

**Kevin R. McClear**  
*General Counsel*

March 4, 2013

**Re: SDR Firm Trade Reporting Rule  
Certification Pursuant to Section  
5c(c)(1) of the Commodity Exchange  
Act and Commission Regulation 40.6**

**VIA E-MAIL**

Ms. Melissa Jurgens  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

Dear Ms. Jurgens:

ICE Clear Credit (“ICC”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commodity Futures Trading Commission (“Commission”) Regulation 40.6, a self-certification of ICC Circular 2013/005 related to the Commission’s Part 43 and Part 45 regulations (Swap Data Repository Reporting). ICC is registered with the Commission as a derivatives clearing organization.

ICC requests that its Circular 2013/005 become effective the tenth business day following the filing of this submission with the Commission at its Washington, D.C. headquarters.

As the Commission is aware, on December 19, 2012, CFTC staff granted conditional No-Action Relief (12-59) (the “No-Action Relief”) for Swap Dealers and Major Swap Participants that are clearing members from reporting certain off-facility swaps. Specifically, the No-Action Relief states that, subject to certain conditions, the Division of Market Oversight will not recommend that the Commission take enforcement action against a reporting counterparty (clearing member) for failure to comply with its obligations to report swap data arising from swaps that have been entered into pursuant to a DCO’s CDS Settlement Price Process (“CDS Clearing-Related Swaps”).

ICC’s CDS settlement price process requires that clearing members enter into “firm trades” in order to ensure that prices submitted by clearing members are reliable and accurate. Clearing members face ICC as their counterparty with respect to firm trades

and firm trades are automatically cleared. As a result, firm trades constitute CDS Clearing-Related Swaps (“ICC CDS Clearing-Related Swaps”). ICC currently reports all of its cleared swaps, including ICC CDS Clearing-Related Swaps, to ICE Trade Vault, a duly registered SDR.

As a condition to the No-Action Relief, clearing members and ICC must agree, as evidenced by private agreement or pursuant to ICC’s Rules, that ICC shall fulfill all of the clearing member’s obligations with respect to reporting CDS Clearing-Related Swaps pursuant to Part 45. To satisfy this condition, ICC plans to issue Circular 2013/005<sup>1</sup> establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action relief that will currently expire on June 30, 2013.

In addition, the Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC’s clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist. ICC will be responsible, in the capacity of a third-party provider, for reporting required swap transaction and pricing data in real-time to ICE Trade Vault on behalf of a clearing member that is a Swap Dealer or Major Swap Participant. In the event that any clearing member would like to “opt out” of this ICC Part 43 reporting service, the clearing member should notify ICC Client Services at [css@theice.com](mailto:css@theice.com).

Amended Rule:

The proposed rule change consists of ICC Circular 2013/005. As noted above, the purpose of Circular 2013/005 is to satisfy the terms of the conditional No-Action Relief (12-59) that clearing members and ICC must agree, as evidenced by private agreement or pursuant to ICC’s rules, that ICC shall fulfill all of the clearing member’s obligations with respect to reporting CDS Clearing-Related Swaps pursuant to Part 45. In addition, Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC’s clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist.

Annexed as an Exhibit hereto is the following:

- A. ICE Clear Credit Circular 2013/005 dated March 18, 2013.

Certifications:

ICE Clear Credit hereby certifies that the Rule complies with the Act and the regulations thereunder. There were no substantive opposing views to the Rule.

---

<sup>1</sup> Circular number may change based on any other sequentially numbered ICC Circulars issued prior to March 18, 2013, the effective date of this certification.

ICE Clear Credit hereby certifies that, concurrent with this filing, a copy of the submission was posted on ICE Clear Credit's website, which may be accessed at [https://www.theice.com/publicdocs/regulatory\\_filings/ICEClearCredit\\_CFTC\\_2013\\_03\\_04.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_CFTC_2013_03_04.pdf).

ICE Clear Credit would be pleased to respond to any questions the Commission or the staff may have regarding this submission. Please direct any questions or requests for information to the attention of the undersigned at (312) 836-6833.

Respectfully submitted,



Kevin R. McClear  
General Counsel

cc: Phyllis Dietz (by email)  
Heidi M. Rauh (by email)

**DRAFT**CIRCULAR  
2013/005

March 18, 2013

**Categories:**Operations  
Risk  
Trading**Attachments:**

None

**Summary of content**Parts 45 and 43 SDR  
Reporting Requirements  
for Off-Facility CDS-  
Clearing Related Swaps  
(Firm Trades)**For more information  
please contact:**Client Services and  
Support  
[css@theice.com](mailto:css@theice.com)  
312-836-6890Kevin McClear  
General Counsel  
[Kevin.McCclear@theice.com](mailto:Kevin.McCclear@theice.com)  
312-836-6833**Parts 45 and 43 SDR Reporting Requirements for Off-Facility CDS-Clearing Related Swaps (Firm Trades)**

Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 45.3 requires, under certain conditions, that Swap Dealers and Major Swap Participants must report off-facility swaps to a registered Swap Data Repository (“SDR.”)

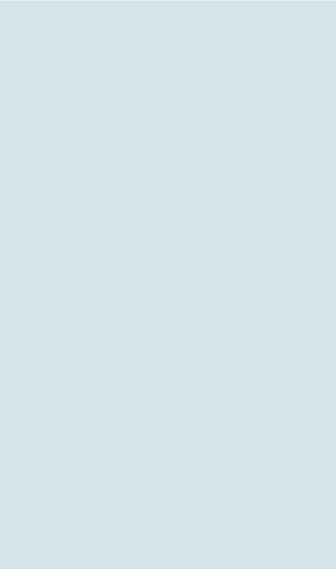
On December 19, 2012, CFTC staff granted conditional No-Action Relief (12-59) (the “No-Action Relief”) for Swap Dealers and Major Swap Participants that are clearing members from reporting certain off-facility swaps. Specifically, the No-Action Relief states that, subject to certain conditions, the Division of Market Oversight will not recommend that the Commission take enforcement action against a reporting counterparty (clearing member) for failure to comply with its obligations to report swap data arising from swaps that have been entered into pursuant to a DCO’s CDS Settlement Price Process (“CDS Clearing-Related Swaps.”)

ICE Clear Credit’s (“ICC”) CDS Settlement Price Process requires that clearing members enter into “firm trades” in order to assure that prices submitted by clearing members are reliable and accurate. Clearing members face ICC as their counterparty with respect to firm trades and firm trades are automatically cleared. As a result, firm trades constitute CDS Clearing-Related Swaps (“ICC CDS Clearing-Related Swaps.”) ICC currently reports all of its cleared swaps, including ICC CDS Clearing-Related Swaps, to ICE Trade Vault, a provisionally registered SDR.

As a condition to the No-Action Relief, clearing members and ICC must agree, as evidenced by private agreement or pursuant to ICC’s rules, that ICC shall fulfill all of the clearing member’s obligations with respect to reporting CDS Clearing-Related Swaps pursuant to Part 45 of the CFTC Regulations. To satisfy this condition, ICC is issuing this Circular (rule) establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action Relief that will currently expire on June 30, 2013.

In addition, Part 43 of the CFTC Regulations requires, under certain conditions, that Swap Dealers and Major Swap Participants report certain swap transaction and pricing data to a registered SDR in real-time. In order to reduce its clearing members’ operational burdens and minimize operational risk, this Circular (rule) is intended to satisfy any Part 43 reporting obligations of ICC’s clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist. In the capacity of a third-party provider, ICC will be responsible for reporting required swap transaction and pricing data in real-time to ICE Trade Vault on behalf of a clearing member that is a Swap Dealer or Major Swap Participant.

ICC will commence real-time reporting of swap transaction and pricing data ICC CDS Clearing-Related Swaps on behalf of clearing members on March 18, 2013. Clearing members should turn off any



of their real-time messaging feeds to SDRs for all ICC CDS Clearing-Related Swaps.

In the event that a clearing member would like to “opt out” of this Part 43 reporting service, the clearing member should notify Client Services at [css@theice.com](mailto:css@theice.com).

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

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