

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79197; File No. SR-ICC-2016-012)

October 31, 2016

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change to Provide for the Clearance of Additional Credit Default Swap Contracts

I. Introduction

On August 29, 2016, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to provide for the clearance of additional Standard Emerging Market Sovereign CDS contracts (collectively, “EM Contracts”), 2003 ISDA Definitions of Standard Western European Sovereign CDS contracts (collectively, “SWES Contracts”), and an additional Asia/Pacific Sovereign CDS contract (the “Asia/Pacific Contract”). The proposed rule change was published for comment in the Federal Register on September 16, 2016.³ The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

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 has proposed amending Subchapter 26D of its Rules to provide for the clearance of additional EM Contracts, specifically the Republic of Panama, Abu Dhabi,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-78818 (Sept. 12, 2016), 81 FR 63831 (Sept. 19, 2016) (SR-ICC-2016-012).

Dubai, the State of Israel and the State of Qatar. ICC plans to offer these additional EM Contracts on the 2003 and 2014 ISDA Credit Derivatives Definitions.

ICC represents that these additional EM Contracts have 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) will also be made to provide for clearing the additional EM Contracts. Specifically, in Rule 26D-102 (Definitions), “Eligible SES Reference Entities” will be modified to include the Republic of Panama, Abu Dhabi, Dubai, the State of Israel and the State of Qatar in the list of specific Eligible SES Reference Entities to be cleared by ICC.

Additionally, ICC has proposed amending Subchapter 26I of its Rules to provide for the clearance of 2003 ISDA Definitions of SWES Contracts. ICC currently clears the 2014 ISDA Definitions of ten SWES Contracts, namely the Republic of Ireland, the Italian Republic, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Belgium, the Republic of Austria, the Kingdom of the Netherlands, the Federal Republic of Germany, the French Republic and the United Kingdom of Great Britain and Northern Ireland. The proposed changes to Subchapter 26I will allow ICC to offer clearing for the 2003 ISDA Definitions of these SWES Contracts.

Minor revisions to Subchapter 26I (Standard Western European (“SWES”) Single Name) will be made to provide for clearing the 2003 ISDA Definitions of SWES Contracts. Specifically, in Rule 26I-102 (Definitions), the definitions of “Eligible SWES Reference Obligations”, “List of Eligible SWES Reference Entities” and “SWES Contract Reference Obligations” will be updated to distinguish between the 2003- and

2014-Type CDS Contracts, and the corresponding Applicable Credit Derivatives Definitions.⁴ Rule 26I-309 (Acceptance of SWES Contracts by ICE Clear Credit) will be revised in part (c) to note that a CDS Participant may not submit a Trade for clearance as a SWES contract, and any such Trade shall not be a Confirming Trade, if the *acceptance* would be at a time when the CDS Participant (or any Non-Participant Party for whom such CDS Participant is acting) is, or is an Affiliate of, the Eligible SWES Reference Entity for such SWES Contract or is subject to an agreement under which it is reasonably likely that the CDS Participant (or any such Non-Participant Party) will become, or will become an Affiliate of, the Eligible SWES Reference Entity for such SWES Contract. Rule 26I-309 will also be revised in part (e) to address and distinguish between relevant successor or other events under both 2003- and 2014-Type CDS Contracts, and the corresponding Applicable Credit Derivatives Definitions.

Rule 26I-315 (Terms of the Cleared SWES Contract) will be revised to provide reference to provisions of the proper ISDA Definitions, and corresponding changes to provision numbering will be made as necessary. Rule 26I-315(h) will be revised to refer to the Applicable Credit Derivatives Definitions and eligible Seniority Level, as appropriate.

Defined terms in Rule 26I-316 (Physical Settlement Matrix Updates) will be updated to refer specifically to SWES contracts. Rule 26I-616 (Contract Modification) will be revised to note that it shall not constitute a Contract Modification if the Board (or its designee) updates the List of Eligible SWES Reference Entities (and modifies the

⁴ As defined in Rule 20-102 (Applicable Credit Derivatives Definitions).

terms and conditions of related SWES Contracts) to give effect to determinations of Succession Events.

Finally, ICC has proposed amending Subchapter 26L of its rules to provide for the clearance of an additional Asia/Pacific Contract, namely the Kingdom of Thailand. ICC plans to offer this contract on the 2003 and 2014 ISDA Credit Derivatives Definitions.

ICC represents that the additional Asia/Pacific Contract has terms consistent with the other Asia/Pacific Contracts approved for clearing at ICC and governed by Subchapter 26L of the Rules. Minor revisions to Subchapter 26L (Asia/Pacific Sovereign (“SAS”) Single Name) will be made to provide for clearing the additional Asia/Pacific Contract. Specifically, in Rule 26L-102 (Definitions), “Eligible SAS Reference Entities” will be modified to include the Kingdom of Thailand in the list of specific Eligible SAS Reference Entities to be cleared by ICC.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁵ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act⁶ 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 the clearing

⁵ 15 U.S.C. 78s(b)(2)(C).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

agency or for which it is responsible and, in general, to protect investors and the public interest.

ICC has represented that the additional EM Contracts, Asia/Pacific Contract and the 2003 ISDA Definitions of SWES Contracts proposed for clearing are similar to the EM, SWES and Asia/Pacific Contracts that are currently cleared by ICC. ICC also represents that these contracts will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures. The Commission therefore finds that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act⁷ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-ICC-2016-012) be, and hereby is, approved.⁹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Brent J. Fields
Secretary

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(2).

⁹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁰ 17 CFR 200.30-3(a)(12).