SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88929; File No. SR–ICC–2020–003]

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

May 21, 2020.

I. Introduction

On March 26, 2020, 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'') and additional Standard Western European Sovereign CDS contracts (collectively, the ''SWES Contracts''). The proposed rule change was published for comment in the **Federal Register** on April 7, 2020.[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 and additional SWES Contracts.[5] Specifically, ICC proposes amending Subchapter 26D of its Rules to provide for the clearance of the additional EM Contract, the Republic of Croatia. 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. Minor revisions to Subchapter 26D (Standard Emerging Market Sovereign (''SES'') Single Name) are made to provide for clearing the additional EM Contract. Specifically, in Rule 26D–102 (Definitions), ''Eligible SES Reference Entities'' is modified to include the Republic of Croatia 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 the additional SWES Contracts, the Republic of Finland and the Hellenic Republic. These additional SWES Contracts have terms consistent with the other SWES Contracts approved for clearing at ICC and governed by Subchapter 26I of the Rules. Minor revisions to Subchapter 26I (Standard Western European Sovereign Single Name) are made to provide for clearing the additional SWES Contracts. Specifically, in Rule 26I–102 (Definitions), ''Eligible SWES Reference Entities'' is modified to include the Republic of Finland and the Hellenic Republic in the list of specific Eligible SWES Reference Entities to be cleared by ICC.

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.[6] 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.[7]

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[8] The Commission has reviewed the terms and conditions of these additional contracts proposed for clearing and has determined that they are substantially similar to the other contracts listed in Subchapters 26D and 26I of the ICC Rules, all of which ICC currently clears, with the key difference being that the underlying reference obligations will be issuances by the Republic of Croatia, the Republic of Finland, and the Hellenic Republic. Moreover, after reviewing the Notice and ICC's Rules, policies and procedures, the Commission finds that the additional EM and SWES Contracts will be cleared pursuant to ICC's 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 and SWES Contracts as well as certain model parameters for the additional EM and SWES Contracts, the Commission finds that ICC's rules, policies, and procedures are reasonably designed to price and measure the potential risk presented by these products, collect financial resources in proportion to such risk, and liquidate these products in the event of a CP default, all of which should help ensure ICC's ability to maintain the financial resources it needs to provide its critical services and function as a central counter party, thereby promoting the prompt and accurate settlement of EM and SWES Contracts 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, and would be consistent with the protection of investors and the public interest.

Therefore, the Commission finds that acceptance of the additional EM and SWES Contracts, on the terms and conditions set out in ICC's Rules, is consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions cleared by ICC and the safeguarding of securities and funds in the custody or control of ICC, within the meaning of Section 17A(b)(3)(F) of the Act.[9]

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.[10]

It is therefore ordered pursuant to Section 19(b)(2) of the Act [11] that the proposed rule change (SR–ICC–2020–003), be, and hereby is, approved.[12]

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[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 Relating to the Clearance of Additional Credit Default Swap Contracts; Exchange Act Release No. 88537 (April 1, 2020); 85 FR 19551 (April 7, 2020) (''Notice'').

[5] The description that follows is excerpted from the Notice, 85 FR 19551.

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78s(b)(2).

[12] 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).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88927; File No. SR–ICC–2020–006)]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to ICC's Treasury Operations Policies and Procedures

May 21, 2020.

I. Introduction

On April 8, 2020, 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,[2] a proposed rule change to revise the ICC Treasury Operations Policies and Procedures (''Treasury Policy''). The proposed rule change was published for comment in the **Federal Register** on April 20, 2020.[3] 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 proposed rule change would revise the Treasury Policy to clarify ICC's approval process for adding a new settlement bank, ICC's minimum criteria applicable to settlement banks, and ICC's backup settlement banks. Currently, the Direct Settlement Section of the Treasury Policy requires that ICC's Director of Treasury and the Risk Department (credit analyst) conduct a review before ICC begins using a bank as a settlement bank, with final approval from the ICC President. Under the proposed rule change, ICC's Director of Treasury and the Risk Department (credit analyst) would still conduct a review before ICC begins using a bank as a settlement bank. The proposed rule change would require, however, that the Credit Review Subcommittee of the Participant Review Committee (the ''CRS''), rather than ICC's President, approve ICC's use of a bank. The CRS is comprised of ICC staff, including the ICC President, ICC Chief Operating Officer, and representatives from various departments, and is tasked with counterparty review responsibilities. Thus, under the proposed rule change, ICC's President would still be involved in the approval of a bank (as a member of the CRS) but other ICC personnel, as CRS members, would also participate in such approval.

Moreover, the proposed rule change would amend the Direct Settlement Section of the Treasury Policy to set forth the minimum criteria that ICC applies when determining whether to use a bank as a settlement bank. Currently, the Treasury Policy requires that ICC's Director of Treasury and the Risk Department (credit analyst) review a bank's capitalization, creditworthiness, access to liquidity, operational reliability and supervision before approval of that bank. In addition to those items, the proposed rule change would specify the minimum criteria that ICC applies to its settlement banks. Among other things, these criteria require that a bank be subject to certain regulatory oversight and supervision (*i.e.,* the bank must be subject to regulation and supervision by a competent authority such as the Federal Reserve Board or Office of the Comptroller of the Currency or such other applicable prudential regulatory body acceptable to ICC and if the bank is located outside the United States and will be used for customer funds, it must have in excess of $1 billion of regulatory capital), complete documentation which would allow ICC to assess the bank's financial stability and credit/counterparty risk, and demonstrate requisite operational capability.

Finally, the proposed rule change would amend the Direct Settlement Section of the Treasury Policy and make amendments elsewhere in the Treasury Policy to clarify that ICC currently has two backup settlement banks in addition to one primary settlement bank. Currently, the Treasury Policy notes ICC's primary banking relationship and one backup banking relationship. The proposed rule change would incorporate a reference to the second backup banking relationship, which was inadvertently excluded and does not represent a new banking relationship.

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.[4] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[5] and Rules 17Ad–22(d)(5) and 17Ad–22(d)(8).[6]

A. Consistency With Section 17A(b)(3)(F) of the Act

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.[7] The Commission believes that ICC's use of settlement banks poses potential risks that, if not mitigated and managed, could disrupt its ability to clear and settle transactions and safeguard securities and funds in its custody and control. For example, failure of a settlement bank, due to operational or financial issues, could inhibit ICC's ability to receive and make payments, which could prevent the final settlement of transactions and transfer of margin. As discussed above, the proposed rule change would revise the Treasury Policy to state that the CRS must approve ICC's use of a bank before ICC begins using that bank as a settlement bank and to provide minimum criteria that ICC must apply when determining whether to use a bank as a settlement bank. The Commission believes that the proposed rule change should help to manage and mitigate the potential risks associated with using a settlement bank, by improving the approval process for a settlement bank. The Commission believes the proposed rule change would improve this process by expanding the personnel within ICC that consider and approve a potential settlement bank and by providing certain minimum standards that a settlement bank must meet for ICC to use that bank, in addition to the criteria for review already listed in the Treasury

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to ICC's Treasury Operations Policies and Procedures, Exchange Act Release No. 88633 (Apr. 14, 2020); 85 FR 21911 (Apr. 20, 2020) (SR–ICC–2020–006) (''Notice'').

[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 240.17Ad–22(d)(5), (d)(8).

[7] 15 U.S.C. 78q–1(b)(3)(F).