

proposed rule change (SR-NYSEArca-2012-94) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68482; File No. SR-ICC-2012-24]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Add Rules Related to the Clearing of European Corporate Single-Name CDS

December 19, 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 December 6, 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. 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 adopt new rules that will provide the basis for ICC to clear additional credit default swap contracts. Specifically, ICC is proposing to amend Chapters 20 and 26 and Schedule 401 and Schedule 502 of its rules as well as make corresponding changes to the applicable ICC Policies and Procedures to provide for the clearance of standard single-name CDS Contracts referencing European corporate reference entities ("European SN Contracts").

ICC proposes to amend Chapter 20 of its rules to remove definitions that are included in Chapter 26E of the rules.

ICC proposes to amend Section 26E of its rules to include certain additional provisions relevant to the treatment of restructuring credit events under iTraxx Europe Index CDS ("iTraxx Contracts") and European SN Contracts.

ICC proposes to add new Section 26G to provide for the clearance of European

SN Contracts. As discussed in more detail in Item II.A below, new Section 26G provides for the definitions and certain specific contracts terms for cleared European SN Contracts.

ICC will update Schedule 401 of its Rules (Eligible Collateral & Thresholds), as applicable, with respect to Initial Margin and Guaranty Fund liquidity requirements for Non-Client and Client-Related positions for both US Dollar and Euro denominated products.

ICC will also update Schedule 502 of its Rules (Cleared Products List) to incorporate the additional cleared products. Upon Commission approval, ICC plans to provide for the clearance of the following European SN Contracts: Centrica Plc; E.ON AG; ENEL S.P.A.; EDISON S.P.A.; EDP—Energias de Portugal S.A.; ELECTRICITE DE FRANCE; EnBW Energie Baden-Wuerttemberg AG; Fortum Oyj; Adecco S.A.; Aktiebolaget Volvo; ALSTOM; BRITISH TELECOMMUNICATIONS public limited company; COMPAGNIE DE SAINT-GOBAIN; Deutsche Telekom AG; FRANCE TELECOM; GAS NATURAL SDG, S.A.; GDF SUEZ; HELLENIC TELECOMMUNICATIONS ORGANISATION SOCIETE ANONYME; IBERDROLA, S.A.; Koninklijke KPN N.V.; NATIONAL GRID PLC; Portugal Telecom International Finance B.V.; RWE Aktiengesellschaft; TELECOM ITALIA SPA; TELEFONICA, S.A.; Telekom Austria Aktiengesellschaft; TELENOR ASA; TeliaSonera Aktiebolag; UNITED UTILITIES PLC; Vattenfall Aktiebolag; VEOLIA ENVIRONNEMENT; VIVENDI; VODAFONE GROUP PUBLIC LIMITED COMPANY; Deutsche Post AG; European Aeronautic Defence and Space Company EADS N.V.; FINMECCANICA S.P.A.; Holcim Ltd; ROLLS-ROYCE plc; Siemens Aktiengesellschaft; PostNL N.V.; REPSOL, S.A.; Bayerische Motoren Werke Aktiengesellschaft; BRITISH AMERICAN TOBACCO p.l.c.; Daimler AG; DANONE; DIAGEO PLC; Koninklijke Philips Electronics N.V.; LVMH MOET HENNESSY LOUIS VUITTON; Nestle S.A.; Svenska Cellulosa Aktiebolaget SCA; Unilever N.V.; VOLKSWAGEN AKTIENGESELLSCHAFT; ACCOR; Bertelsmann AG; CARREFOUR; CASINO GUICHARD-PERRACHON; COMPASS GROUP PLC; EXPERIAN FINANCE PLC; GROUPE AUCHAN; J SAINSBURY plc; Koninklijke Ahold N.V.; MARKS AND SPENCER p.l.c.; METRO AG; NEXT PLC; PEARSON plc; PPR; PUBLICIS GROUPE SA; REED ELSEVIER PLC; SAFEWAY LIMITED; SODEXO; TESCO PLC; Wolters Kluwer N.V.; WPP 2005 LIMITED; AKZO Nobel

N.V.; Anglo American plc; ArcelorMittal; BASF SE; Glencore International AG; Henkel AG & Co. KGaA; Koninklijke DSM N.V.; LANXESS Aktiengesellschaft; Linde Aktiengesellschaft; Solvay; XSTRATA PLC; STMicroelectronics N.V.; Bayer Aktiengesellschaft; SANOFI; Aegon N.V.; Allianz SE; ASSICURAZIONI GENERALI—SOCIETA PER AZIONI; AVIVA PLC; AXA; BANCA MONTE DEI PASCHI DI SIENA S.P.A.; BANCO BILBAO VIZCAYA ARGENTARIA, SOCIEDAD ANONIMA; Banco Espirito Santo, S.A.; BANCO SANTANDER, S.A.; Bank of Scotland plc; INTESA SANPAOLO SPA; JTI (UK) FINANCE PLC; Swiss Reinsurance Company Ltd; Zurich Insurance Company Ltd; Compagnie Financiere Michelin; L'AIR LIQUIDE SOCIETE ANONYME POUR L'ETUDE ET L'EXPLOITATION DES PROCEDES GEORGES CLAUDE; BAE SYSTEMS PLC; BOUYGUES; BP P.L.C.; IMPERIAL TOBACCO GROUP PLC; KINGFISHER PLC; Suedzucker Aktiengesellschaft Mannheim/Ochsenfurt; Swedish Match AB; TECHNIP; IMPERIAL CHEMICAL INDUSTRIES LIMITED; ALTADIS SA; BRITISH SKY BROADCASTING GROUP PLC; Aktiebolaget Electrolux; THALES; Metso Oyj; Muenchener Rueckversicherungs-Gesellschaft Aktiengesellschaft in Muenchen; Syngenta AG; TATE & LYLE PUBLIC LIMITED COMPANY; and TOTAL SA.

ICC also updated its Policies and Procedures to provide for the clearance of European SN Contracts, specifically the ICC Treasury Operations Policies & Procedures, ICC Risk Management Framework and ICC End-of-Day ("EOD") Price Discovery Policies and Procedures.

Consistent with the changes to Schedule 401 of the ICC Rules, the ICC Treasury Operations Policies & Procedures have been updated to include Initial Margin and Guaranty Fund liquidity requirements for Non-Client and Client-Related positions for both US Dollar and Euro denominated products. In order to accommodate the return of funds during London banking hours, the ICC Treasury Operations Policies & Procedures have been updated to require requests for Euro withdrawals to be submitted by 9:00 a.m. Eastern.

The ICC Risk Management Framework has been updated to account for Euro denominated portfolios. Specifically, updates have been made to the Guaranty Fund, Initial Margin and Mark-to-Market Methodologies to address: Foreign Exchange Risk, Liquidity Risk, Time Zone Risk, and Operational Risk.

<sup>17</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.

The ICC EOD Price Discovery Policies and Procedures has been updated to provide that ICC will use ICE Clear Europe's EOD prices for European SN Contracts and rely on the ICE Clear Europe Firm Trade process to ensure the accuracy of price submissions. ICC will extend the risk time-horizon for European SN Contracts to account for the half-day difference, on average, between the EOD price discovery process timings. The extended risk horizon accounts for the fact that European markets close earlier and new financial information may be reflected only in the North American instrument prices and not reflected in the European SN Contracts, in general.

## 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.<sup>3</sup>

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

ICC has identified European SN Contracts as products that have become increasingly important for market participants to manage risk and express views with respect to European corporate credit risk. ICC's clearance of these Contracts will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions. In addition, ICC notes that the Commodity Futures Trading Commission has determined that iTraxx Europe CDS contracts would be subject to mandatory clearing under Section 2(h) of the Commodity Exchange Act.

European SN Contracts have similar terms to the North American Corporate Single Name CDS Contracts ("North American SN Contracts") currently cleared by ICC and governed by Section 26B of the Rules and the Latin American sovereign CDS contracts currently cleared by ICC and governed by Section 26D of the Rules. Accordingly, the proposed rules found in Section 26G

largely mirror the ICC rules for North American SN Contracts in Section 26B, with certain modifications that reflect differences in terms and market conventions between European SN Contracts and North American SN Contracts. European SN Contracts will be denominated in Euro.

Rule 26G-102 (Definitions) sets forth the definitions used for the European SN Contracts. An "Eligible SNEC Reference Entity" is defined as "each particular Reference Entity included from time to time in the List of Eligible Reference Entities," which is a list maintained, updated and published from time to time by the ICC Board of Managers or its designee, containing certain specified information with respect to each reference entity. The Eligible SNEC Reference Entities will initially consist of 121 European corporate reference entities specified in Schedule 502 to the ICC Rules. Certain substantive changes have also been made to the definition of "List of Eligible SNEC Reference Entities", due to the fact that certain terms and elections for North American SN Contracts are not applicable to European SN Contracts. These include (i) the need for an election as to whether "Restructuring" is an eligible "Credit Event" (it is by contract term and market convention applicable to all European SN Contracts, whereas it is generally not applicable to North American SN Contracts) and (ii) the applicability of certain ISDA supplements that may apply to North American SN Contracts but do not apply to European SN Contracts, including the 2005 Monoline Supplement, the ISDA Additional Provisions for a Secured Deliverable Obligation Characteristic and the ISDA Additional Provisions for Reference Entities with Delivery Restrictions. The remaining definitions are substantially the same as the definitions found in ICC Section 26B, other than certain conforming changes.

Rules 26G-203 (Restriction on Activity), 26G-206 (Notices Required of Participants with respect to SNEC Contracts), 26G-303 (SNEC Contract Adjustments), 26G-309 (Acceptance of SNEC Contracts by ICE Clear Credit), 26G-315 (Terms of the Cleared SNEC Contract), 26G-316 (Relevant Physical Settlement Matrix Updates), 26G-502 (Specified Actions), and 26G-616 (Contract Modification) reflect or incorporate the basic contract specifications for European SN Contracts and are substantially the same as under ICC Section 26B for North American SN Contracts, except as follows. In addition to various non-substantive conforming changes, the

proposed rules differ from the existing North American SN Contracts in that the contract terms in Rule 26G-315 incorporate the relevant published ISDA physical settlement matrix terms for Standard European Corporate transactions, rather than Standard North American Corporate transactions, and, as noted in the preceding paragraph, certain elections and supplements used for North American SN Contracts are not applicable to European SN Contracts. In addition, the contracts reflect the fact that under the ISDA physical settlement matrix terms, the restructuring credit event and the related additional terms for "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" under the ISDA Credit Derivatives Definitions (commonly referred to as "Mod Mod R" terms) apply to European SN Contracts.

In addition, ICC proposes to make conforming changes in Section 26E of the Rules (the CDS Restructuring Rules), principally to address the particular restructuring terms that apply to iTraxx Contracts and European SN Contracts. Specifically, ICC proposes to modify the notice delivery procedures in Rule 26E-104 to include "notices to exercise movement option" under the Mod Mod R terms. In addition, the definition of "Triggered Restructuring CDS Contract" has been modified to reflect that under Mod Mod R terms a CDS contract may be triggered in part following a restructuring credit event.

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 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, to Section 17(A)(b)(3)(F), because ICC believes that the clearance of European SN Contracts will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions.

### 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.

<sup>3</sup> The Commission has modified the text of the summaries prepared by ICE Clear Credit.

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

*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**

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2012-24 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-ICC-2012-24. 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\\_120512a.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_120512a.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-2012-24 and should be submitted on or before January 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>5</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68469; File No. SR-NYSEMKT-2012-70]

**Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 140 of the NYSE MKT LLC Company Guide To Introduce an Initial Application Fee**

December 19, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 6, 2012, NYSE MKT LLC ("NYSE MKT" 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 self-regulatory organization. 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 Exchange proposes to amend Section 140 of its Company Guide to introduce an Initial Application Fee. The Exchange proposes to immediately reflect the proposed changes in the Company Guide, but not to implement the proposed changes until January 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, 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.

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

1. Purpose

The Exchange proposes to amend Section 140 of its Company Guide to introduce an Initial Application Fee. The Exchange proposes to immediately reflect the proposed changes in the Company Guide, but not to implement the proposed changes until January 1, 2013.<sup>3</sup>

The Exchange proposes to introduce an Initial Application Fee of \$5,000 within Section 140 of the Company Guide, which would be effective January 1, 2013. An issuer would be required to pay an Initial Application Fee if it applied to list shares of common or preferred stock or common stock equivalents on the Exchange, including securities issued by non-U.S. companies, except that an issuer:

<sup>3</sup> The Exchange has proposed changes to the Company Guide, as reflected in the Exhibit 5 attached hereto, in a manner that would permit readers of the Company Guide to identify the changes that would be implemented on January 1, 2013. The Commission notes that the Exhibit 5 referenced in the previous sentence is attached to the filing, not to this Notice.

<sup>5</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.