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SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-92893; File No. SR-ICC-2021-018]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Back-Testing Framework

September 8, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4,² notice is hereby given that on August 24, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange 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. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICE CDS Clearing: Back-Testing Framework (“Back-Testing Framework”) to include additional description on the lookback period for back-testing and other clarifications. These revisions do not require any changes to the ICC Clearing Rules (the “Rules”).

II. Clearing Agency’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, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. 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) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revising the Back-Testing Framework, which describes ICC's back-testing approach and procedures and includes guidelines for remediating poor back-testing results. The proposed amendments include additional description on the lookback period for back-testing and other clarifications. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes a clarification change in Subsection 1.2. The Back-Testing Framework discusses ICC's back-testing analysis, which verifies that the number of actual losses is consistent with the number of projected losses. The proposed clarification to Subsection 1.2 specifies that the ICC Risk Department may consider back-testing analysis based on alternative statistical tests to assess the performance of its models in terms of statistical reliability.

ICC proposes new Subsection 2.1 to include additional description on the lookback period for back-testing. Proposed Subsection 2.1 details the performance of back-testing analysis for Clearing Participant ("CP") related portfolios. The proposed language discusses the maximum back-testing sample size, or the lookback period, and the benefit of allowing for a greater sample size in terms of assessing model performance. The proposed language also analyzes short lookback periods in combination with high risk quantile estimates. Moreover, ICC proposes to reference an alternative statistical test and describe how the model is considered to pass or fail the test. Proposed Figure 1 serves as an illustration under such alternative statistical test across different sample sizes and risk quantiles. Following such analysis, proposed Subsection 2.1 sets out ICC's

rationale for the minimum back-testing window length. Further, proposed Subsection 2.1 references the performance of additional analyses, as described in Section 4 of the Back-Testing Framework, and includes language concerning the reporting of back-testing results. ICC proposes to renumber the following subsections accordingly.

ICC proposes additional clarifications to the Back-Testing Framework. The proposed amendments include a footnote in amended Subsection 2.6 that references a relevant Commodity Futures Trading Commission regulation with respect to ICC's performance of back-testing analysis. ICC further proposes amendments to Section 4, which contains guidelines for remediating poor back-testing results. Currently, poor back-testing results require a peer review of the risk models by the Risk Working Group ("RWG"), which is comprised of risk representatives from ICC's CPs, and remedial actions to improve model performance. The proposed changes describe an additional aspect presented to the RWG and note an assessment that corresponds to the performance of a back-testing analysis without overlapping periods. ICC also proposes to update Section 5, containing a list of references, to include a reference for the alternative statistical test described in proposed Subsection 2.1.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act³ and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.⁴ In particular, Section 17A(b)(3)(F) of the Act⁵

³ 15 U.S.C. 78q-1.

⁴ 17 CFR 240.17Ad-22.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed amendments include additional description on the lookback period for back-testing and other clarifications. Proposed Subsection 2.1 sets out ICC's rationale for the minimum back-testing window length. The new subsection is intended to provide additional description and analysis on the lookback period for back-testing and would not change the methodology. The additional revisions further ensure clarity and transparency with respect to ICC's back-testing approach, procedures, and guidelines for remediating poor back-testing results. The proposed footnote references a relevant regulation to ensure ICC's performance of back-testing analysis is in compliance with applicable requirements. As such, ICC believes that the proposed rule change would help assure the soundness of the model by ensuring that back-testing analysis is conducted properly to assess the performance of the model. The proposed rule change is therefore consistent with the prompt and accurate clearing and settlement of the contracts cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.⁶

Rule 17Ad-22(e)(2)(i) and (v)⁷ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. ICC's Back-Testing Framework clearly assigns and

⁶ Id.

⁷ 17 CFR 240.17Ad-22(e)(2)(i) and (v).

documents responsibility and accountability for performing back-testing analyses and remediating poor back-testing results. Amended Subsection 4 describes an additional aspect presented to the RWG and notes an assessment that corresponds to the performance of a back-testing analysis without overlapping periods. ICC believes that specifying these additional responsibilities would strengthen the governance arrangements in the Back-Testing Framework and the Back-Testing Framework would continue to ensure that ICC maintains clear and transparent governance procedures and arrangements with respect to the performance, review, and reporting of back-testing results and the remediation of poor back-testing results. As such, in ICC's view, the proposed rule change continues to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility, consistent with Rule 17Ad-22(e)(2)(i) and (v).⁸

Rule 17Ad-22(e)(4)(ii)⁹ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. As discussed above, proposed Subsection 2.1 would provide additional description and analysis on the lookback period for back-testing and would not change the methodology. The additional

⁸ Id.

⁹ 17 CFR 240.17Ad-22(e)(4)(ii).

revisions enhance the clarity and transparency of the Back-Testing Framework, which would strengthen the documentation and ensure that it remains up-to-date, clear, and transparent. ICC believes that the proposed changes would enhance ICC's ability to manage risks and maintain appropriate financial resources, including by ensuring that back-testing analysis is conducted properly to assess the performance of the model. As such, the proposed amendments would strengthen ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad-22(e)(4)(ii).¹⁰

Rule 17Ad-22(e)(6)(vi)¹¹ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by (A) conducting back-tests of its margin model at least once each day using standard predetermined parameters and assumptions; and (B) conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for back-testing on at least a monthly basis, and considering modifications to ensure the back-testing practices are appropriate for determining the adequacy of ICC's margin resources. The Back-Testing Framework continues to require the performance of daily, weekly, monthly, and quarterly portfolio-level back-testing analyses, the performance of monthly parameter reviews and parameter sensitivity analyses, and the remediation of poor-back-testing results. The proposed amendments consist of additional description on the lookback period for back-testing and other clarifications regarding back-testing analysis and the remediation of poor back-testing results. These procedures

¹⁰ Id.

¹¹ 17 CFR 240.17Ad-22(e)(6)(vi).

in the Back-Testing Framework continue to promote the soundness of ICC's model and ensure that ICC's risk management system is effective and appropriate in addressing the risks associated with discharging its responsibilities. The proposed changes are thus consistent with the requirements of Rule 17Ad-22(e)(6)(vi).¹²

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to ICC's Back-Testing Framework will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency'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 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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

¹²

Id.

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. Please include File Number SR-ICC-2021-018 on the subject line.

Paper Comments:

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-ICC-2021-018. 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 am and 3:00 pm. Copies of such filings will also 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICC-2021-018 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.¹³

J. Matthew DeLesDernier,
Assistant Secretary.

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¹³ 17 CFR 200.30-3(a)(12).