

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-93581; File No. SR-ICC-2021-019)

November 16, 2021

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

I. Introduction

On September 22, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4,<sup>2</sup> a proposed rule change to revise the ICC CDS Instrument On-boarding Policies and Procedures (“Instrument On-boarding Policy”). The proposed rule change was published for comment in the Federal Register on October 5, 2021.<sup>3</sup> The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would revise Subsection III.A of the Instrument On-boarding Policy.<sup>4</sup> Subsection III.A discusses the guiding principles that ICC maintains for considering instruments for clearing. Such principles are designed to ensure that ICC proceeds in a prudent

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

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

<sup>3</sup> 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; Exchange Act Release No. 93177 (Sept. 29, 2021); 86 Fed. Reg. 55037 (Oct. 5, 2021) (SR-ICC-2021-019) (“Notice”).

<sup>4</sup> Capitalized terms not otherwise defined herein have the meanings assigned to them in the Instrument On-boarding Policy or the ICC Rules, as applicable.

manner with respect to instrument selection while also providing the best opportunity for Clearing Participants to minimize their risk.

The proposed rule change would incorporate an additional guiding principle – ICC should consider selecting for clearing instruments that are constituents of the currently clearable On-The-Run (“OTR”) indices in order to provide additional instruments for Clearing Participants to hedge and mitigate indirect risk exposure from the OTR indices. For other instruments that are not constituents of currently clearable OTR indices, the proposed rule change would not alter the current guiding principles, which direct ICC to consider instrument open interest and volume when selecting instruments for clearing. Moreover, the proposed rule change would not alter the overall current guiding principles for all instruments, which direct ICC to consider selecting for clearing instruments that can be cleared through ICC’s systems and processes and that support industry-wide initiatives and protocols.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.<sup>5</sup> For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act and Rule 17Ad-22(e)(21).<sup>6</sup>

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<sup>5</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F) and 17 CFR 240.17Ad-22(e)(21).

A. Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.<sup>7</sup> As discussed above, the proposed rule change would add to the Instrument On-boarding Policy, as a further guiding principle, that ICC should consider selecting for clearing instruments that are constituents of the currently clearable OTR indices in order to provide Clearing Participants additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. The Commission believes that this additional guiding principle should encourage ICC to select for clearing instruments that, as constituents of the currently clearable OTR indices, could help ICC's Clearing Participants mitigate indirect risk exposure from the OTR indices. The Commission believes that such potential risk mitigation would encourage Clearing Participants to centrally clear additional transactions, which, in turn, should promote the prompt and accurate clearance and settlement of those instruments.

Moreover, as set forth in the new guiding principle, the Commission believes that clearing instruments that are constituents of the currently clearable OTR indices could allow ICC's Clearing Participants to hedge and mitigate indirect risk exposure from the OTR indices. Thus, assuming that ICC selects such instruments for clearing, the Commission believes that the new guiding principle could result in ICC's Clearing Participants mitigating their overall indirect

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<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

risk exposure to OTR indices, and thereby could reduce the overall risks to ICC in clearing and settling transactions in OTR indices. The Commission further believes that these risks, if not adequately managed, could disrupt ICC's ability to clear and settle transactions in other products and safeguard securities and funds in its custody and control. Thus the Commission believes that, in directing ICC to select for clearing instruments that could allow Clearing Participants to hedge and mitigate their overall risk exposure, the proposed rule change could, in turn, result in a reduction of risk to ICC and thereby could help promote the prompt and accurate clearance and settlement of securities transactions and help assure the safeguarding of securities and funds in ICC's custody and control.

Therefore, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC's custody and control, consistent with the Section 17A(b)(3)(F) of the Act.<sup>8</sup>

B. Consistency with Rule 17Ad-22(e)(21)

Rule 17Ad-22(e)(21) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves.<sup>9</sup> As discussed above, the proposed rule change would add to the Instrument On-boarding Policy, as a further guiding principle, that ICC should consider selecting for clearing instruments that are

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<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad-22(e)(21).

constituents of the currently clearable OTR indices in order to provide Clearing Participants additional instruments to hedge and mitigate indirect risk exposure from the OTR indices. The Commission believes that this additional guiding principle should encourage ICC to select for clearing additional instruments that would serve the needs of its Clearing Participants in hedging and mitigating indirect risk exposure from the OTR indices. The Commission therefore believes this new guiding principle could help ICC to be effective in meeting the requirements of its participants, consistent with Rule 17Ad-22(e)(21).<sup>10</sup>

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<sup>10</sup> 17 CFR 240.17Ad-22(e)(21).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act<sup>11</sup> and Rule 17Ad-22(e)(21).<sup>12</sup>

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act<sup>13</sup> that the proposed rule change (SR-ICC-2021-019) be, and hereby is, approved.<sup>14</sup>

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>11</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>12</sup> 17 CFR 240.17Ad-22(e)(21).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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