capital exceeds the capital requirement that would be applicable to it if it were an FCM, as determined pursuant to a methodology acceptable to ICC.

ICC believes that its membership qualification changes are in compliance with CFTC Regulations 39.12(a)(2)(ii) and 39.12(a)(2)(iii).

### III. Discussion

Section 19(b)(2)(B) 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. In particular, Section 17A(b)(3)(F) of the Act<sup>5</sup> requires that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts, and transactions.

The proposed change would allow ICC to expand the base of potential clearing members by lowering the net capital threshold for membership, thereby promoting the prompt and accurate clearance and settlement of securities transactions, and derivative agreements, contracts, and transactions.

Further, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because as a registered DCO ICC is required to comply with the new CFTC regulations 39.12(a)(2)(ii) and 39.12(a)(2)(iii) by the time they become effective on May 7, 2012.

### 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 and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-ICC-2012-05) is approved on an accelerated basis.<sup>8</sup>

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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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66914; File No. SR-CME-2012-16]

### Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend Rules Regarding CDS Clearing Member Obligations and Qualifications

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 23, 2012, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II, below, which items have been prepared substantially by CME. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

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

CME proposes to amend certain of its rules to comply with pending revisions to the CFTC Regulations. The text of the proposed rule change is available at the CME's Web site at <http://www.cmegroup.com>.

#### 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 and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission ("CFTC") and operates a

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

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

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

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

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