

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-93177; File No. SR-ICC-2021-019)

September 29, 2021

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC CDS Instrument On-boarding Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on September 22, 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 revise the CDS Instrument On-boarding Policies and Procedures (“Instrument On-boarding Policy”). These revisions do not require any changes to the ICC Clearing Rules (“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, security-based swap submission, or advance notice. The text of these statements may be

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 to amend the Instrument On-boarding Policy. This document provides an overview of ICC's on-boarding process for new instruments, which includes selecting new instruments for clearing, configuring internal systems, notifying and receiving feedback from stakeholders, and ensuring operational readiness by ICC and its Clearing Participants ("CPs"). The proposed changes amend the guiding principles that ICC maintains for instrument selection. ICC believes that such changes 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 rule change is described in detail as follows.

ICC proposes amendments to the Subsection III.A which discusses the guiding principles that ICC maintains for considering instruments for clearing. Such principles are designed to ensure that ICC proceeds in a prudent manner with respect to instrument selection while also providing the best opportunity for CPs to minimize their risk. The proposed changes incorporate an additional guiding principle to consider instruments that are constituents of the currently clearable On-The-Run ("OTR") indices to become clearing eligible in order to provide additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. For other instruments that are not constituents of currently clearable OTR indices, the current guiding principles would remain and ICC

would continue to consider instrument open interest and volume. For all instruments, ICC would continue to consider instruments that can be cleared through ICC's systems and processes and to support industry wide initiatives and protocols.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.<sup>4</sup> In particular, Section 17A(b)(3)(F) of the Act<sup>5</sup> 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. As described above, the proposed changes incorporate an additional guiding principle that ICC consider instruments that are constituents of the currently clearable OTR indices to become clearing eligible in order to provide additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. ICC believes that such changes would support and enhance the guiding principles and ensure that ICC continues to proceed in a prudent manner with respect to instrument selection while also providing CPs the best opportunity to minimize their risk. Moreover, the Instrument On-boarding Policy will continue to ensure that ICC's risk models adequately capture the risks associated with

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<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 17 CFR 240.17Ad-22.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

proposed new instruments and that the end-of-day price discovery process operates effectively and provides reliable prices for proposed new instruments, including through the risk management and pricing configuration and evaluation and the dress rehearsal. The proposed rule change is therefore consistent with the prompt and accurate clearing and 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.<sup>6</sup>

The amendments would also satisfy relevant requirements of Rule 17Ad-22.<sup>7</sup> Rule 17Ad-22(e)(2)(i) and (v)<sup>8</sup> 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 and specify clear and direct lines of responsibility. The Instrument On-boarding Policy continues to describe the roles and responsibilities of relevant stakeholders with respect to instrument selection and subject new instruments to ICC's governance process. 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 and specify clear and direct lines of responsibility, consistent with Rule 17Ad-22(e)(2)(i) and (v).<sup>9</sup>

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<sup>6</sup> Id.

<sup>7</sup> 17 CFR 240.17Ad-22.

<sup>8</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>9</sup> Id.

Rule 17Ad-22(e)(4)(ii)<sup>10</sup> 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 distinguish a category of instruments that are constituents of the currently clearable OTR indices to provide additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. New instruments will continue to be subject to the risk management and pricing configuration and evaluation and the dress rehearsal under the Instrument On-boarding Policy to ensure that ICC's risk models adequately capture the risks associated with new instruments and that the end-of-day price discovery process operates effectively, thereby supporting 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).<sup>11</sup>

Rule 17Ad-22(e)(17)<sup>12</sup> requires, in relevant part, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably

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<sup>10</sup> 17 CFR 240.17Ad-22(e)(4)(ii).

<sup>11</sup> Id.

<sup>12</sup> 17 CFR 240.17Ad-22(e)(17)(i) and (ii).

designed to manage its operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls; and (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. The Instrument On-boarding Policy continues to describe the process, including testing and preparation, for the introduction of new instruments to ensure that ICC and its CPs are operationally ready and that ICC proceeds in a controlled manner, thereby supporting ICC's ability to identify the plausible sources of operational risk and mitigate their impact and ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity, consistent with the requirements of Rule 17Ad-22(e)(17).<sup>13</sup>

Rule 17Ad-22(e)(21)<sup>14</sup> requires, among other things, that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves. The proposed changes are designed to provide additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. Such changes would support and enhance the guiding principles by ensuring that ICC continues to proceed in a prudent manner with respect to instrument selection while also providing CPs the best opportunity to minimize their risk, thereby allowing ICC to be

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<sup>13</sup> Id.

<sup>14</sup> 17 CFR 240.17Ad-22(e)(21).

efficient and effective in meeting the requirements of its participants and the markets it serves, consistent with Rule 17Ad-22(e)(21).<sup>15</sup>

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

ICC does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed changes to the Instrument On-boarding Policy will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

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

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 and Timing 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.

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<sup>15</sup> Id.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2021-019 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-2021-019. 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-2021-019 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.<sup>16</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).