

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 such filing also will be available for inspection and copying at the principal office of NASDAQ. 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-NASDAQ-2012-129 and should be submitted on or before December 28, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

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

[FR Doc. 2012-29563 Filed 12-6-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68338; File No. SR-ICC-2012-22]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Schedule 502 of the ICC Rules To Update the Contract Reference Obligation ISIN Associated With One Single Name Contract

December 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 November 19, 2012, ICE Clear Credit LLC ("ICC") 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 primarily by ICC. ICC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(3)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. 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 Substance of the Proposed Rule Change

The purpose of the proposed rule change is to update the Contract Reference Obligation International Securities Identification Number ("Contract Reference Obligation ISIN") in Schedule 502 of the ICE Clear Credit Rules in order to be consistent with the industry standard reference obligation for one single name contract that ICC currently clears (Kimco Realty Corporation).

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

In its filing with the Commission, ICC 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 these statements may be examined at the places specified in Item IV below. ICC 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

ICC is updating the Contract Reference Obligation ISIN for Kimco Realty Corporation in order to remain consistent with the industry standard reference obligation. Also, the Contract Reference Obligation ISIN update does not require any changes to the ICC risk management framework. The only change being submitted is the update to the Contract Reference Obligation ISIN for Kimco Realty Corporation in Schedule 502 of the ICC Rules.

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 promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, with Section 17A(b)(3)(F),<sup>6</sup> because the update to the Contract Reference Obligation ISIN for Kimco Realty Corporation will facilitate the prompt and accurate settlement of securities transactions and contribute to the safeguarding of securities and funds

associated with swap transactions which are in the custody or control of ICC or for which it is responsible. ICC is updating the Contract Reference Obligation ISIN for Kimco Realty Corporation in order to ensure that Clearing Participants are informed of the Contract Reference Obligation ISIN update.

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

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

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

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii)<sup>7</sup> of the Act and Rule 19b-4(f)(3)<sup>8</sup> thereunder because it is concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change 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>9</sup>

#### 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-ICC-2012-22 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>24</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

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

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

Securities and Exchange Commission,  
100 F Street NE., Washington, DC  
20549-1090.

All submissions should refer to File Number SR-ICC-2012-22. 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at [https://www.theice.com/publicdocs/regulatory\\_filings/ICEClearCredit\\_111912.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_111912.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-ICC-2012-22 and should be submitted on or before December 28, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68343; File No. SR-NASDAQ-2012-118]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change To Modify Certain Disclosure Requirements To Require Issuers To Publicly Describe the Specific Basis and Concern Identified by Nasdaq When a Listed Issuer Does Not Meet a Listing Standard and Give Nasdaq the Authority To Make a Public Announcement When a Listed Issuer Fails To Make a Public Announcement

December 3, 2012.

#### I. Introduction

On October 3, 2012, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to modify certain disclosure requirements surrounding a listed issuer's non-compliance with the Exchange's listing rules and give the Exchange the authority to issue a public announcement when a listed issuer fails to do so. The proposed rule change was published in the **Federal Register** on October 19, 2012.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

Before an issuer lists its securities on the Exchange for trading, the issuer and the securities must meet the Exchange's initial listing standards.<sup>4</sup> These standards include, among other things, minimum financial standards such as total market value, stock price, the number of publicly traded shares, and corporate governance standards to ensure transparency and accountability to the issuer's stakeholders. Once the securities are listed for trading, the issuer and the securities would need to meet the Exchange's continued listing standards to remain listed on the Exchange.<sup>5</sup>

In addition to the quantitative and corporate governance listing standards, Nasdaq Rule 5101 also gives the Exchange discretion to deny listing or

continued listing based on any event or condition that makes such listing or continued listing inadvisable or unwarranted, even though the securities meet all enumerated standards.<sup>6</sup> Nasdaq rules discuss in more detail the use of such discretion and state that the Exchange may deny initial or continued listing because it has concluded that " \* \* \* a public interest concern is so serious that no remedial measure would be sufficient to alleviate it."<sup>7</sup>

Nasdaq rules provide that when a listed issuer does not meet the Exchange's continued listing standards, Nasdaq would immediately notify the issuer of the deficiency.<sup>8</sup> The Exchange notification consists of: (1) Staff delisting determination which subjects the issuer and its securities to immediate suspension and delisting, unless appealed; (2) notification of deficiency for which the issuer may submit a plan of compliance; (3) notification of deficiency for which the issuer is entitled to automatic cure or compliance period; or (4) public reprimand letters (collectively "Nasdaq Staff Determinations"). After a listed issuer receives a Nasdaq Staff Determination, Nasdaq rules require the issuer to make a public announcement disclosing receipt of the notification and the Exchange rules upon which the Nasdaq Staff Determination is based.<sup>9</sup>

Currently, the Exchange's rules require the listed issuer, after receiving a Nasdaq Staff Determination, to make a public announcement by filing a Form 8-K when required by Commission rules or by issuing a press release disclosing receipt of the Nasdaq Staff Determination and the Exchange rules upon which the deficiency is based.<sup>10</sup>

In its proposal, the Exchange stated that some issuers comply with this

<sup>6</sup> See Nasdaq Rule 5101.

<sup>7</sup> See Nasdaq Rule IM-5101-1.

<sup>8</sup> See Nasdaq Rule 5810.

<sup>9</sup> See Nasdaq Rule 5815(b). Nasdaq rules also provide for review and/or appeals. See Nasdaq Rule 5800 series. The Exchange's listing qualification department would notify the issuer of the deficiency. See Nasdaq Rule 5810. Thereafter, the Exchange's hearing panel, if requested by the issuer on a timely basis, would review the delisting determination at a hearing. See Nasdaq Rule 5815. The Exchange's listing and hearings review council could review the decision of the Exchange's hearing panel, either on its own or through the appeal of the issuer. See Nasdaq Rule 5820. Lastly, the Exchange's board of directors could review the decision of the Exchange's review council. See Nasdaq Rule 5825.

<sup>10</sup> See Nasdaq Rules 5250(b)(2), 5810(b) and IM-5810. The Commission notes that under Nasdaq Rule 5810, an issuer that is late in filing a periodic report must issue a press announcement by issuing a press release disclosing receipt of the Nasdaq Staff Determination and the Nasdaq rules upon which the deficiency is based, in addition to filing any Form 8-K as required by Commission rules.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 34-68053 (October 15, 2012), 77 FR 64369.

<sup>4</sup> See Nasdaq Rule 5000 series.

<sup>5</sup> See *id.*

<sup>10</sup> 17 CFR 200.30-3(a)(12).