

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91278; File No. SR-ICC-2021-002)

March 8, 2021

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the Clearance of an Additional Credit Default Swap Contract

I. Introduction

On January 15, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the ICC Rulebook (the “Rules”)³ to provide for the clearance of an additional Standard Emerging Market Sovereign CDS contract (the “EM Contract”). The proposed rule change was published for comment in the Federal Register on February 1, 2021.⁴ The Commission did not receive comments regarding 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 principal purpose of the proposed rule change is to revise the Rules to provide for the clearance of an additional EM Contract.⁵ Specifically, the proposed rule change would amend

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used but not defined herein have the meanings specified in the Rules.

⁴ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the Clearance of an Additional Credit Default Swap Contract; Exchange Act Release No. 90989 (Jan. 26, 2021); 86 Fed. Reg. 7751 (Feb. 1, 2021) (“Notice”).

⁵ The description that follows is excerpted from the Notice, 86 Fed. Reg. at 7751.

Subchapter 26D of the Rules to provide for the clearance of the additional EM Contract, Ukraine. The proposed rule change would make a minor revision to Subchapter 26D (Standard Emerging Market Sovereign Single Name) of the Rules to provide for clearing the additional EM Contract. Specifically, the proposed rule change would amend the term “Eligible SES Reference Entities” in Rule 26D-102 (Definitions) to include Ukraine in the list of specific Eligible SES Reference Entities to be cleared by ICC. ICC represents that 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, and that clearance of this additional EM contract would not require any changes to ICC’s Risk Management Framework.⁶

III. Discussion and Commission Findings

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.⁷ Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.⁸

⁶ See Notice, 86 Fed. Reg. at 7751.

⁷ 15 U.S.C. 78s(b)(2)(C).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.⁹ The Commission has reviewed the terms and conditions of the additional EM Contract proposed for clearing and has determined that those terms and conditions are substantially similar to the terms and conditions of the other contracts listed in Subchapter 26D of the ICC Rules, all of which ICC currently clears, with the key difference being that the underlying reference obligations will be issuances by Ukraine. Moreover, after reviewing the Notice and ICC's Rules, policies and procedures, the Commission finds that ICC would clear the additional EM Contract pursuant to its existing clearing arrangements and related financial safeguards, protections and risk management procedures.

In addition, based on its own experience and expertise, including a review of data on volume, open interest, and the number of ICC Clearing Participants ("CPs") that currently trade in the additional EM Contract as well as certain model parameters for the additional EM Contract, the Commission finds that ICC's rules, policies, and procedures are reasonably designed to price and measure the potential risk presented by the additional EM Contract, collect financial resources in proportion to such risk, and liquidate this product in the event of a CP default. This should help ensure ICC's ability to maintain the financial resources it needs to provide its critical services and function as a central counterparty, thereby promoting the prompt and accurate settlement of the additional EM Contract and other credit default swap transactions. For the same reasons, the Commission believes that the proposed rule change should help assure the safeguarding of securities or funds in the custody or control of ICC.

Therefore, the Commission finds that clearance of the additional EM Contract would promote the prompt and accurate clearance and settlement of securities transactions and would

⁹ 15 U.S.C. 78q-1(b)(3)(F).

help assure safeguarding of securities and funds in the custody or control of ICC, consistent with Section 17A(b)(3)(F) of the Act.¹⁰

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act.¹¹

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act¹² that the proposed rule change (SR-ICC-2021-002), be, and hereby is, approved.¹³

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier
Assistant Secretary

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 15 U.S.C. 78s(b)(2).

¹³ 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).

¹⁴ 17 CFR 200.30-3(a)(12).