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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88925; File No. SR-ICC-2020-004]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC CDS Instrument On-boarding Policies and Procedures

May 21, 2020.

I. Introduction

On March 30, 2020, 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 (the “Act”),¹ and Rule 19b-4,² a proposed rule change to update and formalize the ICC CDS Instrument On-boarding Policies and Procedures (“Instrument On-boarding Policy”). The proposed rule change was published for comment in the Federal Register on April 8, 2020.³ The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would update and formalize the Instrument On-boarding Policy.⁴ The Instrument On-boarding Policy would describe ICC’s procedures for selecting new

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 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 CDS Instrument On-boarding Policies and Procedures; Exchange Act Release No. 88545 (Apr. 2, 2020); 85 Fed. Reg. 19785 (Apr. 8, 2020) (SR-ICC-2020-004) (“Notice”).

⁴ Capitalized terms not otherwise defined herein have the meanings assigned to them in the Instrument On-boarding Policy or the ICC Rules, as applicable.

products for clearing, and would organize those procedures into the following components: instrument selection, on-boarding governance, operational setup, risk evaluation, pricing evaluation, and dress rehearsal.

With respect to instrument selection, ICC would, as described in the Instrument On-boarding Policy, establish an initial universe of new products that it potentially could clear. ICC would establish this initial universe based on (1) its current business strategy, (2) products that are actively traded bilaterally between ICC Clearing Participants but not cleared at ICC, and (3) feedback from Clearing Participants and the Trading Advisory Group regarding the products they would like ICC to clear. From there, ICC would analyze the initial universe of new products that it potentially could clear to see which of those products met ICC's guiding principles. As described in the On-boarding Policy, these guiding principles would require that ICC consider products that meet certain standards for open interest and volume, be capable of being cleared through ICC's existing systems and processes, and support industry wide initiatives and protocols.

Once ICC has determined that a product meets its guiding principles, it would next proceed with the appropriate governance actions for clearing the proposed new product. As described in the Instrument On-boarding Policy, the specific governance actions required before clearing the product would depend on which of four categories the product falls into: (1) a new product that falls under a previously approved product category and type, such as a previously approved CDS corporate single name (*e.g.*, North American Corporate Single Names) or a previously approved CDS sovereign single name type (*e.g.*, Emerging Market Sovereign Single Names), (2) a new product that falls under an approved product category but is a new type that is not considered in the ICC Rules (*e.g.*, a new type of single name CDS not already considered in

the ICC Rules), (3) a new product that falls under a new product category that is not considered in the ICC Rules (*e.g.*, a product in a category other than CDS on indices and CDS on single names), and (4) a new product that falls out of scope of the standard on-boarding process, such as a new CDS index issued after a credit event affecting one of the companies in the index. For each category, the Instrument On-boarding Policy would explain the governance process, including notification to and review and approval by relevant stakeholders such as ICC's Board, committees and working groups, and regulators. Moreover, for all of the categories, ICC would review with the Risk Committee a risk impact analysis and pricing analysis with respect to clearing the new product and would also review the risk and pricing parameters and evaluation results with the Trading Advisory Committee and Risk Working Group.

The Instrument On-boarding Policy would also require that ICC complete an operational configuration before clearing a new product. Specifically, ICC would be required to configure its systems to evaluate and accept transactions, process and net transactions, and price the proposed product. Moreover, the On-boarding Policy would describe how ICC defines the reference obligation (meaning the particular bond that is either guaranteed or issued by the reference entity) for a new product and further would describe how ICC defines the legal and economic terms of a new product using the ISDA Credit Derivatives Physical Settlement Matrix.

Regarding risk evaluation, the Instrument On-boarding Policy would describe how ICC would ensure that its risk model adequately captures the risks associated with the new product. As described in the Instrument On-boarding Policy, ICC would do so by performing back-testing and stress-testing on portfolios containing the proposed new product. In doing so, ICC would seek to demonstrate that the risks associated with the proposed product are appropriately

accounted for by ICC's risk models and that Initial Margin and Guaranty Fund requirements will provide adequate protection to ICC and its Clearing Participants.

Similarly, for pricing evaluation, the Instrument On-boarding Policy would require that ICC ensure its end-of-day price discovery process operates effectively with the proposed product and adequately captures the price dynamics of the new product. Additional detail with respect to the end-of-day price discovery process would be available in ICC's End-of-Day Price Discovery Policies and Procedures.

Finally, before launching clearing of a new product, the Instrument On-boarding Policy would require that ICC perform a dress rehearsal, lasting at least two weeks, during which the end-of-day price discovery process would be executed for the new product each business day. During the dress rehearsal, ICC would collect price submissions and fine tune pricing parameters, as needed.

Once ICC has successfully completed this dress rehearsal and the other steps in the on-boarding process and received any required regulatory approvals, the Instrument On-boarding Policy would allow ICC to deem a product eligible for clearing and add it to the ICC Cleared Products list.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act 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.⁵ For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act⁶ and Rule 17Ad-22(d)(4).⁷

A. Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.⁸ As discussed above, the proposed rule change would update and formalize the Instrument On-boarding Policy. The Instrument On-boarding Policy would describe ICC's procedures for selecting new products for clearing, including instrument selection, governance, operational setup, risk evaluation, pricing evaluation, and dress rehearsal. In doing so, the Commission believes that the Instrument On-boarding Policy should provide a method for ICC to determine whether to clear new products and prepare for the clearance of such new products, thereby promoting the accurate clearance and settlement of transactions in such products.

Moreover, the Commission believes the Instrument On-boarding Policy, by setting standards for instrument selection, operational set up, risk and pricing evaluation, and governance for clearing new products would help to mitigate potential risks created by clearing

⁵ 15 U.S.C. 78s(b)(2)(C).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 240.17Ad-22(d)(4).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

new products, such as the risk that ICC's risk model would not adequately manage the risks associated with a new product. Similarly, the Commission believes that the required dress rehearsal would allow ICC to identify potential issues with the end-of-day pricing process before accepting a new product for clearing. The Commission believes that the risks associated with clearing a new product, including application of ICC's existing risk model and end-of-day pricing process, could, if not adequately managed, disrupt ICC's ability to clear and settle transactions in other products and safeguard securities and funds in its custody and control. Thus the Commission believes that, in providing ICC means for managing the risks associated with clearing a new product, the proposed rule change should help to promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC's custody and control.

Therefore, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds in ICC's custody and control, consistent with the Section 17A(b)(3)(F) of the Act.⁹

B. Consistency with Rule 17Ad-22(d)(4)

Rule 17Ad-22(d)(4) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures.¹⁰ As discussed

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 17Ad-22(d)(4).

above, the Commission believes that the Instrument On-boarding Policy would help to mitigate potential risks associated with new products. In particular, the Commission believes that in requiring ICC to complete an operational configuration to evaluate and accept transactions, process and net transactions, and price the proposed new product, the Instrument On-boarding Policy should help ICC to identify potential operational risks before clearing the new product. Similarly, the Commission believes that the required dress rehearsal should allow ICC to identify potential operational issues with the end-of-day pricing process and settlement before accepting a new product for clearing. Taken together, the Commission believes the Instrument On-boarding Policy should enable ICC to identify the operational risks associated with a new product and minimize those risks prior to clearing a new product. For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(d)(4).¹¹

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act¹² and Rule 17Ad-22(d)(4).¹³

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act¹⁴ that the proposed rule change (SR-ICC-2020-004), be, and hereby is, approved.¹⁵

¹¹ 15 U.S.C. 17Ad-22(d)(4).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(d)(4).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 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).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

Assistant Secretary.

¹⁶ 17 CFR 200.30-3(a)(12).

