

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69205; File No. SR-ICC-2013-02)

March 21, 2013

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Publishing of ICC Circular Related to Swap Data Repository Reporting

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 4, 2013, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act³, and Rule 19b-4(f)(1)⁴ thereunder so that the proposal was effective upon filing with the Commission. 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

ICC proposes to publish ICC Circular 2013/005,⁵ titled *Parts 45 and 43 SDR Reporting Requirements for Off-Facility CDS-Clearing Related Swaps (Firm Trades)*, related to the Commodity Futures Trading Commission’s (“CFTC”) Part 43 and Part 45 regulations (Swap Data Repository Reporting) (“ICC Circular 2013/005”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ Circular number may change based on any other sequentially numbered ICC Circulars issued prior to the March 18, 2013 Circular date.

On December 19, 2012, CFTC staff granted conditional No-Action Relief (12-59) for Swap Dealers and Major Swap Participants that are clearing members from reporting certain off-facility swaps (the “No-Action Relief”). Specifically, the No-Action Relief states that, subject to certain conditions, the CFTC Division of Market Oversight will not recommend that the CFTC take enforcement action against a reporting counterparty (clearing member) for failure to comply with its obligations to report swap data arising from swaps that have been entered into pursuant to a Derivatives Clearing Organization’s CDS Settlement Price Process (“CDS Clearing-Related Swaps”).

ICC’s CDS settlement price process requires that clearing members enter into “firm trades” in order to ensure that prices submitted by clearing members are reliable and accurate. Clearing members face ICC as their counterparty with respect to firm trades and firm trades are automatically cleared. As a result, firm trades constitute CDS Clearing-Related Swaps (“ICC CDS Clearing-Related Swaps”). ICC currently reports all of its cleared swaps, including ICC CDS Clearing-Related Swaps, to ICE Trade Vault LLC (“ICE Trade Vault”), a duly registered SDR.

As a condition to the No-Action Relief, clearing members and ICC must agree, as evidenced by private agreement or pursuant to ICC’s Rules, that ICC shall fulfill all of the clearing member’s obligations with respect to reporting ICC CDS Clearing-Related Swaps pursuant to Part 45. To satisfy this condition, ICC plans to issue ICC Circular 2013/005 establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action relief on June 30, 2013.

In addition, ICC Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC's clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist. ICC will be responsible, in the capacity of a third-party provider, for reporting required swap transaction and pricing data in real-time to ICE Trade Vault on behalf of a clearing member that is a Swap Dealer or Major Swap Participant. In the event that any clearing member would like to "opt out" of this ICC Part 43 reporting service, the clearing member should notify ICC Client Services at css@theice.com.

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 and discussed any comments it received on the proposed rule change. 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 such statements.⁶

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

The purpose of the proposed change is to publish ICC Circular 2013/005 in order to satisfy a condition of the No-Action Relief. ICC plans to publish ICC Circular 2013/005 establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action relief on June 30, 2013. In addition, ICC Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC's clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations

⁶ The Commission has modified the text of the summaries prepared by ICC.

might exist. Publishing ICC Circular 2013/005 does not require any changes to the ICC risk management framework. The only change being submitted is publishing ICC Circular 2013/005.

Section 17A(b)(3)(F) of the Act⁷ 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. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular with Section 17A(b)(3)(F),⁸ because facilitating clearing members' reporting obligations promotes the prompt and accurate settlement of securities transactions and the safeguarding of securities and funds.

(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.

(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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i)⁹ of the Act and Rule 19b-4(f)(1)¹⁰ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78s(b)(3)(A)(i).

¹⁰ 17 CFR 240.19b-4(f)(1).

rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2013-02 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICC-2013-02. 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 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICC and on ICC's website

(https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_030413.pdf).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2013-02 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.¹¹

Kevin M. O'Neill
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).