

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81892; File No. SR-ICC-2017-013)

October 17, 2017

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Changes to the ICC Clearing Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4,² notice is hereby given that on October 11, 2017, ICE Clear Credit LLC (“ICC” or “ICE Clear Credit”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule changes on an accelerated basis.

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 implement certain amendments to the ICC Clearing Rules (the “Rules”) relating to implementation of Venezuela sanctions.

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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 changes is to modify certain provisions of the Rules applicable to cleared CDS contracts (or components thereof) for which the Bolivarian Republic of Venezuela is a reference entity, in light of the sanctions (the "Venezuela Sanctions") imposed by Executive Order 13808 of August 24, 2017 Imposing Additional Sanctions With Respect to the Situation in Venezuela³ (the "Executive Order") and related implementing actions by the U.S. Treasury Department Office of Foreign Asset Control ("OFAC").

The amendments will incorporate in the terms and conditions for such contracts the Additional Provisions for Certain Venezuelan Entities: Excluded Obligations and Excluded Deliverable Obligations published by the International Swaps and Derivatives Association, Inc. ("ISDA") on September 19, 2017 (the "Venezuela Additional Provisions"). Consistent with the approach expected to be taken throughout the cleared and uncleared CDS market, ICE Clear Credit will make the Venezuela Additional Provisions applicable to relevant CDS contracts cleared by ICE Clear Credit beginning on the industry-wide implementation date (currently expected to be on or around October 20, 2017 (the "Additional Provisions Effective Date")).

³ 82 Fed. Reg. 41155 (August 29, 2017).

Among other provisions, the Executive Order prohibits transactions in or relating to certain bonds issued by the government of Venezuela, except to the extent permitted by a license issued by OFAC (“Restricted Debt”). The Venezuela Additional Provisions implement this prohibition by excluding Venezuela government bonds that are Restricted Debt from being “Obligations” or “Deliverable Obligations” under the terms of a CDS contract. As such, credit events with respect to such Restricted Debt could not be used to trigger credit protection under a CDS contract, and such Restricted Debt could not be used in settlement of a CDS contract. Pursuant to the terms of the Venezuela Additional Provisions, these limitations would cease to apply upon the lifting of sanctions under the Executive Order.

ICE Clear Credit understands, through discussions with market participants, that market participants generally are expected to adhere to a protocol implementing the Venezuela Additional Provisions for existing contracts in the uncleared CDS market, effective as of the Additional Provisions Effective Date. In an effort to maintain consistency across the CDS market, ICE Clear Credit plans to implement the amendments discussed herein as of the same time.

ICE Clear Credit is amending its Rules to incorporate the Venezuela Additional Provisions into existing Contracts. ICE Clear Credit is amending Rule 26C-316, which applies to CDX.EM Contracts, an index CDS contract for which Venezuela may be an index component. New subsection (e) provides that all open positions in CDX.EM Contracts that have a component transaction in which Venezuela is a reference entity will be amended, effective as of the Additional Provisions Effective Date, such that the Venezuela Additional Provisions apply. For clarity, the amendment also updates the

transaction terms to reference the updated September 2017 ISDA Credit Derivatives Physical Settlement Matrix that takes into account the Venezuela Additional Provisions.

Similarly, ICE Clear Credit is amending Rule 26D-616, which applies to emerging market sovereign single-name CDS contracts. New subsection (c) provides that a sovereign single-name CDS contract referencing Venezuela will be amended, effective as of the Additional Provisions Effective Date, such that the Venezuela Additional Provisions apply. For clarity, the amendment also updates the transaction terms to reference the updated September 2017 ISDA Credit Derivatives Physical Settlement Matrix that takes into account the Venezuela Additional Provisions.

(b) Statutory Basis

ICE Clear Credit believes that the proposed amendments are consistent with the requirements of Section 17A of the Act⁴ and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22.⁵ 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, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. Consistent with this Section, the amendments revise the terms of single-name and index CDS contracts referencing Venezuela in order to implement the Venezuela Additional Provisions and

⁴ 15 U.S.C. 78q-1.

⁵ 17 C.F.R. 240.17Ad-22.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

comply with the relevant restrictions in the Executive Order. In ICE Clear Credit's view, the amendments will therefore facilitate its ability to continue prompt and accurate clearing of such contracts, consistent with applicable law and the public interest as set out in the Executive Order.

Moreover, the amendments are consistent with Rule 17Ad-22(d)(1)⁷, which requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. As discussed herein, the amendments are designed to facilitate compliance by ICE Clear Credit and its clearing participants with the Venezuela Sanctions imposed by the Executive Order, by permitting clearing to continue in accordance with the restrictions on Restricted Debt imposed by the Executive Order.

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

ICE Clear Credit does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The changes will apply to all clearing participants and other market participants. The changes are being proposed in order to comply with the Executive Order and are being made in conjunction with an industry-wide effort to amend relevant CDS contract terms. ICE Clear Credit does not believe the amendments will impact competition among clearing members or other market participants, affect the ability of market participants to access clearing generally, or affect the cost of clearing. ICE Clear Credit further believes that any impact on clearing results from the restrictions

⁷ 17 C.F.R. 240.17Ad-22(d)(1).

imposed under the Executive Order, and is necessary and appropriate to ensure compliance with those restrictions.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission, or advance notice 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-2017-013 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. 20549-1090.

All submissions should refer to File Number SR-ICC-2017-013. 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, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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; 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-2017-013 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.⁸ Section 17A(b)(3)(F) of the Act⁹ requires, among

⁸ 15 U.S.C. 78s(b)(2)(C).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

other things, that the rules of a registered 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 agency or for which it is responsible, and, in general, to protect investors and the public interest. Rule 17Ad-22(d)(1)¹⁰ requires a registered clearing agency that is not a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, transparent, and enforceable legal framework for each aspect of its activities in all relevant jurisdictions.

The Commission finds that the proposed rule change is consistent with Section 17A of the Act and the relevant rules thereunder.¹¹ As described above, the proposed rule change is designed to amend ICC's Rules in order to take into account the Venezuela Sanctions by incorporating the Venezuela Additional Provisions. As a result of the proposed rule changes, credit events involving such bonds will not be permitted to trigger credit protection in connection with a CDS contract, nor may such bonds be used to settle a CDS contract. Consequently, the proposed rule changes are in the public interest because they ensure that ICC will be able to continue to promptly and accurately clear single-name and index CDS contracts referencing the Bolivarian Republic of Venezuela in a manner that comports with the Venezuela Sanctions.

¹⁰ 17 CFR 240.17Ad-22(d)(1).

¹¹ 15 U.S.C. 78q-1.

Therefore, the Commission finds that the proposed rule changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.

In addition, by amending its Rules to account for the Venezuela Sanctions described above, the Commission believes ICC's Rules will appropriately establish an enforceable legal framework with respect to the clearance of single-name and index CDS contracts referencing the Bolivarian Republic of Venezuela, and that such framework is transparent as ICC's Clearing Members, as well as other industry participants generally, are aware of such sanctions and restrictions on the relevant contracts. Therefore, the Commission finds that the proposed rule change is consistent with the requirements of Rule 17Ad-22(d)(1).

In its filing, ICC requested that the Commission grant accelerated approval of the proposed rule change pursuant to Section 19(b)(2) of the Act. Under Section 19(b)(2)(C)(iii) of the Act,¹² the Commission may grant accelerated approval of a proposed rule change if the Commission finds good cause for doing so. ICC believes that accelerated approval is warranted because the proposed rule change is designed to ensure that ICC can continue to clear single-name and index CDS referencing the Bolivarian Republic of Venezuela consistent with the terms of the Venezuela Sanctions, thereby promoting the maintenance of fair and orderly markets in such CDS contracts.

The Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act, for approving the proposed rule change on an accelerated basis, prior to the 30th day after the date of publication in the Federal Register because the proposed rule

¹² 15 U.S.C. 78s(b)(2)(C)(iii)

change is intended to comply with the requirements set forth in an Executive Order binding on ICC. Moreover, the proposed rule change must be in place prior to the 30th day after the date of publication in the Federal Register in order to meet the timing of the industry-wide implementation of uniform terms to comply with the Executive Order.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the Requirements of the Act and the relevant rules thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (File No. SR-ICC-2017-013) be, and hereby is, approved on an accelerated basis.¹⁴

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman
Assistant Secretary

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 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).

¹⁵ 17 CFR 200.30-3(a)(12).