

15th March 2017

Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: ICE Clear Europe Submission of New Swaps for Clearing Under Rule 39.5(b)

Dear Mr. Kirkpatrick:

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”), a registered derivatives clearing organization (“DCO”), hereby submits to the Commodity Futures Trading Commission’s (the “CFTC” or the “Commission”), pursuant to CFTC Rule 39.5(b), credit default swap (“CDS”) contracts (the “New Swaps”) referencing the five-year tenor in series 22, 23, 24, 25 and 26 of the iTraxx Europe Subordinated Financial sub-index (the “Indices”), and maturing on 20 December 2019, 20 June 2020, 20 December 2020, 20 June 2021 and 20 December 2021 respectively. ICE Clear Europe intends to accept the New Swaps for clearing commencing 17 March 2017.

New Swaps to be Accepted for Clearing

Table 1 below identifies the characteristics of the New Swaps; specifically the type, region, rating and spread-level, as follows:

Type: Each Index comprises 30 financial corporate reference entities from the iTraxx Europe index. Each component CDS of the Index references subordinated debt of the relevant reference entity.

Region: All reference entities in the Index are incorporated in Europe.

Rating: All reference entities in the Index are considered investment grade by the administrator of the Indices.

Spread Level: Not applicable. Applicable only when the reference entity selection criteria include spread-level.

Table 1

Index Classification				Index Name	Swap			
Type	Region	Rating	Spread Level		Series	Maturity	(Tenor)	Currency
Subordinated Financial Corporate [Debt]	Europe	Investment Grade	n/a	iTraxx Europe Sub Financial	26	12/20/2021	(5Y)	Euro
Subordinated Financial Corporate [Debt]	Europe	Investment Grade	n/a	iTraxx Europe Sub Financial	25	6/20/2021	(5Y)	Euro
Subordinated Financial Corporate [Debt]	Europe	Investment Grade	n/a	iTraxx Europe Sub Financial	24	12/20/2020	(5Y)	Euro
Subordinated Financial Corporate [Debt]	Europe	Investment Grade	n/a	iTraxx Europe Sub Financial	23	6/20/2020	(5Y)	Euro
Subordinated Financial Corporate [Debt]	Europe	Investment Grade	n/a	iTraxx Europe Sub Financial	22	12/20/2019	(5Y)	Euro

Statement of Eligibility

ICE Clear Europe is eligible to clear the New Swaps in accordance with CFTC Rule 39.5(a).

ICE Clear Europe is a registered DCO pursuant to Section 5b of the Commodity Exchange Act, as amended (the “CEA”), and as such is supervised by the Commission. ICE Clear Europe became a DCO on January 22, 2010, and since that date, ICE Clear Europe has cleared swaps in compliance with section 5b(c)(2) of the CEA. Additionally, ICE Clear Europe is a registered securities clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934, and as such is supervised by the Securities and Exchange Commission.

ICE Clear Europe Limited is authorised as a central counterparty under Regulation (EU) No 648/2012 of the European Parliament and of the Council of 04 July 2012 on OTC derivatives, central counterparties and trade repositories (“EMIR”) and is recognised as a central counterparty under the U.K. Financial Services and Markets Act 2000, as amended. As such, ICE Clear Europe is supervised by the Bank of England (the “Bank”). ICE Clear Europe received settlement finality designation (SFD) under the U.K. Financial Markets and Insolvency (Settlement Finality) Regulations 1999. The Clearing House is also a recognised as an inter-bank payment system under the U.K. Banking Act 2009.

The provision of clearing services by ICE Clear Europe commenced on 03 November 2008. The clearing services provided at the date hereof comprise clearing of index and single-name CDS, as well as the energy, emissions and financials and softs markets operated by ICE Futures Europe (“ICE Futures”) (a UK recognised investment exchange or “RIE”), the energy and emissions markets operated by ICE Futures U.S. (“IFUS”) (a designated contract market), and the energy markets operated by ICE Endex (a Dutch regulated market).

The New Swaps, which constitute index CDS, are of the same type as other index CDS currently cleared by ICE Clear Europe, including CDS on the main iTraxx Europe index, of which the Indices underlying the New Swaps are a subset. The New Swaps will be cleared in the same manner as other iTraxx Europe contracts, under the same Rules and Procedures and consistent with ICE Clear Europe’s existing clearing arrangements and related financial safeguards and risk management and other protections. ICE Clear Europe will be able to clear the New Swaps in accordance with Section 5b(c)(2) of the CEA, including if the New Swaps are designated for mandatory clearing by the Commission.

Information Related to the Act’s Swap Submission Review Requirements

In accordance with §39.5(b)(3)(ii), information is provided below to assist the Commission in its review of ICE Clear Europe’s submission of the New Swaps 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.”

Table 2 below provides data describing the outstanding notional exposures, observed trading activity and adequacy of end-of-day pricing data for the New Swaps.

Index, Series and Tenor

Three columns identify the New Swaps by index, series and tenor.

Outstanding Positions among 17 ICE Clearing Entities

This column provides the gross notional amount of the positions in the Depository Trust & Clearing Corporation Trade Information Warehouse (the “DTCC TIW”) as of 03 November 2016, among 17 legal entities that are Clearing Participants of ICE Clear Credit and/or CDS Clearing Members of ICE Clear Europe. Please note that this does not include all CDS Clearing Members.

Outstanding Positions among all Market Participants

This column provides the gross notional amount of the positions in the DTCC TIW between all market participants as of 27 January 2017

12-Month Average of Weekly Trading Activity among all Market Participants

Three columns provide information related to the risk-transfer activity among all market participants. Two columns provide the average weekly risk-transfer activity from 05 October 2015 through 30 September 2016; one column provides the activity in terms of gross notional per week, and the other column provides the activity in terms of transactions per week. The third column provides the standard deviation of the number of transactions per week.

EOD Price Collection Summary

ICE Clear Europe's rules require CDS Clearing Members to submit end-of-day pricing data for any swap for which they have a relevant cleared interest. ICEU recently demonstrated the ability of CDS Clearing Members to provide end-of-day price discovery submissions for the New Swaps. During a two-week price collection period from 23 January 2017 to 03 February 2017, ICEU asked all 16 providers of unique submission sets to ICE Clear Credit and/or ICE Clear Europe, to provide submissions for all New Swaps. This Table 3 entry consists of two columns summarizing the results of the two-week price collection period. The first column provides the number of unique sets of submissions received per day. The second column provides the average dispersion of submissions. For the purposes of this analysis, ICEU defines dispersion as the difference between the highest and lowest submission mid-level after removing the submissions with the highest two and lowest two mid-levels from the sample. The table expresses dispersion as a percentage of the bid-offer width ("BOW") established each day for the given swap by ICE Clear Europe.

Table 2

Date Range	On-The-Run Series	1st Off-The-Run Series	2nd Off-The-Run Series	On-The-Run Business Days Within Sample Period ¹
9/20/2016 - 3/19/2017	26	25	24	9
3/21/2016 - 9/19/2016	25	24	23	131
9/21/2015 - 3/18/2016	24	23	22	120
3/20/2015 - 9/18/2015	23	22	21	0
9/22/2014 - 3/19/2015	22	21	20	0

Table 3

INDEX	SERIES	TENOR	OUTSTANDING POSITIONS AMONG 17 ICE CLEARING LEGAL ENTITIES ²	OUTSTANDING POSITIONS AMONG ALL MARKET PARTICIPANTS ³	12-MONTH ⁴ AVERAGE OF WEEKLY TRADING ACTIVITY AMONG ALL MARKET PARTICIPANTS			EOD PRICE COLLECTION SUMMARY ⁵	
					Gross Notional (EUR millions)	Gross Notional (USD-Eq. millions)	Mean Gross Notional / Week (USD-Eq. millions)	Mean Transactions / Week	Std. Dev. of Transactions / Week
iTraxx Europe Subordinated Financial	26	5Y	119	6,233	1,057	133	64	15	31%
iTraxx Europe Subordinated Financial	25	5Y	1,501	7,150	519	57	38	15	42%
iTraxx Europe Subordinated Financial	24	5Y	1,715	5,070	342	56	96	15	41%
iTraxx Europe Subordinated Financial	23	5Y	2,142	4,890	47	6	10	15	40%
iTraxx Europe Subordinated Financial	22	5Y	3,638	6,874	23	3	6	15	39%

¹ October 5, 2015 through September 30, 2016

² Source: DTCC data providing positions among 17 unique legal entities that are Clearing Participants of ICE Clear Credit and/or Clearing Members of ICE Clear Europe, as-of November 3, 2016

³ Source: DTCC Weekly Stock and Volume Reports, Section 1, Table 7, January 27, 2017

⁴ Source: DTCC Weekly Stock and Volume Reports, Section 4, October 5, 2015 through September 30, 2016

⁵ Price collection period from January 23, 2017 through February 3, 2017

(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.”

ICE Clear Europe Rules and Procedures are publicly available on our website:

https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Clearing_Rules.pdf

https://www.theice.com/publicdocs/clear_europe/rulebooks/procedures/CDS_Procedures.pdf

[https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Continuing CDS Rule Provisions 1 February 2014.pdf](https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Continuing_CDS_Rule_Provisions_1_February_2014.pdf)

Since its launch of CDS clearing in July 2009 ICE Clear Europe has cleared approximately 1,219,706 CDS transactions valued at approximately €22 trillion. ICE Clear Europe currently clears CDS referencing 76 indices, 7 Western European Sovereigns and 183 corporate single names. ICE Clear Europe currently maintains a cleared open interest in CDS valued at approximately €486 billion.

As of 16 February 2017 ICE Clear Europe held on deposit CDS Guaranty Fund deposits of €907,048,303 and the Initial Margin Requirement for CDS was approximately €6.4bn.

(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 effect on mitigation of systemic risk from the clearing of the New Swaps is believed to be material for the following reasons:

- The New Swaps to be accepted for clearing are actively traded with significant pre-clearing outstanding positions.
- ICE Clear Europe’s CDS Clearing Members are amongst the most active CDS market participants and continue to clear a significant portion of their clearing-eligible portfolio.
- The multilateral netting achieved through the clearing process has been significant historically and has substantially reduced the number and notional amount of outstanding bilateral positions.
- ICE Clear Europe has developed a robust risk management framework that has been extensively reviewed by regulators, industry participants and third-party experts.
- ICE Clear Europe’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 Europe’s fee structure is appropriate and its margin and guaranty fund computations suitably account for the risk brought to the Clearing House, including for the New Swaps. The clearing of the New Swaps should therefore have no adverse impact on competition. The initial expected clearing fees for the new swaps are as set forth below.

Clearing Member:

https://www.theice.com/publicdocs/ICE_Clear_Europe_CDS_Fees_ClearingMember.pdf

Client: https://www.theice.com/publicdocs/ICE_Clear_Europe_CDS_Fees_Client.pdf

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

ICE Clear Europe CDS Clearing Members consist of several types of institutions, principally U.K. and EU financial institutions and clearing firms but also futures commission merchants (“FCMs”) (including FCMs that are also broker-dealers). In the event of a CDS Clearing Member insolvency, ICE Clear Europe is of the view, based on the advice of counsel in the relevant jurisdictions, that ICE Clear Europe would be permitted to exercise its rights to close out house and customer positions and apply margin and other property of the defaulting Clearing Member in accordance with its rules. Specifically, as a matter of English law, ICE Clear Europe is protected by Part VII of the Companies Act 1989, the Financial Markets and Insolvency (Settlement Finality Regulations 1999) and the EU Settlement Finality Directive (Directive 98/26/EC) from the general application of the insolvency laws of England and Wales, meaning that the clearinghouse's default rules prevail over insolvency laws, such as any applicable moratorium on transactions.

With respect to customer positions carried through an FCM Clearing Member, the New 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 Europe would have the ability to close out customer positions following the insolvency of the Clearing Member and/or, in appropriate circumstances, facilitate a transfer of such positions to another, solvent Clearing Member. Pursuant to the Commission's Part 22 regulations for cleared swaps, ICE Clear Europe is required to segregate clearing swap customer property. 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 ICE Clear Europe insolvency, ICE Clear Europe would be subject to applicable insolvency law of England and Wales and in addition would be a commodity broker subject to the Bankruptcy Code and Part 190 regulations. U.S. bankruptcy law would also apply in respect of any U.S. customer property for customer positions carried through an FCM Clearing Member. ICE Clear Europe believes, based on the advice of counsel, that under the applicable provisions of those laws and regulations, ICE Clear Europe rules providing for the termination of all outstanding contracts and the application and/or return of a net sum in respect of remaining member and customer property to each of its Clearing Members would similarly be enforceable.

ICE Clear Europe notes that it in connection with its application for registration as a DCO, it has previously provided to the Commission further information on the application of relevant English insolvency laws.

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.”

Product specifications and contract terms for the New Swaps are the same as for the iTraxx Europe Contracts as specified in paragraph 10 of the CDS Procedures previously referenced in subsection (B) above. Lifecycle event processing for the New Swaps will be conducted in the same manner as for the iTraxx Europe Contracts as specified in Section 7 of the CDS Procedures. The New Swaps will be electronically confirmed.

Participant Eligibility

“Participant eligibility standards, if different from the derivatives clearing organization’s general participant eligibility standards.”

The participant eligibility standards related to the New Swaps are not different from ICE Clear Europe’s general participant eligibility standards with respect to CDS contracts.

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.”

Please see confidential exhibits separately provided to the Commission

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.”

Please see confidential exhibits separately provided to the Commission

Rules, Policies and Procedures

ICE Clear Europe Rules and Procedures are publicly available on our website:

https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Clearing_Rules.pdf

https://www.theice.com/publicdocs/clear_europe/rulebooks/procedures/CDS_Procedures.pdf

https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Continuing_CDS_Rule_Provisions_1_February_2014.pdf

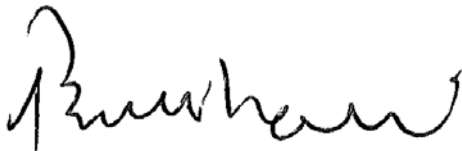
Communication to Members Regarding this Submission

“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 Europe posted a copy of this submission (absent any confidential exhibits) on its public website on 15 March 2017. Written comments relating to the submission have not been solicited or received. ICE Clear Europe will notify the CFTC of any written comments received by ICE Clear Europe. ICE Clear Europe will issue a circular in advance of the launch, all circulars are available here: <https://www.theice.com/clear-europe/circulars>.

If you or your staff should have any questions or require further information regarding this submission, please do not hesitate to contact the undersigned at patrick.davis@theice.com or +44 20 7065 7738, Dee Blake, Director of Regulation, at dee.blake@theice.com or + 44 20 7065 7753, or Paul Swann, President & Managing Director, at paul.swann@theice.com or +44 20 7065 7700.

Yours sincerely,



Patrick Davis
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ICE Clear Europe Limited