

Kevin R. McClear
General Counsel

April 26, 2013

Ms. Melissa Jurgens
Secretary
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

RE: *Risk Management Requirements for Derivatives Clearing Organizations*
RIN 3039-AC98
Financial Resources Requirements for Derivatives Clearing Organizations
RIN 3039-AC98, RIN 3038-AD02

Dear Ms. Jurgens:

ICE Clear Credit LLC ("ICE Clear Credit") appreciates the opportunity to comment on the U.S. Commodity Futures Trading Commission's ("CFTC") proposed rules regarding systemically important derivatives clearing organizations ("SIDCOs"), published in the Federal Register on October 14, 2010 and January 20, 2011.

As background, IntercontinentalExchange, Inc. operates five clearing houses: (1) ICE Clear U.S., a CFTC-registered derivatives clearing organization ("DCO"), located in New York and serving the markets of ICE Futures U.S.; (2) ICE Clear Canada, a recognized clearing house located in Winnipeg, Manitoba that serves the markets of ICE Futures Canada; (3) ICE Clear Europe, a Recognized Clearing House (and CFTC-registered DCO) located in London that serves ICE Futures Europe; (4) ICE Clear Credit, a CFTC-registered DCO and a securities clearing agency registered with the U.S. Securities and Exchange Commission; and (5) The Clearing Corporation, a CFTC-registered DCO. In addition, the Financial Stability Oversight Council designated ICE Clear Credit as a systemically important financial market utility on June 18, 2012, in accordance with Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

ICE Clear Credit's comments focus exclusively on the financial resources requirements and recovery time objective ("RTO") for SIDCOs. The proposed rules require SIDCOs (1) to maintain financial resources sufficient to enable the clearing house to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined financial exposure for the SIDCO in extreme but plausible market conditions (the "Cover Two Standard"),¹ and (2) to meet a RTO of no later than two hours following any disruption.² ICE Clear Credit currently is in compliance with the Cover Two Standard and anticipates being in full compliance with the CFTC's proposed two-hour RTO.

Cover Two Standard

Proposed regulation 39.29 states that all SIDCOs must maintain financial resources to withstand a default by the two clearing members creating the largest combined financial exposure for the clearing house.

¹ Financial Resources Requirements for Derivatives Clearing Organizations, 75 Fed. Reg. 63113 (proposed Oct 14, 2010) (to be codified at 17 C.F.R. pt. 39).

² Risk Management Requirements for Derivatives Clearing Organizations, 76 Fed. Reg. 3698, 3726 (proposed Jan 20, 2011) (to be codified at 17 C.F.R. pt. 39) ("Section 39.30 System safeguards. (a) Notwithstanding Section 39.18(e)(2) of this part, the business continuity and disaster recovery plan described in Section 39.18(e)(1) for each systemically important derivatives clearing organization shall have the objective of enabling, and the physical, technological, and personnel resources described in Section 39.18(e)(1) shall be sufficient to enable, the derivatives clearing organization to recover its operations and resume daily processing, clearing, and settlement no later than two hours following the disruption, for any disruption including a wide-scale disruption.")

Since inception, in March 2009, ICE Clear Credit has maintained financial resources sufficient to withstand a default by the two clearing participants with the greatest potential losses. ICE Clear Credit acknowledges the importance of clearing houses with more complex risk management requirements maintaining robust financial resources. ICE Clear Credit maintains financial resources in compliance with Core Principle B - Financial Resources under CFTC Regulation 39.11 (in the form of margin and guaranty fund deposits) and does not rely upon (count) ICE Clear Credit's right of assessment to meet the Cover Two Standard.

The CFTC proposed rules regarding the Cover Two Standard are consistent with both SEC regulations and international standards. Under SEC Regulation 17Ad-22(b)(3), a registered clearing agency acting as a central counterparty for security-based swaps must maintain financial resources to withstand a default by the two participant families to which the clearing house has the largest exposure in extreme but plausible market conditions. In addition, Principle 4 (Credit Risk) under the CPSS-IOSCO standards requires central counterparties with more complex risk profiles or that are systemically important in multiple jurisdictions, maintain sufficient resources to cover the default of the two participants with the largest aggregate credit exposure to the central counterparty in extreme but plausible market conditions.

ICE Clear Credit would not incur additional costs to meet the Cover Two standard proposed by the CFTC.

Business Continuity and Disaster Recovery

ICE Clear Credit is the world's largest clearing house for credit default swaps, and acknowledges the importance of maintaining market integrity during disruptive events. Under proposed regulation 39.30, the CFTC would require ICE Clear Credit to have physical, technological, and personnel resources, outside the relevant area, sufficient to meet the two-hour recovery time objective in a wide-scale disruption. The CFTC's proposed rules regarding the RTO are consistent with the CPSS-IOSCO standards that include the two-hour recovery time objective. Principle 17 (Operational Risk) under the CPSS-IOSCO standards requires that business continuity plans ensure that "critical information technology systems can resume operations within two hours following disruptive events."

In conjunction with its wide-scale disruption plan, ICE Clear Credit has and continues to train personnel who live and work outside the relevant area that the clearing house relies upon. Cross-training will allow ICE Clear Credit to ensure the continuation of ICE Clear Credit's clearing and settlement activities by meeting existing service level objectives. ICE Clear Credit is unlikely to incur any significant additional personnel training cost associated with the CFTC's proposed RTO of two hours. The two-hour benchmark is unlikely to require ICE Clear Credit to hire additional personnel or to require a different level of cross-training related to its wide-scale disruption plan.

ICE Clear Credit's backup technology resources do not rely upon the same critical infrastructure components that ICE Clear Credit normally relies upon for clearance and settlement activities. In addition, the recovery time for ICE Clear Credit's technology systems is currently approximately two hours based upon past disaster recovery tests. Accordingly, it is unlikely that ICE Clear Credit will incur any additional backup technology costs related to the CFTC's proposed RTO.

We appreciate the opportunity to comment on the proposed rules. Please do not hesitate to contact the undersigned if you have any questions regarding our comments.

Sincerely,



Kevin McClear
General Counsel