



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97908; File No. SR-ICC-2023-005]

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

July 14, 2023

I. Introduction

On March 30, 2023, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to clear an additional credit default swap (“CDS”) contract. The proposed rule change was published for comment in the *Federal Register* on April 18, 2023.<sup>3</sup> On May 11, 2023, the Commission designated a longer period for Commission action on the proposed rule change until July 17, 2023.<sup>4</sup> 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

ICC is registered with the Commission as a clearing agency for the purpose of clearing CDS contracts. Chapter 26 of ICC’s Rulebook covers the CDS contracts that ICC clears, with each subchapter of Chapter 26 defining the characteristics and additional Rules applicable to the various specific categories of CDS contracts that ICC clears. Among other CDS contracts, ICC currently clears Standard Emerging Market Sovereign Single Name CDS (“SES”) contracts.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change Relating to the Clearance of Additional Credit Default Swap Contracts; Exchange Act Release No. 97293 (Apr. 12, 2023), 88 FR 23711 (Apr. 18, 2023) (File No. SR-ICC-2023-005) (“Notice”).

<sup>4</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Relating to the Clearance of Additional Credit Default Swap Contracts; Exchange Act Release No. 97482 (May 11, 2023), 88 FR 31554 (May 17, 2023) (File No. SR-ICC-2023-005).

The purpose of the proposed rule change is to amend ICC's rules to permit ICC to clear an additional SES contract, specifically, SES contracts on the Dominican Republic. To carry out this change, the proposed rule change would amend Subchapter 26D of Chapter 26. In Rule 26D-102 (Definitions), "Eligible SES Reference Entities," the proposed rule change would add the Dominican Republic to the list of specific Eligible SES Reference Entities to be cleared by ICC.

As discussed below, this additional SES contract has terms consistent with the other SES contracts that ICC is already clearing. As such, to clear this additional contract, ICC will be able to rely on its existing Risk Management Framework and other policies and procedures without making any changes.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.<sup>5</sup> For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>6</sup> and Rule 17Ad-22(e)(1) thereunder.<sup>7</sup>

#### 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.<sup>8</sup>

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.<sup>9</sup> The Commission has reviewed the terms and conditions of the additional SES contract proposed for clearing and has determined that those terms and conditions

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<sup>5</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 17 CFR 240Ad-22(e)(1).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 the underlying reference obligations. For the additional SES contract, the underlying reference obligations will be issuances by the Dominican Republic.

After reviewing the Notice and ICC's Rules, policies, and procedures, the Commission also finds that ICC would be able to clear the additional SES contract pursuant to its existing clearing arrangements and related financial safeguards, protections, and risk management procedures. Commission staff also conducted a review of data on volume, open interest, and the number of ICC Clearing Participants ("CPs") that currently trade in the SES contracts, as well as certain model parameters for the additional contracts. Based on this review, as well as its own experience and expertise, the Commission finds that ICC's Rules, policies, and procedures are reasonably designed to price and measure the potential risk presented by the additional SES contract, collect financial resources in proportion to such risk, and liquidate the additional contracts 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 SES contracts and other credit default swap transactions.

Therefore, the Commission finds that clearance of the additional SES contract would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.<sup>10</sup>

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<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

## B. Consistency with Rule 17Ad-22(e)(1)

Rule 17Ad-22(e)(1) requires ICC to 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.<sup>11</sup>

The Commission believes that the proposed rule change would help provide a well-founded, clear, transparent, and enforceable legal basis for ICC's clearance of SES contracts on the Dominican Republic. By amending Rule 26D-102 to add the Dominican Republic to the list of specific Eligible SES Reference Entities to be cleared by ICC, the proposed rule change would help to ensure that ICC can clear SES contracts on the Dominican Republic pursuant to its existing rules in Subchapter 26D. The Commission believes Subchapter 26D would provide a well-founded, clear, transparent, and enforceable legal basis for ICC to clear these contracts, consistent with the requirements of Rule 17Ad-22(e)(1).<sup>12</sup>

## 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<sup>13</sup> and Rule 17Ad-22(e)(1) thereunder.<sup>14</sup>

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act<sup>15</sup> that the proposed rule change (SR-ICC-2023-005), be, and hereby is, approved.<sup>16</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

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<sup>11</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>12</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>14</sup> 17 CFR 240Ad-22(e)(1).

<sup>15</sup> 15 U.S.C. 78s(b)(2).

<sup>16</sup> 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).

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

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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