

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88633; File No. SR-ICC-2020-006)

April 14, 2020

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to ICC's Treasury Operations Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4² notice is hereby given that on April 8, 2020, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change, security-based swap submission, or advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed rule change is to revise the ICC Treasury Operations Policies and Procedures ("Treasury Policy"). 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, Security-Based Swap Submission, or Advance Notice

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, Security-Based Swap Submission, or Advance Notice

(a) Purpose

ICC proposes to revise its Treasury Policy. Specifically, ICC proposes clarification changes related to ICC's approval process for new banking relationships, ICC's minimum criteria applicable to settlement banks, and ICC's backup settlement banks. 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.

ICC proposes amendments to the "Direct Settlement" section of the ICC Treasury Policy. With respect to banking relationships, ICC proposes to clarify that approval of the Credit Review Subcommittee of the Participant Review Committee ("CRS") is required before ICC may begin using the bank's services. The CRS is comprised of ICC staff, including the ICC President, ICC Chief Operating Officer, and representatives from various departments, and is tasked with counterparty review responsibilities. Further, ICC proposes to set forth the minimum criteria applicable to ICC's settlement banks in the Treasury Policy, which includes criteria related to regulation and supervision, completion of required documentation to allow ICC to assess financial stability and credit/counterparty risk, and operational capability, among others. With respect to

settlement banks, ICC maintains one primary banking relationship and two backup banking relationships. Currently, the Treasury Policy notes ICC's primary banking relationship and one backup banking relationship. The proposed changes incorporate reference to the second backup banking relationship, which was inadvertently excluded and does not represent a new banking relationship.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act³ 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; and to comply with the provisions of the Act and the rules and regulations thereunder. 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, to Section 17(A)(b)(3)(F)⁴, because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, and contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. The proposed changes clarify ICC's approval process for new banking relationships, ICC's minimum criteria for its settlement banks, and ICC's backup settlement banks. The clarifications related to the approval process for new banking

³ 15 U.S.C. 78q-1(b)(3)(F).

⁴ Id.

relationships and the minimum criteria for ICC's settlement banks ensure that ICC has clear and comprehensive procedures for approving new banking relationships and is following its process for review and approval of new banking relationships. The incorporation of the second backup banking relationship corrects an omission to ensure that ICC's policies and procedures clearly and accurately document ICC's banking relationships. The proposed updates thus ensure that the documentation of ICC's Treasury Policy remains up-to-date, transparent, and focused on clearly articulating the policies and procedures used to support ICC's treasury functions, which promotes the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions and contributes to the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions and to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible within the meaning of Section 17A(b)(3)(F) of the Act.⁵

In addition, the proposed rule change is consistent with the relevant requirements of Rule 17Ad-22.⁶ Rule 17Ad-22(b)(3)⁷ 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 CP families to which

⁵ Id.

⁶ 17 CFR 240.17Ad-22.

⁷ 17 CFR 240.17Ad-22(b)(3).

it has the largest exposures in extreme but plausible market conditions. The proposed changes enhance ICC's ability to manage its financial resources, including by clearly articulating its approval process for new banking relationships and the minimum criteria applicable to ICC's settlement banks. Such changes ensure financial health and the ability to fulfill obligations by ICC's banking relationships, which promotes and strengthens ICC's own financial condition and supports 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 in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad-22(b)(3).⁸

Rule 17Ad-22(d)(3)⁹ requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed 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 proposed changes strengthen ICC's ability to safeguard assets and limit the potential for loss or delay in access to such assets by ensuring that ICC has clear and comprehensive procedures that describe the minimum criteria applicable to ICC's settlement banks and the approval process for new banking relationships. ICC believes that having policies and procedures that clearly and accurately document ICC's treasury functions are an important component to the effectiveness of ICC's treasury operations, which promote ICC's ability 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

⁸ Id.

⁹ 17 CFR 240.17Ad-22(d)(3).

with minimal credit, market, and liquidity risks. Such changes are therefore reasonably designed to meet the requirements of Rule 17Ad-22(d)(3).¹⁰

Rule 17Ad-22(d)(5)¹¹ requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to employ money settlement arrangements that eliminate or strictly limit ICC's settlement bank risks and require funds transfers to ICC to be final when effected. The proposed changes enhance ICC's ability to manage and limit its credit and liquidity risk arising from its settlement banks, including by establishing the minimum criteria applicable to ICC's settlement banks, including criteria related to regulation and supervision, completion of required documentation to allow ICC to assess financial stability and credit/counterparty risk, and operational capability, among others, and by clarifying that approval of the CRS is required before ICC may begin using the bank's services, consistent with the requirements of Rule 17Ad-22(d)(5).¹²

Rule 17Ad-22(d)(8)¹³ requires ICC to 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 requirements in Section 17A of the Act¹⁴ applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures. The

¹⁰ Id.

¹¹ 17 CFR 240.17Ad-22(d)(5).

¹² Id.

¹³ 17 CFR 240.17Ad-22(d)(8).

¹⁴ 15 U.S.C. 78q-1.

proposed revisions allow for feedback from, and notification to, the CRS, which is comprised of ICC staff, including the ICC President, ICC Chief Operating Officer, and representatives from various departments, prior to using the bank's services. These governance arrangements are clear and transparent, such that information relating to the assignment of responsibilities and the requisite involvement of ICC personnel is clearly documented, and also promote the effectiveness of ICC's risk management procedures by detailing the responsibilities of relevant stakeholders in the review and approval of new banking relationships, consistent with the requirements of Rule 17Ad-22(d)(8).¹⁵

(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 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, Security-Based Swap Submission, or Advance Notice 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, Security-Based Swap Submission, or Advance Notice 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

¹⁵ 17 CFR 240.17Ad-22(d)(8).

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, security-based swap submission, or advance notice 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-2020-006 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-2020-006. 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, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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-2020-006 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.¹⁶

J. Matthew DeLesDernier
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).