

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

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**Treatment of Funds Held in Connection with  
Clearing by ICE Clear Credit of Credit Default Swaps**

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**ORDER**

ICE Clear Credit LLC (“ICE Clear Credit”), a derivatives clearing organization (“DCO”) registered under Section 5b of the Commodity Exchange Act (“Act”) and a securities clearing agency registered under Section 17A of the Securities Exchange Act of 1934 (“Exchange Act”), has submitted a request that the Commodity Futures Trading Commission (“Commission”) issue an Order permitting ICE Clear Credit and its clearing members that are broker-dealers registered under Section 15(b) of the Exchange Act and are also futures commission merchants registered under Section 4f(a)(1) of the Act (“Participants”) (i) to hold in a cleared swaps account, subject to Section 4d(f) of the Act, customer money, securities, and property (collectively, “customer property”) used to margin, guarantee, or secure both cleared swaps and cleared security-based swaps; and (ii) to provide for portfolio margining of such cleared swaps and cleared security-based swaps.

The request was posted on the Commission’s website for a 30-day public comment period which ended on December 22, 2011. Seven substantive comment letters were received during the comment period, all of which supported the Commission’s issuance of an Order pursuant to Section 4d(f) of the Act.

The Commission has reviewed the request and supplemental information provided by ICE Clear Credit (“Submission”), and finds that ICE Clear Credit has demonstrated that it can continue to comply with the requirements under the Act and the Commission’s regulations thereunder applicable to it, including in connection with the Submission. Therefore,

IT IS ORDERED, pursuant to Section 4d(f) of the Act, 7 U.S.C. § 6d(f), that, subject to the terms and conditions below, ICE Clear Credit and its Participants that are acting pursuant to this Order may hold customer property used to margin, guarantee, or secure positions in cleared security-based swaps with other customer property used to margin, guarantee, or secure positions in cleared swaps, in a cleared swaps account or accounts maintained in accordance with Section 4d(f) of the Act (including any applicable orders issued pursuant to Section 4d(f) of the Act) and the regulations thereunder, and provide for portfolio margining of such cleared swaps and cleared security-based swaps, subject to the requirements of Commission Regulation 39.13(g)(4). All such customer property shall be accounted for and treated and dealt with as belonging to the cleared swaps customers of the Participant consistent with Section 4d(f) of the Act and the regulations thereunder.

IT IS FURTHER ORDERED, that:

- (1) Customer property used to margin, guarantee, or secure positions in credit default swaps (“CDS”) that are narrow-based index CDS or single-name CDS (together, “Security-Based CDS”) that are currently, or will in the future be, cleared through ICE Clear Credit, may be commingled and portfolio margined with broad-based index CDS that are currently, or will in the future be, cleared through ICE Clear Credit, in accounts subject to Section 4d(f) of the Act.
- (2) Each Participant acting pursuant to this Order shall take appropriate measures to identify, measure, and monitor financial risk associated with carrying the Security-Based CDS in

a cleared swaps account and implement risk management procedures to address those financial risks.

(3) Each Participant acting pursuant to this Order shall provide notice to its customers that customer property used to margin, guarantee, or secure Security-Based CDS will not receive customer protection treatment under the Exchange Act or Securities Investor Protection Act of 1970, and will instead receive customer protection treatment under Subchapter IV of Chapter 7 of Title 11 of the United States Code and the rules and regulations thereunder.

(4) ICE Clear Credit shall apply appropriate risk management oversight procedures with respect to positions in the Security-Based CDS. ICE Clear Credit shall conduct oversight sufficient to assure that each Participant acting pursuant to this Order has the operational capabilities necessary to manage defaults in such positions.

(5) ICE Clear Credit shall require Participants to collect customer initial margin, as defined in Commission Regulation 1.3(bbb), from their customers at a minimum level determined by ICE Clear Credit.

(6) ICE Clear Credit shall conduct financial surveillance and oversight with respect to the Security-Based CDS carried by each Participant acting pursuant to this Order.

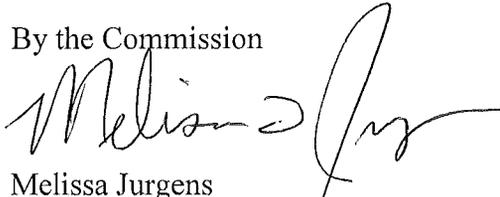
(7) ICE Clear Credit and each Participant acting pursuant to this Order shall take all other steps appropriate to manage risk related to clearing the Security-Based CDS.

(8) ICE Clear Credit and each Participant acting pursuant to this Order shall hold all customer property deposited with ICE Clear Credit and such Participant, respectively, to margin, guarantee, or secure Security-Based CDS in accordance with the requirements of section 4d(f) of the Act and the Commission's regulations thereunder.

(9) ICE Clear Credit shall at all times fulfill all representations made in the Submission.

This Order is issued pursuant to Section 4d(f) of the Act based upon the representations made and supporting material provided to the Commission by ICE Clear Credit in its Submission. Any changes or omissions in the material facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the relief set forth herein is appropriate. Further, in its discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

Issued in Washington, D.C., this 14th day of January, 2013.

By the Commission  
  
Melissa Jurgens  
Secretary of the Commission