



Maria Alarcon
Manager, Legal

April 5, 2022

Re: Updates to ICE Clear Credit Rules Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commission Regulation 40.6(a)

VIA ELECTRONIC PORTAL

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICE Clear Credit”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), a self-certification of changes to the ICE Clear Credit Clearing Rules (the “Rules”). ICE Clear Credit is registered with the Commission as a derivatives clearing organization (“DCO”). ICE Clear Credit intends to implement the changes no sooner than the tenth business day following the filing of this submission with the Commission at its Washington, D.C. headquarters and with its Chicago regional office.

ICE Clear Credit proposes to make certain amendments to its Rules relating to the implementation of Russia Sanctions (defined below). This submission includes a description of the changes to the ICE Clear Credit Rules. Certification of the changes pursuant to Section 5c(c)(1) of the Act and Commission Regulation 40.6(a) is also provided below.

The purpose of the proposed changes is to modify certain provisions of the Rules applicable to cleared CDS contracts (or components thereof) for which the Russian Federation is a reference entity, in light of the sanctions imposed by Directive 1A of February 22, 2022 (Prohibitions Related to Certain Sovereign Debt of the Russian Federation) under Executive Order 14024 of April 21, 2021 (Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation¹) (together, the “Executive Order”) and related implementing actions by the U.S. Treasury Department Office of Foreign Asset Control (“OFAC”), as well as similar sanctions imposed by sanctions authorities in Canada, the European Union, Japan, Switzerland and the United Kingdom (collectively, the “Russia Sanctions”).

The amendments will incorporate in the terms and conditions for such contracts the Additional Provisions for Certain Russian Entities: Excluded Obligations and Excluded Deliverable Obligations, published by the International Swaps and Derivatives Association, Inc. (“ISDA”) on March 25, 2022 (the “Russia Additional Provisions”). Consistent with the approach expected to be taken throughout the cleared and uncleared CDS market, ICE Clear Credit will make the Russia Additional Provisions applicable to relevant CDS contracts cleared by ICE Clear Credit beginning on the industry-wide implementation date (currently expected to be on or around April 25, 2022 (the “Additional Provisions Effective Date”)).

Among other provisions, the Russia Sanctions prohibit secondary market transactions in or relating to certain bonds issued by the Russian Federation (“Restricted Debt”). The Russia Additional Provisions

¹ 86 Fed. Reg. 20249 (April 15, 2021).



implement this prohibition by excluding Russia government bonds that are Restricted Debt from being “Obligations” or “Deliverable Obligations” under the terms of a CDS contract. As such, credit events with respect to such Restricted Debt could not be used to trigger credit protection under a CDS contract, and such Restricted Debt could not be used in settlement of a CDS contract. Pursuant to the terms of the Russia Additional Provisions, these limitations would cease to apply at such time as no relevant sanctions apply to secondary trading in the relevant Restricted Debt.

ICE Clear Credit understands, through discussions with market participants, that market participants generally are expected to adhere to a protocol implementing the Russia Additional Provisions for existing contracts in the uncleared CDS market, effective as of the Additional Provisions Effective Date. In an effort to maintain consistency across the CDS market, ICE Clear Credit plans to implement the amendments discussed herein as of the same time.

ICE Clear Credit is proposing to amend its Rules to incorporate the Russia Additional Provisions into existing Contracts. ICE Clear Credit would amend Rule 26C-316, which applies to CDX.EM Contracts, an index CDS contract for which Russia may be an index component. New subsection (f) would provide that all open positions in CDX.EM Contracts that have a component transaction in which the Russian Federation is a Reference Entity will be amended, effective as of the Additional Provisions Effective Date, such that the Russia Additional Provisions apply. For clarity, the amendment would also update the transaction terms to reference the updated April 2022 ISDA Credit Derivatives Physical Settlement Matrix that takes into account the Russia Additional Provisions.

Similarly, ICE Clear Credit is proposing to amend Rule 26D-616, which applies to emerging market sovereign single-name CDS contracts. New subsection (d) would provide that a sovereign single-name CDS contract referencing the Russian Federation will be amended, effective as of the Additional Provisions Effective Date, such that the Russia Additional Provisions apply. For clarity, the amendment would also update the transaction terms to reference the updated April 2022 ISDA Credit Derivatives Physical Settlement Matrix that takes into account the Russia Additional Provisions.

Core Principle Review:

ICE Clear Credit reviewed the DCO core principles (“Core Principles”) as set forth in the Act. During this review, ICE Clear Credit identified the following Core Principles as being impacted:

Product Eligibility: The amendments revise the terms of single-name and index CDS contracts referencing the Russian Federation in order to implement the Russia Additional Provisions and comply with the relevant restrictions in the Russia Sanctions. The amendments will facilitate ICE Clear Credit’s ability to continue prompt and accurate clearing of such contracts, consistent with applicable law and the public interest as set out in the Executive Order and other Russia Sanctions. As a result, ICE Clear Credit believes that the affected CDS contracts, as modified by the amendments, will continue to comply with the requirements of Core Principle C and Commission Rule 39.12(b).

Legal Risk: The changes to the Rules are consistent with the requirements of Core Principle R and Commission Regulation 39.27. The Rules continue to provide for a well-founded, transparent, and enforceable legal basis for ICE Clear Credit’s activities. The amendments are designed to facilitate compliance by ICE Clear Credit and its clearing participants with the Russia Sanctions, by permitting clearing to continue in accordance with the restrictions on Restricted Debt imposed by the Russia Sanctions.



Amended Rules:

The proposed changes consist of revisions to Chapter 26 of the ICE Clear Credit Rules.

Annexed as an Exhibit hereto is the following:

- A. Proposed amendments to the ICE Clear Credit Rules

Certifications:

ICE Clear Credit hereby certifies that the changes comply with the Act and the regulations thereunder. There were no substantive opposing views to the changes.

ICE Clear Credit further certifies that, concurrent with this filing, a copy of the submission was posted on ICE Clear Credit's website, and may be accessed at: <https://www.theice.com/clear-credit/regulation>.

ICE Clear Credit would be pleased to respond to any questions the Commission or the staff may have regarding this submission. Please direct any questions or requests for information to the attention of the undersigned at (312) 836-6854.

Sincerely,

A handwritten signature in black ink that reads 'Maria Alarcon' in a cursive script.

Maria Alarcon
Manager, Legal