

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82798; File No. SR-ICC-2018-003)

March 1, 2018

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the ICC Operational Risk Management Framework

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 23, 2018, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“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 update ICC’s Operational Risk Management Framework. These revisions do not require any changes to the ICC Clearing 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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

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

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

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

ICC proposes updates to the ICC Operational Risk Management Framework. 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. The proposed revisions are described in detail as follows.

(a) Summary of Proposed Changes

The ICC Operational Risk Management Framework details ICC's dynamic and independent program of operational risk assessment and oversight, which aims to reduce operational incidents, encourage process and control improvement, bring transparency to operational performance standard monitoring, and fulfill regulatory obligations. ICC proposes changes to its Operational Risk Management Framework to incorporate the Intercontinental Exchange, Inc. ("ICE, Inc.") Enterprise Risk Management Department into its operational risk management program.

ICC proposes to revise the Operational Risk Management Framework to reflect the role of the ICE, Inc. Enterprise Risk Management Department with respect to ICC's operational risk management processes. The ICE, Inc. Enterprise Risk Management Department provides the oversight and framework for identifying, assessing, managing, monitoring and reporting on risk across the ICE, Inc. organization. This department has dedicated resources focused on the various ICE, Inc. business units. Specifically, the ICE, Inc. Enterprise Risk Management Chief Risk Officer for North American Clearing Houses ("ERM") is assigned responsibility for the ICE, Inc. Enterprise Risk Management

Department's coverage of ICC. The ERM in conjunction with the ICC Compliance Committee is responsible for overseeing the management of the Operational Risk Management Framework. Under the revised framework, ICC proposes removing all references to the role of the Operational Risk Manager ("ORM"), who was previously responsible for managing the Operational Risk Management Framework, since the role of the ORM was incorporated into the ICE, Inc. Enterprise Risk Management Department and the ORM is no longer a position at ICC.

ICC proposes removing all references to the ORM from the risk assessment process and assigning several of the ORM's responsibilities to the ERM, including the ORM's responsibilities under the operational risk lifecycle components. Under the "identify" component, the ERM will identify clearing processes and risk scenarios for evaluation. Under the "monitor" component, the ERM will track control enhancements resulting from the risk assessment process. Under the "mitigate" component, the ERM will recommend increasing control effectiveness where residual risk could be further mitigated. Under the "report" component, the ERM will present operational risk reporting to senior management, committees, and the ICC Board.

ICC similarly proposes removing all references to the ORM from the performance objective setting and monitoring process and assigning several of the ORM's responsibilities under the operational risk lifecycle components to ICC Systems Operations and the ERM. Under the "mitigate" component, ICC proposes removing reference to the ORM's monitoring process and adding language to describe ICC Systems Operations' incident management and mitigation process and the ERM's role

within it. Under the “report” component, ICC proposes assigning the ORM’s reporting obligations to ICC Systems Operations and the ERM.

ICC proposes enhancements within the operational risk focus areas to reflect the removal of the ORM position and make clarifying edits to reflect current practices. ICC, not the ORM, will consider operational risk focus areas which address business concerns, regulation and industry best practices. Under the revised framework, certain functions remain outsourced to ICE, Inc. Further, the proposed enhancements to the “Business Continuity Planning and Disaster Recovery” risk focus area eliminate the ORM’s responsibilities related to business continuity planning (“BCP”) and disaster recovery (“DR”), including serving as the chair of the ICC BCP and DR Oversight Committee (“BDOC”) and ensuring completion of BCP and DR documentation and testing. ICC also proposes adding language to note that BDOC assists the ICC Compliance Committee with the approval of ICC BCP and DR program documentation. In addition, ICC, not the ORM, will ensure that ICC can recover from a disruption and will collaborate with departments to complete applicable surveys.

ICC also proposes revisions to the “Vendor Assessment” risk focus area. As the annual review and approval of the critical vendor inventory was re-assigned from the ICC Compliance Committee to BDOC and incorporated into BDOC governance documentation, ICC proposes removing reference to it from the framework. ICC also proposes to note that BDOC, not the ORM, reviews and recommends that the ICC Compliance Committee approve the critical vendor inventory and conducts a service provider risk assessment for each critical vendor. Further, ICC proposes adding procedures with respect to its assessment process for critical vendors. The revised

framework describes how critical vendors receive risk rankings that determine the extent of oversight required and lists how often risk assessments for critical vendors are completed.

ICC proposes enhancements to the remaining three operational risk focus areas to reflect the removal of the ORM role. The proposed changes to the “New Products, Processes and Initiatives” risk focus area remove reference to the ORM’s role on the ICC New Initiative Approval Committee, given that the ORM is no longer a position at ICC, and note that the ERM conducts post-implementation reviews of new initiatives. ICC proposes enhancing the “ICE Information Security” risk focus area to provide specific reference to the ICE Information Security Department’s (“InfoSec Department”) overall governing document and to reflect changes to the membership of the InfoSec Department’s governance committee. The proposed changes to the “Technology Control Functions” risk focus area note that the ERM, not the ORM, has access to incident management systems and reviews and escalates incidents.

ICC also proposes other non-material changes to the framework. ICC updated the appendix to the document to more clearly summarize and appropriately describe the regulatory requirements and industry guidance to which ICC is subject, including U.S. Commodity Futures Trading Commission Regulation 17 CFR 39.18. Minor grammatical and structural changes were also made to the document to enhance readability.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>3</sup> requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest and to comply

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

with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17A(b)(3)(F)<sup>4</sup>, because ICC believes that the proposed rule changes will protect investors and the public interest, as the updates more accurately reflect ICC's operational risk program given the incorporation of the ICE, Inc. Enterprise Risk Management Department into ICC's existing operational risk management processes. In addition, the proposed revisions are consistent with the relevant requirements of Rule 17Ad-22.<sup>5</sup> The changes to the ICC Operational Risk Management Framework further ensure that ICC, through its operational risk program, is able to identify sources of operational risk and minimize them through the development of appropriate systems, control, and procedures. Thus, the changes are reasonably designed to meet the operational risk requirements of Rule 17Ad-22(d)(4).<sup>6</sup> As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)<sup>7</sup> of the Act.

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition. The ICC Operational Risk Management Framework applies uniformly across all market participants. Therefore, ICC does not believe the

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<sup>4</sup> Id.

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

<sup>6</sup> 17 CFR 240.17Ad-22(d)(4).

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

proposed rule changes impose 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2018-003 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-ICC-2018-003. 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, N.E., Washington, D.C. 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 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-2018-003 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>8</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).