

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78818; File No. SR-ICC-2016-012)

September 12, 2016

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on August 29, 2016, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“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. Self-Regulatory Organization’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 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”).

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

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

<sup>2</sup> 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. 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 rules that will provide the basis for ICC to clear additional credit default swap contracts. 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.

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

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) are made to provide for clearing the additional EM Contracts. Specifically, in Rule 26D-102 (Definitions), "Eligible SES Reference Entities" is 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 proposes 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 rule 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) are 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” are updated to distinguish between the 2003- and 2014-Type CDS Contracts, and the corresponding Applicable Credit Derivatives Definitions.<sup>3</sup> Rule 26I-309 (Acceptance of SWES Contracts by ICE Clear Credit) is 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 is also 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.

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<sup>3</sup> As defined in Rule 20-102 (Applicable Credit Derivatives Definitions).

Rule 26I-315 (Terms of the Cleared SWES Contract) is revised to provide reference to provisions of the proper ISDA Definitions, and corresponding changes to provision numbering are made as necessary. Rule 26I-315(h) is 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) are updated to refer specifically to SWES contracts. Rule 26I-616 (Contract Modification) is 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 terms and conditions of related SWES Contracts) to give effect to determinations of Succession Events.

Finally, ICC proposes 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.

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) are made to provide for clearing the additional Asia/Pacific Contract. Specifically, in Rule 26L-102 (Definitions), “Eligible SAS Reference Entities” is modified to include the Kingdom of Thailand in the list of specific Eligible SAS Reference Entities to be cleared by ICC.

Section 17A(b)(3)(F) of the Act<sup>4</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement

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<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. 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 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 Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts will allow market participants an increased ability to manage risk and ensure the safeguarding of margin assets pursuant to clearing house rules. ICC believes that acceptance of the new EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts, on the terms and conditions set out in the 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.<sup>5</sup>

Clearing of the additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts will also satisfy the requirements of Rule 17Ad-22.<sup>6</sup> In particular, in terms of financial resources, ICC will apply its existing initial margin methodology to the additional contracts. ICC believes that this model will provide sufficient initial margin requirements to cover its credit exposure to its clearing members

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<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> 17 CFR 240.17Ad-22.

from clearing such contracts, consistent with the requirements of Rule 17Ad-22(b)(2).<sup>7</sup> In addition, 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 contracts consistent with the requirements of Rule 17Ad-22(b)(3).<sup>8</sup> ICC also believes that its existing operational and managerial resources will be sufficient for clearing of the additional contracts, consistent with the requirements of Rule 17Ad-22(d)(4),<sup>9</sup> 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)<sup>10</sup> 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 additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of 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 are consistent with the requirements of Rule 17Ad-22(d)(8).<sup>11</sup> Finally, ICC will apply its existing default management policies and procedures for the additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts. ICC believes that

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<sup>7</sup> 17 CFR 240.17Ad-22(b)(2).

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

<sup>9</sup> 17 CFR 240.17Ad-22(d)(4).

<sup>10</sup> 17 CFR 240.17Ad-22(d)(5), (12) and (15).

<sup>11</sup> 17 CFR 240.17Ad-22(d)(8).

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>12</sup>

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

The additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts will be available to all ICC participants for clearing. The clearing of these additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts by ICC does not preclude the offering of the additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts for clearing by other market participants. Accordingly, ICC does not believe that clearance of the additional EM Contracts, Asia/Pacific Contract and 2003 ISDA Definitions of SWES Contracts will impose any burden on competition not necessary or appropriate 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

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<sup>12</sup> 17 CFR 240.17Ad-22(d)(11).

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2016-012 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-2016-012. 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, DC 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-2016-012 and should be submitted on or before [Commission to 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>13</sup>

Robert W. Errett  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).