RECEIVED
CFTC

2011 DEC 23 PM 1:10

OFFICE OF THE
SECRETARIAT

SWAPS & DERIVATIVES MARKET ASSOCIATION

December 21, 2011

COMMENT

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

Re: ICE Clear Credit LLC's Request for Exemptive Relief, dated October 4, 2011, pursuant to Section 713(a) of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to Permit ICE Clear Credit to: (a) Maintain Customer Funds in Single Customer Omnibus Accounts for Positions in Single Name Credit Default Swaps and Broad-based Credit Indices; (b) Calculate Margin for the Single Customer Accounts Pursuant to a Portfolio Margining Program Approved by the Commodity Futures Trading Commission and the Securities and Exchange Commission; and (c) Provide Similar Relief to Entities that have Dual Registration as Broker-Dealers and Futures Commission Merchants that Maintain Clearing Accounts for Customers at ICE Clear Credit

Dear Mr. Stawick,

The Swaps & Derivatives Market Association ("SDMA") appreciates the opportunity to provide comment to the Commodity Futures Trading Commission ("CFTC") regarding ICE Clear Credit LLC's ("ICE Clear Credit") petition for exemptive relief, dated October 4, 2011, pursuant to Section 713(a) of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), to permit ICE Clear Credit to: (a) maintain customer funds in single customer omnibus accounts for positions in single name credit default swaps ("CDS") and broad-based credit indices; (b) calculate margin for the single customer accounts pursuant to a portfolio margining program approved by the CFTC and the Securities and Exchange Commission ("SEC"); and (c) provide similar relief to entities that have dual registration as

Broker-Dealers and Futures Commission Merchants that maintain clearing accounts for customers at ICE Clear Credit ("ICE Clear Credit's Request for Exemptive Relief").

The SDMA is a non-profit financial trade group formed in 2010 to support the goals of the Dodd Frank Act. It believes that the systemic risk of OTC derivatives can be mitigated through their regulation, the creation of central clearing, and by ensuring open and transparent access to ensure greater competition, lower transaction costs and greater liquidity. It is comprised of many US and internationally based Broker-Dealers, Investment Banks, Futures Commission Merchants and Asset Managers participating in all segments of the exchange-traded and over-the-counter derivatives and securities markets. The SDMA supports the goals of the Title VII of the Dodd-Frank Act, and the amendments to the Securities Exchange Act which create a comprehensive regulatory framework for the trading of security-based swaps.

One of the key goals of the Dodd-Frank Act is the reduction of systemic risk through the use of central clearing. Sections 723 and 763 of the Dodd-Frank Act require open access and nondiscriminatory clearing of swaps and security-based swaps, respectively, for all market participants. The inability of customers to net single name CDS with credit indices, where appropriate, inhibits open access and significantly reduces the economic efficiencies of clearing, thus limiting the effectiveness of clearing. The SDMA supports ICE Clear Credit's Request for Exemptive Relief, because it promotes open access and efficient risk management, which in turn promotes a more stable OTC Market.

As a result of the high correlation between single name CDS and credit indices, it is a common practice for market participants to maintain hedged portfolios of single name CDS and credit index positions. Currently, ICE Clear Credit and its clearing members would be required to maintain separate clearing accounts for customer positions for credit indices, pursuant to section 4d(f) of the Commodity Exchange Act and single name CDS, pursuant to section 15(c)(3) of the Securities Exchange Act. As a result, customers would be required to fully margin both accounts.

ICE Clear Credit currently clears index and single name CDS proprietary positions for clearing members, and is prepared to offer portfolio margining for these accounts as soon as regulatory approval is obtained. Once ICE Clear Credit's clearing member proprietary account portfolio margining program becomes effective, proprietary account holders will gain the significant benefits in capital efficiency that result from portfolio margining. However, these benefits will not be realized by customers without the granting of ICE Clear Credit's Request for Exemptive Relief. ICE Clear Credit and its clearing members are prohibited from holding customer funds in a single customer omnibus account that holds single name CDS security-based swaps and credit index swaps without the granting of ICE Clear Credit's Request for Exemptive Relief. As a result, these customer positions cannot realize the benefits of portfolio margining and the capital required for clearing will be significantly greater for customers than for proprietary traders. Moreover, because clearing will be significantly more expensive than maintaining

bilateral OTC contracts, we believe any voluntary clearing will be limited, thus inhibiting one of the key goals of the Dodd-Frank Act.

The inequality that will result from permitting proprietary accounts to pay the reduced margin amounts that result from portfolio margining while requiring customer accounts to remain fully margined, creates a significant economic barrier to customer open access to clearing. The SDMA strongly believes that there should be a level playing field for all market participants. It was not the intent of the Dodd-Frank Act to provide portfolio margining of accounts in a manner that disadvantages customers. In addition, the establishment of single customer accounts and portfolio margining will encourage customers to maintain hedged portfolios of CDS positions. The SDMA believes that hedged CDS portfolios will promote the reduction of systemic risk.

Therefore, the SDMA respectfully requests that ICE Clear Credit's Request for Exemptive Relief be immediately granted and ICE Clear Credit be permitted to: (a) maintain customer funds in single customer omnibus accounts for positions in single name CDS and broad-based CDS indices; (b) calculate margin for single customer accounts pursuant to a portfolio margining program approved by the CFTC and the SEC; and (c) provide similar relief to entities that have dual registration as Broker-Dealers and Futures Commission Merchants that maintain clearing accounts for customers at ICE Clear Credit.

Respectfully Submitted,

Michael Hisler
Co-Founder
Swaps & Derivatives Market Association
(646) 588-2003