

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88775; File No. SR-ICC-2020-002)

April 29, 2020

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy

I. Introduction

On January 14, 2020, 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 amend ICC’s Risk Management Model Description, Stress Testing Framework, Liquidity Risk Management Framework, Back-Testing Framework, and Risk Parameter Setting and Review Policy in connection with the clearing of credit default index swaptions. The proposed rule change was published for comment in the Federal Register on January 31, 2020.³ On March 13, 2020, the Commission designated a longer period of time for Commission action on the proposed rule change until April 30, 2020.⁴ The Commission has not received comments regarding the

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, Security-Based Swap Submission, or Advance Notice Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy; Exchange Act Release No. 88047 (Jan. 27, 2020); 85 Fed. Reg. 5756 (Jan. 31, 2020) (SR-ICC-2020-002) (“Notice”).

⁴ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter

proposed rule change. The Commission is publishing this order to solicit comments from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

As described more fully in the Notice, the proposed rule change would amend ICC's Risk Management Model Description, Stress Testing Framework, Liquidity Risk Management Framework, Back-Testing Framework, and Risk Parameter Setting and Review Policy in connection with the clearing of credit default index swaptions.

III. Proceedings to Determine Whether to Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.⁶ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act,⁷ the Commission is providing notice of the potential grounds for approval or disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act and the rules thereunder, including the following:

Setting and Review Policy; Exchange Act Release No. 88379 (Mar. 13, 2020); 85 Fed. Reg. 15829 (Mar. 19, 2020).

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ 15 U.S.C. 78s(b)(2)(B).

- Section 17A(b)(3)(F) of the Act, which 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, to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and, in general, to protect investors and the public interest;⁸
- Rule 17Ad-22(b)(2), which requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly;⁹
- Rule 17Ad-22(b)(3), which requires that ICC 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 participant families to which it has the largest exposures in extreme but plausible market conditions;¹⁰ and
- Rule 17Ad-22(d)(8), which requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 17Ad-22(b)(2).

¹⁰ 15 U.S.C. 17Ad-22(b)(3).

requirements in Section 17A of the Act applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures.¹¹

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments regarding the proposed rule change with respect to the issues identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹² and Rules 17Ad-22(b)(2), 17Ad-22(b)(3), and 17Ad-22(d)(8) under the Act,¹³ or any other provision of the Act or rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁴

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved on or before [insert date 15

¹¹ 15 U.S.C. 17Ad-22(d)(8).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(b)(2), (b)(3), and (d)(8).

¹⁴ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

days from publication in the Federal Register]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before [insert date 21 days from publication in the Federal Register].

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 ICC-2020-002 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-ICC-2020-002. This file number should be included on the subject line if e-mail 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 am and 3:00 pm. Copies of such filings will also be available for inspection and copying at the principal office of

ICE Clear Credit and on ICE Clear Credit's website at <https://www.theice.com/clear-credit/regulation>. 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-ICC-2020-002 and should be submitted on or before [Commission to insert date 15 days from publication in the Federal Register]. If comments are received, any rebuttal comments should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).