

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>27</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>28</sup> because it establishes a due, fee, or other charge imposed by Topaz.

At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-Topaz-2013-01 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-Topaz-2013-01. 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 filing also will be available for inspection and copying at the principal offices of the Exchange. 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-Topaz-2013-01, and should be submitted on or before September 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70201; File No. SR-ICEEU-2013-11]

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

August 14, 2013.

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 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-

<sup>29</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> 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).

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>28</sup> 17 CFR 240.19b-4(f)(2).

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 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.

#### *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.

<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).

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

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-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 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 also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site 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 September 10, 2013.

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. 34-70199; File No. SR-BATS-2013-036]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Order Approving a Proposed Rule Change To Introduce a Connectivity Option Through Points of Presence

August 14, 2013.

#### I. Introduction

On June 19, 2013, BATS Exchange, Inc. ("Exchange" or "BATS") 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 introduce a connectivity option through Points of Presence (PoPs). The proposed rule change was published for comment in the **Federal Register** on July 3, 2013.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The Exchange currently maintains a presence in two third-party data centers: (i) the primary data center where the Exchange's business is primarily conducted on a daily basis, and (ii) a secondary data center, which is predominantly maintained for business continuity purposes. Exchange participants, including participants trading on the Exchange and market data recipients, are required to connect directly to the Exchange at the primary or secondary data centers where the Exchange currently maintains servers. If an Exchange participant does not have a presence within these data centers, then the participant is required to obtain connectivity from the participant's location, or data center, to the data centers where the Exchange's servers are located. The Exchange is proposing to provide market participants with the ability to access the Exchange's network via physical ports at data center entry

points, or PoPs, at data centers other than the Exchange's primary or secondary data center ("Remote Data Centers").

PoP ports will be located at Remote Data Centers in order to provide participants connectivity to the Exchange. In the Notice, the Exchange represented that connectivity established via PoP ports will allow market participants to perform all of the operations that they would typically perform when connecting directly to the Exchange, including order entry and receipt of market data. Participants would establish a physical connection to a PoP port in the Remote Data Center, from which the Exchange would provide the requisite connectivity to allow participants to access the Exchange's servers.<sup>4</sup>

Participants that do not maintain a presence in either of the Exchange's data centers must currently establish connectivity to such data centers themselves through third party telecommunications providers. By making PoP entry points available, the Exchange is reducing or eliminating the need for participants to contract themselves for third party connectivity located in the same data center as such PoP ports. The Exchange believes that some participants may choose to connect to the Exchange at a PoP location to the extent that the Exchange's service offering makes connecting to the Exchange in this manner more easily established or more cost effective. In the Notice, the Exchange suggested that the PoPs may be most attractive to smaller market participants that otherwise may not connect to the Exchange.

The Exchange proposes to provide the option to connect to the Exchange via PoPs to any member or non-member that has been approved to connect to the Exchange. Any member or non-member opting not to access the Exchange at a PoP location would still be able to access the Exchange in the existing data centers as they do currently.

#### III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>5</sup> and the rules and regulations thereunder applicable to a national securities exchange. Additionally, in approving this proposed rule change, the Commission

<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>3</sup> Securities Exchange Act Release No. 69877 (June 27, 2013), 78 FR 40241 ("Notice").

<sup>4</sup> The Exchange would contract with a third party telecommunications provider to supply connectivity to the Exchange to its participants.

<sup>5</sup> 15 U.S.C. 78f.