

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81347; File No. SR-ICC-2017-011)

August 8, 2017

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Granting Accelerated Approval of Proposed Rule Change Relating to the ICC Liquidity Risk Management Framework and the ICC Stress Testing Framework

I. Introduction

On June 28, 2017, ICE Clear Credit LLC (“ICC” or “ICE Clear Credit”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-ICC-2017-011) to revise the ICC Liquidity Risk Management Framework and the ICC Stress Testing Framework. The proposed rule change was published for comment in the Federal Register on July 12, 2017.³ The Commission did not receive comments regarding the proposed changes. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

II. Description of the Proposed Rule Change

ICC stated that the proposed revisions to its Liquidity Risk Management Framework and Stress Testing Framework are for the purpose of revising its liquidity monitoring program to enhance compliance with U.S. Commodity Futures Trading

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Exchange Act Release No. 34-81132 (July 12, 2017), 82 FR 32895 (July 18, 2017) (SR-ICC-2017-011) (“Notice”).

Commission (“CFTC”) regulations, including Regulations 39.11, 39.33, and 39.36.⁴ ICC represented that the proposed revisions will also facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. These revisions would not require any changes to the ICC Clearing Rules (“Rules”).

A. Liquidity Risk Management Framework

ICC proposed to reorganize the format of the Liquidity Risk Management Framework to consist of three elements: Liquidity Risk Management Model; Measurement and Monitoring; and Governance. The Regulatory Requirements element, previously included as an element of the framework, would be deleted; however, the regulatory requirements applicable to liquidity risk management would still be referenced in the framework.

1. Liquidity Risk Management Model

ICC proposed to enhance the description of several components of its Liquidity Risk Management Model. As revised, the Liquidity Risk Management Model now includes, but is not limited to, the following components: Currency-Specific Risk Requirements; Acceptable Collateral; Liquidity Requirements; Collateral Valuation Methodology; Investment Strategy; Clearing Participant (“CP”) Deposits as a Liquidity Pool, Liquidity Facilities (including committed repo facilities and committed foreign exchange (“FX”) facilities); and Liquidity Waterfall.

For the Currency-Specific Risk Requirements component, ICC proposed to add language to cross reference ICC’s current policy of maintaining cash and collateral assets

⁴ 17 CFR 39.11; 17 CFR 39.33; 17 CFR 39.36.

posted by CPs (on behalf of themselves and/or their clients) to meet currency-specific Initial Margin (“IM”) and Guaranty Fund (“GF”) requirements, to ensure ICC has sufficient total resources in the required currencies of denomination.

With respect to the Liquidity Requirements component,⁵ ICC proposed to add a cross reference to ICC’s requirement that each CP contribute to the GF a minimum of 20 million wholly in U.S. Dollars (“USD”) , which is not a change but rather a restatement of ICC’s current rules.⁶ Further, ICC proposed revisions to extend ICC’s margin risk horizon up to 6-days in order to account for the risk associated with clearing Asia Pacific products. This change would apply throughout the framework.

With respect to the Liquidity Facilities component, ICC proposed revisions to add reference to its committed repurchase facility, consisting of committed repo lines from multiple financial institutions (as opposed to committed repurchase agreements as before), and its recently instituted committed FX facilities for converting USD cash to EUR cash. ICC also proposed removing reference to FX Swaps and Immediate FX Spot Transactions because these arrangements are not committed and therefore are not “qualifying liquidity resources” under CFTC Regulation 39.33, according to ICC.⁷ ICC also proposed removing reference to the Intercontinental Exchange, Inc. committed line of credit because ICC no longer participates in the arrangement.

⁵ The Liquidity Requirements component also reflects the changes to ICC’s liquidity thresholds for Euro (“EUR”) denominated products approved by the Commission in rule filing ICC-2017-002. See Exchange Act Release No. 34-80324 (Mar. 28, 2017), 82 FR 16244 (Apr. 3, 2017).

⁶ See Schedule 401 of the ICC Rules.

⁷ 17 CFR 39.33.

In the Liquidity Waterfall component, ICC proposed revisions to its definition of Available Liquidity Resources (“ALR”) to note that ALR consists of the available deposits currently in cash of the required currency of denomination and the cash equivalent of the available deposits in collateral types that ICC can convert to cash, in the required currency of denomination, using all sources of liquidity available to it. For reference, the Liquidity Waterfall classifies ALR on any given day into four levels. Level One includes the House IM and GF cash deposits of the defaulting CP. Level Two includes GF cash deposits of ICC and non-defaulting CPs. Level Three includes House IM cash deposits of the non-defaulting CPs. Level Four includes committed repo facilities and FX facilities, as described above in the changes to the Liquidity Facilities component.

A few of the Liquidity Risk Management Model components would remain the same or substantially the same. The Acceptable Collateral component would remain the same and will note that CPs may post IM and GF deposits that meet ICC’s acceptable collateral criteria as described in ICC’s Treasury Operations Policies and Procedures and Schedule 401 of the ICC Rules. The Investment Strategy component would remain substantially the same and was proposed to be revised to note that, when beneficial, ICC diversifies its cash investments across multiple depository institutions to reduce its liquidity exposure to any single depository. The CP Deposits as a Liquidity Pool and Collateral Valuation Methodology components also would remain substantially the same.

2. Measurement and Monitoring

With respect to the Measurement and Monitoring element of the Liquidity Risk Management Framework, ICC proposed changes to the Methodology section to change

the calculation for ALR. In response to CFTC feedback to ensure consistency with CFTC Regulation 39.33,⁸ ICC proposed replacing the estimation of minimum ALR based on risk requirements with the observation of cash and collateral on deposit (excluding cash that will be unavailable by the applicable ICC Payout Deadline because it has been invested by ICC). Accordingly, ICC proposed removing the section from the Liquidity Risk Management Framework which described the process for computing the estimation of minimum ALR. In addition, ICC proposed removing other references throughout the framework related to the estimation of minimum ALR. Thus, under its revised approach, ICC proposed executing stress test analysis by using the amount of liquid assets currently on deposit.

ICC proposed additional changes to the Methodology section. Among other things, the proposed revisions clarify that ICC's measurement and monitoring methodology assesses the adequacy of ICC's established liquidity resources in response to historically observed and hypothetically created (forward looking) scenarios with risk horizons up to and including 6-days. The analyzed scenarios feature assumptions that directly impact the ability of ICC to meet its payment obligations. Based on available IM and GF collateral on deposit on the day of the considered default(s), the analysis determines currency-specific ALR by liquidity waterfall level, and compares these ALRs to the currency-specific Liquidity Obligations resulting from the analyzed scenarios on each day of the considered time horizon. According to ICC, to be conservative, the analysis assumes no client-related ALR and that only the day-1 ALR are available throughout the considered time horizon (i.e., the analysis does not consider ICC's ability

⁸ 17 CFR 39.33.

during the considered time horizon to liquefy non-cash collateral on deposit or transform the currency of cash on deposit).

In addition, ICC proposed changes to the Historical Analysis section of the Measurement and Monitoring element of the Liquidity Risk Management Framework. ICC proposed adding language to note that, as part of its historical liquidity analysis, ICC analyzes historical data sets to assess the level of liquidity coverage achieved for each currency. Under the revised framework, ICC would continue to conduct a historical liquidity analysis on both an individual affiliate group (“AG”) basis and a cover-2 basis.

ICC also proposed the use of the Basel Traffic Light System⁹ to determine if the minimum cash component of its risk requirements truly covers historically observed 1-day liquidity obligations with a 99% level of confidence. ICC’s risk requirements are designed to meet at least a 99% N-day VaR equivalent level of coverage. CPs must meet their IM and GF requirements with a minimum cash component equivalent to the 1-day portion of the N-day requirement, computed using the square-root-of-time approach.¹⁰

ICC proposed additional enhancements to consider the simultaneous default of the two worst-case AGs of CPs, rather than the two worst-case CPs, which, according to ICC, is consistent with CFTC regulations, including CFTC Regulation 39.33(c)(1)(ii).¹¹ Under the revised framework, when computing a CP’s combined house and client origin liquidity obligation for the purposes of selecting which AGs are considered to be in a

⁹ See Basel Committee on Banking Supervision (“BCBS”), Supervisory Framework for the use of “Backtesting” in Conjunction with the Internal Models Approach to Market Risk Capital Requirements (Jan. 1996).

¹⁰ See BCBS, Amendment to the Capital Accord to Incorporate Market Risk (Jan. 1996).

¹¹ 17 CFR 39.33(c)(1)(ii).

state of default, ICC proposed to eliminate the application of house origin gains against client origin losses, or house origin losses against client origin gains. This analysis is designed to demonstrate to what extent the liquidity resources available to ICC were sufficient to meet historical single and multi-day cover-2 Liquidity Obligations, consistent with CFTC Regulation 39.33(c)(1)(ii), according to ICC.¹²

ICC also proposed enhancements to note that, for each day of its historical analysis and on a currency specific basis, its Risk Department explores predefined cover-2 scenarios considering the default of the CPs within two AGs creating the largest remaining Liquidity Obligation after applying the IM and GF cash deposits of each constituent CP to that CP's Liquidity Obligation.¹³

ICC proposed clarifying changes to note that the prices considered for historical analysis purposes are "dirty" prices as they include riskless (deterministic) payments (e.g., upfront fees, coupon payments, credit event payments, interest on mark-to-market margin). ICC proposed adding explanatory language regarding its calculation of the N-day worst-case cumulative (combined house and client origin) liquidity obligations. ICC also proposed removing a measurement and monitoring framework diagram, representing that the diagram was no longer relevant or necessary in light of the larger changes to the framework.

Finally, ICC proposed revisions to note that ICC reports cover-2 results from the observed immediate liquidity obligation scenarios and the worst-case five-day liquidity

¹² Id.

¹³ ICC's cover-2 analysis considers the liquidity resources provided by the defaulting CPs, the GF, IM liquidity resources provided by the non-defaulting CPs and ICC, and any externally available liquidity resources.

obligation scenarios to various audiences, depending on the results. ICC notes that the results should exhibit no deficiencies of the combined resources in Levels One through Four of the Liquidity Waterfall.

ICC proposed changes to the Stress Testing Analysis section of the Measurement and Monitoring element of the Liquidity Risk Management Framework. ICC proposed re-categorizing and adding to the stress testing scenarios. Under the revised approach, ICC would enhance its description of its historically observed extreme but plausible market scenarios to note that the scenarios define spread or price shocks based on observations during specific historical events. The historical data set from which ICC derives the proposed scenarios will continue to begin on April 1, 2007 and include periods of extreme market events such as the Bear Stearns collapse, the Lehman Brothers default, the 2009 Credit Crisis, the US “Flash Crash” event, and the European Sovereign Crisis. The scenarios are similar to the stress testing currently performed under the financial resources Stress Testing Framework.

ICC proposed eliminating all scenarios not expected to be realized as market outcomes (i.e., those considered extreme and not plausible). Under the revised approach, ICC would continue to have the ability to execute liquidity analyses based on extreme but not plausible scenarios on an ad-hoc basis. Further, ICC proposed to add 1-day, 2-day, and N-day analogues in place of existing 5-day scenarios. Under the revised framework, each historically observed scenario would have three analogues: one representing a 1-day horizon, one representing a 2-day horizon, and one representing an N-day horizon. Previously, only analogues representing an N-day horizon were considered. The addition of the 1-day analogue would demonstrate ICC’s ability to meet its immediate payment

obligations over a one-day period (e.g., intraday and same-day obligations), while the 2-day and N-day analogues would demonstrate ICC's ability to meet its payment obligations over a multiday period.

ICC also proposed adding a number of hypothetically constructed (forward looking) extreme but plausible market scenarios comprised of a given historically observed extreme but plausible market scenario and additional stress enhancements representing forward looking hypothetical adverse market events. Specifically, two sets of hypothetically constructed (forward looking) extreme but plausible market scenarios were proposed: loss-given default scenarios and one-service-provider-down scenarios. The loss-given default scenarios consider the addition of up to three adverse credit events including the holder of the considered portfolio, one additional CP name, and one additional non-CP name. The one-service-provider-down scenarios consider a reduction in ALR designed to represent ICC's worst-case exposure to a single service provider at which it maintains cash deposits or investments, due to ICC's potential inability to access those deposits and/or investments when required. ICC proposed that the reduction in ALR used in the one-service-provider-down scenarios is based on ICC's analysis of the diversification of its deposits and investments across its multiple service providers. Additionally, ICC proposed revisions to further describe its analysis under the above referenced scenarios.

ICC proposed revisions to consider the simultaneous default of the two worst-case AGs of CPs, rather than the two worst-case CPs, to conform with CFTC regulations, including CFTC Regulation 39.33(c)(1)(ii), as ICC interprets such regulations.¹⁴ Under

¹⁴ 17 CFR 39.33(c)(1)(ii).

the proposed revisions, ICC would perform cover-2 analysis in which, for each scenario, it determines the two AGs creating the largest remaining Liquidity Obligation after applying the IM and GF cash deposits of each constituent CP to its own Liquidity Obligation. ICC would compare the remaining Liquidity Obligation of the AG to the remaining liquidity resources to determine if there are sufficient resources to meet the obligation.

ICC proposed enhancements to describe its cover-N analysis in which, for each scenario, it first considers the default of one AG, then the defaults of two AGs, then three AGs, and so forth. The sequence of selecting AGs is based on the remaining Liquidity Obligation associated with the constituent CP's portfolios after applying the IM and GF cash deposits of each constituent CP to its own Liquidity Obligation. AGs are sequenced from largest to smallest remaining Liquidity Obligation. For each set of AGs considered to be in a state of default (1 AG, 2 AGs, 3 AGs, etc.), ICC compares the total remaining Liquidity Obligation to the remaining liquidity resources to determine if there are sufficient resources to meet the obligation. In this way, ICC determines how many AGs it would require to be in a state of default to consume all available liquidity resources.

To determine the Liquidity Obligations in the above analysis, ICC applies the stress scenarios to actual cleared portfolios to determine a currency-specific profit/loss for each CP, representing the largest cumulative loss over the specified risk horizon. The considered profit/loss in the analysis is the sum of the upfront fee changes corresponding to the clean prices associated with the hypothetical scenarios, and excluding the riskless (deterministic) payments.

To determine ICC's liquidity needs for each scenario, ICC's Risk Department computes Liquidity Obligations for futures commission merchant and broker-dealer CPs by combining the net payments for house and client origin accounts. For the purposes of selecting defaulting AGs, ICC's Risk Department does not offset client origin losses with house origin gains, or offset house origin losses with client origin gains.

3. Governance

With respect to the Governance element of the Liquidity Risk Management Framework, the Required Analysis and Interpretation of Results and Potential Actions sections would remain substantially the same. The Model Validation section would be revised to note that the Liquidity Risk Management Framework is under the purview of the Model Validation Framework and subject to initial validations.

In the Materiality and Reporting Framework section, ICC proposed a change that would note that, at each ICC Risk Committee meeting, ICC's Risk Department would provide a summary of historical liquidity analysis and liquidity stress testing analysis intended to demonstrate the adequacy of ICC's liquidity resources to cover Liquidity Obligations over N-days. Such analyses would also include any instance where Level Three resources were required to meet Liquidity Obligations in response to any of the considered historical liquidity or liquidity stress testing scenarios.

Further, ICC proposed revisions to note that, when exceedances of funded and/or unfunded resources are identified, ICC's Risk Department would be required to report them to the senior management team and the ICC Risk Committee, and (i) demonstrate that the breaches do not highlight a significant liquidity risk management weaknesses or (ii) recommend specific liquidity risk management model enhancements that produce an

adequate increase in funded and/or unfunded liquidity resources under the identified scenario(s). In addition to the reporting described above, ICC's Risk Department would also report to the ICC Risk Committee any instances where the Basel Traffic Light System categorizes the number of observed exceedances in its individual AG historical analysis as being in the predefined "red zone." In these instances, ICC's Risk Department would discuss with ICC's Risk Committee the appropriateness of its liquidity thresholds, and if appropriate, make revisions.

B. Stress Testing Framework

ICC proposed revisions to its Stress Testing Framework to unify the stress testing scenarios with the liquidity stress testing scenarios set forth in the Liquidity Risk Management Framework. ICC operates its stress testing and liquidity stress testing on a unified set of stress testing scenarios and systems. As such, revisions to the stress testing scenarios are necessary to ensure scenario unification following changes to the Liquidity Risk Management Framework. The proposed revisions are described in detail as follows.

ICC proposed to introduce Risk Factor specific scenarios for all stress test scenarios. Previously, corporate single names were considered at the sector level, as opposed to the Risk Factor level. This change would be reflected throughout the framework.

ICC also proposed to add clarifying language to note that the predefined stress testing scenarios set forth in its Stress Testing Framework would be applied to all cleared instruments, and that name-specific scenarios would be applied to all sovereign and corporate reference entities.

ICC proposed revisions to extend ICC's margin risk horizon up to 6-days, to account for the risk associated with clearing Asia Pacific products. This change would apply throughout the framework.

ICC also proposed to revise its description of the Historically Observed Extreme but Plausible Market Scenarios section to note that the stress spread changes considered as part of each scenario are extracted from the market history of the most actively traded instrument for the considered Risk Factors.

ICC proposed to revise the Hypothetically Constructed (Forward Looking) Extreme but Plausible Market Scenarios section to ensure consistency with the loss-given default stress scenario set forth in the Liquidity Risk Management Framework, which combines a given historically observed extreme but plausible market scenario with explicit Jump-to-Default events. The proposed revisions specify that there would be up to two reference entities selected for a hypothetical adverse credit event.

Finally, ICC proposed to revise the description of the discordant scenarios (i.e., scenarios under which selected risk factors move in opposite directions) in the Stress Testing Framework to reflect the introduction of Risk Factor specific scenarios. According to ICC, the discordant scenarios are designed to reproduce significant discordant market outcomes observed during the considered historical period. ICC creates discordant scenarios for North American corporate single names and indices; European corporate single names and indices; and sovereign reference entities.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange 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 Exchange Act and the rules and regulations thereunder applicable to such organization.¹⁵ Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a registered 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.¹⁶ Rule 17Ad-22(d)(11) requires, in relevant part, that a registered clearing agency establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.

The Commission finds that the proposed rule change, which revises ICC's Liquidity Risk Management Framework and makes conforming changes to ICC's Stress Testing Framework, is consistent with Section 17A of the Exchange Act and Rule 17Ad-22(d)(11) thereunder. As represented by ICC, the various elements set forth in the Liquidity Risk Management Framework, and described above, ensure that ICC has sufficient liquidity resources to effectively measure, monitor, and manage its liquidity risk. Further, ICC represented the Liquidity Risk Management Framework supports ICC's ability to maintain sufficient liquid resources in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of potential stress scenarios. ICC represented that changes to the Stress Testing Framework were necessary following recent changes to the Liquidity Risk Management Framework, as ICC operates

¹⁵ 15 U.S.C. 78s(b)(2)(C).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

its stress testing and liquidity stress testing on a unified set of stress testing scenarios and systems. ICC stated that its stress testing practices will continue to ensure the adequacy of systemic risk protections. ICC represented that the revised stress test scenarios set forth in the Stress Testing Framework will continue to ensure that ICC maintains sufficient financial resources to withstand a default by the CP family to which it has the largest exposure in extreme but plausible market conditions. The Commission therefore believes that the proposed revisions to the ICC Liquidity Risk Management Framework and Stress Testing Framework 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. Furthermore, for similar reasons, the Commission finds that the proposed revisions are consistent with the requirements of Rule 17Ad-22(d)(11).

Section 19(b)(2)(C)(iii) of the Exchange Act allows the Commission to approve a proposed rule change earlier than 30 days after the date of publication of the notice of the proposed rule change in the Federal Register where the Commission finds good cause for so doing and publishes the reason for the finding.¹⁷ In its filing, ICC requested that the Commission approve the proposed rule change on an accelerated basis for good cause shown. ICC represented that the amendments to ICC's Liquidity Risk Management Framework and Stress Testing Framework set forth in the proposed rule change further ICC's compliance with CFTC regulations. The Commission also notes that the CFTC is the supervisory agency for ICC under Section 803(8)(A)(ii) of the Payment, Clearing,

¹⁷ 15 U.S.C. 78s(b)(2)(C)(iii).

and Settlement Supervision Act of 2010.¹⁸ Based on the foregoing, the Commission finds that good cause exists to approve the proposed rule change on an accelerated basis pursuant to Section 19(b)(2)(C)(iii) of the Exchange Act.

IV. Conclusion

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Exchange Act that the proposed rule change (SR-ICC-2017-011) be, and hereby is, approved on an accelerated basis.¹⁹

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman
Assistant Secretary

¹⁸ 12 U.S.C. 5462(8)(A)(ii).

¹⁹ 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).

²⁰ 17 CFR 200.30-3(a)(12).