

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- 92402; File No. SR-ICC-2021-015)

July 14, 2021

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Governance Playbook, ICC Risk Management Framework, and ICC Treasury Operations Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 30, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to make changes to the Governance Playbook, Risk Management Framework, and Treasury Operations Policies and Procedures (“Treasury Policy”) (together, the “Documents”). These revisions do not require any changes to the ICC Clearing Rules (the “Rules”).

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes amendments to its Governance Playbook, Risk Management Framework, and Treasury Policy to update descriptions of certain internal committees and make other clarification or clean-up changes. ICC maintains the Participant Review Committee ("PRC") and the Credit Review Subcommittee of the PRC ("CRS") (together, the "Committees"), which are internal committees that assist in fulfilling counterparty review responsibilities with respect to ICC's Clearing Participants ("CPs") and financial service providers ("FSPs"). The proposed changes amend descriptions related to membership composition, meeting frequency, and responsibilities of the Committees in the Documents to reflect recent changes to the Committees' charters. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

I. Governance Playbook

The Governance Playbook contains information regarding the roles and responsibilities of the Board and various committees at ICC. ICC proposes amendments in respect of the Committees in Section IV (Committees) to reflect recent changes to their

charters. ICC proposes a grammatical edit to refer to “financial services providers” as “financial service providers” in the description of the PRC and throughout the document. ICC proposes updated language on the membership composition of the PRC, including to add the ICC Risk Oversight Officer as a member. With respect to the CRS, the proposed changes remove the authority to approve FSPs and specify that the CRS has an advisory role. In this role, the CRS may make recommendations to the PRC with respect to matters of creditworthiness of CPs and creditworthiness and performance of FSPs. The proposed changes also update the membership composition of the CRS to include the Risk Oversight Officer and remove the ICC Risk Management representative as a voting member. Risk Management representatives will participate as non-voting members and continue to present materials to allow the CRS to perform its responsibilities and duties.

II. Risk Management Framework

ICC proposes conforming revisions to the Risk Management Framework to update descriptions of the Committees and to make other clarification or clean-up changes. ICC proposes to amend Section II (Governance and Organization) to update a chart that details the governance and committee structure at ICC. The updated chart indicates that the Intercontinental Exchange, Inc. (“ICE, Inc.”) Enterprise Risk Management Department (“ERM”) reports to the Board and corrects a typographical error to replace the “BCP Oversight Committee” with the “BCP & DR Oversight Committee.”³ In Section II.A (Committees), the proposed changes further clarify the

³ ERM provides the oversight and framework for identifying, assessing, managing, monitoring and reporting on risk across the ICE, Inc. organization and has dedicated resources focused on various ICE, Inc. business units, including ICC. The ICC BCP & DR Oversight Committee assists in fulfilling oversight

review and approval process of the policies and procedures that comprise ICC’s overall risk management framework, which consists of review by the Risk Committee and review and approval by the Board at least annually.

In Section II.A (Committees), ICC also proposes to update descriptions of the Committees to align with their amended charters. ICC proposes a grammatical edit to refer to “financial services providers” as “financial service providers” and a footnote to further define the entities included as FSPs. The proposed changes specify that the PRC meets at least quarterly and more frequently as needed. Additionally, the proposed changes further distinguish PRC and CRS responsibilities with respect to FSPs, noting that the PRC is responsible for overseeing the due diligence and approval of FSPs and the CRS is responsible for overseeing initial due diligence and monitoring ongoing credit due diligence for FSPs. ICC also proposes language describing the advisory role of the CRS to the PRC for matters regarding the creditworthiness of CPs and the creditworthiness and performance of FSPs. ICC further proposes to amend Appendix 1 to the document to update language related to the membership composition of the PRC, including to add the Risk Oversight Officer as a member, and the meeting frequency of the PRC.

III. Treasury Policy

ICC proposes corresponding changes to Section IV (Cash Settlement) of the Treasury Policy to update responsibilities of the Committees based on their amended charters. Currently, a bank’s capitalization, creditworthiness, access to liquidity, operational reliability and supervision are reviewed prior to accepting services, and

responsibilities with respect to business continuity planning (“BCP”) and disaster recovery (“DR”) for ICC.

approval of the CRS is required before ICC may begin using the bank's services. Under the amended policy, approval of the PRC is required before ICC may begin using the bank's services and the CRS may make recommendations to the PRC regarding approval.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁴ and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.⁵ In particular, Section 17A(b)(3)(F) of the Act⁶ requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed rule change updates descriptions of the PRC and CRS related to membership composition, meeting frequency, and responsibilities in the Documents to reflect recent changes to the PRC and CRS charters. Such changes ensure that the Documents clearly and accurately set out the functions of the Committees to remain effective and to ensure that the Committees carry out their required functions. The proposed clarification and clean-up changes would further ensure readability and transparency across the Documents and should enhance the implementation of such policies and procedures. The proposed rule change is therefore consistent with the prompt and accurate clearing and

⁴ 15 U.S.C. 78q-1.

⁵ 17 CFR 240.17Ad-22.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

settlement of the contracts cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.⁷

The amendments would also satisfy relevant requirements of Rule 17Ad-22.⁸ Rule 17Ad-22(e)(2)(i), (ii) and (v)⁹ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent, clearly prioritize the safety and efficiency of the covered clearing agency, and specify clear and direct lines of responsibility. The proposed changes update governance arrangements in the Documents to align with the amended PRC and CRS charters. These revisions clarify the responsibilities and interaction of the Committees by specifying the advisory role of the CRS to the PRC for matters regarding the creditworthiness of CPs and the creditworthiness and performance of FSPs. The proposed changes update membership composition and meeting frequency to clearly set out the responsibilities and duties of ICC personnel in respect of the Committees, including the Risk Oversight Officer and Risk Management representatives. Moreover, the amended Risk Management Framework memorializes the reporting line of ICE, Inc. ERM to the Board and corrects a typographical error in respect of the BCP & DR Oversight Committee to promote clear and transparent governance arrangements that specify clear and direct lines of

⁷ Id.

⁸ 17 CFR 240.17Ad-22.

⁹ 17 CFR 240.17Ad-22(e)(2)(i), (ii) and (v).

responsibility. As such, in ICC's view, the proposed rule change continues to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements that clearly prioritize the safety and efficiency of ICC and specify clear and direct lines of responsibility, consistent with Rule 17Ad-22(e)(2)(i), (ii), and (v).¹⁰

Rule 17Ad-22(e)(3)(i)¹¹ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the Board annually. ICC maintains a sound risk management framework that identifies, measures, monitors, and manages the range of risks that it faces. The amended Risk Management Framework further clarifies that the review and approval process of the policies and procedures that comprise ICC's overall risk management framework includes review and approval by the Board at least annually. As such, the amendments would satisfy the requirements of Rule 17Ad-22(e)(3)(i).¹²

¹⁰ Id.

¹¹ 17 CFR 240.17Ad-22(e)(3)(i).

¹² Id.

Rule 17Ad-22(e)(4)(ii)¹³ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. The proposed changes enhance ICC's ability to manage its financial resources, including by clearly articulating its review, approval, and monitoring process for CPs and FSPs by the Committees across the Documents to ensure that such policies and procedures remain transparent and up-to-date. The proposed changes further define the entities included as FSPs to ensure that ICC appropriately identifies and monitors its counterparty relationships. Such amendments ensure financial health and the ability to fulfill obligations by ICC's counterparties, which promotes and strengthens ICC's own financial condition and supports ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad-22(e)(4)(ii).¹⁴

Rule 17Ad-22(e)(18)¹⁵ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to

¹³ 17 CFR 240.17Ad-22(e)(4)(ii).

¹⁴ Id.

¹⁵ 17 CFR 240.17Ad-22(e)(18).

establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis. ICC believes that the proposed rule change will ensure that the Committees carry out the functions required in their charters to ensure proper review and ongoing monitoring of CPs and FSPs, including by clarifying the responsibilities and interaction of the Committees and further defining the entities included as FSPs. As such, the proposed rule change will strengthen ICC's ability to manage and mitigate the potential risks associated with its CPs and FSPs, thereby continuing to ensure that CPs and FSPs have sufficient financial resources and robust operational capacity to meet obligations and promoting ICC's ability to monitor compliance with such requirements on an ongoing basis, consistent with Rule 17Ad-22(e)(18).¹⁶

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to ICC's Governance Playbook, Risk Management Framework, and Treasury Policy will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

¹⁶ Id.

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change

should be 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 e-mail to rule-comments@sec.gov. Please include File Number SR-ICC-2021-015 on the subject line.

Paper Comments:

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549.

All submissions should refer to File Number SR-ICC-2021-015. 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, N.E., Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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-2021-015 and 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.¹⁷

J. Matthew DeLesDernier
Assistant Secretary

¹⁷ 17 CFR 200.30-3(a)(12).