

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66853; File No. SR-ICC-2012-02)

April 24, 2012

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change to Provide for a T+1 Settlement of the Initial Payment Related to the CDS Contracts Cleared by ICE Clear Credit LLC

I. Introduction

On March 1, 2012, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-ICC-2012-02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ The proposed rule change was published for comment in the Federal Register on March 12, 2012.² The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICC proposed rule amendments that were intended to modify the terms of each of the various CDS Contracts cleared by ICC (CDX.NA Untranchured Contracts, Standard North American Corporate (“SNAC”) Single Name Contracts and Standard Emerging Sovereign (“SES”) Single Name Contracts) to make the Initial Payment³ date the first business day immediately following the trade date, provided that with respect to CDS Contracts that are accepted for clearing after the trade date, the Initial Payment date will be the date that is the first

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 34-66517 (March 6, 2012), 77 FR 14578 (March 12, 2012).

³ The Initial Payment is an obligation by either counterparty to make an upfront payment established at the time the contract is executed. See ICE Clear Credit Clearing Rules, Section 301(b).

business day following the date when the CDS Contract is accepted for clearing. The Initial Payment under a CDS Contract is established at the time the contract is executed and may be payable from either the protection buyer to the protection seller or vice versa. Under the current ICC Rules (by way of the incorporated ISDA Credit Derivatives Definitions), and consistent with practice in the market for uncleared credit default swaps, the Initial Payment is required to be made on the third business day following the trade date (the execution date). ICC proposed to add the definition of Initial Payment Date to its Clearing Rules to provide instead that the Initial Payment is to be made on the first business day following the trade date (or, if the transaction is accepted for clearing after the trade date, the Initial Payment is to be made on the first business day following the date of acceptance for clearing). ICC believes that this change from “T+3” settlement to “T+1” settlement for the Initial Payment will facilitate customer-related clearing. In addition, this change will improve margin efficiency (as margin requirements will no longer need to take into account the additional risk from a T+3 as opposed to a T+1 settlement rule).

The other proposed changes in the ICC Rules reflect updates to cross-references and defined terms and similar drafting clarifications, and do not affect the substance of the ICC Rules or cleared products.

III. Discussion

Section 19(b)(2)(B) of the Act⁴ 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

⁴ 15 U.S.C. 78s(b)(2)(B).

organization. Section 17A(b)(3)(F) of the Act⁵ 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.

Because the proposed rule change will accelerate the Initial Payment date, it will improve margin efficiency (as margin requirements will no longer need to take into account the additional risk from a T+3 as opposed to a T+1 settlement rule) thereby promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, and therefore is consistent with the requirements of Section 17A(b)(3)(F) of the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-ICC-2012-02) be, and hereby is, approved.⁸

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin O'Neill
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 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).

⁹ 17 CFR 200.30-3(a)(12).