

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78566; File No. SR-ICC-2016-009)

August 12, 2016

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change to Revise the ICC Treasury Operations Policies and Procedures

I. Introduction

On June 15, 2016, 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 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the ICC Treasury Operations Policies and Procedures to provide for the use of a committed foreign exchange (“FX”) facility, to make changes to the investment guidelines as well as additional clean-up changes, and to provide additional clarification regarding the calculation of collateral haircuts (SR-ICC-2016-009). The proposed rule change was published for comment in the Federal Register on June 30, 2016.³ The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC will revise its Treasury Operations Policies and Procedures to provide for the use of a committed FX facility. ICC has established a committed FX facility which provides for same day settled spot FX transactions. ICC represents that the facility allows ICC to use available United States Dollars (“USD”) to convert into Euro to meet a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-78205 (June 30, 2016), 81 FR 44357 (July 7, 2016) (SR-ICC-2016-009).

Euro liquidity need, for example in the unlikely event of a Clearing Participant default when Euro is needed for liquidity but only USD is available. In addition, the policy will be revised to document that the FX facility will be tested twice a year.

Additionally, ICC will revise its Treasury Operations Policies and Procedures to make changes to the ICC Treasury Department investment guidelines for operating capital, guaranty fund, and margin cash. ICC will update the list of permitted investments to add short term US Treasury securities (with a final maturity of no greater than 98 days) and remove Money Market Mutual Funds. ICC will also update its investment policy for operating capital to include Treasury/agency reverse repurchase (“repo”) agreements. ICC will update the governance section of the operating capital investment policy to note that the Risk Committee will review any proposed changes to the policy and make recommendations to the Board. Further, ICC will remove reference to an obsolete financial report.

ICC will make additional clean-up changes throughout the Treasury Operations Policies and Procedures. Specifically, ICC will remove outdated language stating that ICC treasury services are provided by The Clearing Corporation. Further, throughout the document, ICC will change references to the “Director of Operations” to the “Chief Operating Officer,” to correctly reflect the officer title. ICC will remove reference to specific reverse repo counterparties to reflect the addition of multiple reverse repo counterparties. Further, ICC has noted that it has arrangements in place to settle tri-party and bilateral reverse repo transactions, both of which settle delivery vs. payment (“DVP”). As a result, ICC will clarify references throughout the policy from “DVP reverse repo” to more specifically refer to “bilateral reverse repo.” ICC will remove

reference to the titles of specific agreements that it may enter into to effect reverse repo transactions and add general language to encompass all agreements that may be required. ICC will remove information regarding the monitoring of available liquidity resources and add reference to the ICC Liquidity Risk Management Framework. ICC has clarified that its committed repo facility may be used to convert sovereign debt into cash and that the facility will be tested twice per calendar year. ICC will remove outdated information under the “ICE Clear Credit Banking Relationships” section of the policy and add language stating that ICC endeavors to maintain banking relationships with highly creditworthy and reliable bank institutions that provide operational and strategic support with respect to holding margin and guaranty fund cash and collateral. ICC also will remove references to specific banking counterparties, as ICC’s banking relationships have expanded to include multiple counterparties. ICC will replace the specific names with a generic reference, to capture all counterparties utilized by ICC. ICC also will update certain SWIFT banking information throughout the policy. Further, ICC will update the list of applications used by the Treasury Department to perform daily operations.

Finally, ICC will revise its Treasury Operations Policies and Procedures to provide additional clarification regarding the calculation of collateral haircuts when yield rates are less than or equal to one basis point. This change will document current ICC practices as related to collateral haircut calculation; there will be no change to the collateral haircut methodology.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁴ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act⁵ requires, among other things, that the rules of a clearing agency are 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.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder applicable to ICC. ICC asserts that the changes to provide for the use of a committed FX facility will enhance ICC's liquidity resources, and the changes to the investment guidelines will ensure the reliable investment of assets in ICC's control with minimal risk. ICC further asserts that the additional clean-up changes will ensure that the documentation of ICC's treasury arrangements remains up-to-date, clear, and transparent. Similarly, ICC represents that the additional clarification regarding the calculation of collateral haircuts will promote transparency of ICC's risk management practices as related to collateral haircuts. The Commission therefore believes that the proposed rule changes are designed to promote the prompt and accurate settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and

⁴ 15 U.S.C. 78s(b)(2)(C).

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ 15 U.S.C. 78q-1.

transactions, and to contribute to the safeguarding of customer funds and securities within the control of ICC in accordance with Section 17A(b)(3)(F) of the Act.⁷

In addition, the Commission finds that the proposed revisions to the ICC Treasury Operations Policies and Procedures are consistent with the relevant requirements of Rule 17Ad-22.⁸ In particular, the use of a committed FX facility is intended to further ensure that ICC maintains sufficient financial resources at all times to meet the requirements set forth in Rule 17Ad-22(b)(3).⁹ Additionally, the changes to the investment guidelines are aimed to minimize credit, market, and liquidity risks of investment arrangements. Such changes are therefore reasonably designed to meet the requirements of Rule 17Ad-22(d)(3).¹⁰ Finally, the additional clean-up changes and clarification regarding the calculation of collateral haircuts are constructed to ensure ICC's governance arrangements to remain clear and transparent, consistent with the requirements of Rule 17Ad-22(d)(8).¹¹

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 Act¹² and the rules and regulations thereunder.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 17 C.F.R. 240.17Ad-22.

⁹ 17 C.F.R. 240.17Ad-22 (b)(3).

¹⁰ 17 C.F.R. 240.17Ad-22 (d)(3).

¹¹ 17 C.F.R. 240.17Ad-22 (d)(8).

¹² 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (File No. SR-ICC-2016-009) be, and hereby is, approved.¹⁴

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Robert W. Errett
Deputy Secretary

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 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).

¹⁵ 17 CFR 200.30-3(a)(12).