

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78055; File No. SR-ICC-2016-008)

June 13, 2016

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Revise the ICC Clearing Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 3, 2016, 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 and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The purpose of proposed rule change is to revise the ICC Clearing Rules (“ICC Rules”) to add explicit references to certain risk-related policies currently contained in the ICC Risk Management Framework and the ICC Risk Management Model Description document.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

ICC proposes changes to ICC Rules 403 and 801 to add explicit references to certain risk-related policies currently contained in the ICC Risk Management Framework and the ICC Risk Management Model Description document related to the minimum time horizon for liquidation, anti-procyclicality conditions, and the maintenance of cover-2 default resources. The proposed changes are described in detail as follows.

As provided in the ICC Risk Management Model Description document, ICC's initial margin methodology applies a minimum of a 5-day time horizon as the liquidation period for all ICC cleared instruments. ICC proposes amending ICC Rule 403 to explicitly reference this risk policy by stating that ICC's initial margin methodology shall incorporate a minimum 5-day time horizon for the liquidation period (for both house and client-related positions).

Additionally, as provided in the ICC Risk Management Framework, ICC incorporates certain anti-procyclicality measures into its risk methodology to account for stable but prudent margin requirements.³ ICC proposes amending ICC Rule 403 to explicitly reference its current anti-procyclicality measures and to provide for additional anti-procyclicality measures. Specifically, ICC proposes amending ICC Rule 403 to state that ICC's initial margin methodology shall incorporate one or more measures designed to limit procyclicality, including by avoiding when possible disruptive or big step changes in margin requirements and by establishing transparent and predictable procedures for adjusting margin requirements in response to changing market conditions. Further, consistent with current ICC risk policies, the measures designed to limit procyclicality will demonstrably meet or exceed the requirements of

³ See Securities Exchange Act Release No. 34-73877 (December 18, 2014) (SR-ICC-2014-18).

measures designed to limit procyclicality that assign at least 25% weight to stressed observations in a look-back period beginning on April 1, 2007. In addition, changes to ICC Rule 403 also allow ICC to measure procyclicality limits by reference to a ten year historical look-back period for computing initial margin.⁴

Finally, as provided in the ICC Risk Management Framework, ICC maintains a minimum of cover-2 default resources, in accordance with Commodity Futures Trading Commission (“CFTC”) Regulations 39.11 and 39.33. ICC proposes amending ICC Rule 801(a)(i) to explicitly reference this risk policy and state that ICC shall establish the aggregate amount of required contributions to the Guaranty Fund such that at a minimum ICC will maintain pre-funded financial resources sufficient to enable it to meet its financial obligations to Clearing Participants (“CPs”) notwithstanding a default by the two CPs (including any of their affiliated CPs) creating the largest combined loss to ICC in extreme but plausible market conditions.

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 and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed 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),⁶ because ICC believes that the proposed changes will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions. The

⁴ Please note that as ICC uses a look-back period beginning on April 1, 2007, this ten year historical period anti-procyclicality measure will become available to ICC in 2017.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ Id.

proposed changes to the ICC Rules to add explicit references to certain risk-related policies currently contained in the ICC Risk Management Framework and the ICC Risk Management Model Description document provide additional clarity and transparency regarding ICC's risk management policies and procedures. As such, the proposed rule 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)⁷ of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed revision would have any impact, or impose any burden, on competition. ICC is restating certain risk-related policies in the ICC Rules and not making any substantive changes to its overall risk management framework. Therefore, ICC does not believe the proposed revision imposes 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. 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

⁷ 15 U.S.C. 78q-1(b)(3)(F).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICC- 2016-008 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-2016-008. 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 the filing also will be available for inspection and copying at the principal office of ICC and on ICC'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-2016-008 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b)(2)(C) of the Act⁸ 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. Section 17A(b)(3)(F) of the Act⁹ requires, among other things, that the rules of a registered 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, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest.

The Commission finds that the proposed revision to the ICC Risk Management Framework and the ICC Risk Management Model Description are consistent with the requirements of the Act, in particular the requirements of Section 17A(b)(3)(F) of the Act,¹⁰ because the proposed changes provide additional clarity and transparency regarding ICC's risk management policies and procedures. The Commission finds that the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to comply with the provisions of the Act and the rules and regulations thereunder.

⁸ 15 U.S.C. 78s(b)(2)(C).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ Id. 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).

ICC has requested that the Commission approve the proposed rule change on an accelerated basis for good cause shown pursuant to Section 19(b)(2). ICC is restating certain risk-related policies in the ICC Rules and not making any substantive changes to its overall risk management framework. In addition, ICC states that the changes are proposed in furtherance of regulatory compliance with European Commission's implementing decision¹¹ on the equivalence of the regulatory framework of the United States of America for central counterparties ("CCPs") that are authorized and supervised by the CFTC to the requirements of European Market Infrastructure Regulation ("EMIR") No. 648/2012.¹² ICC represents that it has submitted an application to the European Securities and Markets Authority to be recognized as a third country CCP in accordance with EMIR; the proposed changes will facilitate this application process and promote regulatory compliance with the required equivalency elements. For the above reasons, the Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act,¹³ for approving the proposed rule change on an accelerated basis.

¹¹ See European Commission Implementing Decision (EU) 2016/377, dated 15 March 2016.

¹² See Regulation (EU) No 648/2012, dated 4 July 2012.

¹³ 15 U.S.C. 78s(b)(2)(C)(iii).

V. Conclusion

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICC-2016-008) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Robert W. Errett
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).