www.theice.com

Eric Nield
General Counsel

March 18, 2014

Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: "LSOC with Excess" Rule Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and CFTC Regulation 40.5

Dear Ms. Jurgens:

ICE Clear Credit LLC ("ICC"), a registered derivatives clearing organization ("DCO") under the Commodity Exchange Act, as amended (the "Act"), hereby submits to the Commodity Futures Trading Commission ("CFTC"), pursuant to CFTC Rule 40.5, amendments to its rules that provide for excess customer-related collateral to be held at ICC under the enhanced margin segregation model for cleared swaps that the CFTC adopted in Part 22 of the CFTC regulations (generally referred to as "legal segregation with operational commingling" or "LSOC").

ICC previously submitted, and the CFTC approved, rules implementing the basic LSOC framework. ICC proposes to amend its clearing rules ("ICC Rules" or Rules") to permit clearing participants to use the "LSOC with excess" model, under which they may transfer excess initial margin to ICC, subject to the terms and conditions in the proposed rules. ICC has developed the proposed amendments to provide additional protections for initial margin provided by customers of clearing participants, by allowing such margin to be held at ICC and requiring detailed reporting from clearing participants as to the allocation of initial margin held at ICC to particular customer portfolios. Combined with the ICC's existing LSOC framework, the proposed rules are intended to mitigate the risk that one customer of a clearing participant will suffer of a loss because of a default by another customer of the clearing participant.

ICC proposes to amend Parts 1 and 4 of the ICC Rules, as well as related definitions. The other proposed changes in the ICC Rules reflect conforming changes and drafting clarifications, and do not affect the substance of the ICC Rules or forms of cleared products. The text of the

proposed rule amendments are attached, with additions underlined and deletions in strikethrough text. All capitalized terms not defined herein are defined in the ICC Rules.

As noted above, the principal purpose of the proposed rule amendments is to update the Rules to permit clearing participants to use the “LSOC with excess” model, under which clearing participants may provide for excess customer-related collateral to be transferred to and held at ICC under the LSOC regulations. Specifically, the proposed rule changes affect Parts 1 and 4 of the ICC Rules, and related definitions, as described in detail as follows.

In Part 1 of the ICC Rules, new definitions of “Client-Related Excess Margin” and “LSOC Excess Participant” have been added to accommodate those clearing participants that elect to use the LSOC with excess model.

Existing Rule 406(l) has been revised to clarify that ICC will accept Client-Related Excess Margin (i.e., margin in excess of the ICC initial margin requirement) from clearing participants that elect to be LSOC Excess Participants. For clearing participants that do not elect to be LSOC Excess Participants, the existing “LSOC without excess” model will continue to apply.

ICC proposes to add new Rule 406(m) which includes the terms and conditions of the “LSOC with excess” model. Each LSOC Excess Participant will be required to provide ICC on at least a daily basis a “Swap CVR” that allocates the initial margin provided by the participant to each Non-Participant Party Portfolio and identifies any excess margin provided by the participant with respect to client-related positions generally (so-called “firm excess”). ICC will use the Swap CVR to determine the value of initial margin protected for each Non-Participant Party Portfolio under the LSOC regulations and ICC Rules, in accordance with the procedures set out in Rule 406(m)(ii). Rule 406(m) also addresses the treatment under the ICC Rules of firm excess and any initial margin held by ICC for customer positions that is unallocated at the time of a participant default. The rule also addresses certain technical issues around the treatment of margin provided in response to an intra-day margin call and the participant’s ability to withdraw margin on an intraday basis.

ICC proposes to revise Rule 20-605(c)(i)(A) in order to modify the default “waterfall” for application of resources in the Closing-out Process for Client-Related Positions upon a Participant default consistent with CFTC Rule 22.15. The principal change to the rule is in subclause (c), which provides that while initial margin allocated to a particular Non-Participant Party Portfolio shall only be used to satisfy obligations to ICC in respect of the Client-Related Positions in such Non-Participant Party Portfolio, Firm Excess Value (if any) may be used to satisfy obligations to ICC in respect of any or all Non-Participant Party Portfolios.

ICE Clear Credit does not believe that the Amendments will have anticompetitive effects on market participants or others. LSOC with Excess will be available as an option to all ICC participants. ICC participants that do not elect to be LSOC Excess Participants can continue to operate under the existing “LSOC without excess” model. Accordingly, ICC does not believe the proposed amendments would adversely affect competition among clearing participants or access to the clearinghouse. In addition, ICC does not believe the rule amendments will adversely affect the ability of other market participants to continue to clear credit default swaps (“CDS”) or otherwise limit market participants’ choices for clearing CDS. Therefore, ICC does not believe the proposed rule change will have any anticompetitive effects on market participants or others.

Core Principle Review:

ICC reviewed the DCO core principles ("Core Principles") as set forth in the Act. During this review, ICC identified the following Core Principles as being impacted:

Financial Resources: The amendments to ICC's Rules to permit clearing participants to use the "LSOC with excess" model is consistent with the financial resources requirements of Principle B.

Risk Management: The amendments to ICC's Rules to permit clearing participants to use the "LSOC with excess" model is consistent with the risk management requirements of Principle D.

Settlement Procedures: The amendments to ICC's Rules to permit clearing participants to use the "LSOC with excess" model is consistent with the settlement procedures requirements of Principle E.

Treatment of Funds: The amendments to ICC's Rules to permit clearing participants to use the "LSOC with excess" model is consistent with the treatment of funds requirements of Principle F.

Annexed as an Exhibit hereto is the following:

A. Amendments to the ICE Clear Credit Rules

Certification of the amended Rules pursuant to Section 5c(c)(1) of the Act and CFTC Regulation 40.5 is provided below.

Certifications:

ICC hereby certifies that the amendments to its Rules to permit clearing participants to use the "LSOC with excess" model comply with the Act and the regulations thereunder. The amended Rules were unanimously recommended for approval by the ICC Risk Committee and unanimously approved by the ICC Board of Managers.

ICC hereby certifies that, concurrent with this filing, a copy of the submission was posted on ICC's website, which may be accessed at: https://www.theice.com/notices/Notices.shtml?regulatoryFilings.

ICC has received no substantive opposing views in relation to the proposed rule amendments.

Accordingly, ICE Clear Credit hereby submits the amendments to its Rules to permit clearing participants to use the "LSOC with excess" model for CFTC approval pursuant to the procedures and review period provided in CFTC Rule 40.5.

ICC would be pleased to respond to any questions the CFTC or the staff may have regarding this submission. Please direct any questions or requests for information to the attention of the undersigned at (312) 836-6742.

Sincerely,

Eric Nield
General Counsel

cc: Brian O'Keefe, CFTC (by email)
John C. Lawton, CFTC (by email)
Phyllis Dietz, CFTC (by email)
Steve Greska, CFTC (by email)
Julie Mohr, CFTC (by email)
Kate Meyer, CFTC (by email)
Tad Polley, CFTC (by email)
Michelle Weiler, ICC (by email)
Sarah Williams, ICC (by email)

Exhibit A

Clearing Rules

Table of Contents

CFTC

The U.S. Commodity Futures Trading Commission.

Chief Executive Officer

The Chief Executive Officer of ICE Clear Credit.

Client Omnibus Margin Account

Any account or accounts maintained by or on behalf of ICE Clear Credit with respect to a Participant for the purposes of holding on an omnibus basis Margin posted by a Participant in respect of Client-Related Positions (including margin of Non-Participant Parties posted to that Participant in respect of such margin requirement or property of a Participant posted in lieu thereof in accordance with these Rules).

Client-Related Excess Margin

For a Non-Participant Party, Client-Related Initial Margin provided by the relevant Participant on behalf of such Non-Participant Party in excess of the amount required by ICE Clear Credit for the relevant Non-Participant Party Portfolio, within the meaning of CFTC Rule 22.13(c).

Client-Related Initial Margin

Initial Margin (other than Physical Settlement Margin) provided by a Participant to ICE Clear Credit with respect to Client-Related Positions.

Client-Related Position

An Open Position identified as such at the time the related Trade is submitted by an FCM Participant (in the case of a swap) or a Broker-Dealer Participant (in the case of a security-based swap) to ICE Clear Credit in accordance with Rules 301 and 302, where such related Trade, at the time established, is entered into by the Participant for a Non-Participant Party. ICE Clear Credit will rely on a Participant's designation of an Open Position as a Client-Related Position for purposes of these Rules. To the extent permitted by law, a Client-Related Position will include such an Open Position entered into by an FCM Participant or a Broker-Dealer Participant for another Person (which Person may, but need not, be an Affiliate of that Participant or of another Participant) that is itself acting for one or more Non-Participant Parties with respect to such Open Position (such Person in such case, a "**Client-Carrying Broker**").

Closing-out Process

requires, mean the "ICE Business Day" corresponding to the trading day declared by the relevant Market, if applicable.

ICE Clear Credit

ICE Clear Credit LLC, a Delaware limited liability company (formerly ICE Trust U.S. LLC).

ICE Clear Credit Procedures

The policies, procedures and other provisions established by ICE Clear Credit relating to clearing of Contracts, as amended from time to time.

Initial Payment

The meaning specified in Rule 301(b).

LSOC Excess Participant

A Participant that has elected, under procedures specified by ICE Clear Credit, to hold Non-Participant Excess Margin attributable to one or more Non-Participant Parties in the Client Omnibus Margin Account in accordance with Rule 406.

Margin

Initial Margin (including Portfolio Risk Margin, Physical Settlement Margin and Super and Special Margin) and Mark-to-Market Margin (each as defined in Rule 403 or 404) Transferred or Transferable by or to a Participant to or by ICE Clear Credit.

Margin Accounts

Each Participant's House Margin Account and Client Omnibus Margin Account.

Margin Category

The meaning specified in Rule 401(a).

Margin Requirement

The meaning specified in Rule 401(a).

Markets

A market that is party to an agreement with ICE Clear Credit for the provision of clearing services and that is specifically identified in these Rules as a Market.

Mark-to-Market Margin Category shall be expressed as a positive or negative number or as zero, as applicable.

(b) "**Mark-to-Market Price**" means, for each Contract, the price determined in the manner designated by ICE Clear Credit for such Contract from time to time in the ICE Clear Credit Procedures. Notwithstanding the foregoing, when deemed necessary by ICE Clear Credit in order to protect the respective interests of ICE Clear Credit and Participants, ICE Clear Credit may set the Mark-to-Market Price for any Contract at a price deemed appropriate by ICE Clear Credit under the circumstances. When ICE Clear Credit determines that circumstances necessitate the application of the preceding sentence, the reasons for that determination and the basis for the establishment of the Mark-to-Market Price in such circumstances shall be recorded as provided in the ICE Clear Credit Procedures. To aid in the establishment of Mark-to-Market Prices, Participants are required to submit end of day prices in accordance with the ICE Clear Credit Procedures. The submission of those prices may result in a bilateral transaction which will subsequently be cleared in accordance with the ICE Clear Credit Procedures.

405. **Intentionally Omitted.**

406. **Certain Requirements with Respect to Client-Related Positions of FCM Participants and Broker-Dealer Participants**.

The provisions of this Rule 406 shall apply to Participants that are FCMs and/or Broker-Dealers in respect of Client-Related Positions. Without limiting Rule 312, ICE Clear Credit shall have no obligation or liability to any Non-Participant Party in respect of a Client-Related Position or any transaction, agreement or arrangement between a Participant and any Non-Participant Party. For the avoidance of doubt, Participants carrying Client-Related Positions that are swaps must be FCMs, and Participants carrying Client-Related Positions that are security-based swaps must be Broker-Dealers.

(a) The relationship between a Non-Participant Party and a Participant in respect of Client-Related Positions for that Non-Participant Party shall be documented pursuant to and governed by a futures account agreement or clearing agreement (or equivalent document) agreed between such parties ("**Customer Account Agreement**"), subject to the applicable provisions of the Rules.

(b) A Participant shall require each Non-Participant Party to provide margin or collateral ("**Non-Participant Collateral**") in an amount no less than the amount of Margin of each applicable Margin Category required on a gross basis by ICE Clear Credit with respect to the relevant Client-Related Position(s); provided that ICE Clear Credit may require additional margin with respect to Non-Participant Parties (or certain categories of Non-Participant Parties) as determined by ICE Clear Credit from time to time as required by applicable law. For this purpose,

"gross basis" shall mean that the margin requirement will be determined giving effect to any offset of such Client-Related Positions against Client-Related Positions relating to the same Non-Participant Party, but without any offset of such Client-Related Positions against Client-Related Positions relating to a different Non-Participant Party.

(c) (i) A Participant shall receive, hold and use all Non-Participant Collateral only as permitted under CEA Section 4d(f) and the rules thereunder (including Part 22 of the CFTC Regulations and any interpretations thereof by the CFTC or its staff) and Securities Exchange Act Sections 3E(b) and/or 15(c)(3) and the rules thereunder, as applicable, and to the extent not inconsistent with the foregoing, as set forth in these Rules and the ICE Clear Credit Procedures (the "**Swap Customer Segregation Requirements**"). All property Transferred to ICE Clear Credit by Participant on behalf of Non-Participant Parties shall be held in the Client Omnibus Margin Account of such Participant as cleared swaps customer property in accordance with the Swap Customer Segregation Requirements. Pursuant to this Rule, Participant shall satisfy the requirement to obtain any segregation acknowledgement letter from ICE Clear Credit under the Swap Customer Segregation Requirements.

(ii) Without limiting subsection (c)(i) above, the Client-Related Positions (including, solely to the extent permitted by applicable rules, orders or exemptions of the CFTC and SEC, Client-Related Positions that are security-based swaps) and related Non-Participant Collateral shall be part of the cleared swaps account class for purposes of Part 190 of the CFTC regulations.

(d) Property held in the Client Omnibus Margin Account may only be applied in respect of Client-Related Positions as provided in these Rules and only to the extent permitted by the Swap Customer Segregation Requirements (including CFTC Rule 22.15).

(e) ICE Clear Credit shall pass through to the relevant Participant the return on any assets in the Client Omnibus Margin Account (including any return provided by ICE Clear Credit on Cash therein), less administrative costs as determined by ICE Clear Credit.

(f) In connection with any Client-Related Position and related Non-Participant Collateral, Participant shall keep and maintain written records required by the Swap Customer Segregation Requirements. Each Participant shall provide such reports to ICE Clear Credit with respect to Non-Participant Parties and their related Client-Related Positions and Non-Participant Collateral as and when required under the Swap Customer Segregation Requirements and otherwise upon request of ICE Clear Credit and upon such other basis, if any, as is provided in the ICE Clear Credit Procedures.

(g) Without limiting Rule 312, but subject to any contrary requirements of law: ICE Clear Credit shall not be liable to any Participant, Non-Participant Party or other Person for any losses, claims, liabilities, damages or expenses arising out of or relating to the holding, investment or use of the Client Omnibus Margin Account or assets credited thereto from time to time ("**Custodial Losses**"), except to the extent such Custodial Losses result from the gross negligence or willful misconduct of ICE Clear Credit. No Participant shall be liable to any Non-Participant Party for any Custodial Losses, except to the extent such Custodial Losses result from the gross negligence or willful misconduct of the Participant. ICE Clear Credit shall have no duties or responsibilities with respect to the Client Omnibus Margin Accounts except as expressly set forth in these Rules and applicable law. ICE Clear Credit shall have no responsibility for any investment decisions by a Participant (or any other Person) with respect to assets in the Client Omnibus Margin Account or for the results of any such investments and shall have no obligation to monitor the value of the assets in the Client Omnibus Margin Account or any requirements set forth in any applicable agreement between Participant and a Non-Participant Party. ICE Clear Credit shall have no responsibility for the compliance by any Participant or Non-Participant Party with its obligations under any such agreement. ICE Clear Credit shall be under no obligation to inquire into, and shall be fully protected in relying on, any instructions or directions with respect to the Client Omnibus Margin Account or the assets therein or transferred thereto or therefrom under these Rules received from a Person ICE Clear Credit believes to be authorized to act on behalf of the appropriate Participant. In no event shall a Non-Participant Party attempt to interfere with the ability of ICE Clear Credit to exercise its rights as set forth in the Rules.

(h) Except with respect to Client-Related Positions resulting from transactions entered into on a designated contract market or national securities exchange, each Non-Participant Party for which a Participant clears a Client-Related Position must be an "eligible contract participant" as defined in the CEA.

(i) Each Non-Participant Party consents to the disclosure by its Participant to ICE Clear Credit of such Non-Participant Party's identity and information concerning the Client-Related Positions held by such Participant for such Non-Participant Party and related margin as set forth in the Rules.

(j) Each Non-Participant Party consents and agrees that in the event a Default has occurred with respect to its Participant or in the event of the insolvency of the Participant, (i) the Participant (or its receiver, insolvency trustee or similar official) and/or ICE Clear Credit shall be entitled to attempt to transfer its Client-Related Positions in accordance with Part 190 of the CFTC regulations, other applicable law and the Default Portability Rules, (ii) such Non-Participant Party appoints ICE Clear Credit as its lawful agent and attorney-in-fact to take such actions on behalf of the Non-Participant Party as ICE Clear Credit determines necessary or appropriate in order to effectuate the Default Portability Rules with respect to the Client-Related Positions carried by the Participant for such Non-Participant Party,

including executing any document or instrument with respect to the transfer of the Client-Related Positions and/or exercising rights and remedies to transfer such positions; (iii) the Non-Participant Party shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the Participant, any receiver, insolvency trustee or similar official, or ICE Clear Credit to take action contemplated by its Rules, including, without limitation, the transfer of positions and the transfer of related margin or collateral; (iv) any determination made by ICE Clear Credit with respect to the termination value of a Client-Related Position under the Rules shall be conclusive and binding absent manifest error and (v) any amount payable by such Non-Participant Party in respect of the termination of a Client-Related Position held by the Defaulting Participant for such Non-Participant Party shall not be netted or offset against any amount owed by such Participant to such Non-Participant Party under any other agreement or instrument and shall be paid directly to or as directed by ICE Clear Credit.

(k) Each Participant shall be required to obtain the agreement of each Non-Participant Party to the provisions of the Rules applicable to or otherwise referring to Non-Participant Parties (including Rule 312 and this Rule 406) and hereby represents and warrants to ICE Clear Credit that it has obtained such agreement.

(l) ICE Clear Credit will not accept the deposit of Margin from a Participant in respect of Client-Related Positions in excess of the amount required by ICE Clear Credit, within the meaning of CFTC Rule 22.13(c); provided that ICE Clear Credit will accept Non-Participant Excess Margin from LSOC Excess Participants in accordance with Rule 406(m). For the avoidance of doubt, any Margin deposited with ICE Clear Credit by a Participant (other than an LSOC Excess Participant) that subsequently exceeds the amount required by ICE Clear Credit as a result of a change in the amount required or a change in the Value of such Margin will become available for withdrawal in accordance with Rule 401.

(m) The provisions of this Rule 406(m) shall apply only to LSOC Excess Participants.

(i) Each LSOC Excess Participant shall provide to ICE Clear Credit a swap collateral valuation report (a "**Swap CVR**") at least once on each ICE Business Day by the deadline, if any, specified by ICE Clear Credit; provided that an LSOC Excess Participant may deliver one or more additional Swap CVRs on any ICE Business Day during business hours as specified by ICE Clear Credit. Each Swap CVR shall be provided in the form and manner specified by ICE Clear Credit, and shall specify (A) for each Non-Participant Party of the LSOC Excess Participant, the value of all Client-Related Initial Margin attributed to the Non-Participant Party Portfolio of that Non-Participant Party (the "**CVR-Attributed Customer Value**") and (B) the value of Client-Related Initial Margin provided by the Participant as its own property in respect of Client-Related Positions for

purposes of CFTC Rule 22.13(b) ("**CVR-Attributed Firm Value**"). Such values shall be determined using prices and haircuts specified or authorized by ICE Clear Credit. Swap CVRs shall not be effective unless validated by ICE Clear Credit under such validation procedures as are adopted by ICE Clear Credit. If ICE Clear Credit rejects a Swap CVR of an LSOC Excess Participant under such validation procedures, such LSOC Excess Participant shall submit a revised Swap CVR within such time as is required under the ICE Clear Credit Procedures.

(ii) ICE Clear Credit shall attribute to each Non-Participant Party Portfolio of an LSOC Excess Participant a value of Client-Related Initial Margin (the "**Customer Protected Value**") for all purposes under the Rules (including the application of Margin under Rules 402 and 20-605), as provided in this clause (ii). In addition, ICE Clear Credit shall attribute a value of Client-Related Initial Margin (which may be zero) as "firm excess" in respect of Client-Related Positions collectively for purposes of CFTC Rule 22.13(b) ("**Firm Excess Value**"), as provided in this clause (ii).

(A) During the period from the acceptance by ICE Clear Credit of an effective Swap CVR on an ICE Business Day until the earlier to occur of (x) the acceptance by ICE Clear Credit of a subsequent effective Swap CVR for such ICE Business Day (following which this provision shall apply in respect of such replacement Swap CVR) and (y) the Daily Margin Cycle Completion:

(1) the Customer Protected Value for each Non-Participant Party Portfolio shall equal the CVR-Attributed Customer Value for such Non-Participant Party Portfolio; and

(2) the Firm Excess Value shall equal the CVR-Attributed Firm Value;

provided that the Customer Protected Value and Firm Excess Value may be adjusted by ICE Clear Credit to reflect any changes in the value of the Client-Related Initial Margin during such period subsequent to the submission of such Swap CVR.

(B) During the period from the Daily Margin Cycle Completion until the acceptance by ICE Clear Credit of a new effective Swap CVR:

(1) the Customer Protected Value for each Non-Participant Party Portfolio shall equal the amount of Initial Margin required by ICE Clear Credit for that portfolio; and

(2) the Firm Excess Value shall be zero.

(C) In the case of an intra-day margin cycle in respect of the Swap Customer Account under Rule 401(b), (i) any additional Client-Related Initial Margin deposited by the Participant will be treated as Firm Excess Value until such time as an effective Swap CVR has been submitted and accepted and (ii) any Mark-to-Market Margin deposited by the Participant will be treated as though it were Firm Excess Value until such Mark-to-Market Margin is applied to pay Mark-to-Market Margin obligations owed by ICE Clear Credit or such Mark-to-Market Margin is withdrawn in accordance with Rule 401, as applicable.

(D) The "**Daily Margin Cycle Completion**" shall mean completion of the end-of-day margin cycle under Rule 401 for an ICE Business Day (including the settlement of all Margin due from the relevant Participant to ICE Clear Credit in connection therewith).

(iii) Any portion of the value of the Client-Related Initial Margin provided by a Participant that is not treated as Customer Protected Value or Firm Excess Value at any time shall constitute "**Unallocated Excess**".

(iv) For purposes of the calculations under Rule 401(b), ICE Clear Credit will apply Firm Excess Value to the aggregate Non-Participant Party Portfolio Initial Margin Requirements owed to ICE Clear Credit (on a pro rata basis) prior to calling for additional Margin in respect of such amounts.

(v) Notwithstanding anything to the contrary herein, in the case of a Defaulting Participant, ICE Clear Credit shall not be entitled to apply Unallocated Excess pursuant to Rule 20-605(c)(i)(A)(c), and such Unallocated Excess shall be available for return to the Participant (or its trustee or representative) in accordance with the Rules and applicable law.

(vi) ICE Clear Credit will be entitled to rely on its allocation of Client-Related Initial Margin provided by a Participant as Customer Protected Value, Firm Excess Value or Unallocated Excess, as the case may be, in accordance with this Rule 406(m), as of the time it declares such Participant to be a Defaulting Participant, for all purposes under the Rules, and ICE Clear Credit will not be obligated to change such allocations following such time, regardless of the occurrence of any subsequent margin cycle or other notice or submission, except as may be required by applicable law.

(vii) For the avoidance of doubt, (i) a Participant (other than a Defaulting Participant) may request the return of Unallocated Excess on any ICE Business Day in accordance with Rule 401; and (ii) if a Participant provides additional Client-Related Initial Margin at any time other than

pursuant to a margin cycle, such collateral will constitute Unallocated Excess until such time as a valid Swap CVR is submitted and accepted.

407. UK and European Issues

(a) For the purposes of this Rule 407 only:

(i) "**Offer to the Public**" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any Securities to be offered so as to enable an investor to decide to purchase or subscribe for those Securities, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State;

(ii) "**PD Contract**" means any contract that is a Security and which is (A) a contract cleared or proposed to be cleared by ICE Clear Credit; or (B) a contract in relation to which ICE Clear Credit provides or proposes to provide services as collateral agent; or (C) a contract on terms identical or similar to a contract falling under (A) or (B);

(iii) "**Prospectus Directive**" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State and any reference to a particular article of the Prospectus Directive shall be deemed to also be a reference to the relevant provision of the relevant implementing measure in each Relevant Member State;

(iv) "**Relevant Member State**" means, in relation to paragraph (b) of this Rule or any of the other definitions in this paragraph (a), any member state of the European Economic Area which has implemented the Prospectus Directive or, in relation to paragraphs (i), (j), (k), (l) and (m) of this Rule, means any member state of the European Economic Area which has implemented the Data Protection Directive; and

(v) "**Securities**" means 'securities' within the meaning of article 2(1)(a) of the Prospectus Directive as the same may be varied in any Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State.

(b) ICE Clear Credit has not authorized, nor does it authorize, the making of any Offer to the Public of any PD Contract in circumstances in which an obligation arises for ICE Clear Credit, a Participant or any other person to publish or supplement a prospectus for any such offer. Accordingly, Participants shall not make any such Offer to the Public in relation to PD Contracts. Without prejudice to the generality of the foregoing, no Participant shall enter into a PD Contract: (i) with ICE Clear Credit; or (ii) with another Participant pursuant to these Rules; or

20-402. ICE Clear Credit Lien.

In addition to the lien described in Rule 402(b), each CDS Participant hereby grants ICE Clear Credit, acting on behalf of the relevant Buyer, a continuing lien and security interest in and to all of such CDS Participant's right, title and interest, whether now owned or existing or hereafter acquired or arising, in and to all Buyer Allocated Collateral (as defined in Rule 2204(b)) as security for all obligations of such CDS Participant to such Buyer under all Allocated CDS Contracts (as defined in Rule 2203(a)) between such CDS Participant and such Buyer.

20-605. CDS Participant Default.

(a) ICE Clear Credit may determine, subject to paragraph (g) of this Rule, that a CDS Participant is in "**Default**" if such CDS Participant (i) fails to meet, or appears, in the judgment of ICE Clear Credit, likely to fail to meet, any of the CDS Participant's obligations (other than an obligation to Transfer Margin) with respect to, or is otherwise in default or subject to early termination under, the CDS Participant's Contracts with ICE Clear Credit, (ii) fails to Transfer Margin (whether Initial Margin or Mark-to-Market Margin) by the deadline established under these Rules, (iii) is suspended or expelled or whose privileges are revoked by a Market or by ICE Clear Credit, subject to the requirements of Rule 615(b), or (iv) has a guarantor providing a guarantee pursuant to Rule 205 who fails to meet, or appears, in the judgment of ICE Clear Credit, likely to fail to meet, any obligations with respect to, or who is otherwise in default under, the guarantee. If "Automatic Early Termination" is specified as applying to a CDS Participant under its Participant Agreement, then all Open CDS Positions of such CDS Participant shall be immediately terminated as follows (or as otherwise specified in its Participant Agreement): (A) as of the time such CDS Participant is (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iii) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (iv) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; or (v) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (iv) above; or (B) as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition if such Participant (i) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such

regulator, supervisor or similar official, or (ii) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation or (iii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) or (ii) above, and the occurrence of any such termination of Open CDS Positions shall automatically constitute a Default (an "**Automatic Default**"). Upon a Default, ICE Clear Credit may effect the Closing-out Process with respect to such CDS Participant (the "**Defaulting CDS Participant**") as provided in these Rules as deemed appropriate by ICE Clear Credit, and any debit balance owing to ICE Clear Credit shall be immediately due and payable. For purposes of clause (a)(i) or (iv), and without limiting the generality thereof, ICE Clear Credit may rely on any of the following to demonstrate that a CDS Participant or a guarantor appears likely to fail to meet its obligations to ICE Clear Credit:

(A) the CDS Participant or guarantor is in breach of the terms of membership or the rules or regulations of, or is refused an application for or is suspended or expelled from membership of, any Market or any other exchange, market or clearing house;

(B) the CDS Participant or guarantor is in breach of the terms of membership of, or is refused an application for or is suspended or expelled from membership of, any regulatory, self-regulatory or other entity or organization with regulatory authority, whether governmental or otherwise (a "**Regulatory Body**") or is in breach of the rules or regulations of a Regulatory Body to which it is subject or its authorization by a Regulatory Body is suspended or withdrawn;

(C) a Regulatory Body takes or threatens to take action against or in respect of the CDS Participant or guarantor under any statutory provision or process of law;

(D) the CDS Participant or guarantor (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4)(A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official, or (B) has instituted against it a

proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (l) to (7) above (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

(E) the CDS Participant or guarantor fails to pay any sum due and payable, or is otherwise in default under the terms of any agreement or threatens to suspend payment or to default under the terms of any agreement, in each case other than (i) where such payment or other relevant obligation is the subject of a good faith dispute by the CDS Participant or guarantor or (ii) where such failure or default is the result of an administrative or operational error on the part of the CDS Participant or guarantor and the relevant party had the financial ability to make the relevant payment or perform the relevant obligation at the time due;

(F) any distress, execution or other process is levied or enforced or served upon or against any property of the CDS Participant or guarantor; and

(G) any representation made or repeated or deemed to have been made or repeated by the CDS Participant or guarantor hereunder or under its Participant Agreement (other than a representation made under Section 29.3.1 or 29.3.3 of the Participant Agreement) provides to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated.

(b) If ICE Clear Credit determines to effect the Closing-out Process, ICE Clear Credit shall (i) convene the CDS Default Committee for purposes of making recommendations as to any Initial Cover Transactions referred to in paragraph (c)(ii) of this Rule and the appropriate auction or other process referred to in paragraph (c)(vi) of this Rule and related Minimum Target Price(s) and (ii) provide notice of such Default, including the identity of the Defaulting CDS Participant, as soon as reasonably practicable (but in any event before ICE Clear Credit executes any transactions described in paragraph (c) of this Rule) to the

CDS Participants and to the public generally, through a press release or in another manner determined by ICE Clear Credit.

(c) In effecting the Closing-out Process as provided in paragraph (a) of this Rule, ICE Clear Credit shall, without limiting the generality of paragraph (a) of this Rule, have the right, in consultation with the CDS Default Committee:

(i) (A) With respect to the Open CDS Positions that are Client-Related Positions in any account of such Defaulting CDS Participant, to liquidate, set off and/or apply the following resources, in the following order, to cover any amounts paid by ICE Clear Credit in closing or replacing such Client-Related Positions or any related Initial Cover Transactions (or in making payments or providing Mark-to-Market Margin to other Participants in respect of corresponding positions), including any commissions, losses, costs or expenses incurred in connection therewith or in connection with the liquidation of applicable Margin applied thereto pursuant to this subclause :

(a) any proceeds received by ICE Clear Credit from closing or replacing such Client-Related Positions or any related Initial Cover Transactions,

(b) any Mark-to-Market Margin provided to ICE Clear Credit with respect to such Client-Related Positions,

(c) Client-Related Initial Margin ~~Initial Margin~~ provided to ICE Clear Credit with respect to such Client-Related Positions; *provided* that Initial Margin allocated to a particular Non-Participant Party Portfolio and proceeds thereof shall only be used to satisfy obligations to ICE Clear Credit in respect of the Client-Related Positions in such Non-Participant Party Portfolio, in accordance with CFTC Rule 22.15; *provided, further*, that Firm Excess Value (if any) may be used to satisfy obligations to ICE Clear Credit in respect of any or all Non-Participant Party Portfolios; *provided*, *further*, that where ICE Clear Credit owes a net payment or Mark-to-Market Margin obligation to another Participant in respect of positions corresponding to Client-Related Positions of the defaulting Participant, ICE Clear Credit shall be entitled to apply the Initial Margin allocated to each Non-Participant Party Portfolio that owes a corresponding payment or Mark-to-Market obligation to ICE Clear Credit up to the amount of such payment or obligation,

(d) any payments actually received by ICE Clear Credit from or on behalf of the relevant Non-Participant Party under or in