



February 22, 2012

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

**RE: ICE Clear Credit Swap Submission Related to Mandatory Clearing Determinations**

Dear Mr. Stawick:

In response to the U.S. Commodity Futures Trading Commission's ("CFTC" or "Commission") February 1, 2012 request from the Division of Clearing and Risk ("DCR") related to the mandatory clearing determination process, ICE Clear Credit LLC ("ICE Clear Credit") hereby submits (pursuant to the information requirements of Title 17 of the Code of Federal Regulations, Chapter 1 §39.5) all of the commodity-based swaps ("swaps") that ICE Clear Credit is accepting for clearing as of February 1, 2012.

In addition, ICE Clear Credit agrees (to the extent that ICE Clear Credit has such authority) to the CFTC's request for a further extension of the deadline for a mandatory clearing determination on pre-enactment swaps until the Commission has completed the review process outlined in §39.5(b).

**Swap Submissions**

*"DCR requests that each DCO submit all swaps that it is accepting for clearing as of February 1, 2012, in accordance with the requirements of §39.5. Each DCO's submission should include all pre-enactment swaps that it was accepting for clearing on July 21, 2010, and continues to accept for clearing as of February 1, 2012... In addition, pursuant to §39.5(b)(2), DCR invites each DCO to subdivide its swap submission/s into groups or categories based on the primary product specifications that are relevant to defining and distinguishing one swap category from other swap categories for clearing purposes."*

Table 1 identifies all swaps<sup>1</sup> that were accepted for clearing by ICE Clear Credit as of February 1, 2012. (See, Table 1: Submitted Swaps (swaps listed for clearing as of February 1, 2012), attached hereto as Exhibit A.) Each swap has been classified according to the characteristics of the constituents of the related index; specifically their type, region, rating and spread level, as follows:

Type

All listed swaps are related to indices whose constituent reference obligations are corporate bonds.

---

<sup>1</sup> For the purposes of this submission, swaps that were accepted for clearing as of February 1, 2012 are sometimes referred herein to as listed swaps or submitted swaps.

Region

All listed swaps are related to indices whose constituent reference entities are domiciled in North America.

Rating

All listed swaps are related to indices whose constituent reference obligations are rated as either Investment Grade or High Yield.

Spread Level

The constituents of listed swaps with a spread level classification of High Volatility are comprised of the sub-set of constituents of the related Investment Grade index with the highest average spread levels.

The name of the index associated with each swap has also been provided in Table 1, following industry conventions. Individual swaps are defined by the index series and the maturity date and currency of the contracts.

**Statement of Eligibility**

*“A statement that the derivatives clearing organization is eligible to accept the swap, or group, category, type, or class of swaps for clearing and describes the extent to which, if the Commission were to determine that the swap, or group, category, type, or class of swaps is required to be cleared, the derivatives clearing organization will be able to maintain compliance with section 5b(c)(2) of the Act.”*

ICE Clear Credit is a Derivatives Clearing Organization (“DCO”) pursuant to Section 5b of the United States Commodity Exchange Act, as amended (the “CEA”), and as such is supervised by the CFTC. ICE Clear Credit became a DCO on July 16, 2011 pursuant to Section 725 of the Dodd-Frank Act (the “Conversion Date”), and since the Conversion Date, ICE Clear Credit has cleared the commodity-based swaps submitted herein in compliance with section 5b(c)(2) of the CEA.

**Information Related to the Act’s Swap Submission Review Requirements**

*A statement that includes, but is not limited to, information that will assist the Commission in making a quantitative and qualitative assessment of the factors specified by 39.5(b)(3)(ii).*

In accordance with §39.5(b)(3)(ii), information is provided below to assist the Commission in its review of ICE Clear Credit swap submissions against market activity, clearinghouse capabilities, impact on systemic risk, competition, and insolvency protection.

**(A) Market Activity**

*“The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data.”*

*Requested Information*

Table 2 provides data describing the outstanding notional exposures, observed trading liquidity and adequacy of end-of-day pricing data for each submitted swap. (See, Table 2: Swap-level Information for Each Submitted Swap, attached hereto as Confidential Exhibit C.)

The Commission’s request to submit swaps which are already listed for clearing, and for which a significant portion of the market exposure has been cleared, complicates the information required to comply with §39.5(b)(3)(ii)(A). In order to demonstrate the significance of the outstanding notional exposure, one must consider both the uncleared and cleared exposures. Because cleared positions are netted during the clearing

process it is difficult to quantify both the cleared and uncleared exposures on a directly comparable basis. Therefore, ICE Clear Credit is including in three different measures of cleared exposure: cleared outstanding positions, cleared volume and cleared open interest.

Cleared Outstanding Positions

Through netting, the clearinghouse transforms the uncleared outstanding positions submitted for clearing into a population of cleared outstanding positions that are maintained in the Trade Information Warehouse (“TIW”). Typically, the gross notional amount for cleared outstanding positions is significantly smaller than the original notional amount of the positions submitted for clearing. It should be noted that the clearinghouse’s netting process does not necessarily result in a fully-netted set of cleared outstanding positions due to the bookkeeping flexibility the clearinghouse affords its Clearing Participants (“CPs”); the clearinghouse allows its CPs to manage their cleared positions by desk for record-keeping purposes such that netting is not performed across desks, and can be suppressed for chosen desks.

Cleared Volume

Cleared volume is the sum of the gross notional amounts for positions submitted for clearing.

Open Interest

The clearinghouse’s responsibilities and obligations are at the fully-netted level. The notional amount associated with this fully-netted set of positions is quantified by calculating open interest.

A further challenge in complying with the information requirements of §39.5(b)(3)(ii)(A), is that the publically available information quantifying swap exposures between all market participants, available through DTCC, is provided at the series and not the individual swap level. Because ICE Clear Credit lists only certain maturity dates within any given series, the information requested specifically for submitted swaps has been provided based on exposures between ICE Clear Credit’s CPs, since this is the information the clearinghouse has permission to access directly.

The data provided in Table 2 is described below.

Index, Series and Tenor

Three columns identify the submitted swap by index, series and tenor.

Uncleared Outstanding Positions between CPs

This column provides the gross notional amount of the uncleared positions in the TIW between ICE Clear Credit’s CPs as of February 3, 2012.

Cleared Outstanding Positions

This column provides the gross notional amount for the cleared outstanding positions as of February 3, 2012.

Cleared Volume

This column provides the cleared volume from the initial listing of the specific swap through February 3, 2012.

Cleared Open Interest

This column provides the cleared open interest for the specific swap as of February 3, 2012.

Estimated New Trade Volume between CPs

Two columns provide an estimate of the mean weekly-new-trade-volume between CPs in terms of gross notional amount and number of contracts. The means are calculated for a 13 month observation period

from January 3, 2011 through February 3, 2012. A third column provides the standard deviation of the number of new contracts per week over the same observation period.

*CP Submitted Pricing Data*

ICE Clear Credit's rules require CPs to submit end-of-day pricing data for any swap for which they have a cleared interest. This table entry consists of three columns providing data demonstrating that the required pricing data is available; one column providing the number of CPs with cleared positions is the given swap as of February 1, 2012, a second column providing the number of CPs that submitted end-of-day quotes for the given swap on the same day, and a third column providing the average dispersion of submitted quotes for the period January 3, 2011 to February 3, 2012. Dispersion is defined as the difference between the highest and lowest quoted mid-levels after removing the highest two quotes and the lowest two quotes from the sample. In the table, Dispersion is expressed as a percentage of the bid-offer width established each day for the given swap by ICE Clear Credit.

*Additional Information*

For completeness, ICE Clear Credit is providing additional information in the form of Table 3, related to outstanding positions and new trade volumes between CPs for non-listed swaps in each listed series. (See, Table 3: Swap-level Information for Swaps with Non-listed Maturity Dates in Each Listed Series, attached hereto as Confidential Exhibit D.) This data facilitates a comparison of outstanding positions and new trade volume for listed (Table 2) and non-listed (Table 3) swaps. The data provided in Table 3 is described below.

*Index, Series and Tenor*

Three columns identify the non-listed swap by index, series and tenor.

*Uncleared Outstanding Positions between CPs*

This column provides the gross notional amount of positions in the TIW between ICE Clear Credit's CPs as of February 3, 2012. All positions are uncleared since the swaps are not listed.

*Estimated New Trade Volume between CPs*

Two columns provide an estimate of the mean weekly-new-trade-volume between CPs in terms of gross notional amount and number of contracts. The means are calculated for a 13 month observation period from January 3, 2011 through February 3, 2012. A third column provides the standard deviation of the number of new contracts per week over the same observation period.

***(B) Clearinghouse Capabilities***

***“The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded.”***

Rule Framework – ICE Clear Credit maintains a comprehensive set of rules that are publicly available and may be viewed at [https://www.theice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Rules.pdf](https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf) and are listed herein as Exhibit B.

Capacity, Operational Expertise and Resources – ICE Clear Credit is the largest, leading, and most active credit default swap (“CDS”) clearinghouse in the world as measured by (1) number and diversification of cleared CDS contracts, (2) volume, (3) open interest, (4) amount of default resources (margin collateral and guaranty fund deposits), and (5) number of active CDS Clearing Participants. Since its launch on March 9, 2009, ICE Clear Credit (f/k/a ICE Trust U.S. LLC) has cleared approximately 411,000 CDS transactions valued at approximately \$16.1 trillion dollars. ICE Clear Credit currently clears 42 CDS indices, 132 CDS corporate single names, and four Latin American sovereign CDS. ICE Clear Credit currently maintains a cleared open interest valued at

approximately \$856 billion. (ICE Clear Credit's open interest may be viewed at [www.theice.com/clear\\_credit.jhtml](http://www.theice.com/clear_credit.jhtml).)

The following financial institutions have been approved as ICE Clear Credit Clearing Participants: Bank of America, N.A., Barclays Bank PLC, Barclays Capital Inc., BNP Paribas, BNP Paribas Securities Corp., Citigroup Global Markets Inc., Citibank N.A., Credit Suisse International, Credit Suisse Securities (USA) LLC, Deutsche Bank AG, London Branch, Deutsche Bank Securities Inc., Goldman, Sachs & Co., Goldman Sachs International, HSBC Bank USA, N.A., J.P. Morgan Chase Bank, National Association, J.P. Morgan Securities LLC, Merrill Lynch International, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Morgan Stanley & Co. LLC, Morgan Stanley Capital Services LLC, Nomura International PLC, Nomura Securities International, Inc., The Royal Bank of Scotland plc, Société Générale, UBS AG, London Branch and UBS Securities LLC.

Credit Support Infrastructure – As of February 13, ICE Clear Credit held approximately \$8.7 billion in margin collateral and approximately \$4.0 billion in guaranty fund deposits. On a daily basis, ICE Clear Credit processes millions of dollars in settlements. The average daily settlement for 2011 was approximately \$154 million.

***(C) Impact on Systemic Risk***

***“The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contracts.”***

The impact on systemic risk from the clearing of the submitted swaps is believed to be material for the following reasons:

- The swaps listed for clearing contain some of the most actively traded swaps with the largest pre-clearing outstanding positions.
- ICE Clear Credit's CPs are amongst the most active market participants and continue to clear a significant portion of their clearing-eligible portfolio.
- The multi-lateral netting achieved through the clearing process has been significant and has substantially reduced the number and notional amount of outstanding bi-lateral positions.
- ICE Clear Credit has developed a robust risk management framework that has been extensively reviewed by regulators, industry participants and third-party experts.
- ICE Clear Credit's price discovery process is working successfully to provide reliable inputs to its risk models.

***(D) Competition***

***“The effect on competition, including appropriate fees and charges applied to clearing.”***

ICE Clear Credit's fee structure is appropriate and its margin and guaranty fund computations suitably account for the risk brought to the clearinghouse.

***(E) Insolvency Protection***

***“The existence of reasonable legal certainty in the event of the insolvency of the relevant derivatives clearing organization or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.”***

ICE Clear Credit believes that there is reasonable legal certainty in the event of the insolvency of ICE Clear Credit or a clearing participant of ICE Clear Credit with regard to the treatment of house and customer positions, funds and property in connection with the clearing of the submitted swaps, as required by CFTC Rule 39.5(b)(3)(ii)(E).

ICE Clear Credit clearing participants consist of several types of institutions, principally futures commission merchants (“FCMs”) (including FCMs that are also broker-dealers), U.S. banks and non-U.S. banks. In the event of a clearing participant insolvency, ICE Clear Credit is of the view, based on the advice of counsel in the relevant jurisdictions, that ICE Clear Credit would be permitted to exercise its rights to close out house positions and apply margin and other property of the defaulting clearing participant in accordance with its rules. With respect to customer positions, which must be carried through an FCM clearing participant, the submitted swaps would constitute “commodity contracts” for purposes of the commodity broker liquidation provisions of the U.S. Bankruptcy Code. Under the Bankruptcy Code and the Commission’s Part 190 regulations, ICE Clear Credit would have the ability to close out customer positions following the insolvency of the clearing participant and/or, in appropriate circumstances, facilitate a transfer of such positions to another, solvent clearing participant. Customer property provided in respect of submitted contracts would be subject to the protections for customer property under the Part 190 regulations for the cleared swaps account class. (Pending implementation of the Commission’s Part 23 regulations for cleared swaps, ICE Clear Credit rules require segregation of customer property in a manner analogous to that required for futures under CEA Section 4d and Commission Rules 1.20-1.30.) As such, customer property would be subject to distribution to cleared swap customers of the insolvent FCM in accordance with those regulations.

With respect to an ICE Clear Credit insolvency, ICE Clear Credit would itself be a commodity broker subject to the Bankruptcy Code and Part 190 regulations. ICE Clear Credit believes, based on the advice of counsel, that under the applicable provisions of those laws and regulations, ICE Clear Credit rules providing for the termination of all outstanding contracts and the application and/or return of remaining member and customer property to clearing participants would similarly be enforceable.

**Product Specifications**

***“Product specifications, including copies of any standardized legal documentation, generally accepted contract terms, standard practices for managing any life cycle events associated with the swap, and the extent to which the swap is electronically confirmable.”***

All the swaps are electronically confirmable. Lifecycle events are processed by CH and DTCC subject to determinations committee and industry groups. Product specifications are included below.

**26A. CDX Untranch North American IG/HY/XO.**

The rules in this Subchapter 26A apply to the clearance of CDX.NA Untranch Contracts.

**26A-102. Definitions.**

**CDX.NA Untranch Contract**

A credit default swap in respect of any Eligible CDX.NA Untranching Index and governed by any CDX.NA Untranching Terms Supplement. A CDX.NA Untranching Contract is a CDS Contract for purposes of Chapter 20.

### **CDX.NA Untranching Publisher**

Markit North America, Inc., as successor to CDS IndexCo LLC, or any successor sponsor of the Eligible CDX.NA Untranching Indexes it publishes.

### **CDX.NA Untranching Rules**

The rules set forth in Chapters 1 through 8 and 20 through 22, inclusive, as modified by the provisions of this Subchapter 26A.

### **CDX.NA Untranching Terms Supplement**

Each of the following:

- (a) The "CDX Untranching Transactions Standard Terms Supplement", as published by CDS IndexCo LLC on March 20, 2008 (the "**March 2008 Supplement**").
- (b) The "CDX Untranching Transactions Standard Terms Supplement", as published by Markit North America, Inc. on January 31, 2011 (the "**January 2011 Supplement**").

### **Eligible CDX.NA Untranching Index**

Each particular series and version of a CDX.NA index or sub-index, as published by the CDX.NA Untranching Publisher, included from time to time in the List of Eligible CDX.NA Untranching Indexes.

### **List of Eligible CDX.NA Untranching Indexes**

The list of Eligible CDX.NA Untranching Indexes, maintained, updated and published from time to time by the Board or its designee, specifying the following information with respect to each index:

- (a) the name and series, including any applicable sub-index designation;
- (b) the "Effective Date";
- (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date;
- (d) the Relevant CDX.NA Untranching Terms Supplement;
- (e) the versions (and related annex dates) eligible for clearing; and
- (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.

### **Relevant CDX.NA Untranching Terms Supplement**

With respect to an Eligible CDX.NA Untranching Index, the CDX.NA Untranching Terms Supplement specified for such Eligible CDX.NA Untranching Index in the List of Eligible CDX.NA Untranching Indexes.

#### **26A-309. Acceptance of CDX.NA Untranching Contracts by ICE Clear Credit.**

- (a) A CDS Participant shall make all reasonable efforts to not submit a Trade for clearance as a CDX.NA Untranching Contract, and any such Trade shall not be a Conforming Trade, if the Novation Time would be:
- (i) at a time when the Fallback Settlement Method is applicable to a Credit Event with respect to such CDX.NA Untranching Contract; or
  - (ii) at or after the close of business on the calendar day following the Auction Final Price Determination Date for a Credit Event with respect to such CDX.NA Untranching Contract;

(such time with respect to any CDX.NA Untranching Contract, the "Clearance Cut-off Time"); provided that ICE Clear Credit may, by written notice to all CDS Participants following consultation with the Risk Committee, designate a time other than the time determined pursuant to clauses (i) or (ii) above as the Clearance Cut-off Time with respect to any CDX.NA Untranching Contract. CDS Participants may again submit Trades for clearance as such CDX.NA Untranching Contract, and such Trades shall again be Conforming Trades, following receipt of notice from ICE Clear Credit that a Fungibility Date (as defined in Rule 26A-316) has occurred with respect to such CDX.NA Untranching Contract.

- (b) A CDS Participant shall as soon as reasonably practicable notify ICE Clear Credit if any Trade it has submitted for clearance was not at the time of submission, or ceases to be prior to the Novation Time, a Conforming Trade.

#### **26A-315. Terms of the Cleared CDX.NA Untranching Contract.**

- (a) Any capitalized term used in this Subchapter 26A but not defined in these CDX.NA Untranching Rules shall have the meaning provided in the Relevant CDX.NA Untranching Terms Supplement.
- (b) For purposes of the CDS Committee Rules, the CDS Region for each CDX.NA Untranching Contract is the North American Region.
- (c) Each CDX.NA Untranching Contract will be governed by the Relevant CDX.NA Untranching Terms Supplement, as modified by these CDX.NA Untranching Rules. In the event of any inconsistency between the Relevant CDX.NA Untranching Terms Supplement or the Confirmation (including in electronic form) for a CDX.NA Untranching Contract and these CDX.NA Untranching Rules, these CDX.NA Untranching Rules will govern.

**26A-316. Updating Index Version of Fungible Contracts After a Credit Event or a Succession Event; Updating Relevant Untranching Standard Terms Supplement.**

- (a) Where the CDX.NA Untranching Publisher of an Eligible CDX.NA Untranching Index publishes one or more subsequent versions or annexes of the relevant series following a Credit Event or a Succession Event with respect to a Reference Entity included in such series, and the Board or its designee determines that CDX.NA Untranching Contracts referencing the earlier version or annex of such series are fungible with CDX.NA Untranching Contracts referencing a later version or annex of such series that is an Eligible CDX.NA Untranching Index and so notifies CDS Participants, CDX.NA Untranching Contracts referencing the earlier version or annex of such series shall become CDX.NA Untranching Contracts referencing such later version or annex of such series on the date determined by the Board or its designee (the “**Fungibility Date**”). Any CDX.NA Untranching Contracts referencing the earlier version or annex of such series submitted for clearing after the related Fungibility Date shall, upon acceptance for clearing, become a CDX.NA Untranching Contract referencing the latest version or annex of such series that the Board or its designee has determined is fungible with such earlier version or annex.
- (b) Where a new version of the CDX.NA Untranching Terms Supplement (a “**New Standard Terms**”) is published as of a date that is subsequent to the date of the version that is specified as the Relevant CDX.NA Untranching Terms Supplement for any CDX.NA Untranching Contract(s) (the “**Existing Standard Terms**”), and the Board or its designee determines that CDX.NA Untranching Contracts referencing the Existing Standard Terms are fungible with CDX.NA Untranching Contracts referencing the New Standard Terms, and so notifies CDS Participants, CDX.NA Untranching Contracts referencing the Existing Standard Terms shall become CDX.NA Untranching Contracts referencing the New Standard Terms on the date determined by the Board or its designee (the “**Standard Terms Update Date**” and each prior CDX.NA Untranching Terms Supplement subject to such determination, a “**Superseded Standard Terms**”). Any Trade referencing a Superseded Standard Terms submitted for clearing as a CDX.NA Untranching Contract shall, upon acceptance for clearing, become a CDX.NA Untranching Contract referencing the New Standard Terms.
- (c) The Board or its designee may determine a different Fungibility Date or Standard Terms Update Date applicable to individual CDX.NA Untranching Contracts or groups of CDX.NA Untranching Contracts or may determine a Fungibility Date or Standard Terms Update Date applicable to all CDX.NA Untranching Contracts referencing the earlier version or annex of a series described in clauses (a) or (b) of this Rule, as it deems appropriate.

**26A-317. Terms of CDX.NA Untranching Contracts.**

With respect to each CDX.NA Untranching Contract, the following terms will apply:

- (a) The terms of the CDX.NA Untranching Standard Terms Supplement are hereby amended as follows:
- (i) in the case of the March 2008 Supplement, deleting the last sentence of the definition of “Reference Entity” beginning “For the avoidance of doubt”; and
- (ii) in the case of the March 2008 Supplement, in the definition of “Reference Obligation(s)”: deleting the “,” from the fourth line of the first paragraph thereof and replacing it with “and”; deleting the words “and the following paragraph:” from the end of the first paragraph thereof and replacing them with a period; and deleting the second paragraph thereof in its entirety.

- (b) If a Convened DC (as defined in the DC Rules) resolves, pursuant to Section 3.8(a) of the DC Rules, (i) a question of interpretation regarding the provisions of the July 2009 Protocol (as defined in the DC Rules) or (ii) to make any amendments to Schedule 1 of the July 2009 Protocol, in each case that affect a CDX.NA Untranching Contract, ICE Clear Credit shall, as promptly as practicable, make conforming changes to these Rules in order to implement such resolutions. Notwithstanding anything to the contrary in Rule 616, any change made to the Rules in accordance with this paragraph (b) shall not constitute a Contract Modification.
- (c) Section 3.2(c)(i) of the Credit Derivatives Definitions is hereby amended by replacing the "or" at the end of subparagraph (B) thereof with an "and" and adding the following as a new subparagraph (C);

"(C) the tenth calendar day after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such CDX.NA Untranching Contracts; or".

- (d) If the March 2008 Supplement applies, any reference in a CDX.NA Untranching Contract to the 2003 ISDA Credit Derivatives Definitions (including any reference to the 2003 ISDA Credit Derivatives Definitions as supplemented or otherwise modified, including by incorporation of any additional provisions thereto (howsoever described) (the "**Existing Supplements**")) shall be deemed to be a reference to the 2003 ISDA Credit Derivatives Definitions as so supplemented and as further supplemented by the July 2009 Supplement. In the event of any inconsistency between the terms of the July 2009 Supplement and the terms of the 2003 ISDA Credit Derivatives Definitions (including any Existing Supplements), the terms of the July 2009 Supplement shall prevail for the purposes of such CDX.NA Untranching Contract.
- (e) For the purposes of any determination as to whether a Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
- (i) at any time up to but excluding June 20, 2009; or
- (ii) if (A) a Credit Event Resolution Request Date occurs or (B) a Credit Event Notice and a Notice of Publicly Available Information are deemed delivered pursuant to Rule 2101-02(f) by a Notifying Party, in either case before June 20, 2009,

the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.

- (f) If the March 2008 Supplement applies, for the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
- (i) at any time up to but excluding June 20, 2009; or
- (ii) if (A) a Succession Event Resolution Request Date occurs or (B) a Succession Event Notice is deemed delivered pursuant to Rule 2101-02(f), in either case before June 20, 2009,

the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

If the January 2011 Supplement applies, Section 6.7 of the January 2011 Supplement is hereby modified by inserting “or a Succession Event Notice is deemed delivered pursuant to Rule 2101-02(f), in either case” before the words “before June 20, 2009”.

- (g) Except for purposes of Rule 26A-317(e) and Section 1.23 of the Credit Derivatives Definitions, a Credit Event Notice and Notice of Publicly Available Information with respect to a CDX.NA Untranchured Contract will be deemed to have been effectively delivered by the Notifying Party on the relevant Event Determination Date determined under the CDS Committee Rules only when the Resolution is effective, under the CDS Committee Rules, that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such CDX.NA Untranchured Contract. Notwithstanding anything to the contrary in the Credit Derivatives Definitions, any delivery of a Credit Event Notice and/or Notice of Publicly Available Information by a CDS Participant (other than the deemed delivery as provided in this Rule 26A-317(g)) shall not be valid. For the avoidance of doubt, Section 6.8 of the January 2011 Supplement shall not apply.
- (h)
  - (i) Section 1.8(a)(ii)(A)(l)(3)(y) of the Credit Derivatives Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
  - (ii) Section 1.30 of the Credit Derivatives Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” in clause (ii) of the last sentence thereof with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
- (i) The Settlement Method for particular CDX.NA Untranchured Contracts will be Auction Settlement and the Fallback Settlement Method will be Physical Settlement in accordance with the CDS Physical Settlement Rules.
- (j) With respect to CDX.NA Untranchured Contracts for which it is Resolved by the North American Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii) or the DC Rules, as applicable, Buyer may not deliver a Notice of Physical Settlement until after it is determined that the method of settlement for a particular Credit Event is the Fallback Settlement Method due to the occurrence of one of the events in Section 12.1 of the Credit Derivatives Definitions and as further provided in the CDS Physical Settlement Rules. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 6.5 and 9.1(c)(iii) of the Credit Derivatives Definitions.
- (k) ICE Clear Credit is deemed an Index Party for purposes of Paragraph 6.1(b) of the CDX.NA Untranchured Standard Terms Supplement.
- (l) The following terms will apply to each CDX.NA Untranchured Contract:
  - (i) The “Agreement” is the CDS Master Agreement between the relevant CDS Participant and ICE Clear Credit.
  - (ii) The “Source of Relevant Annex” is “Publisher”.
  - (iii) The “Effective Date” is the date specified in the List of Eligible CDX.NA Indexes for the relevant Index.

- (iv) The "Calculation Agent" is ICE Clear Credit, except as provided in the CDS Committee Rules.
  - (v) There are no "Excluded Reference Entities".
  - (vi) "De Minimis Cash Settlement" is not applicable.
  - (vii) The "Fixed Rate" is the rate specified in the List of Eligible CDX.NA Indexes for the relevant Index and Scheduled Termination Date.
- (m) For each CDX.NA Untranching Contract, the following terms will be determined according to the particular CDX.NA Untranching Contract submitted for clearing:
- (i) Which of the Eligible CDX.NA Untranching Indexes is the "Index".
  - (ii) The "Annex Date".
  - (iii) The "Trade Date".
  - (iv) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible CDX.NA Untranching Indexes is the "Scheduled Termination Date".
  - (v) The "Original Notional Amount".
  - (vi) The "Floating Rate Payer".
  - (vii) The "Fixed Rate Payer".

#### **Participant Eligibility**

*"Participant eligibility standards, if different from the derivatives clearing organization's general participant eligibility standards."*

Not applicable to ICE Clear Credit.

#### **Price Discovery**

*"Pricing sources, models, and procedures, demonstrating an ability to obtain sufficient price data to measure credit exposures in a timely and accurate manner, including any agreements with clearing members to provide price data and copies of executed agreements with third-party price vendors, and information about any price reference index used, such as the name of the index, the source that calculates it, the methodology used to calculate the price reference index and how often it is calculated, and when and where it is published publicly."*

See Appendix 7 of the ICE Clear Credit Risk Management Framework attached hereto as Confidential Exhibit E.

See Markit Data and Settlement Price Data License Agreement dated March 6, 2009 attached hereto as Confidential Exhibit F.

See Amendment to Markit Data and Settlement Price Data License Agreement dated December 17, 2010 attached hereto as Confidential Exhibit G.

### **Risk Management**

***“Risk management procedures, including measurement and monitoring of credit exposures, initial and variation margin methodology, methodologies for stress testing and back testing, settlement procedures, and default management procedures.”***

See the ICE Clear Credit Risk Management Framework attached hereto as Confidential Exhibit E.

See the ICE Clear Credit Risk Management Backtesting Framework attached hereto as Confidential Exhibit H.

See the ICE Clear Credit Risk Management Stress Testing Framework attached hereto as Confidential Exhibit I.

### **Rules, Policies and Procedures**

ICE Clear Credit maintains a comprehensive set of rules that are publicly available and may be viewed at [https://www.theice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Rules.pdf](https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf) and are listed herein as Exhibit B.

See the ICE Clear Credit Risk Management Framework attached hereto as Confidential Exhibit E.

### **Communication to Members Regarding this Submission**

***“A description of the manner in which the derivatives clearing organization has provided notice of the submission to its members and a summary of any views on the submission expressed by the members (a copy of the notice to members shall be included with the submission.”***

ICE Clear Credit posted a copy of this response (absent any confidential exhibits) on its public website on February 22, 2012. Written comments relating to the submission have not been solicited or received. ICE Clear Credit will notify the CFTC of any written comments received by ICE Clear Credit.

\*\*\*\*\*

Pursuant to applicable law, ICE Clear Credit respectfully requests confidential treatment of the confidential exhibits attached as part of this submission and any other information or documents which may at any time be submitted in connection with this submission and which may be marked “Confidential” or for which confidential treatment may be requested.

Confidential treatment of the confidential exhibits attached as part of this submission and any subsequent related documents is justified under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* and the Rules Regarding Availability of Information, 12 C.F.R. § 261.15 (2006). The confidential exhibits attached as part of this submission contain confidential business and commercial information regarding (together with confidential intellectual property) related to ICE Clear Credit’s clearing facility for credit default swaps and ICE Clear Credit’s clearing participants, the disclosure of which could have a material adverse effect on, and cause injury to, the operations and competitive position of ICE Clear Credit and its clearing participants. We believe that the confidential exhibits are entitled to protection pursuant to exemptions (b)(4) and (b)(8) of the Freedom of Information Act. In particular, the confidential exhibits provide information that is useful to potential competitors and would be competitively harmful to ICE Clear Credit and its clearing participants if disclosed to the public.

Mr. David Stawick  
Commodity Futures Trading Commission

February 22, 2012

In the event that a determination is made to release any confidential portion of this submission, we respectfully request an opportunity to discuss or to revise as appropriate prior to such release.

\*\*\*\*\*

If you should have any questions or comments, please do not hesitate to contact me at 312-836-6810.

Respectfully submitted,



Christopher S. Edmonds  
President

cc: Ananda Radhakrishnan, U.S. Commodity Futures Trading Commission  
Erik Remmler, U.S. Commodity Futures Trading Commission  
Brian O'Keefe, U.S. Commodity Futures Trading Commission  
Sara Josephson, U.S. Commodity Futures Trading Commission  
Kevin R. McClear, ICE Clear Credit LLC  
Ian Springle, ICE Clear Credit LLC

Enc: Exhibit A – Table 1: Submitted Swaps (swaps listed for clearing as of February 1, 2012)  
Exhibit B – ICE Clear Credit Rules available at:  
[https://www.theice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Rules.pdf](https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf)  
Confidential Exhibit C – Table 2: Swap-level Information for Each Submitted Swap  
Confidential Exhibit D – Table 3: Swap-level Information for Swaps with Non-listed Maturity Dates in Each Listed Series  
Confidential Exhibit E – ICE Clear Credit Risk Management Framework  
Confidential Exhibit F – Markit Data and Settlement Price Data License Agreement dated March 6, 2009  
Confidential Exhibit G – Amendment to Markit Data and Settlement Price Data License Agreement dated December 17, 2010  
Confidential Exhibit H – ICE Clear Credit Risk Management Backtesting Framework  
Confidential Exhibit I – ICE Clear Credit Risk Management Stress Testing Framework

**Exhibit A**

**Table 1: Submitted Swaps (swaps listed for clearing as of February 1, 2012)**

Row	Index Classification				Index Name	Swap			
	Type	Region	Rating	Spread Level		Series	Maturity (Tenor)	Currency	
1	Corporate	North America	Investment Grade	-	CDX.NA.IG	17	12/20/2016 (5Y)	USD	
2	Corporate	North America	Investment Grade	-	CDX.NA.IG	16	6/20/2016 (5Y)	USD	
3	Corporate	North America	Investment Grade	-	CDX.NA.IG	15	12/20/2015 (5Y)	USD	
4	Corporate	North America	Investment Grade	-	CDX.NA.IG	14	6/29/2015 (5Y)	USD	
5	Corporate	North America	Investment Grade	-	CDX.NA.IG	13	12/20/2014 (5Y)	USD	
6	Corporate	North America	Investment Grade	-	CDX.NA.IG	12	6/20/2014 (5Y)	USD	
7	Corporate	North America	Investment Grade	-	CDX.NA.IG	11	12/29/2013 (5Y)	USD	
8	Corporate	North America	Investment Grade	-	CDX.NA.IG	10	6/20/2013 (5Y)	USD	
9	Corporate	North America	Investment Grade	-	CDX.NA.IG	9	12/20/2012 (5Y)	USD	
10	Corporate	North America	Investment Grade	-	CDX.NA.IG	8	6/20/2012 (5Y)	USD	
11	Corporate	North America	Investment Grade	-	CDX.NA.IG	10	6/20/2015 (7Y)	USD	
12	Corporate	North America	Investment Grade	-	CDX.NA.IG	9	12/20/2014 (7Y)	USD	
13	Corporate	North America	Investment Grade	-	CDX.NA.IG	8	6/20/2014 (7Y)	USD	
14	Corporate	North America	Investment Grade	-	CDX.NA.IG	17	12/20/2021 (10Y)	USD	
15	Corporate	North America	Investment Grade	-	CDX.NA.IG	16	6/20/2021 (10Y)	USD	
16	Corporate	North America	Investment Grade	-	CDX.NA.IG	15	12/20/2020 (10Y)	USD	
17	Corporate	North America	Investment Grade	-	CDX.NA.IG	14	6/20/2020 (10Y)	USD	
18	Corporate	North America	Investment Grade	-	CDX.NA.IG	13	12/20/2019 (10Y)	USD	
19	Corporate	North America	Investment Grade	-	CDX.NA.IG	12	6/20/2019 (10Y)	USD	
20	Corporate	North America	Investment Grade	-	CDX.NA.IG	11	12/20/2018 (10Y)	USD	
21	Corporate	North America	Investment Grade	-	CDX.NA.IG	10	6/20/2018 (10Y)	USD	
22	Corporate	North America	Investment Grade	-	CDX.NA.IG	9	12/20/2017 (10Y)	USD	
23	Corporate	North America	Investment Grade	-	CDX.NA.IG	8	6/20/2017 (10Y)	USD	
24	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	16	6/20/2016 (5Y)	USD	
25	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	15	12/20/2015 (5Y)	USD	
26	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	14	6/20/2015 (5Y)	USD	
27	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	13	12/20/2014 (5Y)	USD	

Row	Index Classification				Index Name	Swap			
	Type	Region	Rating	Spread Level		Series	Maturity (Tenor)	Currency	
28	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	12	6/20/2014 (5Y)	USD	
29	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	11	12/20/2013 (5Y)	USD	
30	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	10	6/20/2013 (5Y)	USD	
31	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	9	12/20/2012 (5Y)	USD	
32	Corporate	North America	Investment Grade	High Volatility	CDX.NA.IG.HVOL	8	6/20/2012 (5Y)	USD	
33	Corporate	North America	High Yield	-	CDX.NA.HY	17	12/20/2016 (5Y)	USD	
34	Corporate	North America	High Yield	-	CDX.NA.HY	16	6/20/2016 (5Y)	USD	
35	Corporate	North America	High Yield	-	CDX.NA.HY	15	12/20/2015 (5Y)	USD	
36	Corporate	North America	High Yield	-	CDX.NA.HY	14	6/20/2015 (5Y)	USD	
37	Corporate	North America	High Yield	-	CDX.NA.HY	13	12/20/2014 (5Y)	USD	
38	Corporate	North America	High Yield	-	CDX.NA.HY	12	6/20/2014 (5Y)	USD	
39	Corporate	North America	High Yield	-	CDX.NA.HY	11	12/20/2013 (5Y)	USD	
40	Corporate	North America	High Yield	-	CDX.NA.HY	10	6/20/2013 (5Y)	USD	
41	Corporate	North America	High Yield	-	CDX.NA.HY	9	12/20/2012 (5Y)	USD	
42	Corporate	North America	High Yield	-	CDX.NA.HY	8	6/20/2012 (5Y)	USD	