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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-78501; File No. SR-ICC-2016-007)

August 8, 2016

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change to Revise the ICC End-of-Day Price Discovery Policies and Procedures

I. Introduction

On April 22, 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 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change relating to ICC’s End-of-Day Price Discovery Policies and Procedures (the “EOD Policy”). The proposed rule change was published for comment in the Federal Register on May 11, 2016.³ On June 23, 2016, the Commission extended the time period in which to either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to August 9, 2016.⁴ 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-77771 (May 5, 2016), 81 FR 29309 (May 11, 2016) (SR-ICC-2016-007).

⁴ Securities Exchange Act Release No. 34-78144 (June 23, 2016), 81 FR 42018 (June 28, 2016) (SR-ICC-2016-007).

The principal purpose of the proposed rule change is to revise the EOD Policy to change the calculation of single name firm trade (“Firm Trade”) notional limits to be at a Clearing Participant (“CP”) affiliate group level.

As part of ICC’s end-of-day price discovery process, ICC CPs are required to submit end-of-day prices for specific instruments related to their open interest at ICC. ICC determines end-of-day levels directly from these CP price submissions using a proprietary algorithm. To encourage CPs to provide high quality end-of-day submissions, on random days, ICC selects a subset of instruments which are eligible for Firm Trades. In order to determine Firm Trade requirements, the algorithm sorts and ranks all CP submissions and identifies “crossed and/or locked markets.” Crossed markets are pairs of CP submitted prices generated by the sorting and ranking process for which the bid price of one CP is above the offer price of the matched CP. The algorithm identifies locked markets, where the bid and the offer are equal, in a similar fashion.

ICC designates certain crossed and/or locked markets as Firm Trades and CPs are entered into cleared transactions. ICC establishes pre-defined notional amounts for Firm Trades. According to ICC, no single Firm Trade can have a larger notional amount than specified by the pre-defined notional amount for the relevant instrument. On a given Firm Trade day, all potential-trades resulting from the cross-and-lock algorithm in any Firm Trade eligible instrument are designated Firm Trades, unless they breach a CP’s notional limits.

Currently single name Firm Trade notional limits are set at the CP level. According to ICC, it designed the Firm Trade system to incentivize trading desks to provide quality end-of-day price submissions for use in its end-of-day price discovery

process, while limiting the total overnight risk that a given institution may be required to manage in case of submission errors or outlying pricing submissions which may lead to Firm Trades. One mechanism introduced to provide these protections was single name Firm Trade notional limits per CP. ICC believes that at the time of its introduction, this mechanism achieved its goal of limiting overnight risk limits per institution. However, with the increase in client clearing and in multiple CP memberships per holding company, ICC asserts that the limit provided to a given institution is multiples of that originally contemplated.

In addition, because of recent changes to the EOD Policy to extend the process for determining Firm Trades to include all submissions, including those classified as outlying pricing submissions (or “obvious errors”),⁵ ICC asserts that CPs are eligible to receive Firm Trades on a wider range of price submissions. Due to the broadened scope of the Firm Trade process, ICC asserts a heightened interest in adjusting the allocation process so that CPs are not over-penalized for Firm Trades in terms of overnight risk exposure.

In order to maintain the original intent of the end-of-day price discovery process, ICC has proposed changes to its EOD Policy to implement single name Firm Trade notional limits at the CP affiliate group level, as opposed to the CP level. ICC represents that the proposed changes will return the process to its original design and limit the total overnight risk that a given institution may be required to manage in the case of submission errors or outlying pricing submissions which may lead to Firm Trades.

A “CP affiliate group” will be defined as the set of all affiliated CPs (i.e. any CPs that own, are owned by, or are under common ownership with another CP). According to

⁵ See Securities Exchange Act Release No. 34-74053 (January 14, 2015), 80 FR 2985 (January 21, 2015) (SR-ICC-2015-001).

ICC, as the sequence of crosses is considered, the executed single name Firm Trade notional value will be tracked for all CPs in a CP affiliate group. ICC states that no additional single name Firm Trades will be executed against any CP in a CP affiliate group once the CP affiliate group notional limit for single name Firm Trades is reached. ICC asserts there are no changes to the Firm Trade algorithm as a result of these changes. ICC further asserts that setting single name Firm Trade notional limits on an affiliate group basis is consistent with price submission practices where end-of-day submissions from multiple affiliated entities often reflect the institution's overall view on the market.

ICC states that the proposal returns single name Firm Trade notional limits to the original design while maintaining the system's price submission incentives. ICC represents that all CPs within an affiliate group will still be subject to potential Firm Trades for any given submission, on a randomized basis. ICC also asserts that though Firm Trade notional limits will be implemented at the CP affiliate group level, the potential implication for a given trading desk of providing an off-market submission for a given instrument remains the same. ICC believes there will be no change in price submission behavior as a result of the changes, and the Firm Trade process will remain an effective tool for ensuring quality price submissions.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁶ 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

⁶ 15 U.S.C. 78s(b)(2)(C).

Act⁷ 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, 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. Section 17A(b)(3)(F)⁸ of the Act also requires that the rules of a clearing agency are not designed to permit unfair discrimination among participants in the use of the clearing agency.

The proposed application of the Firm Trade notional limit to CP affiliate groups is intended to manage what is, in ICC's view, an inappropriate overnight risk to its members without negatively impacting the integrity of its price discovery process. Moreover, the proposed rule change is intended to apply the EOD Policy fairly to participants, and ICC has represented that the proposed rule change is consistent with price submission practices where end-of-day submissions from multiple affiliated entities often reflect the institution's overall view on the market. As such, the Commission believes that the proposed rule change is 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)⁹ of the Act.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ Id.

⁹ Id.

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 Act¹⁰ and the rules and regulations thereunder.¹¹

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (File No. SR-ICC-2016-007) be, and hereby is, approved.¹³

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

Robert W. Errett
Deputy Secretary

¹⁰ 15 U.S.C. 78q-1.

¹¹ 17 CFR 240.17Ad-22.

¹² 15 U.S.C. 78s(b)(2).

¹³ 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).

¹⁴ 17 CFR 200.30-3(a)(12).

