

clearing agency within the meaning of Section 17A(b)(3)(F)<sup>9</sup> of the Act.

Finally, Section 17A(b)(3)(D)<sup>10</sup> of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. 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 17(A)(b)(3)(D),<sup>11</sup> because under the proposed changes all CPs, including those within an affiliate group, remain subject to potential Firm Trades for any given submission, on a randomized basis. For example, in the instance where only one CP within an affiliate group provides an off market submission resulting in a Firm Trade, the notional limit will be the full notional limit amount. The proposed changes provide risk mitigation by limiting the cumulative risk exposure that one institution may be required to hold overnight as a result of a trading desk providing an off-market submission multiple times, for affiliated entities in a CP affiliate group. As such, the proposed changes provide for the equitable allocation of reasonable dues, fees, and other charges among ICC's participants within the meaning of Section 17A(b)(3)(D)<sup>12</sup> of the Act.

#### *B. Self-Regulatory Organization'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 the calculation of single name Firm Trade notional limits apply uniformly across all CPs. ICC has identified an increase in multiple CP memberships per holding company, as holding companies maintain membership as a self-clearing member ("SCM") and as a futures commission merchant ("FCM")/broker-dealer ("BD"). Under the current system, those CPs who maintain multiple memberships may be unduly burdened under ICC's end-of-day process, which was established prior to this membership construct. Such changes will correct this discrepancy. Further, such changes do not improperly overly burden single CPs in furtherance of the purposes of the Act. The notional limits are designed to balance the need to incentivize CPs to provide quality end-of-day submissions with the maintenance of a safe and secure clearing system. Therefore, ICC

does not believe the changes impose 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. 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.

#### **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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2016-007 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-2016-007. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site 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-2016-007 and should be submitted on or before June 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-77770; File No. SR-BATS-2016-16]

### **Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Shares of the Pointbreak Diversified Commodity Strategy Fund of the Pointbreak ETF Trust Under BATS Rule 14.11(i), Managed Fund Shares**

May 5, 2016.

On March 7, 2016, BATS Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade shares of the Pointbreak Diversified Commodity Strategy Fund of the Pointbreak ETF Trust under BATS Rule 14.11(i). The proposed rule change was published for comment in the

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>9</sup> *Id.*

<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

**Federal Register** on March 22, 2016.<sup>3</sup> On April 8, 2016, the Exchange submitted Amendment No. 1 to the proposed rule change, and on April 14, 2016, the Exchange submitted Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,<sup>6</sup> designates June 20, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-BATS-2016-16), as modified by Amendment Nos. 1 and 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77769; File No. SR-ICC-2016-003]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Revise the ICC Operational Risk Management Framework

May 5, 2016.

#### I. Introduction

On March 10, 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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change (SR-ICC-2016-003) to update ICC’s Operational Risk Management Framework. The proposed rule change was published for comment in the **Federal Register** on March 21, 2016.<sup>3</sup> 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

The ICC Operational Risk Management Framework details ICC’s program of risk assessment and oversight, managed by the Operational Risk Manager (“ORM”), which, according to ICC, aims to reduce operational incidents, encourage process and control improvement, bring transparency to operational performance standard monitoring, and fulfill regulatory obligations. ICC proposes organizational changes to its Operational Risk Management Framework related to its operational risk management processes.

ICC will revise the Operational Risk Management Framework to frame its existing operational risk program and processes around an operational risk lifecycle, which according to ICC, is designed to highlight certain aspects of the processes and present the processes in a more efficient manner. The operational risk lifecycle utilized by ICC will have five components: Identify, assess, monitor, mitigate and report. Each of these lifecycle components will be first defined generally in the document then applied to each of ICC’s two operational risk processes: Risk

assessment; and performance objectives setting and monitoring. Specifically, the content for each risk process will be reorganized to fall into each of the operational risk lifecycle components (*i.e.*, identify, assess, monitor, mitigate, and report).

In addition, ICC will add information regarding the ‘assess’ and ‘report’ component of the risk assessment process. Specifically, ICC represents that it will assess each of its risk scenarios to determine the inherent risk rating associated with the occurrence of an event or incident, as well as the effectiveness of any relevant risk controls. Further, in the ‘report’ component, ICC will clarify that the ORM presents operational risk reporting to an internal committee which includes members of senior management. The responsibilities of the ORM, which is currently listed out in the document, will be incorporated into the risk lifecycles. ICC represents that the ORM will continue to provide management and staff with advice and guidance related to the development of controls designed to increase performance and reduce processing risk, as part of the ‘mitigate’ risk lifecycle component. Similarly, the responsibilities of senior management, which is currently listed out in the document, will be incorporated into the risk lifecycles.

ICC will categorize those aspects of the operational risk management program which do not fall within this lifecycle as “Operational Risk Focus Areas.” These risk focus areas include: Business continuity planning and disaster recovery; vendor assessment; new products and initiatives; information security; and technology control functions. ICC will reorganize the order of these risk focus areas to better distinguish which functions may, with oversight by the ORM, be outsourced to Intercontinental Exchange, Inc. (“ICE, Inc.”) or performed by departments dedicated to that particular risk area.

ICC will make several clarifying and organizational enhancements to the various risk focus area descriptions. Further, specific details contained within other ICC policies and procedures will be removed and described more generally within the Operational Risk Management Framework, in an effort to reduce redundancy amongst ICC policies and procedures. ICC will continue to maintain business continuity planning and disaster recovery as two separate programs with separate and distinct components; however, ICC will group the description of these programs together for purposes of the Operational

<sup>3</sup> See Securities Exchange Act Release No. 77379 (March 16, 2016), 81 FR 15387.

<sup>4</sup> Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 is available at <http://www.sec.gov/comments/sr-bats-2016-16/bats201616-1.pdf>. Amendment No. 2 amended the filing. Amendment No. 2 is available at <http://www.sec.gov/comments/sr-bats-2016-16/bats201616-2.pdf>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 34-77413 (March 21, 2016), 81 FR 16245 (March 25, 2016) (SR-ICC-2016-003).