

proposed rule change as operative upon filing.<sup>20</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2013-83 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2013-83. 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 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 No. SR-NYSEArca-2013-83 and should be submitted on or before September 26, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-21535 Filed 9-4-13; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70281; File No. SR-ICEEU-2013-10]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Regulatory Reporting of Swap Data

August 29, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 20, 2013, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A)(iii)<sup>3</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder so that the proposal was effective upon filing with the Commission. 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

ICE Clear Europe submits the proposed amendment to its clearing rules in order to add Rule 411 which facilitates swap data repository ("SDR") reporting by and at ICE Clear Europe

that is consistent with Part 45 of Commodity Futures Trading Commission ("CFTC") Rules and Regulations. Proposed Rule 411 provides that ICE Clear Europe will report creation and continuation data to ICE Trade Vault, LLC ("ICE Trade Vault"), a provisionally registered SDR selected by ICE Clear Europe.

#### 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

The proposed rule amendment includes proposed Rule 411, which provides that with respect to all swaps cleared by ICE Clear Europe and resulting positions, ICE Clear Europe will report creation and continuation data to ICE Trade Vault for purposes of complying with applicable CFTC rules and regulations governing the regulatory reporting of swaps, specifically CFTC Regulations 45.3,<sup>5</sup> 45.4(b)<sup>6</sup> and 45.9.<sup>7</sup> Proposed Rule 411 is consistent with CFTC Regulations 45.3<sup>8</sup> and 45.4(b)<sup>9</sup> that require that creation and continuation data must be reported by both the derivatives clearing organization and the reporting counterparty. ICE Clear Europe currently complies with CFTC Regulations 45.3<sup>10</sup> and 45.4(b)<sup>11</sup> by reporting swap data to ICE Trade Vault. In order to codify ICE Clear Europe's practice of reporting relevant Part 45 data to ICE Trade Vault, ICE Clear Europe proposed to add to its Clearing Rules, Rule 411 (Swap Data Repository "SDR" Reporting).

Proposed Rule 411 further provides that upon the request of a clearing member counterparty to a swap cleared at ICE Clear Europe, ICE Clear Europe

<sup>5</sup> 17 CFR 45.3.

<sup>6</sup> 17 CFR 45.4(b).

<sup>7</sup> 17 CFR 45.9.

<sup>8</sup> 17 CFR 45.3.

<sup>9</sup> 17 CFR 45.4(b).

<sup>10</sup> 17 CFR 45.3.

<sup>11</sup> 17 CFR 45.4(b).

<sup>20</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

will provide the same creation and continuation data reported by ICE Clear Europe to ICE Trade Vault to an SDR selected by such counterparty. In this regard, proposed Rule 411 is also consistent with CFTC Regulation 45.9<sup>12</sup> that provides that swap counterparties required by Part 45 to report swap creation or continuation data may contract with third-party service providers to facilitate reporting. Proposed Rule 411 ensures that ICE Clear Europe, in the capacity of a third-party service provider, will be responsible for reporting required swap creation and continuation data on behalf of ICE Clear Europe's clearing members.

The addition of proposed Rule 411 is in response to swap dealers' mandatory compliance with CFTC Regulations 45.3<sup>13</sup> and 45.4,<sup>14</sup> which was required as of February 28, 2013.

ICE Clear Europe believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>15</sup> and the regulations thereunder applicable to it. ICE Clear Europe notes that proposed Rule 411 mirrors ICE Clear Credit LLC ("ICC") Rule 211, approved by the Commission on an accelerated basis pursuant to Section 19(b)(2) of the Act<sup>16</sup> on April 9, 2013, in every substantive respect. ICE Clear Europe notes that in the Commission's notice of filing and order granting accelerated approval of ICC Rule 211, the Commission found that "by facilitating compliance with the swap data reporting requirements of [the CFTC], [ICC Rule 211] is consistent with promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, assuring the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protecting investors and the public interest" as required under Section 17A(b)(3)(F) of the Act.<sup>17</sup>

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

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition. In general, proposed Rule 411 does not have any effect on competition because it is not a restraint. The proposed rule in no way keeps

reportable trade data regarding swaps from being reported to any other SDR and, in fact, explicitly allows a clearing member that is a counterparty to a swap cleared at ICE Clear Europe to designate any SDR to receive swap creation and continuation data. While an affiliate of ICE Clear Europe, ICE Trade Vault, is available to handle SDR reporting obligations, ICE Clear Europe's rule is designed to permit ICE Clear Europe's clearing members to be able to designate any SDR to receive the required reports. The ability of ICE Clear Europe clearing members to designate any SDR ensures the competitiveness of the various reporting facilities.

Additionally, proposed Rule 411 complies with the swap data reporting requirements of the Commodity Exchange Act and the CFTC's rules thereunder that further the goals of reducing systemic risk, increasing transparency and promoting market integrity within the financial system. The Commission has found that a rule that facilitates compliance with the swap data reporting requirements of another regulator is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act<sup>18</sup> and the rules and regulations thereunder applicable to a clearing agency.

#### *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 change have been solicited from clearing members as part of the rule change process. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>19</sup> and Rule 19b-4(f)(4)(ii)<sup>20</sup> thereunder because it is effecting a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including swaps that are not security-based swaps or mixed swaps, and does not significantly affect the securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency with respect to securities clearing or persons

using such service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2013-10 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-ICEEU-2013-10. 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 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 such filings also will 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

<sup>12</sup> 17 CFR 45.9.

<sup>13</sup> 17 CFR 45.3.

<sup>14</sup> 17 CFR 45.4.

<sup>15</sup> 15 U.S.C. 78q-1.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

<sup>17</sup> 15 U.S.C. 78q-1(b)(3)(F); see Securities Exchange Act Release No. 69628 (Apr. 9, 2013), 78 FR 22350, 22351-52 (Apr. 15, 2013) (SR-ICC-2013-05).

<sup>18</sup> 15 U.S.C. 78q-1.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>20</sup> 17 CFR 240.19b-4(f)(4)(ii).

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2013-10 and should be submitted on or before September 26, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-21532 Filed 9-4-13; 8:45 am]

**BILLING CODE 8011-01-P**

## DEPARTMENT OF STATE

[Public Notice 8449; No. 2013-5]

### Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in me under the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* ("the Act"), and Department of State Delegation of Authority No. 198 of September 16, 1992, I hereby determine that the plans submitted by the Embassy of the Republic of South Africa to the Public Space Committee of the District of Columbia's Department of Consumer and Regulatory Affairs concerning the location of a flagpole in public space at its chancery located at 3051 Massachusetts Avenue NW., demonstrate substantial compliance with District of Columbia building and related codes in a manner determined by the Secretary to be inconsistent with the international obligations of the United States, in accordance with section 206(g) of the Act.

Dated: August 20, 2013.

**Patrick F. Kennedy,**

*Under Secretary for Management.*

[FR Doc. 2013-21600 Filed 9-4-13; 8:45 am]

**BILLING CODE 4710-43-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Registration and Financial Security Requirements for Brokers of Property and Freight Forwarders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice.

**SUMMARY:** FMCSA announces guidance concerning the implementation of certain provisions of the Moving Ahead

for Progress in the 21st Century Act (MAP-21) concerning persons acting as a broker or a freight forwarder. Section 32915 of MAP-21 requires anyone acting as a broker or a freight forwarder and subject to FMCSA jurisdiction, including motor carriers, to register and obtain broker or freight forwarder authority from FMCSA. Section 32918 amended the financial security requirements applicable to property brokers and created new requirements for freight forwarders. FMCSA provides guidance for brokers and freight forwarders on how to comply with the new requirements and information regarding FMCSA's enforcement of these provisions.

**DATES:** This guidance is effective October 1, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Jeffrey Secrist or Gerald Folsom, Office of Registration and Safety Information, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590-0001, (202) 385-2367/2405 regarding financial security requirements or Kenneth Rodgers, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590-0001, (202) 385-2400 regarding enforcement.

**SUPPLEMENTARY INFORMATION:** On July 6, 2012, the President signed MAP-21 (Pub. L. 112-141, 126 Stat. 405 (2012)) into law, which included a number of mandatory, non-discretionary changes to FMCSA programs. Some of these changes amended the financial security requirements applicable to property brokers and freight forwarders operating under FMCSA's jurisdiction. Others required motor carriers to register as brokers if they were also performing brokerage functions. The FMCSA provides guidance to ensure that all interested parties are aware of the self-executing statutory provisions that take effect on October 1, 2013, and how those subject to the requirements can achieve compliance with the law.

#### A. General Broker/Freight Forwarder Information

FMCSA has received a number of requests from motor carriers and other transportation companies requesting additional information about when registration as a broker or freight forwarder is required. The Agency has compiled a list of the most common questions and our responses and presents the information below in question-and-answer format.

**Question 1:** What is a broker?

**Answer:** A broker is a person or an entity that, for compensation, arranges,

or offers to arrange, for the transportation of property by a motor carrier. A broker does not transport the property and does not assume responsibility for the property. Although MAP-21 left in place the previous statutory definition of "broker," which expressly excludes motor carriers and their agents and employees (49 U.S.C. 13102(2)), the new law separately prohibits motor carriers from brokering transportation services unless they are registered as a broker (49 U.S.C. 13902(a)(6)).

**Question 2:** What is a freight forwarder?

**Answer:** A freight forwarder is a person or entity that holds itself out to the general public as providing transportation of property for compensation, and in the ordinary course of its business:

- Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;
- Assumes responsibility for the transportation from the place of receipt to the place of destination; and
- Uses for any part of the transportation a rail, motor or water carrier subject to the jurisdiction of either FMCSA or the Surface Transportation Board.

**Question 3:** Are freight forwarders and brokers required to register with FMCSA?

**Answer:** Yes. Freight forwarders and brokers that are involved in interstate commerce and subject to FMCSA jurisdiction are required to register with FMCSA. Freight forwarders that perform both freight forwarder services and motor carrier services (beyond the scope of their freight forwarding operations) must register both as freight forwarders and as motor carriers. Additionally, as noted in Q1 above, MAP-21 requires motor carriers that broker loads, even occasionally, to register both as motor carriers and as brokers.

**Question 4:** How would a motor carrier that also brokers loads apply for broker authority?

**Answer:** Anyone seeking broker authority must file a Form OP-1 and submit it to FMCSA. Companies with existing motor carrier authority should include their current USDOT Number on the OP-1 form but leave the MC Number field blank. FMCSA will issue a separate MC Number for the broker authority. While MAP-21 requires FMCSA to establish an indicator of the type of transportation or service for which the USDOT registration number is issued, including whether the

<sup>21</sup> 17 CFR 200.30-3(a)(12).