

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77079; File No. SR-ICC-2016-002)

February 8, 2016

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing, as modified by Amendment No. 1 Thereto, of Proposed Rule Change to Provide for the Clearance of Certain Asia-Pacific Credit Default Swap Contracts

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 January 27, 2016, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change to adopt new rules that will provide the basis for ICC to clear certain Asia-Pacific credit default swap (“CDS”) contracts, as described in Items I, II, and III below, which Items have been prepared primarily by ICC. On January 29, 2016, ICC filed Amendment No. 1 to the proposal.³ The Commission is publishing this notice, as modified by Amendment No. 1, 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

ICC is proposing an amendment to its previously submitted proposed rule change to adopt new rules that will provide the basis for ICC to clear certain Asia-Pacific CDS contracts. Specifically, ICC proposed to amend Chapter 26 of the ICC Rulebook (“ICC Rules”) to add Subchapters 26J and 26L to provide for the clearance of iTraxx Asia/Pacific CDS contracts (“iTraxx Asia/Pacific Contracts”) and Standard Asia/Pacific

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, ICC deleted a factual error in the originally filed proposal that stated that no changes would be made to ICC’s Risk Management Framework. Amendment No. 1 amends and replaces the original filing in its entirety.

Sovereign CDS contracts (“SAS Contracts”, collectively with iTraxx Asia/Pacific Contracts “Asia-Pacific CDS Contracts”). Additionally, ICC proposed to amend the ICC End-of-Day Price Discovery Policies and Procedures to add two additional pricing windows to accommodate the submission of end-of-day prices relating to such Asia-Pacific CDS Contracts. Finally, ICC proposed to amend the ICC Risk Management Framework to include the risk horizon utilized for instruments traded during Asia-Pacific hours and to amend the ICC Risk Management Model Description document to add Asia-Pacific to the list of regions to be considered in General Wrong Way Risk calculations. This Amendment No. 1 deletes a factual error and is intended to replace the original filing in its entirety.

II. Self-Regulatory Organization’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 additional rule change in Amendment No. 1. The text of these statements may be 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. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adopt new rules that will provide the basis for ICC to clear Asia-Pacific CDS Contracts. Specifically, ICC proposes amending chapter 26 of the ICC Rules to add Subchapters 26J and 26L to provide for the clearance of iTraxx Asia/Pacific Contracts and Standard Asia/Pacific Sovereign CDS contracts (specifically the Commonwealth of Australia, the Malaysian Federation, the

People’s Republic of China, the Republic of Indonesia, the Republic of Korea and the Republic of the Philippines), respectively. Further, ICC proposes amending the ICC End-of-Day Price Discovery Policies and Procedures to add two additional pricing windows to accommodate the submission of end-of-day prices relating to such Asia-Pacific CDS Contracts. Finally, ICC proposes amending the ICC Risk Management Framework to include the risk horizon utilized for instruments traded during Asia-Pacific hours and amending the ICC Risk Management Model Description document to add Asia-Pacific to the list of regions to be considered in General Wrong Way Risk calculations. The addition of these Asia-Pacific CDS Contracts will benefit the CDS market by providing market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to clearing house rules.

The iTraxx Asia/Pacific Contracts have similar terms to the CDX North American IG/HY/XO CDS contracts (“CDX NA Contracts”) currently cleared by ICC and governed by Subchapter 26A of the ICC Rules, the CDX Emerging Markets CDS contracts (“CDX EM Contracts”) currently cleared by ICC and governed by Subchapter 26C of the ICC Rules, and the iTraxx Europe CDS contracts (“iTraxx Europe Contracts”) currently cleared by ICC and governed by Subchapter 26F of the ICC Rules.

Accordingly, the proposed rules found in Subchapter 26J largely mirror the ICC Rules for CDX NA Contracts in Subchapter 26A, CDX EM Contracts in Subchapter 26C, and iTraxx Europe Contracts in Subchapter 26F, with certain modifications that reflect differences in terms and market conventions between those contracts and iTraxx Asia/Pacific Contracts. iTraxx Asia/Pacific Contracts will be denominated in United States Dollars.

ICC Rule 26J-102 (Definitions) sets forth the definitions used for the iTraxx Asia/Pacific Contracts. The definitions are substantially the same as the definitions found in Subchapters 26A, 26C, and 26F of the ICC Rules, other than certain conforming changes.

ICC Rules 26J-309 (Acceptance of iTraxx Asia/Pacific Untranching Contracts by ICE Clear Credit), 26J-315 (Terms of the Cleared iTraxx Asia/Pacific Untranching Contract), 26J-316 (Updating Index Version of Fungible Contracts After a Credit Event or a Succession Event; Updating Relevant Untranching Standard Terms Supplement), and 26J-317 (Terms of iTraxx Asia/Pacific Untranching Contracts) reflect or incorporate the basic contract specifications for iTraxx Asia/Pacific Contracts and are substantially the same as under Subchapters 26A, 26C, and 26F of the ICC Rules.

SAS Contracts have similar terms to the Standard North American Corporate Single Name CDS contracts (“SNAC Contracts”) currently cleared by ICC and governed by Subchapter 26B of the ICC Rules, the Standard Emerging Sovereign CDS contracts (“SES Contracts”) currently cleared by ICC and governed by Subchapter 26D of the ICC Rules, the Standard European Corporate Single Name CDS contracts (“STEC Contracts”) currently cleared at ICC and governed by Subchapter 26G of the ICC Rules, the Standard European Financial Corporate Single Name CDS Contracts (“STEFC Contracts”) currently cleared at ICC and governed by Subchapter 26H of the ICC Rules, and the Standard Western European Corporate Single Name CDS contracts (“SWES Contracts”) currently cleared by ICC and governed by Subchapter 26I of the ICC Rules. Accordingly, the proposed rules found in Subchapter 26L largely mirror the ICC Rules for SNAC Contracts in Subchapter 26B, SES Contracts in Subchapter 26D, STEC Contracts in

Subchapter 26G, STEFC Contracts in Subchapter 26H, and SWES Contracts in Subchapter 26I, with certain modifications that reflect differences in terms and market conventions between those contracts and SAS Contracts. SAS Contracts will be denominated in United States Dollars.

ICC Rule 26L-102 (Definitions) sets forth the definitions used for the SAS Contracts. “Eligible SAS Reference Entities” are defined as “each particular Reference Entity included in the List of Eligible SAS Reference Entities,” which is a list maintained, updated and published from time to time by ICC containing certain specified information with respect to each reference entity. ICC is proposing to add the Commonwealth of Australia, the Malaysian Federation, the People’s Republic of China, the Republic of Indonesia, the Republic of Korea and the Republic of the Philippines to its List of Eligible SAS Reference Entities. If ICC determines to add or remove additional SAS Contracts from the List of Eligible SAS Reference Entities, it will seek approval from the Commission for such contracts (or for a class of product including such contracts) by a subsequent filing. The remaining definitions are substantially the same as the definitions found in Subchapters 26B, 26D, 26G, 26H, and 26I of the ICC Rules, other than certain conforming changes.

ICC Rules 26L-203 (Restriction on Activity), 26L-206 (Notices Required of Participants with respect to SAS Contracts), 26L-303 (SAS Contract Adjustments), 26L-309 (Acceptance of SAS Contracts by ICE Clear Credit), 26L-315 (Terms of the Cleared SAS Contract), 26L-316 (Relevant Physical Settlement Matrix Updates), 26L-502 (Specified Actions), and 26L-616 (Contract Modification) reflect or incorporate the basic

contract specifications for SAS Contracts and are substantially the same as under Subchapters 26B, 26D, 26G, 26H, and 26I of the ICC Rules.

Additionally, ICC is proposing to amend the ICC End-of-Day Price Discovery Policies and Procedures to add two additional pricing windows to accommodate the submission of end-of-day prices relating to such Asia-Pacific CDS Contracts. Specifically, ICC is proposing adding one pricing window at the end of the Sydney trading day to determine prices for instruments primarily traded in Sydney hours and one pricing window at the end of the Singapore trading day to determine prices for instruments primarily traded in Singapore/Hong Kong hours. ICC will apply the same price discovery methodology to all submission windows. For easier comprehension, ICC also consolidated information regarding the timing of all pricing windows into a table in an appendix to the policy. Accordingly, ICC replaced references throughout the document to specific pricing window times with a reference to this table. ICC also removed a reference to end-of-day risk requirements, as such information is more appropriately included in the Risk Management Framework.

Finally, ICC is proposing to amend the ICC Risk Management Framework to include the risk horizon utilized for instruments traded during Asia-Pacific hours and to amend the ICC Risk Management Model Description document to add Asia-Pacific to the list of regions to be considered in General Wrong Way Risk calculations.

Section 17A(b)(3)(F) of the Act⁴ 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,

⁴ 15 U.S.C. 78q-1(b)(3)(F).

and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. These iTraxx Asia/Pacific Contracts are similar to CDX NA, CDX EM, and iTraxx Europe Contracts currently cleared by ICC, and the SAS Contracts are similar to the SNAC, SES, STEC, STEFC, and SWES Contracts currently cleared by ICC. The iTraxx Asia/Pacific Contracts and SAS Contracts will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures.

The addition of iTraxx Asia/Pacific Contracts and SAS Contracts will allow market participants an increased ability to manage risk. ICC believes that acceptance of the new contracts, on the terms and conditions set out in the ICC Rules, is consistent with the prompt and accurate clearance of 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, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.⁵ ICC performed a comprehensive risk analysis related to the clearing of iTraxx Asia/Pacific Contracts and SAS Contract and has identified no additional risk or systemic risk concerns introduced by clearing these contracts, not accounted for by ICC's existing risk management procedures. As such, clearing the new iTraxx Asia/Pacific Contracts and SAS Contracts is consistent with the requirement of promoting and protecting the public interest in Section 17A(b)(3)(F)⁶.

⁵ Id.

⁶ Id.

Clearing of the iTraxx Asia/Pacific Contracts and SAS Contracts will also satisfy the requirements of Rule 17Ad-22.⁷ In particular, in terms of financial resources, ICC will apply its existing margin methodology (which includes General Wrong Way Risk considerations) to the additional contracts. ICC believes that this model will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17Ad-22(b)(2).⁸ In addition, ICC believes its Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of the new contracts consistent with the requirements of Rule 17Ad-22(b)(3).⁹ ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the new contracts, consistent with the requirements of Rule 17Ad-22(d)(4),¹⁰ as the new contracts are substantially the same from an operational perspective as existing contracts. Similarly, ICC will use its existing settlement procedures and account structures for the new contracts, consistent with the requirements of Rule 17Ad-22(d)(5), (12) and (15)¹¹ as to the finality and accuracy of its daily settlement process and avoidance of the risk to ICC of settlement failures. ICC determined to accept the iTraxx Asia/Pacific Contracts and SAS Contracts for clearing in accordance with its governance process, which included review of the contracts and related risk management considerations by the ICC

⁷ 17 CFR 240.17Ad-22.

⁸ 17 CFR 240.17Ad-22(b)(2).

⁹ 17 CFR 240.17Ad-22(b)(3).

¹⁰ 17 CFR 240.17Ad-22(d)(4).

¹¹ 17 CFR 240.17Ad-22(d)(5), (12) and (15).

Risk Committee and approval by its Board. These governance arrangements are consistent with the requirements of Rule 17Ad-22(d)(8).¹² Finally, ICC will apply its existing default management policies and procedures for the iTraxx Asia/Pacific Contracts and SAS 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 new contracts, in accordance with Rule 17Ad-22(d)(11).¹³

Furthermore, ICC believes that the proposed changes to the ICC End-of-Day Price Discovery Policies and Procedures are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),¹⁴ because ICC believes that such changes will assure the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed revisions will allow ICC to receive end-of-day prices for Asia-Pacific CDS Contracts, complete its end-of-day price discovery process, and determine end-of-day prices for such Asia-Pacific CDS Contracts. As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)¹⁵ of the Act.

¹² 17 CFR 240.17Ad-22(d)(8).

¹³ 17 CFR 240.17Ad-22(d)(11).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ Id.

Finally, ICC believes that the proposed changes to the ICC Risk Management Framework and the ICC Risk Management Model Description document are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),¹⁶ because ICC believes that such changes will assure the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed revisions allow for the consideration of Asia-Pacific contracts within ICC's risk model. As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)¹⁷ of the Act. In addition, the proposed revisions are consistent with the relevant requirements of Rule 17Ad-22.¹⁸ In particular, the amendments to the Risk Management Framework and the ICC Risk Management Model Description document allow for the consideration of Asia-Pacific contracts within the ICC risk model, which, as discussed above, ICC believes will provide sufficient margin and financial resources to support the clearing of the new contracts consistent with the margin and financial resource requirements of Rule 17Ad-22(b)(2-3).¹⁹

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

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The iTraxx Asia/Pacific Contracts and SAS Contracts will

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ Id.

¹⁸ 17 CFR §240.17Ad-22.

¹⁹ 17 CFR §240.17Ad-22(b)(2-3).

be available for clearing to all ICC Clearing Participants. The clearing of iTraxx Asia/Pacific Contracts and SAS Contracts by ICC does not preclude the offering of this product for clearing by other market participants. Further, the changes to the ICC End-of-Day Price Discovery Policies and Procedures, ICC Risk Management Framework, and ICC Risk Management Model Description document apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate 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 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 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 e-mail to rule-comments@sec.gov. Please include File Number SR-ICC-2016-002 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-ICC-2016-002. 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, NE, Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 pm. 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; 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-ICC-2016-002 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.²⁰

Robert W. Errett
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).