

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76122; File No. SR-ICC-2015-015)

October 9, 2015

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Related to the ICC Rule Enforcement Process for Missed Submissions

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 September 30, 2015, 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. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed changes is to make revisions to the ICC Clearing Rules (the “Rules”) related to the ICC rule enforcement process for Missed Submissions.

II. Self-Regulatory Organization’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 and discussed any comments it received on the proposed rule change. 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.

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

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

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As part of ICC's end-of-day price discovery process, ICC Clearing Participants ("CPs") are required to submit end-of-day prices for specific instruments related to their open interest at ICC, in accordance with Rule 404(b) and ICC Procedures. Failure of a CP to provide submissions required by ICC pursuant to Rule 404(b) and ICC Procedures constitute a Missed Submission. In order to provide incentive against Missed Submissions, ICC has adopted a summary assessment approach described in Rule 702(e) and Schedule 702 of the Rules.

Currently, under Rule 702(e)(ii)(2), a CP may be eligible for a once-in-a-lifetime conditional waiver from such assessments, if one or more Missed Submissions are the first instance(s) of a Missed Submission for the type of instrument (index or single name) and the CP provides adequate explanation of the cause and plans for remedial actions.

Given the increased automation of price submissions, ICC recognizes that there may be circumstances, due to technological failures, which may result in Missed Submissions. Furthermore, due to the significant length of time since the inception of the end-of-day process, many CPs have utilized their once-in-a-lifetime waiver. As such, ICC believes it is reasonable to provide, under limited circumstances, a conditional once-a-year waiver for such Missed Submissions caused by technical failures, as described below. Such Rule changes will not affect the integrity and effectiveness of the end-of-day price discovery process. ICC believes such Rule changes provide a valuable and practical balance between the technicalities of the price discovery process and appropriate penalization for Missed Submissions.

The proposed Rule text provides for the replacement of ICC's current once-in-a-lifetime waiver for Missed Submissions with a conditional once-a-year waiver for Missed Submissions caused by technical failures. Under revised Rule 702(e)(ii)(2), a CP would be eligible for one

waiver per year for single name Missed Submissions, and one waiver per year for index Missed Submissions. A CP may request such waiver(s) be applied against all Missed Submissions for a given instrument class on a given day. A CP would be required to provide documentation with a waiver request, explaining that the root-cause of the Missed Submission was a technology issue and including a remediation plan to fix the cause of the Missed Submission. ICC would review and evaluate the waiver request and accept unless it had legitimate concerns that the root-cause of the Missed Submission had not been adequately identified, was not due to a technical issue, and/or would not be corrected by the provided remediation plan. ICC would maintain its current ability to provide waivers for Missed Submissions deemed to be due to extraordinary circumstances outside of a CP's control, as set forth in Rule 702(e)(ii)(3). Pending regulatory approval, ICC plans to implement these changes on January 1, 2016, and apply the once-a-year waiver to the 2016 calendar year, and each calendar year going forward. There are no changes to ICC policies and procedures as a result of the Rule changes.

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 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 17(A)(b)(3)(F),<sup>4</sup> because ICC believes that the proposed rule changes will assure the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, as the proposed revisions enhance ICC's price discovery process, by ensuring a fair and equitable assessment structure. As such, the proposed changes are designed to promote the prompt and accurate clearance and

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

<sup>4</sup> Id.

settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)<sup>5</sup> of the Act.

Furthermore, such proposed changes are designed to ensure that CPs are appropriately disciplined for violations of ICC's rules, specifically Missed Submissions, through an appropriate fining structure, in accordance with Section 17A(b)(3)(G).<sup>6</sup> Finally, such proposed rule changes are intended to provide a fair procedure with respect to the disciplining of CPs for Missed Submissions, in accordance with Section 17A(b)(3)(H).<sup>7</sup>

B. Self-Regulatory Organization'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 Rule changes related to the ICC rule enforcement process for Missed Submissions apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization'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

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<sup>5</sup> Id.

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

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

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 the 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 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-2015-015 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-2015-015. 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 a.m. and 3:00 p.m. Copies of such filings also will 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2015-015 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>

Robert W. Errett  
Deputy Secretary

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