



SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-72941; File No. SR-ICC-2014-14)

August 28, 2014

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change to Add Rules Related to the Clearing of Standard Western European Sovereign CDS 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 August 25, 2014, 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 purpose of the proposed rule change is to adopt new rules that will provide the basis for ICC to clear additional credit default swap contracts. Specifically, ICC is proposing to amend Chapter 26 of its rules to add Subchapter 26I and to amend the ICC Risk Management Framework to provide for the clearance of Standard Western European Sovereign CDS contracts, specifically the Republic of Ireland, the Italian Republic, the Portuguese Republic, and the Kingdom of Spain (collectively, the “SWES Contracts”). The proposed change is dependent on the approval and implementation of the proposed rule change contained in ICC-2014-11 and

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

therefore, the text of the proposed rule change in Exhibit 5 should be read in conjunction with the text of the proposed rule change in Exhibit 5 to ICC-2014-11.³

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 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

1. Purpose

ICC has identified SWES Contracts as products that have become increasingly important for market participants to utilize for risk management. ICC believes that clearance of SWES Contracts will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible.

SWES 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, and the Standard European Corporate Single Name CDS contracts (“SDEC Contracts”) currently cleared at ICC and governed by Subchapter 26G of the ICC Rules. Accordingly, the proposed rules found in

³ See Securities Exchange Act Release No. 34-72701 (Jul. 29, 2014), 79 FR 45565 (Aug. 5, 2014) (SR-ICC-2014-11). The text of the proposed rule change for rule filing SR-ICC-2014-11 can also be found on ICC’s website at <https://www.theice.com/clear-credit/regulation>.

Subchapter 26I largely mirror the ICC Rules for SNAC Contracts in Subchapter 26B, SES Contracts in Subchapter 26D, and SDEC Contracts in Subchapter 26G, with certain modifications that reflect differences in terms and market conventions between those contracts and SWES Contracts. SWES Contracts will be denominated in United States Dollars.

The proposed rules set forth in Subchapter 26I incorporate references to revised Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. (“ISDA”) on February 21, 2014 (the “2014 ISDA Definitions”). ICC has a rule filing currently pending with the Commission consisting of proposed amendments to the ICC Rules to incorporate references to the 2014 ISDA Definitions (ICC-2014-11).⁴ This filing has a planned effective date, consistent with the industry implementation date of the 2014 ISDA Definitions, on September 22, 2014. The 2014 ISDA Definitions will be applicable to SWES Contracts cleared by ICC, and, as such, references to the 2014 ISDA Definitions are utilized throughout the SWES Contracts-related rules found in Subchapter 26I. Thus, approval and implementation of clearing SWES Contracts is dependent on the approval and implementation of the proposed rule change contained in ICC-2014-11 and therefore, the text of the proposed rule change in Exhibit 5 should be read in conjunction with the text of the proposed rule change in Exhibit 5 to ICC-2014-11.⁵ ICC will not implement the 2014 ISDA Definitions-related rule changes until regulatory approval is received and until the industry implementation date of September 22, 2014. Similarly, ICC will not begin clearing SWES Contracts until the later of receipt of regulatory approval or the industry implementation date of September 22, 2014. SWES Contracts will only be offered on the 2014 ISDA Definitions.

⁴ Id.

⁵ Id.

Rule 26I-102 (Definitions) sets forth the definitions used for the SWES Contracts. An “Eligible SWES Reference Entity” is defined as “each particular Reference Entity included in the List of Eligible SWES 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. If ICC determines to add or remove additional SWES Contracts from the List of Eligible SWES 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, and 26G of the ICC Rules, other than certain conforming changes.

ICC Rules 26I-203 (Restriction on Activity), 26I-206 (Notices Required of Participants with respect to SWES Contracts), 26I-303 (SWES Contract Adjustments), 26I-309 (Acceptance of SWES Contracts by ICE Clear Credit), 26I-315 (Terms of the Cleared SWES Contract), 26I-316 (Relevant Physical Settlement Matrix Updates), 26I-502 (Specified Actions), and 26I-616 (Contract Modification) reflect or incorporate the basic contract specifications for SWES Contracts and are substantially the same as under Subchapters 26B, 26D, and 26G of the ICC Rulebook.

Clearing SWES Contracts will not require any changes to ICC’s operational procedures, as the SWES Contracts operate similarly to the Standard Emerging European and Middle Eastern Sovereign Single Names, currently cleared by ICC. The addition of SWES Contracts to ICC’s product offering requires risk specific changes to the ICC Risk Management Framework, which are described below.

ICC’s Risk Management Framework has been revised to incorporate additional model features designed to generalize the currently established Specific Wrong Way Risk (“SWWR”)

Initial Margin (“IM”) requirement. The proposed changes to the ICC Risk Management Framework generalize the SWWR relative to General Wrong Way Risk (“GWWR”). This generalization of Wrong Way Risk (“WWR”) is introduced to account for additional risk present in CDS instruments whose reference entities exhibit a high level of correlation with those Clearing Participants clearing the relevant name, or with an entity that is guaranteed by, or affiliated with, those Clearing Participants. To this effect, the offering of SWES Contracts introduces potential GWWR in the form of country/region of domicile WWR. Examples of GWWR related to SWES include but are not limited to a CP selling protection on its country of domicile, or a European domiciled Clearing Participant selling protection on European sovereign reference entities. To address such risks, an additional Jump To Default Risk (“JTDR”) requirement is established.

Accordingly, the Risk Management Framework contains revisions to the calculation of the portfolio JTDR requirement. Specifically, the calculations have been updated to incorporate the concept of WWR as described below in reference to the quantitative and qualitative approaches. These revisions will have no material impact on the size of the Guaranty Fund.

ICC's proposed changes adopt a combination of qualitative and quantitative approaches to capture GWWR. Under the revised ICC Risk Management Framework, an additional contribution to the JTDR requirement will be required when Clearing Participants sell protection on SWES reference entities exhibiting a high degree of association with itself (quantitative approach) or by virtue of selling protection on its country of domicile (qualitative approach). For the qualitative case, ICC will require full collateralization of the additional Jump To Default (“JTD”) loss. In determining a Clearing Participants’ country of domicile for purposes of the qualitative determination, ICC refers to the International Organization for Standardization

(“ISO”) country code for the issuer's ultimate parent country of risk. The ISO methodology considers management location, country of primary listing, country of revenue and reporting currency of the issuer.

The quantitative approach applies to the additional risk arising from Clearing Participants selling protection on SWES reference entities, other than the Clearing Participant’s country of domicile, on which the Clearing Participant’s domicile has a high degree of correlation. If the additional SWES JTD losses and the dependence levels breach specific threshold amounts, additional GWR collateralization will be required. The additional collateralization is a function of the level of correlation between the Clearing Participants and the SWES reference entities and will become more conservative as the level of correlation increases.

As a result of these enhancements to the ICC Risk Management Framework, Rule 26D-309 (Acceptance of SES Contracts by ICE Clear Credit), part (c) has been revised to remove language which prohibits the acceptance of Trades for clearance and settlement if at the time of submission or acceptance of the Trade or at the time of novation the Participant submitting the Trade is domiciled in the country of the Eligible Standard Emerging Sovereign (“SES”) Reference Entity for such SES contract. The new GWR methodology will apply to all sovereign contracts cleared by ICC, including SES contracts.

2. Statutory Basis

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 and to comply with the provisions of the Act and the rules and regulations thereunder. These

⁶ 15 U.S.C. 78q-1(b)(3)(F).

contracts are similar to the SNAC, SES, and SDEC Contracts currently cleared by ICC, and the SWES Contracts will be cleared pursuant to ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures, except as described herein. The addition of SWES 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.⁷ ICC performed a comprehensive risk analysis related to the clearing of SWES Contracts and identified the introduction of GWWR as a new risk and accommodated for this risk in the ICC Risk Management Framework, as discussed herein. ICC identified no additional risk or systemic risk concerns introduced by clearing SWES Contracts, not accounted for by ICC's existing risk management procedures. As such, clearing the new SWES Contracts is consistent with the requirement of promoting and protecting the public interest in Section 17A(b)(3)(F).⁸

Clearing of the additional SWES Contracts will also satisfy the requirements of Rule 17Ad-22.⁹ In particular, in terms of financial resources, ICC will apply its existing margin methodology to the additional contracts, with enhancements to address General Wrong Way Risk discussed above. 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

⁷ Id.

⁸ Id.

⁹ 17 CFR 240.17Ad-22.

requirements of Rule 17Ad-22(b)(2).¹⁰ 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 additional contracts consistent with the requirements of Rule 17Ad-22(b)(3).¹¹ 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),¹² 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)¹³ 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 SWES contracts for clearing in accordance with its governance process, which included review of the contracts and related risk management considerations (and the enhancements to the margin methodology for General Wrong Way Risk discussed herein) by the ICC Risk Committee and approval by its Board. These governance arrangements are consistent with the requirements of Rule 17Ad-22(d)(8).¹⁴ Finally, ICC will apply its existing default management policies and procedures for the SWES 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

¹⁰ 17 CFR 240.17Ad-22(b)(2).

¹¹ 17 CFR 240.17Ad-22(b)(3).

¹² 17 CFR 240.17Ad-22(d)(4).

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

¹⁴ 17 CFR 240.17Ad-22(d)(8).

insolvencies or defaults in respect of the additional single names, in accordance with Rule 17Ad-22(d)(11).¹⁵

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 proposed GWR methodology and the additional JTDR will apply uniformly to all ICC Clearing Participants, as applicable. The SWES Contracts will be available for clearing to all ICC Clearing Participants. The clearing of SWES Contracts by ICC does not preclude the offering of this product for clearing by other 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.

¹⁵ 17 CFR 240.17Ad-22(d)(11).

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-2014-14 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-2014-14. 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 also will 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-2014-14 and should be submitted on or before [INSERT DATE 21 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Kevin M. O'Neill,
Deputy Secretary.

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¹⁶ 17 CFR 200.30-3(a)(12).