

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97489; File No. SR-ICC-2023-003)

May 11, 2023

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to British Pounds Sterling as Client-Related Margin

I. Introduction

On March 13, 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”)¹ and Rule 19b-4 thereunder,² a proposed rule change to accept British Pounds Sterling in satisfaction of client-related margin requirements. The proposed rule change was published for comment in the Federal Register on March 30, 2023.³ 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

A. Background

ICC is registered with the Commission as a clearing agency for the purpose of clearing CDS contracts. ICC requires that its Clearing Participants post margin to collateralize their credit exposure to ICC, based on the size and risk of their cleared positions. On a daily basis,

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 Relating to British Pounds Sterling as Client-Related Margin; Exchange Act Release No. 97196 (March 24, 2023), 88 FR 19183 (March 30, 2023) (File No. SR-ICC-2023-003) (“Notice”).

ICC determines margin requirements (i) for a Clearing Participant's own cleared positions (referred to as "house" positions) and (ii) for the cleared positions of its clients.

The proposed rule change relates to the second category, margin requirements for the cleared positions of clients. Specifically, the proposed rule change would allow Clearing Participants to use cash British pounds sterling ("GBP") to satisfy client-related margin requirements. Currently, a Clearing Participant may meet client-related margin requirements with US dollars, Euros, or US Treasuries. ICC previously accepted GBP in satisfaction of client-related margin requirements, but it revoked that option in 2017.⁴ ICC did so because no Clearing Participants posted GBP at that time, and ICC considered GBP a less liquid resource due to the potential need to convert it to either US dollars or Euros.

ICC has decided to once again accept GBP in satisfaction of client-related margin requirements. ICC is doing so in response to feedback from customers. Several UK and EU market participants have asked ICC for the ability to post GBP in addition to the asset types currently accepted by ICC.

In addition to satisfying the request of these customers, ICC believes that accepting GBP would overall better serve other UK and EU-based market participants. Such participants may

⁴ See Securities Exchange Act Release No. 81037 (June 28, 2017), 82 FR 31121 (July 5, 2017) (SR-ICC-2017-010) (notice). The Commission subsequently approved ICC's proposal to remove the eligibility of GBP cash (as well as certain other currencies) as acceptable collateral. See Securities Exchange Act Release No. 81386 (Aug. 14, 2017), 82 FR 39484 (Aug. 18, 2017) (SR-ICC-2017-010).

be seeking an alternative CDS clearing service, given that ICE Clear Europe is intending to close its UK-based CDS clearing service in October of this year.⁵

To carry out this change, ICC would amend the ICE Clear Credit Rulebook (“ICC Rules”) and the ICE Clear Credit Treasury Operations Policies & Procedures (“Treasury Policy”), as described in detail below.⁶

B. ICC Rules

Currently, Schedule 401 of the ICC Rules sets out the collateral that ICC accepts to satisfy client-related margin requirements. Schedule 401 describes this collateral in terms of the CDS contract for which the margin is required. Specifically, Schedule 401 categorizes the collateral as that which ICC accepts for client-related US-dollar denominated products and client-related Euro denominated products.⁷ For each of those products, Schedule 401 requires that a Clearing Participant meet a certain percentage of the relevant margin requirement in particular collateral. Below is what Schedule 401 currently provides for client-related margin.

Client-Related Initial Margin Liquidity Requirements

Client-Related US Dollar Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
US Dollar Denominated Assets (US Cash and/or US Treasuries)	65%

⁵ See Circular C22/109 Cessation of clearing of CDS Contracts: Postponement of Withdrawal Date, available at https://www.ice.com/publicdocs/clear_europe/circulars/C22109.pdf.

⁶ Capitalized terms not otherwise defined herein have the meanings provided to them in the Rules or Treasury Policy, as applicable.

⁷ Currently, ICC only clears US-dollar denominated and Euro denominated products, and the proposed rule change would not alter this.

All Eligible Collateral (US Cash, Euro Cash, and/or US Treasuries)	+35% (for a total of 100%)
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Client-Related Euro Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
All Eligible Collateral (US Cash, Euro Cash, and/or US Treasuries)	100%

The proposed rule change would update Schedule 401 by adding GBP to the list of “all eligible collateral.” In addition, ICC would modify the client-related margin requirements set forth in Schedule 401 of the ICC Rules as follows. For US dollar denominated products, ICC would change (i) the percentage of the requirement that must be met in US dollars and US Treasuries from 65% to 45% and (ii) the percentage that may be met in any eligible collateral (US dollars, Euros, GBP, and US Treasuries) from 35% to 55%. For Euro denominated products, ICC would change (i) the minimum percentage of the requirement that must be met in US dollars, Euros, or US Treasuries from 100% to 45% and (ii) add a new category that permits the remaining 55% of the requirement to be met in any eligible collateral (US dollars, Euros, GBP, and US Treasuries).

Client-Related Initial Margin Liquidity Requirements (as amended)

Client-Related US Dollar Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
US Dollar Denominated Assets (US Cash and/or US Treasuries)	65% <u>45%</u>
All Eligible Collateral	+35% <u>55%</u> (for a total of 100%)

(US Cash, Euro Cash, <u>British Pound Sterling Cash</u> , and/or US Treasuries)	
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Client-Related Euro Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
All Eligible Collateral (US Cash, Euro Cash, and/or US Treasuries)	100% <u>45%</u>
All Eligible Collateral <u>(US Cash, Euro Cash, British Pound Sterling Cash, and/or US Treasuries)</u>	<u>+55% (for a total of 100%)</u>

Thus, ICC would amend Schedule 401 of the ICC Rules to add GBP as Eligible Collateral for client-related margin requirements and modify the percentages for both US-dollar denominated products and Euro denominated products. With respect to these changes in particular, the Commission notes that ICC would accept a smaller percentage of US dollars for a client-related margin requirement relating to a US-dollar denominated product than it does currently (65% versus 45%). Similarly, ICC would accept a smaller percentage of US dollars / Euro / Treasuries for a client-related margin requirement relating to a US-dollar denominated product than it does currently (100% versus 45%). Because ICC does not treat any collateral posted for clients as a liquidity resource available in the event of a default, the Commission does not believe that the changes in percentages or acceptance of GBP will affect ICC's liquidity resources.⁸ Moreover, as ICC explained, the proposed modified thresholds reflect the fact that

⁸ As explained in its Liquidity Risk Management Framework, ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available.

only the first-day liquidity needs (measured as 45% of requirements) must be met in a form of collateral for which ICC maintains committed repurchase agreements and committed FX facilities.⁹ The remaining 55% can be met with any type of accepted collateral. The Commission therefore believes that with the proposed modified thresholds, ICC continues to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

C. Treasury Policy

The overall purpose of the ICC Treasury Policy is to articulate the policies and procedures used by the ICC Treasury Department. ICC's Treasury manages ICC's cash and collateral, including the assets that Clearing Participants transfer to ICC to satisfy client-related margin requirements. The Treasury Policy therefore would apply to GBP provided by Clearing Participants to satisfy client-related margin requirements. Accordingly, ICC would modify the Treasury Policy to incorporate GBP, as discussed below.

i. Section III, Funds Management

ICC first would modify Section III of the Policy, which concerns ICC's funds management. Section III explains the types of funds in which ICC's Treasury invests cash and collateral and ICC's overall strategy with respect to such investments. For example, with respect to Euros posted by Clearing Participants, Section III currently provides that Treasury may, among other things, hold such cash in bank deposits or allocate it to outside investment

⁹ Notice, 88 FR at 19184.

managers. The proposed rule change would add to Section III a similar explanation of ICC's strategy with respect to cash posted by Clearing Participants in GBP that is Client Margin. With respect to those funds, ICC would not invest such GBP but would instead hold it in bank deposits.

ii. Section IV, Cash Management

ICC next would update Section IV of the Policy, which explains how ICC moves and transfers cash in the conduct of its business. Section IV, among other things, describes how ICC monitors the daily collection of margin to ensure the timely receipt of payment for settlement, including the deadlines for the collection of margin and for the withdrawal or substitution of collateral. Currently, ICC requires that Clearing Participants notify it of withdrawals or substitutions involving Euros by 9:00 AM ET. The proposed rule change would not alter this deadline, but it would add GBP to the existing 9:00 AM ET deadline. Thus, under the proposed rule change, Clearing Participants would be required to notify ICC of withdrawals or substitutions involving Euro cash and GBP collateral by 9:00 AM ET.

iii. Section V, Collateral Valuation

ICC also would update Section V of the Policy, which explains the type of assets that ICC accepts as collateral and how ICC custodies Clearing Participants' collateral. With respect to the assets that ICC accepts as collateral, Section V of the Policy explains that Clearing Participants are generally required to post assets as collateral that meet ICC's standards for acceptable collateral. Section V also lists the assets that ICC considers to be acceptable collateral. Currently, as discussed above, ICC accepts US dollars, Euros, and US Treasuries. The proposed rule change would add GBP to this list, with the caveat that ICC accepts it as collateral for client positions only (as opposed to Clearing Participants' house positions).

With respect to the assets that ICC accepts as collateral, ICC prices those assets to determine their value (and therefore how much of the margin requirement those assets satisfy). ICC also discounts the value of the collateral to account for market risks and currency risks (a process known as haircutting). Section V describes ICC's process for valuing each of the types of collateral that it accepts. The proposed rule change would update this valuation process to include GBP. The process for valuing GBP would be as follows.

ICC would first convert the value of the GBP to an amount in US dollars. ICC would then reduce this US-dollar value using the currency haircut it has established for GBP. ICC would then apply this reduced value to determine how much of the margin requirement the GBP collateral satisfies.

If the GBP is being used to satisfy a margin requirement for a Euro-denominated product, ICC would take one additional step. Margin requirements for Euro-denominated products are expressed in Euros. Thus, to determine how much of this margin requirement the GBP collateral satisfies, ICC would convert the Euro margin requirement to a US-dollar value. This is needed because, as discussed above, ICC would convert the value of the GBP collateral to US dollars. In converting the Euro margin requirement to a US-dollar value, ICC would increase the value by the currency haircut it has established for Euro. ICC would take this additional step because, as a default, ICC's treasury system would have already haircut the Euro value in converting it to US dollars. Thus, increasing the value by the haircut ensures that, when determining how much of the margin requirement the GBP collateral satisfies, ICC is considering the full amount of the margin requirement (rather than only the amount post-haircut).

iv. Section VI, Treasury Management for Client Business

Finally, the proposed rule change would update Section VI of the Policy. Section VI specifically describes how ICC manages margin requirements associated with client trades. Among other things, Section VI describes the types of collateral that ICC accepts to satisfy a client-related margin requirement. Currently, Section VI lists US dollars, Euros, and US government securities as collateral eligible for client margin, and explains that these assets are in line with the current eligible collateral for house-related margin requirements. The proposed rule change would add GBP to this list, and also would delete the explanation that these assets are in line with the current eligible collateral for House margin. This particular explanation would no longer be correct, given that ICC would accept GBP for client-related margin requirements but not for house-related margin requirements.

Section VI of the Policy also explains the percentages of these assets that a Clearing Participant can use to satisfy a particular client-related margin requirement. This information mirrors Schedule 401 of ICC's rules, discussed above. Thus, the proposed rule change would amend this description to match the revisions to Schedule 401 described above. For a client-related margin requirement relating to a US-dollar denominated product, a Clearing Participant would be required to meet (i) 45% of the requirement with US dollars and/or US Treasuries and (ii) the remaining 55% with US dollars, Euros, US Treasuries, and/or GBP. For a client-related margin requirement relating to a Euro denominated product, a Clearing Participant would be required to meet (i) 45% of the requirement with US dollars, Euros, and/or US Treasuries and (ii) the remaining 55% with US dollars, Euros, US Treasuries, and/or GBP.

With respect to these changes in particular, the Commission notes that ICC would accept a smaller percentage of US dollars / Treasuries for a client-related margin requirement relating to

a US-dollar denominated product than it does currently (65% versus 45%). Similarly, ICC would accept a smaller percentage of US dollars / Euros / Treasuries for a client-related margin requirement relating to a Euro denominated product than it does currently (100% versus 45%). Because ICC does not treat any collateral posted for clients as a liquidity resource available in the event of a default, the Commission does not believe that the changes in percentages or acceptance of GBP will affect ICC's liquidity resources.¹⁰ Moreover, as discussed above, the Commission believes that with the proposed modified thresholds, ICC would continue to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

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.¹¹ For the reasons discussed below, the Commission finds that the proposed rule

¹⁰ As explained in its Liquidity Risk Management Framework, ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available.

¹¹ 15 U.S.C. 78s(b)(2)(C).

change is consistent with Section 17A(b)(3)(F)¹² of the Act and Rule 17Ad-22(e)(5)¹³ thereunder.

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.¹⁴ Based on its review of the record, and for the reasons discussed below, the Commission believes the proposed changes to ICC's Rules and the Treasury Policy are consistent with the promotion of the prompt and accurate clearance and settlement of securities transactions.

As discussed above, the proposed revisions to the ICC Rules and Treasury Policy would allow Clearing Participants to post GBP to satisfy client-related margin requirements. The Commission believes that these changes, by expanding the collateral that clients could provide to Clearing Participants to satisfy margin requirements, would encourage clients to clear their positions at ICC. The Commission believes this could be especially true for clients that are based in the UK or otherwise have reserves of GBP. Thus, the Commission believes this aspect of the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions among clients.

Moreover, as noted above, ICC requires that Clearing Participants satisfy a certain percentage of a client-related margin requirement in US dollars and/or Euros, as applicable. The

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(e)(5).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

proposed rule change would lower the minimum percentage that a Clearing Participant must meet in US dollars and/or Euros. The proposed rule change also would allow Clearing Participants to use GBP to satisfy the non-US dollar / Euros portion. Again, the Commission believes these changes would encourage clients to clear transactions at ICC, especially those who may have reserves of GBP. The Commission further believes that doing so would not materially affect ICC's available liquidity resources in case of a default because, consistent with its current practice, ICC would not treat the GBP posted to satisfy a client's margin requirement as a liquidity resource available in the event of a default. As discussed above, ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available. Moreover, as discussed above, ICC would continue to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

The Commission therefore finds that the proposed revisions to the ICC Rules and Treasury Policy are designed to promote the prompt and accurate settlement of securities transactions, derivatives agreements, contracts, and transactions for which ICC is responsible, consistent with Section 17A(b)(3)(F) of the Exchange Act.¹⁵

B. Consistency with Rule 17Ad-22(e)(5) under the Act

Rule 17Ad-22(e)(5) requires that ICC, among other things, establish, implement, maintain and enforce written policies and procedures reasonably designed to limit the assets it

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits.¹⁶ As discussed above, the proposed rule change would allow Clearing Participants to use GBP to satisfy client-related margin requirements. The proposed rule change also would lower the minimum percentage of a client-related margin requirement that a Clearing Participant must meet in US dollars and/or Euros. The proposed rule change would not alter ICC's current collateral haircuts or concentration limits. Indeed, as discussed above, ICC would convert the GBP posted as collateral to a US dollar value and then reduce the US dollar value using the GBP currency haircut.

Moreover, consistent with its current practice, ICC would not treat the GBP posted to satisfy a client's margin requirement as a liquidity resource available in the event of a Clearing Participant's default. ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available.

For these reasons, the Commission believes that ICC would continue to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits while accepting GBP as collateral, consistent with Rule 17Ad-22(e)(5).¹⁷

¹⁶ 17 CFR 240.17Ad-22(e)(5).

¹⁷ 17 CFR 240.17Ad-22(e)(5).

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 Section 17A(b)(3)(F)¹⁸ of the Act and Rule 17Ad-22(e)(5)¹⁹ thereunder.

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act²⁰ that the proposed rule change (SR-ICC-2023-003), be, and hereby is, approved.²¹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood
Assistant Secretary

¹⁸ 15 U.S.C. 78q-1(b)(3)(F)

¹⁹ 17 CFR 240.17Ad-22(e)(5).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 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).

²² 17 CFR 200.30-3(a)(12).