

the Data Center closure would have the resulting fees waived, and the extension of the waiver would apply uniformly to all Users during the period. For the reasons above, the proposed changes do not unfairly discriminate between or among market participants.

In addition, the Exchange believes that the proposed rule change would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest because it would allow a User to have work carried out on its equipment notwithstanding a Rules 7.1E and 901NY closure without incurring Hot Hands fees. Accordingly, the Exchange believes that the requested extension of the waiver is designed to perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest by facilitating the uninterrupted availability of Users' equipment.

For all of the above reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹¹ the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that the proposed change would place any burden on intramarket competition that is not necessary or appropriate.

The proposed extension of the waiver is not designed to affect competition, but rather to provide relief to Users that, while a Rules 7.1E and 901NY closure is in effect, have no option but to use the Hot Hands service.

The proposed extension of the waiver would not apply differently to distinct types or sizes of market participants. Rather, all Users whose equipment requires work during the extension of the Data Center closure would have the resulting fees waived, and the extension of the waiver would apply uniformly to all Users during the period.

Intermarket Competition

The Exchange does not believe that the proposed change would impose any burden on intermarket competition that is not necessary or appropriate.

The Exchange believes that the proposed change would not affect the competitive landscape among the

national securities exchanges, as the Hot Hands service is solely charged within co-location to existing Users, and would be temporary.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹² of the Act and subparagraph (f)(2) of Rule 19b-4¹³ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

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 email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2020-39 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.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NYSEAMER-2020-39. This file number should be included on the subject line if email 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2020-39 and should be submitted on or before June 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88954; File No. SR-ICC-2020-007]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Clearing Rules

May 27, 2020.

I. Introduction

On April 10, 2020, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section

¹⁵ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78f(b)(8).

19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4,² a proposed rule change to amend Chapter 2 of the ICC Rules relating to requirements applicable to ICC’s Clearing Participants. 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

As discussed below, the proposed rule change would amend Chapter 2 of the ICC Rules, which relates to requirements applicable to ICC’s Clearing Participants.

The proposed rule change would amend ICC Rule 201(b), which sets out the standards that each of ICC’s Clearing Participants must meet, to add a new standard in standard in subparagraph (xiv). New subparagraph (xiv) would require that a Clearing Participant participate in default management simulations, new technology testing and other exercises, as notified by ICE Clear Credit from time to time.

The proposed rule change would also amend Rule 206(a), which requires that each Clearing Participant immediately notify ICC, orally and in writing, upon the occurrence of certain specified events. The proposed rule change would amend Rule 206(a) to delete the requirement that Clearing Participants provide notices orally, so that instead Clearing Participants would only be required to provide notice in writing.

Finally, the proposed rule change would amend Rule 206(c), which requires a Clearing Participant that is a broker-dealer to notify ICC of, among other things, any matter of which the Clearing Participant must notify FINRA under FINRA Rule 3070. The proposed rule change would replace “FINRA Rule 3070” with “FINRA Rule 4530(a)(1)(A),(C),(E) and 4530(b) (or any similar rules),” as FINRA Rule 3070 is no longer applicable and has been superseded by FINRA Rule 4530.⁴

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.⁵ For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act⁶ and Rule 17Ad-22(d)(2).⁷

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.⁸ By updating the standards for membership applicable to Clearing Participants as discussed above, the proposed rule change should help to ensure that ICC’s Clearing Participants participate in default testing and other testing conducted by ICC. In addition, the proposed rule change should help to ensure that all of ICC’s Clearing Participants are prepared for, and ready to take actions in response to, a Clearing Participant default, thereby helping to improve ICC’s management of a Clearing Participant default. Because the Commission believes that a Clearing Participant default, if not properly managed, could cause ICC to incur losses which could hinder its clearance and settlement of securities transactions and safeguarding of securities and funds in its custody or control, the Commission believes this aspect of the proposed rule change should help to promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC’s custody and control.

or is indicted, or convicted of, or pleads guilty to any felony or any misdemeanor that involves the purchase or sale of any security, etc. Further, this rule also generally requires that each member shall promptly report to FINRA after the member has concluded or reasonably should have concluded that an associated person of the member or the member itself has violated any securities or other rules and regulations of a regulatory body.

⁵ 15 U.S.C. 78s(b)(2)(C).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 240.17Ad-22(d)(2).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

Similarly, by eliminating the requirement for oral notices and updating the reference to the current FINRA rule requiring notification by a Clearing Participant that is a broker-dealer of violations of regulatory rules and regulations, the proposed rule change should help to ensure that ICC receives notice from a Clearing Participant of events or situations which could affect the Clearing Participant’s ability to satisfy the standards and obligations applicable to it as a participant in ICC. The proposed rule change would allow ICC to respond as needed to mitigate any potential negative effects to ICC arising from such events or situations that could hinder ICC’s clearance and settlement of securities transactions and safeguarding of securities and funds in its custody or control. Consequently, the Commission believes this aspect of the proposed rule change should help to promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC’s custody and control.

Therefore, the Commission finds that the proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC’s custody and control, consistent with Section 17A(b)(3)(F) of the Act.⁹

B. Consistency With Rule 17Ad-22(d)(2)

Rule 17Ad-22(d)(2) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in ICC; have procedures in place to monitor that participation requirements are met on an ongoing basis; and have participation requirements that are objective and publicly disclosed, and permit fair and open access.¹⁰ The adoption of a new standard applicable to Clearing Participants—participation in default management simulations, new technology testing and other exercises, as notified by ICE Clear Credit from time to time—should establish a participation requirement that is objective in that it applies to all Clearing Participants equally, and is publicly disclosed, in that it would be part of ICC’s publicly available rulebook. Moreover, this new participation standard should allow ICC to test a Clearing Participant’s operational

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 17Ad-22(d)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change Relating to the ICC Clearing Rules, Exchange Act Release No. 88628 (Apr. 14, 2020); 85 FR 21907 (Apr. 20, 2020) (SR-ICC-2020-007).

⁴ FINRA Rule 4530 generally requires that its members promptly report to FINRA after the member or an associated person of the member has been found to have violated any securities or other rules and regulations of a regulatory body, is named as a defendant or respondent in any proceeding brought by a domestic or foreign regulatory body,

response to a simulated default, thereby helping to ensure that a Clearing Participant has robust operational capacity to meet obligations arising from participation in ICC. Finally, the elimination of the requirement for oral notices and updating of the reference to the current FINRA rule should help to ensure that ICC receives notice from a Clearing Participant of events or situations which could affect the Clearing Participant's ability to satisfy the standards and obligations applicable to it as a participant in ICC. Taken together, the Commission believes that the proposed rule change should help ICC to monitor that Clearing Participants are meeting their participation requirements on an ongoing basis. For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(d)(2).¹¹

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 Act¹² and Rules 17Ad-22(d)(2).¹³

It is therefore ordered pursuant to Section 19(b)(2) of the Act¹⁴ that the proposed rule change (SR-ICC-2020-007), be, and hereby is, approved.¹⁵

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

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88958; File No. SR-NYSENAT-2020-18]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Temporary Waiver of the Co-location Hot Hands Fee

May 27, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 14, 2020, NYSE National, Inc. ("NYSE National" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to extend the temporary waiver of the co-location "Hot Hands" fee. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend of the temporary waiver of the co-

location⁴ "Hot Hands" fee through the earlier of the reopening of the Mahwah, New Jersey data center ("Data Center") or June 30, 2020. The waiver of the Hot Hands fee is scheduled to expire on May 15, 2020.⁵

The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. ("ICE"). Through its ICE Data Services ("IDS") business, ICE operates the Mahwah, New Jersey data center ("Data Center"), from which the Exchange provides co-location services to Users.⁶ Among those services is a "Hot Hands" service, which allows Users to use on-site Data Center personnel to maintain User equipment, support network troubleshooting, rack and stack a server in a User's cabinet; power recycling; and install and document the fitting of cable in a User's cabinet(s).⁷ The Hot Hands fee is \$100 per half hour.

ICE previously announced to Users that the Data Center would be closed to third parties for the period from March 16, 2020 through May 15, 2020 (the "Initial Closure"), to help avoid the spread of COVID-19, which could negatively impact Data Center functions. Prior to the closure of the Data Center, the Chief Executive Officer of the Exchange took the actions required under NYSE National Rule 7.1 to close the co-location facility of the Exchange to third parties.

ICE has now announced to Users that, because the concerns that led to the Initial Closure still apply, the closure of the Data Center will be extended, with the date of the reopening announced through a customer notice.

⁴ The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in May 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR-NYSENAT-2018-07).

⁵ See Securities Exchange Act Release Nos. 88399 (March 17, 2020), 85 FR 16428 (March 23, 2020) (SR-NYSENAT-2020-10), and 88521 (March 31, 2020), 85 FR 19194 (April 6, 2020) (SR-NYSENAT-2020-14).

⁶ For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. See 83 FR 26314, *supra* note 4, at note 9. As specified in the Exchange's Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates the New York Stock Exchange LLC ("NYSE"), NYSE American LLC ("NYSE American"), NYSE Arca, Inc. ("NYSE Arca"), and NYSE Chicago, Inc. ("NYSE Chicago") and together, the "Affiliate SROs"). See *id.* at note 11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2020-44, SR-NYSEArca-2020-39, SR-NYSEArca-2020-47, and SR-NYSECHX-2020-15.

⁷ See 83 FR 26314, *supra* note 4.

¹¹ 15 U.S.C. 17Ad-22(d)(2).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(d)(2).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 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).

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.