

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- 88537; File No. SR-ICC-2020-003)

April 1, 2020

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the Clearance of Additional Credit Default Swap Contracts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on March 26, 2020, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“SEC” or the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Rulebook (the “Rules”) to provide for the clearance of an additional Standard Emerging Market Sovereign CDS contract (the “EM Contract”) and additional Standard Western European Sovereign CDS contracts (collectively, the “SWES Contracts”).

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be

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

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

examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to adopt rules that will provide the basis for ICC to clear additional credit default swap contracts. ICC proposes to make such changes effective following Commission approval of the proposed rule change. ICC believes the addition of these contracts will benefit the market for credit default swaps by providing market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to clearing house rules. Clearing of the additional EM Contract and the additional SWES Contracts (collectively, the "EM and SWES Contracts") will not require any changes to ICC's Risk Management Framework or other policies and procedures constituting rules within the meaning of the Securities Exchange Act of 1934 ("Act").

ICC proposes amending Subchapter 26D of its Rules to provide for the clearance of the additional EM Contract, namely the Republic of Croatia. This additional EM Contract has terms consistent with the other EM Contracts approved for clearing at ICC and governed by Subchapter 26D of the Rules. Minor revisions to Subchapter 26D (Standard Emerging Market Sovereign ("SES") Single Name) are made to provide for clearing the additional EM Contract. Specifically, in Rule 26D-102 (Definitions), "Eligible SES Reference Entities" is modified to include the Republic of Croatia in the list of specific Eligible SES Reference Entities to be cleared by ICC.

Additionally, ICC proposes amending Subchapter 26I of its Rules to provide for the clearance of the additional SWES Contracts, namely the Republic of Finland and the Hellenic Republic. These additional SWES Contracts have terms consistent with the other SWES Contracts approved for clearing at ICC and governed by Subchapter 26I of the Rules. Minor revisions to Subchapter 26I (Standard Western European Sovereign (“SWES”) Single Name) are made to provide for clearing the additional SWES Contracts. Specifically, in Rule 26I-102 (Definitions), “Eligible SWES Reference Entities” is modified to include the Republic of Finland and the Hellenic Republic in the list of specific Eligible SWES Reference Entities to be cleared by ICC.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>3</sup> 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; to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible; and to comply with the provisions of the Act and the rules and regulations thereunder. The additional EM and SWES Contracts proposed for clearing are similar to the EM and SWES Contracts currently cleared by ICC, and will be cleared pursuant to ICC’s existing clearing arrangements and related financial safeguards, protections and risk management procedures. Clearing of the additional EM and SWES Contracts will allow market participants an increased ability to manage risk and ensure the safeguarding of margin

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<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(F).

assets pursuant to clearing house rules. ICC believes that acceptance of the new EM and SWES Contracts, on the terms and conditions set out in the Rules, is consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>4</sup>

Clearing of the additional EM and SWES Contracts will also satisfy the relevant requirements of Rule 17Ad-22,<sup>5</sup> as set forth in the following discussion.

*Margin Requirements.* Rule 17Ad-22(b)(2)<sup>6</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements. In terms of financial resources, ICC will apply its existing initial margin methodology to the new EM and SWES Contracts, which are similar to the EM and SWES Contracts currently cleared by ICC. ICC believes that this model will provide sufficient initial margin requirements to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad-22(b)(2).<sup>7</sup>

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<sup>4</sup> Id.

<sup>5</sup> 17 CFR 240.17Ad-22.

<sup>6</sup> 17 CFR 240.17Ad-22(b)(2).

<sup>7</sup> Id.

*Financial Resources.* Rule 17Ad-22(b)(3)<sup>8</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain financial resources sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions. ICC believes its Guaranty Fund, under its existing methodology, will, together with the required initial margin, provide sufficient financial resources to support the clearing of the additional EM and SWES Contracts, consistent with the requirements of Rule 17Ad-22(b)(3).<sup>9</sup>

*Operational Resources.* Rule 17Ad-22(d)(4)<sup>10</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify sources of operational risk and minimize them through the development of appropriate systems, controls and procedures. ICC believes that its existing operational and managerial resources will be sufficient for clearing of the additional EM and SWES Contracts, consistent with the requirements of Rule 17Ad-22(d)(4),<sup>11</sup> as these new contracts are substantially the same from an operational perspective as existing contracts.

*Settlement Procedures.* Rule 17Ad-22(d)(5), (12) and (15)<sup>12</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably

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<sup>8</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>9</sup> Id.

<sup>10</sup> 17 CFR 240.17Ad-22(d)(4).

<sup>11</sup> Id.

<sup>12</sup> 17 CFR 240.17Ad-22(d)(5), (12) and (15).

designed to employ money settlement arrangements that eliminate or strictly limit ICC's settlement bank risks and require funds transfers to ICC to be final when effected; ensure that final settlement occurs no later than the end of the settlement day, and require that intraday or real-time finality be provided where necessary to reduce risks; and state to its participants ICC's obligations with respect to physical deliveries and identify and manage the risks from these obligations. ICC will use its existing settlement procedures and account structures for the new EM and SWES Contracts, which are similar to the EM and SWES Contracts currently cleared by ICC, consistent with the requirements of Rule 17Ad-22(d)(5), (12) and (15)<sup>13</sup> as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures.

*Governance Arrangements.* Rule 17Ad-22(d)(8)<sup>14</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act<sup>15</sup> applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures. ICC determined to accept the additional EM and SWES Contracts for clearing in accordance with its governance process, which included review of the contracts and related risk management considerations by the ICC Risk Committee and approval by its Board. These governance arrangements continue to be clear and

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<sup>13</sup> Id.

<sup>14</sup> 17 CFR 240.17Ad-22(d)(8).

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

transparent, such that information relating to the assignment of responsibilities and the requisite involvement of the ICC Board and committees is clearly detailed in the ICC Rules and policies and procedures, consistent with the requirements of Rule 17Ad-22(d)(8).<sup>16</sup>

*Default Procedures.* Rule 17Ad-22(d)(11)<sup>17</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to establish default procedures that ensure that it can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default. ICC will apply its existing default management policies and procedures for the additional EM and SWES Contracts. ICC believes that these procedures allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad-22(d)(11).<sup>18</sup>

(B) Clearing Agency's Statement on Burden on Competition

The additional EM and SWES Contracts will be available to all ICC participants for clearing. The clearing of these additional EM and SWES Contracts by ICC does not preclude the offering of the additional EM and SWES Contracts for clearing by other market participants. Accordingly, ICC does not believe that clearance of the additional EM and SWES Contracts will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>16</sup> 17 CFR 240.17Ad-22(d)(8).

<sup>17</sup> 17 CFR 240.17Ad-22(d)(11).

<sup>18</sup> Id.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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 such 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2020-003 on the subject line.

Paper Comments:



Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549.

All submissions should refer to File Number SR-ICC-2020-003. This file number should be included on the subject line if e-mail 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, N.E., Washington, D.C. 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 Credit and on ICE Clear Credit's website at <https://www.theice.com/clear-credit/regulation>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2020-003 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

J Matthew DesLesDernier  
Assistant Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).