



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information (required)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change (required)**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

## **Form 19b-4 Information**

### 1. Text of the Proposed Rule Change

(a) The text of the proposed rule change has been annexed as Exhibit 5 and consists of an ICE Clear Credit Circular related to compliance with Commodity Futures Trading Commission (“CFTC”) Rule 39.13(g)(8)(ii). The purpose of the proposed rule change is to inform ICE Clear Credit LLC’s (“ICC”) futures commission merchant (“FCM”) Clearing Participants that in order to be in compliance with CFTC Rule 39.13(g)(8)(ii), no later than the May 7, 2012 effective date, ICC will require FCM Clearing Participants to collect margin from their customers in respect of such customers’ non-hedge positions, at a level that is ten percent (10%) greater than ICC’s related margin requirement with respect to each product and swap portfolio.

(b) Not applicable.

(c) Not applicable.

### 2. Procedures of the Self-Regulatory Organization

(a) ICC published a Circular on April 20, 2012 informing FCM Clearing Participants of the rule change.

(b) Please refer questions and comments on the proposed rule change to Kevin R. McClear, General Counsel of ICC, at (312) 836-6833.

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

(a) Purpose

The purpose of the proposed rule change is to inform ICE Clear Credit LLC's ("ICC") futures commission merchant ("FCM") Clearing Participants that in order to be in compliance with CFTC Rule 39.13(g)(8)(ii) no later than the May 7, 2012 effective date, ICC will require FCM Clearing Participants to collect margin from their customers in respect of such customers' non-hedge positions, at a level that is ten percent (10%) greater than ICC's related margin requirement with respect to each product and swap portfolio.

(b) Statutory Basis

CFTC Regulation 39.13(g)(8)(ii) provides that "a derivatives clearing organization shall require its clearing members to collect customer initial margin...from their customers, for non-hedge positions, at a level that is greater than 100 percent of the derivatives clearing organization's initial margin requirements with respect to each product and swap portfolio."

Accordingly, ICC published a circular on April 20, 2012 informing ICE Clear Credit LLC's ("ICC") futures commission merchant ("FCM") Clearing Participants that in order to be in compliance with CFTC Rule 39.13(g)(8)(ii), no later than the May 7, 2012 effective date, ICC will require FCM Clearing Participants to collect margin from their customers in respect of such customers' non-hedge positions, at a level that is ten percent (10%) greater than ICC's related margin requirement with respect to each product and swap portfolio.

ICC believes that the proposed rule change is not inconsistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it. ICC believes that the compliance with CFTC Rule 39.13(g)(8)(ii) will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions under the Act.

4. 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.

5. 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.

6. Extension of Time Period for Commission Action

ICC does not consent to the extension of the time period listed in Section 19(b)(2) of the Securities Exchange Act of 1934 for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

- (a) Not applicable.
- (b) Not Applicable.
- (c) Not applicable.
- (d) ICC respectfully requests that the Commission grant accelerated effectiveness of the proposed rule change under Section 19(b)(2). ICC believes that accelerated effectiveness is warranted because, as noted above, the rule change is required in order to be in compliance with CFTC Rule 39.13(g)(8)(ii) on the May 7, 2012 effective date of this rule.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or the Commission

The proposed rule changes are not based on the rules of another self-regulatory organization or the Commission.

9. Exhibits

Exhibit 1. Notice of proposed rule change for publication in the Federal Register

Exhibit 2. Not applicable

Exhibit 3. Not applicable

Exhibit 4. Not applicable

Exhibit 5. ICC Circular 2012/008: Compliance with CFTC Rule 39.12(g)(8)(ii)

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-ICC-2012-08)

April 23, 2012

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change to Comply with CFTC Rule 39.13(g)(8)(ii)

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, 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 inform ICC’s futures commission merchant (“FCM”) Clearing Participants that in order to be in compliance with CFTC Rule 39.13(g)(8)(ii), no later than the May 7, 2012 effective date, ICC will require FCM Clearing Participants to collect margin from their customers in respect of such customers’ non-hedge positions, at a level that is ten percent (10%) greater than ICC’s related margin requirement with respect to each product and swap portfolio.

As discussed in more detail in Item II(A) below, ICC published a Circular on April 20, 2012 informing ICC’s FCM Clearing Participants of this rule change.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).  
<sup>2</sup> 17 CFR 240.19b-4.

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

CFTC Regulation 39.13(g)(8)(ii) provides that “a derivatives clearing organization shall require its clearing members to collect customer initial margin...from their customers, for non-hedge positions, at a level that is greater than 100 percent of the derivatives clearing organization's initial margin requirements with respect to each product and swap portfolio.”

Accordingly, ICC published a circular on April 20, 2012 informing ICE Clear Credit LLC's (“ICC”) futures commission merchant (“FCM”) Clearing Participants that in order to be in compliance with CFTC Rule 39.13(g)(8)(ii), no later than the May 7, 2012 effective date, ICC will require FCM Clearing Participants to collect margin from their customers in respect of such customers' non-hedge positions, at a level that is ten percent (10%) greater than ICC's related margin requirement with respect to each product and swap portfolio.

ICC believes that the proposed rule change is not inconsistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it. ICC believes that the compliance with CFTC Rule 39.13(g)(8)(ii) will

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

facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions under the Act.

(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

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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2012-08 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-2012-08. This file number should be included on the subject line if e-mail 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 website (<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 website viewing and printing in the Commission's Public Reference Section, 100 F Street, N.E., Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 pm. 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 website at [https://www.theice.com/publicdocs/regulatory\\_filings/042312\\_SEC\\_ICEClearCredit.pdf](https://www.theice.com/publicdocs/regulatory_filings/042312_SEC_ICEClearCredit.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-2012-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

Elizabeth M. Murphy  
Secretary

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<sup>4</sup> 17 CFR 200.30-3(a)(12).

**CIRCULAR  
2012/008**

April 20, 2012

**Categories:**

Legal

**Attachments:**

None

**Summary of content**

Compliance with  
Commodity Futures  
Trading Commission  
Rule 39.13(g)(8)(ii)

**For more information  
please contact:**

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**Compliance with Commodity Futures Trading Commission  
Rule 39.13(g)(8)(ii)**

The purpose of this Circular is to confirm that, in accordance with CFTC Rule 39.13(g)(8)(ii), that as of May 7, 2012, ICE Clear Credit (“the Clearing House”) will require FCM Clearing Participants to collect margin from their customers in respect of such customers’ non-hedge positions, at a level that is 10 percent greater than the Clearing House’s related margin requirement with respect to each product and swap portfolio.

For example if a customer of a FCM Clearing Participant holds a position at the Clearing House through its FCM Clearing Participant, and the Initial Margin requirement for such position is \$100,000 the FCM Clearing Participant must require such customer to post \$110,000 with the FCM Clearing Participant in respect of such Initial Margin requirement.

**Should you have any questions in relation to this Circular or require any further information, please contact your CSS representative.**

**Please ensure that the appropriate members of staff within your organization are advised of the content of this Circular.**