

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-93432; File No. SR-ICC-2021-022)

October 27, 2021

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC End-of-Day Price Discovery Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 13, 2021, 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. 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 ICC’s End-of-Day Price Discovery Policies and Procedures (“Pricing 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

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 revising the Pricing Policy, which sets out ICC's end-of-day ("EOD") price discovery process that provides prices for cleared contracts using submissions made by Clearing Participants ("CPs"). ICC requires all CPs to provide EOD submissions for specific instruments related to their open positions at ICC. Submissions for index instruments ("index submissions") may be provided in spread or price convention under the current Pricing Policy. The proposed amendments would remove the ability for CPs to provide index submissions in spread convention and would require all index submissions to be provided in price convention. ICC believes 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 move forward with implementation of these changes following Commission approval of the proposed rule change.<sup>3</sup> The proposed amendments are described in detail as follows.

ICC proposes to amend Subsection 2.2.3, which sets out the submission format requirements for index instruments. Currently, index submissions may be provided in

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<sup>3</sup> ICC intends to move away from supporting index submissions in spread convention in a phased approach and does not intend to remove the ability for CPs to submit index submissions in spread convention until ICC is permitted to implement the changes described herein and ICC completes any other required governance or internal processes.

spread or price convention depending on the instrument, as illustrated in Table 8. Under the proposed changes, index submissions must be provided in price convention, which has two acceptably types, price or upfront. The proposed changes remove Table 8 and language regarding the submission of recovery rates, which related to submissions provided in spread terms and is no longer necessary. ICC proposes minor changes to renumber the tables in the Pricing Policy accordingly and to spell out an abbreviated term in this subsection.

ICC proposes to amend Subsection 2.2.4 related to the standardization of submissions. Currently, the cross-and-lock algorithm used by ICC to determine EOD prices and potential trades requires inputs in bid-offer format and executes in price or spread terms depending on the convention for the considered instrument. ICC standardizes CP submissions into bid-offer format in either price or spread terms, depending on the convention. Under the proposed changes, the cross-and-lock algorithm will execute in price terms. The proposed changes remove language referencing spread terms and distinguishing between price and spread terms. The proposed changes also remove language differentiating between submissions in price or spread in subpart (a).

ICC proposes similar changes to Subsection 2.3. ICC would no longer determine EOD levels in terms of either spread or price. The proposed changes remove language requiring ICC to execute the cross-and-lock algorithm in spread-space for index instruments with a quote convention of spread, in price-space for index instruments with a quote convention of price, and in price-space for all single name and index option instruments. Currently, in Subsection 2.3.1(g), ICC adjusts outlying submission trade prices for index option, single name, and index instruments with a cross-and-lock

convention of price and outlying submission trade spreads for index instruments with a cross-and-lock convention of spread. For index instruments with a cross-and-lock convention of spread, a conversion between trade price and spread is also done. The proposed changes would remove the need to adjust outlying submission trade spreads, including the need for such conversion.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.<sup>5</sup> In particular, Section 17A(b)(3)(F) of the Act<sup>6</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. ICC believes that the proposed amendments promote its ability to maintain the effectiveness and integrity of its EOD price discovery process. The proposed revisions require all index submissions to be provided in price convention and remove language distinguishing between price or spread in certain aspects of the price discovery process, which is no longer necessary. The cross-and-lock algorithm would execute in price terms (rather than in price or spread terms depending on the convention for the considered instrument) and

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<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 17 CFR 240.17Ad-22.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

ICC would no longer determine EOD levels in terms of either spread or price. The proposed amendments allow ICC to further standardize its instrument submission requirements, which would promote consistency and simplify ICC's submission format requirements. The proposed changes would result in more clarity and uniformity around how certain processes are completed, including the standardization of submissions and adjustments for outlying submission trades, and allow ICC to avoid converting between spread and price. Following such changes, ICC will continue to maintain a robust EOD price discovery process, which includes the determination of EOD pricing levels and firm trades. 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>7</sup>

The amendments would also satisfy relevant requirements of Rule 17Ad-22.<sup>8</sup> Rule 17Ad-22(e)(2)(i) and (v)<sup>9</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 Pricing Policy continues to subject the ICC EOD price discovery process to a governance and oversight structure that promotes transparency and accountability and clearly assigns and documents responsibility for relevant actions and

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<sup>7</sup> Id.

<sup>8</sup> 17 CFR 240.17Ad-22.

<sup>9</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

decisions. ICC believes that the proposed rule change would promote consistency and transparency in ICC's price discovery process and thus enhance implementation of the Pricing Policy and continue to ensure that responsible parties appropriately and effectively carry out their duties. As such, 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 the requirements of Rule 17Ad-22(e)(2)(i) and (v).<sup>10</sup>

Rule 17Ad-22(e)(3)(i)<sup>11</sup> 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 of directors annually. The Pricing Policy is a key aspect of ICC's risk management approach, which continues to be subject to review on a specified periodic basis and approved by the Board annually. The proposed changes further standardize ICC's instrument submission requirements, remove the need to distinguish between price and spread terms in certain aspects of the price discovery process, and allow ICC to avoid

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<sup>10</sup> Id.

<sup>11</sup> 17 CFR 240.17Ad-22(e)(3)(i).

converting between spread and price. In ICC's view, such changes would simplify and promote transparency in ICC's price discovery process and thus enhance implementation of the Pricing Policy. The proposed rule change would thus strengthen ICC's ability to manage risk associated with its price discovery process, and ICC's risk management more generally as ICC uses the resulting EOD prices for risk management purposes, and ICC would continue to derive reliable, market-driven prices from its price discovery process. As such, the amendments would satisfy the requirements of Rule 17Ad-22(e)(3)(i).<sup>12</sup>

Rule 17Ad-22(e)(6)(iv)<sup>13</sup> requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable. ICC believes that the proposed changes are appropriately designed to support and maintain the effectiveness of ICC's EOD price discovery process that provides reliable prices, which ICC uses for risk management purposes. As described above, the proposed changes would result in more consistency in ICC's instrument submission requirements as well as more clarity and uniformity around how certain processes are completed, including the standardization of submissions and adjustments for outlying submission trades. ICC believes that the proposed rule change would result

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<sup>12</sup> Id.

<sup>13</sup> 17 CFR 240.17Ad-22(e)(6)(iv).

in additional clarity surrounding ICC's price discovery process overall and ICC's determination of EOD levels. In ICC's view, such changes are appropriately designed to promote and maintain the effectiveness and integrity of the Pricing Policy and the EOD price discovery process that provides reliable prices, consistent with the requirements of Rule 17Ad-22(e)(6)(iv).<sup>14</sup>

(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 the Pricing Policy will apply uniformly across all market participants. Therefore, ICC does not believe the amendments would impose any burden on competition not necessary or appropriate 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

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

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<sup>14</sup> Id.

(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](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2021-022 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-2021-022. 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-2021-022 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>15</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).