

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-87859; File No. SR-ICC-2019-012)

December 26, 2019

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to ICC's Treasury Operations Policies and Procedures

I. Introduction

On November 1, 2019, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the ICC Treasury Operations Policies and Procedures ("Treasury Policy"). The proposed rule change was published for comment in the Federal Register on November 21, 2019.³ 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

ICC proposes to revise its Treasury Operations Policies and Procedures to make clarification updates related to its use of a committed repurchase ("repo") facility, acceptable forms of United States ("US") Treasury collateral, and its collateral valuation process.⁴

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 ICC's Treasury Operations Policies and Procedures; Exchange Act Release No. 34-87549 (Nov. 15, 2019); 84 FR 64379 (Nov. 21, 2019) ("Notice").

⁴ The description herein is substantially excerpted from the Notice, 84 FR 64379.

A. Committed Repo Facility

ICC proposes amendments to the ‘Funds Management’ section of the Treasury Policy with respect to its use of a committed repo facility. Specifically, ICC proposes to clarify that the committed repo facility can be used to generate temporary liquidity through the sale and agreement to repurchase securities pledged by ICC Clearing Participants to satisfy their Initial Margin (“IM”) and Guaranty Fund (“GF”) requirements. ICC proposes to include that, when applicable, the facility can be used to rehypothecate sovereign debt from overnight repo investments in the event of a counterparty default. ICC also proposes to note that the facility can be used to sell, with the agreement to repurchase, sovereign debt securities that are held by ICC pursuant to direct investments in such securities.

B. Acceptable Collateral

ICC proposes to update the ‘Custodial Assets’ section of the Treasury Policy regarding acceptable forms of US Treasury collateral. Specifically, under the Treasury Policy, acceptable forms of non-cash collateral for IM and GF are limited to US Treasury securities. ICC proposes to specify that Floating Rate Notes and STRIPS are not acceptable forms of US Treasury collateral for IM and GF.

C. Collateral Valuation

ICC also proposes to add language stating that, with respect to its collateral valuation process, Euros that are used to cover a US Dollar denominated product requirement is first converted to the USD value and that the USD value is haircut at the Euro currency haircut.

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 Rules 17Ad-22(b)(3)⁷ and 17Ad-22(d)(3)⁸ thereunder.

A. Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act⁹ requires, among other things, that the rules of a 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; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

As described above, the proposed rule change would clarify the additional ways that ICC can utilize the committed repo facility to generate liquidity when needed such as during a default. The Commission believes that these changes enhance and strengthen ICC's financial condition by giving it additional ways to generate needed liquidity. This in turn would help ensure that ICC has the money to continue to clear and settle trades even during defaults.

Additionally, the Commission believes that ICC's proposal to revise its Treasury Policy to state that Floating Rate Notes and STRIPS are not acceptable forms of US Treasury collateral for IM and GF enhances ICC's documentation as to what securities meet its criteria for acceptable collateral and facilitates its ability to accept only such securities as collateral. The

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(b)(3).

⁸ 17 CFR 240.17Ad-22(d)(3).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

Commission believes that this in turn would enhance ICC's financial position by ensuring it holds sufficiently liquid collateral to meet its IM and GF needs. This in turn would help ensure that ICC can liquidate collateral as needed in a prompt manner so that it has the funds to continue to clear and settle trades.

Further, the Commission believes that by adding language stating that, with respect to its collateral valuation process, Euros used to cover a US Dollar denominated product requirement will be subject to a haircut, ICC ensures that it is following its process for collateral valuation and discounting for native market and related currency risk. The Commission believes that this too would help strengthen ICC's financial condition by facilitating the accurate valuation of its financial resources, which in turn would help ensure that ICC can monitor its collateral and know whether it needs to bolster these resources so that they are enough to meet ICC's obligations to clear and settle trades.

Therefore, for the reasons stated above, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in ICC's custody and control, and, in general, protect investors and the public interest, consistent with the Section 17A(b)(3)(F) of the Act.¹⁰

B. Consistency with Rule 17Ad-22(b)(3)

Rule 17Ad-22(b)(3)¹¹ requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two Clearing Participant ("CP") families to which it

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 240.17Ad-22(b)(3).

has the largest exposures in extreme but plausible market conditions. Because the committed repo facility can be used to support its clearance and settlement obligations by offering ways to generate cash when a default makes the sale of securities on a timely basis or same-day basis difficult, the Commission believes that the revisions to the Treasury Policy, which clarify various additional ways that that the committed repo facility can be used to generate temporary liquidity in the event of a default, enhances ICC's ability to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures. Additionally, the Commission believes that the revisions to what is considered acceptable collateral will strengthen ICC's financial resources by ensuring that it only holds sufficiently liquid securities that it can sell to meet its financial obligations and exclude those securities that are not as easily liquidated.

Therefore, for the reasons stated above, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(b)(3).¹²

C. Consistency with Rule 17Ad-22(d)(3)

Rule 17Ad-22(d)(3)¹³ requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed, as applicable, to hold assets in a manner that minimizes risk of loss or of delay in its access to them and to invest assets in instruments with minimal credit, market, and liquidity risks.

The Commission believes that in clarifying that the committed repo facility can be used to generate temporary liquidity through sale and agreement to repurchase pledged securities, to

¹² Id.

¹³ 17 CFR 240.17Ad-22(d)(3).

rehypothecate sovereign debt from overnight repos, and to sell, with the agreement to repurchase, sovereign debt held by ICC pursuant to direct investments in such securities, ICC is strengthening its ability to hold assets in a manner that minimizes delay in access to them by describing ways to utilize securities to quickly generate cash when the sale of those securities cannot otherwise be accomplished in a timely manner due to a clearing participant default. Further, the Commission believes that because ICC can use the facility to sell, with the agreement to repurchase, sovereign debt held by ICC pursuant to direct investments in such securities, it is lowering the liquidity risk of this particular sovereign debt.

Therefore, for the reasons stated above, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(d)(3).¹⁴

¹⁴ 17Ad-22(d)(3).

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 Act¹⁵ and Rules 17Ad-22(b)(3) and (d)(3) thereunder.¹⁶

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act¹⁷ that the proposed rule change (SR-ICC-2019-012), be, and hereby is, approved.¹⁸

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ 17 CFR 240.17Ad-22(b)(3) and 17 CFR 240.17Ad-22(d)(3).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 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).

¹⁹ 17 CFR 200.30-3(a)(12).