printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–21 and should be submitted on or before July 31, 2014.

V. Accelerated Approval of Proposal, as Modified by Amendment No. 1

In Amendment No. 1, the Exchange submitted a revised Pilot Report that corrects errors in the total FLEX Equity Option contract trading volume under the pilot, total FLEX Index Option contract trading volume under the pilot, and total number of FLEX Index Option trades under the pilot reported in the original Pilot Report. The revised Pilot Report also makes corresponding adjustments to other figures reported in the Pilot Report, as well non-substantive changes to certain descriptive language in the Pilot Report. The Commission believes that these corrections to the Pilot Report do not substantively alter the findings in the Pilot Report or diminish their support for approval of the pilot on a permanent basis. Accordingly, the Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,[34] for approving the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

VI. Conclusion

In summary, the Commission believes, for the reasons noted above, that the proposed rule change to permanently approve the Pilot Program as well as remove the minimum size requirements for currently-opened FLEX Option series and FLEX Quotes, thereby permanently removing the minimum size requirements for all FLEX Options on the Exchange, is consistent with the Act and Section 6(b)(5) thereunder in particular, and should be approved, as amended. The Exchange has committed, and the Commission expects the Exchange, to continue to monitor the usage of FLEX Options, whether changes need to be made to its rules or the ODD to address any changes in retail FLEX Option participation, and for any other issues that may occur as a result of the elimination of the minimum value sizes on a permanent basis, including whether FLEX Option trades are being used as a surrogate for trading options in the standardized market.[35]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[36] that the proposed rule change (SR–NYSEMKT–2014–21) be, and it hereby is, approved, on an accelerated basis, as amended.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–16095 Filed 7–9–14; 8:45 am]

BILLING CODE 8011–01–P

[34] 15 U.S.C. 78s(b)(2).

[35] *See* Notice, 79 FR at 19164 (Exchange representing that it will continue to monitor the usage of FLEX Options and whether any changes to its rules or the ODD are necessary).

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72540; File No. SR–ICEEU–2014–09]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating To EMIR Requirements

July 3, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to amend the ICE Clear Europe Clearing Rules in order to comply with requirements under the European Market Infrastructure Regulation (including regulations and implementing technical standards thereunder, ''EMIR'') [3] that will apply to ICE Clear Europe as an authorized central counterparty.[4] Among other changes, the proposed rules would implement a framework under which Clearing Members may offer to their clients the ability to have their positions and margin assets segregated from those of other clients of the Clearing Member (''Individual Client Segregation'').[5] The proposed rule changes include various other amendments to comply with EMIR, as discussed herein. In addition, certain other aspects of the proposed amendments are not specifically intended to comply with EMIR, but are designed to harmonize various rule provisions across different products and to make various other improvements to the rules. ICE Clear Europe will be required to be in compliance with EMIR as of the time it receives authorization as a central counterparty from the European Securities and Markets Authority (''ESMA'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

a. Purpose

ICE Clear Europe submitted proposed amendments to its Rules in order to comply with requirements under EMIR that will apply to ICE Clear Europe upon its authorization as a central counterparty under EMIR, and to make certain other improvements to its rules. The principal change will be to implement changes to the structure of customer accounts for cleared transactions to enhance segregation

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, as well as various implementing regulations and technical standards.

[4] ICE Clear Europe will separately file certain related changes to its policies and procedures, including risk management policies.

[5] As discussed herein, the Individual Client Segregation model is not being offered at this time to U.S. clearing members or U.S. person clients, and certain provisions of the proposed rules are therefore not applicable to such persons. ICE Clear Europe will make a subsequent rule filing if it subsequently determines to offer such model to U.S. clearing members or U.S. persons.

options for customers of Clearing Members. This includes the adoption of the Individual Client Segregation framework as well as certain modifications relating to the existing, omnibus client segregation model for Non-FCM/BD Clearing Members. (The existing account structure and segregation framework applicable to FCM/BD Clearing Members will remain in effect for such clearing members.) The customer clearing model and commitments being offered by ICE Clear Europe in compliance with EMIR are being made available for all product categories, subject to applicable local law.

Pursuant to Article 39(1) to (3) of EMIR, ICE Clear Europe is required to keep separate records and accounts that will enable it to distinguish the assets and positions of: (i) One Clearing Member from those of any other Clearing Member and (ii) either (A) a Clearing Member from those of its clients (''omnibus segregation'') or (B) a client of a Clearing Member from any other client of that Clearing Member (''individual segregation''). In addition, each of ICE Clear Europe's Clearing Members is required (i) to keep separate records and accounts that enable them to distinguish in both accounts held with the clearing house and their own accounts Clearing Member assets and positions from those of its clients; and (ii) to offer clients a choice of individual or omnibus segregation at the clearing house. ICE Clear Europe has revised its segregation models to implement this requirement, as described herein, to provide both individual segregation and omnibus segregation options.

The proposed rules would establish two new types of individually segregated accounts for Non-FCM/BD Clearing Members, Individually Segregated Margin-flow Co-mingled Accounts and Individually Segregated Sponsored Accounts. The proposed rules will also establish multiple new types of omnibus accounts, Segregated Customer Omnibus Accounts (separately for each product: FX, F&O and CDS) and Segregated TTFCA Customer Omnibus Accounts (separately for each product: FX, F&O and CDS) as well as Omnibus Margin-flow Co-mingled Accounts. These new individually segregated and omnibus accounts will be available only to non-FCM/BD Clearing Members and their customers. For FCM/BD Clearing Members and their customers, individual client segregation is not being offered at this time, and the existing account types and segregation requirements for client assets (which are required under applicable law) would be maintained.[6]

Each Margin-flow Co-mingled Account constitutes a separate account, referencing a single client (in the case of an Individually Segregated Margin-flow Co-mingled Account) or group of clients (in the case of an Omnibus Margin-flow Co-mingled Account) for which separate records are kept of both margin and positions. However, margin flows are aggregated across all Margin-flow Co-mingled Accounts. These accounts are broadly similar to an LSOC account under CFTC rules in operational terms for position-keeping but differ in that assets are also tracked per individual Customer, rather than constituting a shared pool with deemed interests, allowing Customers to decide (subject to agreeing this with their Clearing Member) what sort of assets should be used to cover their individual positions, as is required under EMIR. The Rules provide for two types of Margin-flow Co-mingled Accounts: Individually segregated and omnibus segregated. Each Individually Segregated Margin-flow Co-mingled Account records the margin and positions of a single customer. An Omnibus Margin-flow Co-mingled Account records the margin and positions of a group of customers (such as a group of affiliated customers or funds under common management). In either case, margin flows are aggregated across all Margin-flow Co-mingled Accounts of a Clearing Member.

Individually Segregated Sponsored Accounts, from a position-keeping and margin accounting operational perspective treat a client (''Sponsored Principal'') in effect as if it were a Clearing Member, with fully segregated margin, positions and margin flows. The Individually Segregated Sponsored Account requires the Sponsored Principal to appoint a Sponsor from among the Clearing Membership to be fully jointly liable on the account.

Under the revised rules, ICE Clear Europe will also offer several types of omnibus segregation accounts for customers of non-FCM/BD Clearing Members, including a segregated customer omnibus account for each product category (F&O, CDS and FX) (each a ''Segregated Customer Omnibus Account'') and a segregated title transfer financial collateral arrangement (''TTFCA'') account for each product category (each, a ''Segregated TTFCA Customer Omnibus Account''). In accordance with the FSA policy statement on client money and client assets,[7] Segregated Customer Omnibus Accounts will be used for customers of non-FCM/BD Clearing Members who provide assets to their Clearing Members that are subject to the FCA's client money and client assets regime (or another legal requirement to segregate which goes beyond that required under EMIR). In contrast, Segregated TTFCA Customer Omnibus Accounts will be used for customers of non-FCM/BD Clearing Members who use title transfer financial collateral arrangements to provide margin to their Clearing Members (or which are otherwise subjected only to the requirement to segregate assets under EMIR, and not under any applicable law, trust or property law based regime). Within each category, ICE Clear Europe has chosen to set up separate accounts for each of the different product types cleared by ICE Clear Europe (F&O, FX and CDS), for purposes of ease of administration and maintaining the separation of product categories as otherwise provided in the rules. Consistent with EMIR,[8] Clearing Members may use multiple different types of individually segregated and omnibus segregated accounts for their various customers.

In terms of individual segregation, as discussed herein, the proposed rules establish the framework for the relevant new account structures for Non-FCM/BD Clearing Members. For Individually Segregated Margin-flow Co-mingled Accounts, new provisions require separate record keeping and reporting for the account and permit the aggregation of margin flows across accounts in this class. As discussed in further detail below, the amendments for Individually Segregated Sponsored Principal Accounts, among other matters, (i) introduce the concepts of a ''Sponsored Principal'' (the client whose positions and margin are being segregated under the Individually

[6] The Bank of England has advised ICE Clear Europe that the requirement under EMIR for the Clearing House to offer an individual segregation model to Clearing Members (and in turn for Clearing Members to offer individual segregation to their customers) may be satisfied, in the case of an FCM/BD Clearing Member, if the Clearing Member introduces such customers to another Clearing Member (including an affiliate) that can offer an individually segregated account, to the extent permitted by applicable law. ICE Clear Europe is not at this time offering its Sponsored Principal Model to U.S. Clearing Members or potential U.S. Sponsored Principals, and therefore Rule 1905 and other references in the Rules to U.S. Sponsored Principals will not apply at this time. ICE Clear Europe will submit another rule filing if it determines to offer the Sponsored Principal Model to U.S. Clearing Members or U.S. Sponsored Principals.

[7] FSA Policy Statement PS12/23: Client Assets Regime: Changes Following EMIR (Dec. 2012).

[8] EMIR Article 39.

Segregated Sponsored Account) and a ''Sponsor'' (the Clearing Member responsible to the clearing house for the Sponsored Principal's performance in an Individually Segregated Sponsored Account); (ii) set forth the relationship among the clearing house, Sponsored Principal and Sponsor; (iii) establish procedures under which ICE Clear Europe may manage a default by either the Sponsor and/or the Sponsored Principal under the Rules, (iv) allocate responsibilities and rights as between a Sponsor and a Sponsored Participant with respect to cleared contracts; and (v) establish documentation requirements for Sponsored Principal arrangements.

The proposed rule amendments are described in detail as follows.

In Part 1 of the Rules, various definitions have been added or modified in order to address the changes required by EMIR in a consistent manner across all products, including: ''CDS Standard Terms'', ''Customer-CM CDS Transaction'', Customer-CM F&O Transaction'', ''Customer-CM FX Transaction'', ''EMIR'', ''Energy'', ''F&O'', ''F&O Standard Terms'', ''FX Standard Terms'', ''FX Trade Particulars'', ''Individually Segregated Customer'', Individually Segregated Margin-flow Co-mingled Account'', ''Individually Segregated Sponsored Account'', ''Margin Account'', ''Position Account'', ''Repository'', ''Segregated Customer Omnibus Account for CDS'', ''Segregated Customer Omnibus Account for F&O'', ''Segregated Customer Omnibus Account for FX'', Segregated TTFCA Customer'', ''Segregated TTFCA Customer Omnibus Account for CDS'', ''Segregated TTFCA Customer Omnibus Account for F&O'', ''Segregated TTFCA Customer Omnibus Account for FX'', ''Sponsor,'' ''Sponsor Agreement'', ''Sponsored Principal'', ''Sponsored Principal Clearing Agreement'', and ''U.S. Sponsored Principal''. In addition, conforming changes have been made to numerous existing definitions in order to incorporate these concepts, including in particular references to Sponsored Principals in addition to existing references to Clearing Members. In light of various changes and expected changes to trade execution requirements in the U.S. and Europe, revised definitions of ''CDS Trade Execution/Processing Platform'' and ''FX Trade Execution/Processing Platform'' have been added, and conforming references have been made throughout the Rules. Certain defined terms relating to ICE OTC commodity contracts and certain other definitions have been removed as they are no longer used. Definitions of the Financial Conduct Authority (''FCA'') and Prudential Regulatory Authority (''PRA'') (and of their rules) have been added following the recent separation of regulators in the UK, and references to the FCA's former name, the Financial Services Authority (the ''FSA''), are deleted. References to the FSA throughout the rules have been modified accordingly.

The hierarchy of documents in Rule 102(f) has been revised to include, in relation to an Individually Segregated Sponsored Account, the Sponsored Principal Clearing Agreement between the Sponsored Principal and ICE Clear Europe and the Sponsor Agreement between the relevant Clearing Member Sponsor and ICE Clear Europe. Reference to the new Standard Terms annexes for FX and F&O customer clearing are also included. Other clarifications and conforming changes have been made to the rest of Rule 102(f). Similar changes have been made in Rule 102(l). New Rule 102(g) requires all Clearing Members providing services to customers to comply with relevant provisions of EMIR.[9] Specifically, Clearing Members must offer customers a choice of individual or omnibus segregation, to the extent they are permitted to do so under applicable law, and provide information as to the costs and levels of protection for various options. Where a Clearing Member is not able under applicable law to offer such an account, it must, to the extent permitted under applicable law, offer to introduce the customer to another Clearing Member that can offer such an account.

Rule 102(j) has been amended to clarify that Sponsors and Sponsored Principals, in addition to Clearing Members, are responsible for the conduct of their employees and agents (in addition to their own conduct) and to reference the new defined terms ''CDS Trade Execution/Processing Platform'' and ''FX Trade Execution/Processing Platform'' to account for the current and expected use of such platforms in light of trade execution requirements under applicable law.

Rule 102(o) clarifies that with respect to a Clearing Member that is also a Sponsor, the Rules, the Sponsor Agreement, and certain other specified documents form a contract between ICE Clear Europe, each Sponsor acting in its capacity as such and each Sponsored Principal for which such Sponsor acts. Similarly, the Rules, the applicable Sponsored Principal Clearing Agreement (if any) and other certain other specified documents also form a contract between ICE Clear Europe, each Sponsored Principal and the Sponsor for that Sponsored Principal. Other conforming changes are made in the rest of Rule 102(o) and Rule 102(p).

Rule 102(q) has been revised to clarify certain segregation requirements with respect to different categories of accounts, including the limitations on setting off one category of proprietary or customer account against another category, or otherwise using one category to cover losses in another category, in light of the additional types of account classes added under the proposed rules.

Rule 102(r) has been revised to refer to certain of the clearing house's obligations under EMIR and address certain related interpretive issues, as well as to add references to Sponsored Principals.

The governing law provision in Rule 102(s) has been revised to clarify that the choice of English law is intended also to govern non-contractual obligations arising out of or in connection with the Rules or any Contract.

New Rule 102(w) addresses a Clearing Member's ability to outsource performance of its obligations, in particular to allow Clearing Members to outsource performance to affiliates or third parties of their obligation with respect to end-of-day settlement price submission, acceptance of forced allocations and participation in default auctions. This approach is consistent with EMIR and also reflects the requirements of CFTC Rule 39.16.

New Rule 102(x) clarifies that persons that are partners of general partnerships will be jointly and severally liable for the partnership's obligations under the Rules, and that dissolution of the partnership will not affect that liability. This provision is not specifically required under EMIR but is intended to clarify the Clearing House's rights and obligations when dealing with Sponsored Principals that may be partnerships, but also is drafted to be applicable in the event that a partnership applies in future for clearing membership.

Rule 104, which addresses the clearing house's ability to ''invoice back'' (in effect, termination of a position through creation by the clearing house of an offsetting contract) or override the price or other terms of contracts has been revised to provide that the clearing house may do so only in the case of a force majeure event, illegality or impossibility and not, as a general matter, as a remedy for a default by a Clearing Member. Although this

[9] Clearing Members would, of course, also need to comply with any other applicable law in providing services to Customers.

change is not specifically intended to comply with EMIR, it results from ongoing discussions with Clearing Members and other market participants, who have asked that the powers under this provision be clarified, circumscribed and made consistent across all products. In so doing, the change has also eliminated uncertainty that these powers could be used in a default management situation, and thus has clarified that the Clearing House's default management powers are as set forth in Part 9 of the Rules. Conforming changes have been made to relevant definitions, including the addition of a new definition of ''Impossibility''.

Rule 105, which addresses a decision by the clearing house to cease acting in that capacity, has been revised to clarify that such an action might be taken if the clearing house loses any regulatory authorization required to continue its business.

The confidentiality provisions of Rule 106 have been extended to apply to Sponsored Principals and Sponsors and modified in various technical respects to ensure compliance with ICE Clear Europe's confidentiality, reporting and disclosure obligations under EMIR. The changes also clarify that that the Clearing House may disclose confidential information in certain circumstances, including in the case of a breach by the Clearing Member or Sponsored Principal of membership criteria and certain other disclosure requirements (clause (a)(ii)), information being provided to a data repository or other entity for purposes of transaction reporting (clause (a)(iii)),[10] information concerning an Individually Segregated Sponsored Account to the relevant Sponsor or Sponsored Principal (clause (a)(xi)) and information concerning a Customer to the relevant Clearing Member carrying its account (clause (a)(xii)).

The record retention requirements under Rule 108 for Clearing Members (and other persons, such as Sponsored Principals) that provide information to the Clearing House has been extended to ten years, consistent with the record retention requirements applicable to the Clearing House itself under Article 29 of EMIR. Various conforming references to Sponsored Principals, Sponsors and other new defined terms, as well as other clarifying changes, have also been added in Rules 107–113. In Rules 111(a)(B) and 111(c)(xviii), ''gross negligence'' is added as an exclusion to exculpatory provisions relating to ICE Clear Europe's liability, in order to address enforceability issues with respect to exculpatory provisions that lack such an exclusion in some continental European jurisdictions, based on legal advice received by the clearing house.

Rule 114(c) allows for outsourcing by the clearing house, subject to its retention of liability, consistent with the requirements of article 35 of EMIR. A clarification has been made to Rule 116 to require notice of changes to Clearing House business days. Finally, new Rules 117(p) and (q) have been added to clarify that the dispute resolution procedures from the Rules apply to disputes in connection with Sponsored Principals, Sponsors, Sponsored Principal Clearing Agreements and Sponsor Agreements in the same way the Rules apply to disputes in connection with Clearing Members and Clearing Membership Agreements.

A statement has been added to the preamble of Part 2 of the Rules to clarify that Part 2 (Clearing Membership) does not apply to Sponsored Principals except to the extent expressly set out in Part 19. Certain updates and drafting improvements and clarifications to the Clearing Membership criteria have been made in Rule 201, including the consolidation into the Rules of various membership criteria previously in paragraph 2 of the CDS Procedures and paragraph 2 of the FX Procedures, and other requirements stemming from EMIR or other applicable law, including requirements as to operational and financial capacity, compliance with sanctions regimes, and having a well-founded legal framework to support clearing operations. Rule 201(a)(v) has been revised to require that a Clearing Member be a user of a designated repository for purposes of swap data reporting. Rule 201(b) includes a requirement that additional conditions imposed on Clearing Membership be proportional to the risk brought by the applicant. Revised Rules 201(c) and (e) contain additional requirements around rejection or denial of applications.

Rule 202(a) contains certain additional obligations on Clearing Members driven by requirements in EMIR, including obligations to make available to the Clearing House certain information for risk management purposes (including as to client activity) and to participate in default management exercises and other testing. Rule 202(b)–(e) (which are based on and replace current Rule 1516(b) for CDS) establish responsibilities of a Non-FCM/BD Clearing Member for the execution and content of customer-facing documentation, including to incorporate the applicable CDS Standard Terms, F&O Standard Terms or FX Standard Terms. These aspects of customer documentation facilitate the portability of customer positions following Clearing Member default, consistent with the requirements of EMIR, among other matters. Provisions concerning controller guarantees of Clearing Members are moved to Rule 202(f) from the CDS Procedures and Rule 1709 (FX) so as to apply to all product categories.

Certain conforming changes relating to Sponsored Principals and the use of the new set of account classes have been added in Rule 207(a) and (d). New Rule 207(e) clarifies the obligations of certain Disclosed Principal Members for which a Clearing Member may act in connection with the energy business, but which are not treated as customers under the Rules and to align this provision with the equivalent requirement for Sponsored Principals.

Rule 301 has been modified to clarify certain matters relating to its payment banking arrangements. (These generally reflect comments of and discussions with Clearing Members, and do not specifically relate to compliance with EMIR.) Rule 301(f), which generally provides that payments from Clearing Members to ICE Clear Europe are not deemed received until they have been transferred to the clearing house concentration account at its concentration bank, has been modified to provide that if an Approved Financial Institution used by the Clearing House fails to pay due to a Clearing Member default or similar event, the Clearing House will first attempt to reinstruct the payment excluding amounts relevant to the defaulter rather than exercising its rights to require use of a different Approved Financial Institution under Rule 301. This accords with the clearing house's existing practices, and ICE Clear Europe believes it is an appropriate clarification on its authority under Rule 301(f). Rules 301(m)–(n) document ICE Clear Europe's existing practice of publishing a list of Approved Financial Institutions and Concentration Banks, and require ICE Clear Europe to ensure there is always at least one Concentration Bank.

Rule 302(a) has been revised to incorporate new rules with respect to the payment mechanics for the various accounts classes (including as to whether payments are made on a net basis or, in certain specified cases, on a gross basis for a particular account). Rules 302(a)(iii) and (iv) have been revised to provide for net payments to and from the clearing house in respect of the F&O product category, for either

[10] Based on Staff's conversation with ICE Clear Europe's counsel on July 2, 2014, ICE Clear Europe's counsel has confirmed that the reference to Rule 106(a)(iii) should instead refer to Rule 106(a)(viii).

Segregated Customer Omnibus Accounts or Segregated TTFCA Customer Omnibus Accounts. Rules 302(a)(v) and (vi) address the need to have consolidated settlement with respect to all of a Clearing Member's Margin-flow Co-mingled Accounts. Rules 302(a)(vii) and (viii) address settlement of margin transfers for other categories of customer account (such as for CDS or FX customers), which are calculated on a gross basis. A conforming change is made in Rule 302(e) for Margin-flow Co-mingled Accounts.

New Rule 304 applies the payment provisions of Part 3 of the Rules in the context of Individually Segregated Sponsored Accounts. Pursuant to Rule 304(a)(ii), Payments are made to and from the clearing house separately on a net basis for each such account, by the relevant Sponsored Principal (or the Sponsor if acting as representative of the Sponsored Principal for making payments). Rule 304(a)(v) clarifies that ICE Clear Europe is not permitted to exercise rights of set off as between any obligation, right or liability arising in connection with an Individually Segregated Sponsored Account and between any obligation, right or liability arising in connection with any Customer Account that is not an Individually Segregated Sponsored Account in respect of which the Sponsored Principal is a Customer. Rule 304 also disapplies a number of provisions in Part 3 of the Rules, including Rules 301(k), 302(a), 302(d) and 302(e), as such provisions are more specifically provided for in Rule 304 in the context of Individually Segregated Sponsored Accounts. Rule 304(a)(vi) provides that if a payment is made by the Sponsor in respect of an Individually Segregated Sponsored Account, that payment discharges the obligation of the Sponsored Principal. Similarly, if the clearing house makes a payment to the Sponsor in respect of the Individually Segregated Sponsored Account, that payment discharges the clearing house's obligation to the Sponsored Principal. As provided in Rule 304(a)(vii), Sponsored Principals are not required to make guaranty fund contributions to the clearing house.

Rule 401, which addresses the formation of a cleared contract, has been amended to incorporate the concept of Sponsored Principals and Individually Segregated Sponsored Accounts, as well as the other categories of customer account and certain other conforming changes (including the removal of obsolete references to ICE OTC markets that have been superseded). Specifically, the amendments clarify the capacity in which the Sponsor or Clearing Member is acting with respect to any such contracts, and the appropriate account in which such contracts are to be recorded. Conforming changes that incorporate the new account classes have also been made. The amendments also include certain non-EMIR related changes, including harmonization of drafting of provisions across different products and use of new defined terms (such as Buying Counterparty and Selling Counterparty, terms introduced due to the existence of Sponsored Principals as a joint counterparty to Contracts, in addition to Clearing Members). New Rule 401(l) provides for the reporting of cleared transactions to a Repository, in accordance with the requirements of EMIR. Rule 401(n) has been revised to address customer-CM transactions arising from FX transactions. Rule 401(o) has been revised to reflect the various capacities in which a Clearing Member or Sponsored Principal may enter into a transaction for the relevant account category. Conforming changes have been made to rule 401(p) to reflect the various account categories.

Conforming changes (including addition of references to Sponsored Principals, use of defined terms for Buying Counterparties and Selling Counterparties and providing for reporting to Repositories) are made in Rules 402–408 and 410. Additional conforming changes are made to Rule 405 to address Disclosed Principal Members and use of CDS Trade Execution/Processing Platforms and FX Trade Execution/Processing Platforms, as well as other drafting clarifications. Rule 406 contains additional conforming changes relating to netting of positions and reporting of net positions to ta Repository. Rule 407 has been amended to include references to Sponsored Principals and to clarify use of defined terms. Rule 408 has been revised to address transfer of positions of a Sponsored Principal as well as a Clearing Member, and to incorporate certain drafting clarifications.

Rule 502 has been amended with various conforming changes and clarifications as to the characterization of margin, generally relating to the additional account classes and revised defined terms. Rule 502(h) has been revised to expand an undertaking on the part of ICE Clear not to change the legal characterization of pledged collateral accounts or assets provided with respect thereto. This change is in response to clearing member requests for additional legal certainty as to account characterization, but reflects existing practices. Rule 502(i) contains certain drafting improvements as to the manner in which the clearing house may use pledged collateral for purposes of the net sum calculation in Part 9 of the Rules and conforms to the rules governing the return of excess margin for the account of customers set forth in Part 9 of the Rules. Rules 503(e) and (f) contain various conforming changes to reflect the use of the new account classes (and removing references to Designated CDS Customer Accounts, which are no longer used), as well as the use of various defined terms.

New Rule 503(k) is the principal new rule relating to the operation of Margin-flow Co-mingled Accounts. In circumstances where the clearing house permits the use of more than one type of permitted cover, the rule mandates reporting by Clearing Members on such accounts to allow the tracking of assets (where more than one account is used and more than one type of margin is provided), such that assets can be allocated to particular Customers. The rule also sets out backstop rules for pro rata allocation across different customers that apply in the event of reporting failures by the Clearing Member.

Rules 504 and 505 contain various conforming changes, including for the addition of Sponsored Principals and Individually Segregated Sponsored Accounts, as well as a clarification of the rights and obligations of Disclosed Principal Members. Rule 506 sets out particular procedures for the transfer of margin in the context of Individually Segregated Sponsored Accounts. As further set out in Rule 1902, the Sponsored Principal may provide margin directly to the clearing house, or the Sponsor may be operationally responsible for providing margin to the clearing house on behalf of the Sponsored Principal. Rule 506 also replaces Rules 504(a), 504(c)(v) and 504(f) with additional provisions more specifically reflecting the particular responsibilities of the Sponsored Principal and Sponsor in connection with the transfer of margin.

Parts 6, 7 and 8 of the Rules contain various conforming changes that reflect the addition of Individually Sponsored Segregated Accounts and other categories of customer accounts. These changes also clarify that the rules in those parts relating to position limits, and settlement of futures and options apply to Sponsored Principals in substantially the same manner as Clearing Members.

The Default Rules in Part 9 have been amended to provide for the management of a default by a Sponsor and/or Sponsored Principal. Certain

conforming changes to defined terms and related drafting improvements and clarifications have also been made, as discussed herein. The preamble to Part 9 has also been updated to refer to relevant sections of EMIR and other applicable law.[11]

Under new Rule 901(d), a Sponsored Principal may be declared in default by the Clearing House in the same way as a Clearing Member if any of the events specified in Rule 901(a) occur, unless, in the case of a default under Rule 901(a)(i)–(iii), the Sponsor cures the default. A Sponsored Principal may also be declared in default if it is in default under any relevant agreement between the Sponsored Principal and its Sponsor (as notified by the Sponsor to ICE Clear Europe). If ICE Clear Europe becomes aware of grounds for declaring a Sponsored Principal to be a Defaulter under Rule 901(a)(i) to (iii) but no Event of Default is declared, ICE Clear Europe will notify the Sponsor of details of such grounds and give the Sponsor an opportunity to perform the obligation prior to declaring a default in respect of the Sponsored Principal. (As discussed above, the Sponsor is jointly and severally liable with the Sponsored Principal with respect to the Sponsored Principal's positions and related obligations in its Individually Segregated Sponsored Account. In the case of a failure to perform by the Sponsored Principal, the Clearing House will direct all liabilities on the Individually Segregated Sponsored Account to be met from the Sponsor's nominated proprietary bank account, and the Sponsor is liable to make such payments.) A Sponsor will not be declared a defaulter solely as a result of a default of a Sponsored Principal, although the Sponsor can be declared a defaulter as a result of its own default, including for failure to perform its own obligations (as jointly and severally liable) with respect to the Individually Segregated Sponsored Account. Finally, new Rule 901(e) provides for notification to regulators of Clearing Member or Sponsored Principal default, as required under article 48(3) of EMIR.

If a Sponsored Principal is declared in default, the clearing house will have the rights and remedies set forth in Part 9 of the Rules, in the same manner as if the Sponsored Principal were a defaulting Clearing Member, as provided in Rule 901(d). Various changes to Rules 902–904 also implement these default rights and remedies. Rules 902 and 903, which address certain remedies following default, adds relevant references to defaulting Sponsored Principals. Revised Rule 903 also contains certain changes to defined terms and reflects reporting requirements to Repositories under applicable law for all relevant product categories.

The amendments to Rule 904 contain the principal new provisions addressing remedies of the clearing house in the event of the default of a Sponsor or a Sponsored Principal. They also make certain other changes to general provisions relating to transfer of positions and use of margin, consistent with EMIR requirements.[12] Rules 904(a) and (b) contain various changes reflecting new defined terms. Rule 904(c) clarifies and specifies additional circumstances in which the clearing house is not obligated to transfer contracts, including where it would cause a default by the clearing house, require the use of guaranty fund contributions of non-defaulting Clearing Members or an assessment on non-defaulting Clearing Members, be contrary to applicable law or lack any required consent or approval. Consistent with the standards in EMIR, transfers are required to be fair to both customers and indirect customers of the defaulter. The provisions in Rule 904 relating to transfers generally apply to all Clearing Members, including FCM/BD Clearing Members, subject to any particular requirements of applicable law or approvals or consents required in order to effect such transfers (as may be required for the customer account of an FCM/BD Clearing Member.)

Rule 904(d)(v) has been amended to create a payment obligation from the Clearing Member that will net out the value of any appropriation of collateral to support porting or direct payments to customers under EMIR. Rule 904(f) has been revised to remove a former provision that the clearing house was not obligated to effect any transfers of margin, which was inconsistent with EMIR Articles 39 and 48. Former Rules 904(j) and (k), which were applicable only to CDS but now apply to all products, have been removed and combined into a new Rule 904(k) and (l). Former Rule 904(l) (now renumbered as Rule 904(j)), which addresses transfers of contracts, has been revised to apply generally to all product categories and types of customer accounts, and to contemplate reliance on consents to transfers by customers provided under standard terms documentation.

Rules 904(m), (p) and (u) include a commitment by ICE Clear Europe to trigger the process for transfers of customer positions and margin, as required under Article 48(5–6) of EMIR. Slightly different wording applies to different types of account, reflecting the requirements of EMIR for that kind of account and the ability of ICE Clear Europe to give additional assurances for different account classes. This wording is supplemented by additional amended provisions around the operational process for porting notices in the Standard Terms annexes. These commitments are subject to various conditions precedent to porting set out in the rules cited above and in Rule 904(c), as discussed above.

Rules 904(n) and (o) address the default of a Sponsor. Under Rule 904(n), upon a default of a Sponsor, the Sponsored Principal must continue to fulfill its payment and margin obligations on the Individually Segregated Sponsored Account to ICE Clear Europe and may be required to pay additional amounts by way of margin (reflecting the fact that Sponsored Principals do not make Guaranty Fund Contributions). Pursuant to Rule 904(o), a Sponsored Principal must within 10 days of a Sponsor default (i) notify ICE Clear Europe of a new Sponsor, (ii) become a Clearing Member itself or (iii) move its positions and margin from the Individually Segregated Sponsored Account to the omnibus Customer Account of another Clearing Member (which would require the Sponsored Principal to have or to put into place a customer relationship with that Clearing Member). If one of the above three steps is not taken within 10 days or such longer time as the Clearing House at its discretion allows, then the Sponsored Principal itself may be declared in default under Rule 904(q).

New Rules 904(r)–(s) address the default of a Sponsored Principal, where the Sponsor is not itself in default.[13] Pursuant to Rule 904(r), in such a case, the Sponsor will be responsible for performance of any obligations on the Individually Segregated Sponsored Account. The Sponsor may manage the default by terminating contracts in the Individually Segregated Sponsored Account within a time period set by the clearing house. The Sponsor may also

[11] References to particular laws in this preamble are not intended to be exclusive; nothing in this provision affects any requirement on ICE Clear Europe to comply with applicable laws not specifically enumerated.

[12] These include the requirement that the central counterparty contractually commit to trigger the procedures for transfer of customer positions and assets of a defaulting clearing member. EMIR Article 48(5–6).

[13] As noted above, the Sponsored Principal model is not being offered at this time to U.S. Clearing Members or potential U.S. Sponsored Principals, and accordingly these provisions will not apply to such persons.

transfer positions (and margin) from the Individually Segregated Sponsored Account to its proprietary account as part of the default management process. The clearing house is also entitled to manage the default, using the same rights, remedies and procedures it has for a Clearing Member default. If the Sponsor elects to manage the default, the clearing house will give the Sponsor such time as the clearing house determines reasonable before managing the default itself. Rule 904(s) clarifies the manner in which guaranty fund contributions and surplus collateral of the Sponsor may be applied to the net sum calculated for an Individually Segregated Sponsored Account of a defaulting Sponsored Principal. Rule 904(s) also provides that if the Sponsor has made payments in respect of the Individually Segregated Sponsored Account under Rule 901(d) or 904(r), and the net sum on the account would otherwise be payable in favor of the Sponsored Principal, it will instead be paid to the Sponsor. Together, Rules 904(r) and (s) are designed to give the Sponsor an incentive to manage the default itself (as would be the case for any other customer default), in light of its ongoing obligations (based on its joint and several liability) with respect to the Individually Segregated Sponsored Account until the default management process is completed. In addition, where the Sponsor manages the default by transferring the relevant positions in the Individually Segregated Sponsored Account to its own account, it is entitled to also receive any margin or balance in the account as well as any net sum payable by the Clearing House on the account in this situation, which it may potentially apply against other (uncleared) liabilities of the defaulted Sponsored Principal. By contrast, if the Clearing House has to manage the default, then any net sum payable by the Clearing House would be delivered to the Sponsored Principal and the Sponsor would have to recoup any separate debts owed to it in other ways.

A new Rule 904(t) addresses the calculation of net sums with respect to Margin-flow Co-mingled Accounts of a defaulting Clearing Member.[14] The Rule sets out a procedure for allocating all assets and liabilities on the Margin-flow Co-mingled Accounts appropriately and fairly to each individual account, based on the positions and reports provided as to permitted cover. (Fallback rules apply if no such reports or records are available, including providing for pro rata allocation of certain initial margin based on margin requirements for each account.) New Rule 904(u) addresses ICE Clear Europe's responsibility to transfer positions in an Individually Segregated Margin-flow Co-mingled Account, subject to certain conditions analogous to those discussed above for Rule 904(c).

Conforming and clarifying changes are made in Rules 905 and 906, including for Individually Segregated Sponsored Accounts and the various other new account classes. In particular, Rule 905 has been amended to include various conforming references to Sponsored Principals and Individually Segregated Sponsored Accounts. Rule 905(b)(ii) has been revised to harmonize the drafting across different product categories. Rules 905(b)(viii) and (ix) have also been amended to clarify the rights of the clearing house over pledged collateral and the realization and/or valuation of pledged collateral in the case of set-off following default. In Rule 906(a), new language expressly clarifies that the respective obligations of the defaulting Clearing Member and the clearing house that would otherwise be due following default are to be reduced to the net sum (as was implicit in the current rule), in order to facilitate close-out netting following default.

Rule 906(b) has been revised to reflect the calculation of separate net sums for each of the new account classes. Guaranty Fund Contributions of the defaulter may be applied to the net sum for any account, but will be applied first to reduce losses on customer accounts, on a pro rata basis. Rule 906(c) similarly provides that where proprietary assets of a defaulter are being used to satisfy losses in the customer accounts, they must be used on a pro rata basis across such accounts. Revised Rule 906(d) incorporates requirements under Article 48 of EMIR as to the payment of net sums owed in respect of various customer accounts, as applicable, including, where permissible under applicable law and the Rules, return of a net sum directly to the relevant customer(s). Certain protections under current rules for the differences between net and gross Customer Account margin (old Rule 906(i) and usages of ''Customer Account Gross-Net Amount'' and ''Gross Margin Shortfall'' here and elsewhere) are being removed in light of the EMIR requirements and the new account classes.

Additional clarifying and conforming changes are made in Rules 907–918, principally to reference Individually Segregated Sponsored Accounts as well as remove references to certain former CDS account concepts that have been deleted as discussed above. Rule 907 incorporates certain default rules for FX contracts. New Rule 907(m) clarifies that positions in a customer account may, at the request of a Clearing Member, be moved to the proprietary account of the Clearing Member in the case of a default of the relevant customer for default management purposes. (This provision applies equally in the absence of the declaration of an Event of Default by the Clearing House, and also applies to a request by a Sponsor to transfer positions of a Sponsored Principal following a breach or default by the Sponsored Principal.)

Former Rule 908(a)(ix), which referenced Designated CDS Customer Accounts (which are no longer offered), has been removed and replaced with a new provision that provides that in case of a Sponsored Principal default, Guaranty Fund and assessment contributions of Clearing Members other than the Sponsor will not be used unless the Sponsor is itself in default. This is consistent with the use of assets of non-defaulting Clearing Members generally, and requires that in the first instance the Sponsor cover losses of its Sponsored Principals.

Rule 908(b)–(d) and (g) simplify and consolidate certain references to the default waterfall by referring to the net sum calculation under 'N' in Rule 906 rather than specific components of that calculation. Rule 908(e) has been revised to remove references to Designated CDS Customer Accounts, which are no longer offered. Conforming and clarifying changes are made to Rules 908(g) and (h) to add the concept of Sponsored Principal. Rule 908(i) (which does not apply to CDS contracts) has been revised to clarify the application of the default auction priority as set forth in the relevant F&O or FX auction procedures.

Rules 909–911, which address the Clearing House's assessment rights with respect to default losses, have been revised to also address losses resulting from Sponsored Principals clearing in the relevant product category, as well as to update certain cross references and defined terms.

In Rule 912, new clause (a)(iv) has been added to address the treatment of Individually Segregated Sponsored Accounts (and the joint liability and entitlement of the Sponsor and Sponsored Principal in respect of such accounts) in the case of a Clearing House default.

Rule 914 (and related definitions in Rule 913) have been modified such that variation margin haircutting for the F&O and FX product categories, if applicable,

[14] As noted above, these accounts are not applicable to FCM/BD Clearing Members or their customers, and accordingly Rule 904(t) and (u) would not apply to such persons.

will also apply to variation margin owed to Sponsored Principals in respect of Individually Segregated Sponsored Accounts. Accordingly, terms such as ''Clearing Member Adjustment Amount'' and ''Contributing Clearing Member'' have been changed to ''Adjustment Amount'' and ''Contributor,'' respectively (to cover both Clearing Members and Sponsored Principals), and references to Sponsored Principals have been added as appropriate throughout the definitions in Rule 913 and the provisions of Rule 914. Similarly, Rule 916 (relating to termination of positions in the F&O and FX product categories) and Rule 917 (relating to cooling-off periods) will apply to Sponsored Principals. Rule 918, in respect of termination of membership (including during a cooling-off period), will also apply to Sponsored Principals in respect of Individually Segregated Sponsored Accounts for F&O and FX contracts.

Pursuant to new Rule 1006, part 10 of the Rules, relating to disciplinary matters, applies to Sponsored Principals to the same extent as Clearing Members acting for their proprietary accounts.

Rule 1101(c) and 1102(b) have been revised to state that the Clearing House would establish minimum parameters for determining the relevant Guaranty Funds for the F&O, CDS and FX businesses to meet the requirements of Article 42 of EMIR. (This statement does not affect the Clearing House's obligation to comply with other financial resources requirements under applicable laws, including the Exchange Act and Commission rules thereunder (including Rule 17Ad–22(b)(3)). Accordingly, the parameters for determining the Guaranty Funds will also take into account such other requirements.) Certain other conforming and clarifying changes have been made to Rule 1102 and 1103. Rule 1103(a) and (b) also have been revised to address the use of Guaranty Fund contributions to support borrowings under liquidity facilities for the purpose of making payments on cleared contracts, in accordance with articles 44–45 of Commission Delegated Regulation 153/2013 under EMIR, subject to certain limitations for each product category. Rule 1103(b) allows the clearing house to pledge or otherwise transfer any guaranty fund contributions to support credit or similar facilities to provide liquidity for clearing house functions. Proceeds of such facilities could only be used for purposes set forth in Rule 1103(a) (that is, paying amounts owed on cleared contracts and managing defaults).

Part 12 of the Rules contains various conforming changes and updates relating to its EU settlement finality system to enhance settlement finality for payment arrangements, including for approved financial institutions used in the payment system, concentration banks and so-called investment agent banks used by the clearing house for holding assets pending investment. The changes also reflect the new set of accounts (including the Individually Segregated Sponsored Accounts) and amended terminology in the Rules generally and reflect certain feedback from its UK regulators.

Part 15 of the Rules, which addresses clearing of CDS, has been modified to reflect Individually Segregated Sponsored Accounts and other categories of customer accounts and to make certain other conforming changes. Rule 1501(kk) has been modified to provide for the recording of CDS recorded in Individually Segregated Sponsored Accounts within the Deriv/SERV ''tripartite representation'' system, which is used by the clearing house, Clearing Members and customers for the recording of the details of CDS contracts as well as for taking certain actions (such as triggering following restructuring credit events) with respect to those contracts. The changes also reflect updates to defined terms and certain drafting clarifications. As discussed above, the provisions in Rules 1516(a)–(b) have been moved to Rule 202(b) et seq. and now apply to all products, with certain minor modifications.

As noted above, the Sponsored Principal model will not be offered at this time to FCM/BD Clearing Members or their customers, and changes to Part 16 of the Rules relating to the Sponsored Principal model will not apply to FCM/BD Clearing Members at this time. Part 16 of the Rules contains certain other conforming changes and drafting improvements that will apply at this time, including in Rules 1604(b), 1604(e), 1605(d), 1605(h), 1607(d), 1608(a) and 1608(c). These largely relate to changes in defined terms and cross-references, references to a Clearing Member having multiple proprietary accounts, and certain clarifications with respect to the CFTC ''Legally Segregated, Operationally Commingled'' model for cleared swaps carried through FCM/BD Clearing Members.

Part 17 of the Rules contains various conforming changes relating to Individually Segregated Sponsored Accounts and other updates to defined terms. As mentioned above, a number of modifications to the Rules for FX contracts (previously in Rules 1701(m), 1706 and 1709) have been made applicable to all products and so are moved from here to other parts of the rules.

New Part 19 of the Rules has been added to address various aspects of the Individually Segregated Sponsored Account framework. As set forth above, this framework is not being offered to U.S. Clearing Members or potential U.S. Sponsored Principals at this time, and ICE Clear Europe will adopt a further rule change if it determines to offer this framework to such persons. Rule 1901 contains the initial and ongoing requirements an entity must meet in order to become a Sponsored Principal, including signing relevant documentation, paying relevant fees, being solvent, meeting operational requirements, being an ''eligible contract participant'' and pre-funding a specified amount of margin to ICE Clear Europe. Rule 1901 (and the requirements set out in it) broadly reflect those set out in Part 2 of the Rules for Clearing Members but have been adapted by ICE Clear Europe for this class of participant, including to reflect the different documentation requirements for Sponsored Principals and the particular banking relationships applicable to Sponsored Principals, as well as the fact that Sponsored Principals are not required to have the same level of credit standing as Clearing Members (given the Clearing House's reliance on the Sponsor). Subject to ICE Clear Europe's discretion, certain criteria for obtaining and maintaining the status of a Sponsored Principal may be met by the Sponsor or (in the case of Sponsored Principals that are funds, the fund manager).

Rule 1902 provides that the relevant Sponsored Principal and Non-FCM/BD Clearing Member Sponsor are each jointly and severally liable, as principal and without limitation, to ICE Clear Europe in respect of all obligations and liabilities arising in connection with the Individually Segregated Sponsored Account and all Contracts recorded in it. A Sponsor may be subject to increased Guaranty Fund Contribution requirements as a result of acting as a Sponsor, on the basis of the Contracts cleared by its Sponsored Principals. Rule 1902 also specifies required arrangements for payments between the clearing house and a Sponsored Principal, and allows the Sponsored Principal and Sponsor to arrange between them that the Sponsor will perform certain responsibilities on behalf of the Sponsored Principal. The goal is to permit the Sponsor and Sponsored Principal flexibility as to the arrangements between them with

respect to the Individually Segregated Sponsored Account. The Rule specifies certain required aspects of the agreement between the Sponsored Principal and Sponsor, in order for obligations to be properly performed as a matter of the applicable contract law by all parties on the account. Various modifications applicable to the back-to-back contract between the Sponsor and Sponsored Principal are set out in Rule 1902(g) so as to ensure that the Sponsor maintains a flat position and that the arrangements can be used in the context of industry standard clearing documentation. The Standard Terms annexes, which govern the terms of back-to-back contracts, are also separately amended for purposes of the Sponsored Principal model, as discussed below.

Rule 1903 sets forth general modifications to the Rules for Sponsored Principals, Sponsors and Individually Segregated Accounts in order to implement the individual segregation model for Sponsors that are Non-FCM/BD Clearing Members and Non-U.S. Sponsored Principals. Sponsored Principals do not make guaranty fund contributions, are not subject to assessment contributions pursuant to the default waterfall and are not responsible for submitting any pricing data to ICE Clear Europe. Sponsored Principals may, but are not required to, participate in default auctions.[15] Rule 1903 also provides that Sponsored Principals are subject to the dispute resolution and complaint and disciplinary procedures otherwise applicable to Clearing Members under the Rules and, if relevant, market or exchange rules.

Rule 1904 addresses termination of a Sponsored Principal relationship with its Sponsor. In general, a Sponsored Principal may terminate its Sponsor on notice or a Sponsor may terminate its Sponsored Principal on notice, in either case only if there are no open Contracts in the relevant Individually Segregated Sponsored Account. Following service of any such notice, neither the Sponsored Principal nor the Sponsor may enter into or cause the entry into of any further Contract for the Individually Segregated Sponsored Account, and the Clearing House shall be entitled to close the Individually Segregated Sponsored Account. A Sponsored Principal may change the Sponsor only if it has established arrangements with a new Sponsor.

[15] Based on Staff's conversation with ICE Clear Europe's counsel on July 2, 2014, ICE Clear Europe's counsel has confirmed that a Sponsored Principal will not be subject to forced allocation of contracts in the event of a failed auction.

As noted above, the Sponsored Principal framework will not be made available to FCM/BD Clearing Members or U.S. persons at this time. It is expected that FCM/BD Clearing Members will satisfy the requirements of EMIR to offer individual segregation to customers by referring such customers seeking individual segregation to a Non-FCM/BD Clearing Member that offers an Individually Segregated Sponsored Account, to the extent permitted by law. As a result, pursuant to the introductory paragraph of Rule 1905, the remainder of that rule, and other references to U.S. Sponsored Principals in the Rules, will be inapplicable at this time. No U.S. person will be permitted to become a Sponsored Principal, Individually Segregated Sponsored Accounts will not be available to U.S. Sponsored Principals, and FCM/BD Clearing Members will not be permitted to act as Sponsors, until such time as ICE Clear Europe adopts a further rule change (and makes a related rule filing) implementing the Sponsored Principal framework for FCM/BD Clearing Members and U.S. persons and receives all necessary regulatory approvals in connection therewith.

Certain changes to the Standard Terms annex, setting out certain mandatory terms of back-to-back contracts between Clearing Members and Customers, have been made for CDS contracts. In addition, new Standard Terms annexes are added for F&O and FX contracts. (The Standard Terms annexes only apply to Non-FCM/BD Clearing Members and their customers.) The CDS Standard Terms annex has been modified to incorporate the Sponsored Principal Model (and distinguish between provisions applicable to an Individually Segregated Sponsored Account and those applicable to other Customer Accounts). References to various other categories of account class have been updated. Certain procedures concerning portability of positions and margin in the case of a Clearing Member default (including related notice and timing requirements) have also been added, consistent with revisions to Rule 904. In addition, certain provisions are made governed by English law rather than the law of any underlying master agreement, as are the Rules and Procedures (which are incorporated here by reference), based on legal advice received by the clearing house. The new annexes for F&O and FX products are based on the Standard Terms annex for CDS (as modified).

Additional changes are made to Exhibit 4 to the Rules, which contains Settlement and Notices Terms applicable to customer transactions in CDS. These provisions generally specify certain requirements for delivery of certain notices as between a customer and its Clearing Member in connection with a CDS contract, including certain notices relating to physical settlement, as well as certain procedures relevant to settling the Clearing Member to customer leg of such a transaction if physical settlement is applicable. The exhibit has been modified to include Sponsored Principals and their Sponsors. The modifications also distinguish between Non-FCM/BD Clearing Members, which have a back-to-back relationship with their customers pursuant to a Customer-CM CDS Transaction, and FCM/BD Clearing Members, which act on behalf of their customers, and do not enter into Customer-CM CDS Transactions. Various conforming changes to defined terms and drafting clarifications have also been made.

b. Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A of the Act [16] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[17] Section 17A(b)(3)(F) of the Act [18] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. The proposed rule changes, which are intended principally to ensure compliance by the clearing house with the requirements of EMIR, implement new, strengthened options for the segregation and safeguarding of customer funds and property to be available to customers of Non-FCM/BD Clearing Members. The existing, non-individually segregated models will also generally remain available for those customers that want them. In addition, the customer account structures and segregation requirements for FCM/BD Clearing Members are not being changed. Accordingly, the proposed rule changes will enhance, and not reduce, the level of customer protection available under the current ICE Clear Europe rules. As a result, ICE Clear Europe believes that the proposed rule changes will contribute to the safeguarding of funds and securities

[16] 15 U.S.C. 78q–1.

[17] 17 CFR 240.17Ad–22.

[18] 15 U.S.C. 78q–1(b)(3)(F).

associated with derivative transactions that are in the custody or control of the clearing house or for which it is responsible, as set forth herein, within the meaning of Section 17(A)(b)(3)(F).[19]

As discussed above, EMIR requires that the clearing house offer an individual segregation model that Clearing Members may in turn offer to their customers. Under such a model, the clearing house is required to separately account for, and track, the portfolio of positions of a customer of a Clearing Member and specific assets provided to margin such contracts. ICE Clear Europe has developed its Individually Segregated Sponsored Account model to satisfy this requirement of EMIR. The Individually Segregated Sponsored Account provides a separate account for the positions, and margin, of a particular customer, and accordingly should be protected in the event of a default of the sponsoring Clearing Member or other customers of the Clearing Member. It also facilitates the transition to a new Sponsor in the event of a default of the current Sponsor. For market participants that are eligible to use and elect to use the Individually Segregated Sponsored Account model, the approach may provide a higher degree of protection for customer assets than is currently available.[20]

As part of the proposed amendments, ICE Clear Europe is making other enhancements to its omnibus segregation models. As discussed above, EMIR also permits the use of omnibus segregation models. The proposed amendments would, consistent with EMIR and related UK requirements, establish separate customer omnibus account for client money and TTFCA collateral arrangements. These provide broadly equivalent protection that available in ICE Clear Europe's current model. The amendments would also introduce Margin-flow Co-mingled Accounts, which provide an intermediate level of segregation and elimination of certain fellow customer risks through the separate tracking of positions and actual assets provided to cover particular Customer positions, but permits co-mingling of payment flows for operational convenience. This provides another option for market participants that provides a higher level of protection than is available using European omnibus accounts, but may involve less cost and operational complexity than the full Individually Segregated Sponsored Account model. Consistent with EMIR, the proposed rules also contemplate that Clearing Members may use multiple types of these customer accounts, and may maintain multiple accounts within each category, as needed in their business operations. As discussed above, ICE Clear Europe is not proposing to change its account framework (and related customer property protections) for FCM/BD Clearing Members, which are consistent with existing U.S. regulatory requirements (including under the Exchange Act).[21]

As such, ICE Clear Europe believes that the proposed rule changes will enhance the safeguarding of securities and funds associated with derivative transactions that are in the custody or control of ICE Clear Europe or for which it is responsible. ICE Clear Europe also believes that the proposed rule changes will enhance the stability of the clearing system, by reducing the risk to market participants of a default by a Clearing Member or other customer. As a result, the proposed changes are, in the clearing house's view, consistent with the requirements of Section 17A(b)(3)(F) of the Act. The amendments also satisfy the relevant requirements of Rule 17Ad–22,[22] and in particular implicate the following provisions thereof, as discussed in more detail below:

Financial Resources. ICE Clear Europe believes that the amendments are consistent with the requirements of Rule 17Ad–22(b)(2–3).[23] The proposed rule changes do not themselves change ICE Clear Europe's methodology with respect to its margin or Guaranty Fund requirements,[24] although the amendments would require Sponsors to make additional Guaranty Fund deposits in respect of the individually segregated accounts of their Sponsored Principals. The amendments would also require Sponsored Principals to make additional margin payments upon a default of its Sponsor. Accordingly, ICE Clear Europe does not believe that the proposed changes will adversely affect its financial resources that support clearing operations.

Settlement. ICE Clear Europe believes that the rule changes are consistent with the requirements of Rule 17Ad–22(d)(5), (12) and (15)[25] as to the finality and accuracy of its daily settlement process and avoidance of the risk of settlement failures. In the individual segregation model, Sponsored Principals will have the option of direct settlement with the clearing house, which will enhance the finality and accuracy of the settlement process. ICE Clear Europe believes it has sufficient operational infrastructure to support these arrangements. Sponsored Principals who settle through their Sponsor will be treated in the same manner, and with the same level of finality and accuracy, as customers of Clearing Members under current Rules. ICE Clear Europe's existing settlement model will be used for the various omnibus customer accounts. As a result, ICE Clear Europe does not believe that the proposed amendments will adversely affect the settlement process, and believes that the changes are consistent with the relevant requirements of Rule 17Ad–22 in this regard.

Default Procedures. ICE Clear Europe believes that the amendments enhance its default management procedures and its ability to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of insolvencies or defaults, in accordance with Rule 17Ad–22(d)(11).[26] The amendments further protect the assets of customer in the event of a default by a sponsoring Clearing Member. In particular, the

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] As noted above, ICE Clear Europe is not offering the Sponsored Principal model to FCM/BD Clearing Members and potential U.S. Sponsored Principals at this time. ICE Clear Europe expects to continue to evaluate the demand for such a model by such persons, including in light of evolving commercial, regulatory, capital, insolvency and other considerations applicable to the Clearing House, FCM/BD Clearing Members and other market participants. ICE Clear Europe will submit subsequent rule filings if it determines to offer such a model to FCM/BD Clearing Members and U.S. persons.

[21] As noted above, ICE Clear Europe has been advised that EMIR does not require the Individual Segregation Model to be offered to FCM/BD Clearing Members or U.S. persons, provided that, to the extent permitted by applicable law, such clearing members may refer interested customers to a Non-FCM/BD Clearing Member able to offer such an account. The other modified account frameworks for Non-FCM/BD Clearing Members are not designed to satisfy the specific requirements of U.S. law, including those under the Commodity Exchange Act and CFTC rules as well as the Exchange Act. As a result, ICE Clear Europe believes that maintaining the current account structures for FCM/BD Clearing Members provides the required level of protection for customers of such Clearing Members in light of U.S. legal requirements, and that changes to those structures would not be appropriate at this time as they are not mandated by EMIR.

[22] 17 CFR 240.17Ad–22.

[23] 17 CFR 240.17Ad–22(b)(2)–(3).

[24] ICE Clear Europe has separately made a filing with respect to changes in its CDS risk management and other policies. Based on Staff's conversation with ICE Clear Europe's counsel on July 2, 2014, ICE Clear Europe's counsel has confirmed that notwithstanding the changes made to Rule 1101(c), ICE Clear Europe currently implements risk management methodology that takes into account those parameters required to comply with all applicable laws, including EMIR and Commission Rules 17Ad–22(b)(2–3). For the avoidance of any doubt, ICE Clear Europe intends to continue maintaining risk management methodology with respect to margin and the guaranty fund that will comply with all applicable laws.

[25] 17 CFR 240.17Ad–22(d)(5), (12) and (15).

[26] 17 CFR 240.17Ad–22(d)(11).

amendments provide a mechanism for managing the default of a Sponsor and/or Sponsored Principal, similar to the existing process for Clearing Member default. Consistent with the requirements of EMIR, the proposed amendments, also enhance the clearing house's ability to handle other defaults, and in particular to provide for transfer of positions and margin following default. These changes are thus in furtherance of the goals of Rule 17Ad–22 as well.

Although the amendments establish a number of new categories of accounts in order to comply with EMIR, ICE Clear Europe believes that its default management process is sufficient to address defaults for each relevant category. With respect to the new varieties of omnibus accounts, ICE Clear Europe does not believe that such accounts pose any default management issues different from those presented by its current omnibus account structure. With respect to the individually segregated account structures, ICE Clear Europe has considered default management issues and revised its Rules accordingly to facilitate default management, consistent with the requirements of EMIR and the Exchange Act. In the case of Individually Segregated Sponsored Accounts in particular, the Clearing House has designed its default procedures to permit, and to incentivize, the Sponsor to manage the default of a Sponsored Principal in largely the same manner as it manages other customer defaults. The Clearing House also retains the ability to manage a Sponsored Principal default in the same manner as it manages Clearing Member defaults.

Legal Framework. Consistent with the requirements of EMIR, ICE Clear Europe has obtained advice of legal counsel in relevant jurisdictions as to the enforceability of its Rules and Procedures, including with respect to the Sponsored Principal model and other relevant amendments made in the proposed Rules. Based on this advice, ICE Clear Europe believes that the amendments are consistent with the requirements of Rule 17Ad–22(d)(1) that a clearing agency maintain a well-founded, transparent and enforceable legal framework for its activities, including with respect to default management.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any adverse impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments are principally intended to offer new segregation models, and enhancements to existing segregation models, for customers of Clearing Members in order to comply with EMIR requirements applicable to the clearing house. The amendments are thus expected to increase the segregation choices available to market participants.

In terms of access to the clearing house, ICE Clear Europe is not proposing to materially change its standards for Clearing Membership or financial requirements for Clearing Membership. ICE Clear Europe is permitting a new form of access to the clearing house, for Sponsored Principals, and ICE Clear Europe believes that this development should facilitate, rather than limit, access to the clearing house. Although cost models remain to be developed, use of these accounts may be more expensive than use of omnibus accounts, reflecting the additional operational complexity and segregation available. It is possible that these additional costs may deter some market participants for using the Individually Segregated Sponsored Account. The clearing house retains other, omnibus segregation models, however, that are based on existing models and will be available to market participants that do not elect individual segregation. The clearing house also recognizes that the new segregation models may impose certain additional costs on Clearing Members, including potentially additional guaranty fund contributions, which could raise the cost of customer clearing. However, ICE Clear Europe believes that this is the result of the requirement under EMIR to offer such models and in any event is justified by the benefits provided by such models for those who use them.

ICE Clear Europe also does not believe the proposed amendments are likely to adversely affect competition among Clearing Members. The new segregation models are (and are required to be) made available to all Non-FCM/BD Clearing Members. As noted above, the new models are not being offered to FCM/BD Clearing Members, which will continue to use the account and segregation frameworks provided under applicable U.S. law. The ability for FCM/BD Clearing Members to continue using the existing framework should mitigate any competitive impact of the new models for such Clearing Members. ICE Clear Europe believes that the new options will facilitate competition among Clearing Members as they seek to offer the segregation models to clients, consistent with the commercial requirements of the Clearing Member and their customers and the competitive environment as well as background regulatory requirements. To the extent that the new segregation models impose additional costs and operational complexity, those will fall on all Clearing Members that seek to use the models, and are not designed to favor one type of Clearing Member over another.

In terms of the impact on customers of Clearing Members, the proposed amendments are intended to provide those customers a greater range of choices and protections for margin assets provided by those customers, as required under EMIR. Certain models, such as the individually segregated model, may impose higher costs on customers. ICE Clear Europe believes that such costs are accompanied by the higher protection to customer assets afforded by those models and required under EMIR. In addition, other models, including omnibus segregation models, remain available for customers that prefer such models. As a result, ICE Clear Europe does not believe that the proposed amendments will impose a significant burden on customers seeking access to clearing.

For similar reasons, ICE Clear Europe does not believe that the rule amendments will adversely affect the ability of market participants to continue to clear transactions, or otherwise limit market participants' choices for clearing derivatives. The rule changes implement a range of different models, each with different costs and benefits to customers. ICE Clear Europe is also maintaining a segregation framework analogous to that available today for customers of Clearing Members. Furthermore, the amendments are intended to implement requirements that will apply to European clearing houses generally under EMIR, including the requirement to offer an individual segregation model. As a result, ICE Clear Europe expects that other clearing house will offer a similar range of clearing segregation options, and the changes are not expected to reduce access to clearing or clearing services.

For the foregoing reasons, ICE Clear Europe does not believe that the proposed amendments will impose any burden on competition not appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the rule changes have been solicited from

Clearing Members through extensive discussions with clearing members and a public consultation. ICE Clear Europe received various comments during this consultation and took such comments into account in making further modifications to the proposed rules. The rule changes also reflect comments received from the Bank of England in connection with ICE Clear Europe's application for EMIR authorization. ICE Clear Europe will notify the Commission of any additional written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–09 and should be submitted on or before July 31, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–16099 Filed 7–9–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72543; File No. SR–FINRA–2014–031]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Definition of Hearing Officer To Include Former FINRA Employees Who Previously Worked as Hearing Officers

July 3, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the definition of ''Hearing Officer'' to include former employees of FINRA who previously worked as FINRA hearing officers.

Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

9000. CODE OF PROCEDURE

9100. APPLICATION AND PURPOSE

* * * * *

9120. Definitions

(a) through (q) No Change.

(r) ''Hearing Officer''

The term ''Hearing Officer'' means an employee of FINRA*, or former employee of FINRA who previously acted as a Hearing Officer,* who is an attorney and who is appointed by the Chief Hearing Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in the Rule 9200 Series regarding disciplinary proceedings, the Rule 9550 Series regarding expedited proceedings, the Rule 9700 Series relating to grievances concerning FINRA automated systems, and the Rule 9800 Series regarding temporary cease and desist proceedings brought against members and associated persons.

(s) through (cc) No Change.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing to amend the definition of Hearing Officer to include a former employee of FINRA who is a licensed attorney and who is appointed

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.