

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

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Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88545; File No. SR-ICC-2020-004]

### **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**

April 2, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on March 30, 2020, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change, security-based swap submission, or advance notice from interested persons.

#### **I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice**

The principal purpose of the proposed rule change is to update and formalize the ICC CDS Instrument On-boarding Policies and Procedures (“Instrument On-boarding Policy”). 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, Security-Based Swap Submission, or Advance Notice**

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.

#### *(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice*

##### **(a) Purpose**

ICC proposes to update and formalize the Instrument On-boarding Policy. ICC believes such changes 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 formalize the Instrument On-boarding Policy following Commission approval of the proposed rule change. The proposed rule change is described in detail as follows.

The Instrument On-boarding Policy provides an overview of ICC's on-boarding process for new instruments, which includes selecting new instruments for clearing, configuring internal systems, notifying and receiving feedback from stakeholders, and ensuring operational readiness by ICC and its Clearing Participants (“CPs”). Specifically, the on-boarding process includes the following components that are described in detail in the document: instrument selection, on-boarding governance, operational setup, risk evaluation, pricing evaluation, and dress rehearsal.

The Instrument On-boarding Policy contains procedures for instrument selection. The document memorializes the guiding principles that ICC maintains for considering instruments for clearing, which contemplate various factors such as instrument open interest and volume, whether instruments can be cleared through existing systems and processes, and industry wide initiatives and protocols. Additionally, the document details how ICC identifies an initial universe of proposed instruments and applies the guiding principles to this universe, including the analysis performed by ICC to identify the specific list of instruments that meet the guiding principles from such universe of proposed instruments.

Further, the Instrument On-boarding Policy documents the governance process that follows the determination that the proposed instruments meet ICC's guiding principles. The Instrument On-boarding Policy sets forth the roles and responsibilities of various stakeholders as part of the on-boarding governance process, including

the role of the ICC Legal Department in determining appropriate governance actions and the role of relevant committees and working groups in reviewing certain analyses. Moreover, proposed instruments are classified into four categories: (1) A new instrument that falls under a previously approved instrument type, such as a previously approved CDS corporate single name instrument type (e.g., North American Corporate Single Names) or a previously approved CDS sovereign single name instrument type (e.g., Emerging Market Sovereign Single Names); (2) a new instrument that falls under a new instrument type that is not considered in the ICC Rules; (3) a new instrument that falls under a new product category (e.g., CDS on indices and CDS on single names) that is not considered in the ICC Rules; and (4) a new instrument that falls out of scope of the standard on-boarding process, relating to, for example, index roll dates and credit events. For each category, the Instrument On-boarding Policy explains the governance process, including notification to and review and approval by relevant stakeholders such as the Board, committees and working groups, and regulators.

The Instrument On-boarding Policy illustrates the operational configuration necessary to allow ICC's clearing, risk management and pricing systems to evaluate and accept transactions, process and net transactions in the proposed instruments and price the proposed instruments. For this operational setup, the document notes a particular product attribute that must be defined, specific lists or documents that are maintained, and certain information that is loaded into ICC's databases and risk systems.

Regarding risk and pricing evaluation, ICC ensures that its risk models adequately capture the risks associated with the new instruments and that the price dynamics of the new instruments are appropriately captured by the end-of-day price discovery process. The Instrument On-boarding Policy describes the performance of back-testing and stress-testing to demonstrate that the risks associated with the proposed instruments 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 CPs. For the pricing evaluation, the Instrument On-boarding Policy further discusses how ICC ensures that its end-of-day price discovery process operates effectively with the proposed instruments.

Before launch, ICC performs a dress rehearsal, lasting at least two weeks,

<sup>16</sup> 17 CFR 200.30-3(a)(12), (59).

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

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

during which the end-of-day price discovery process is executed each business day. During the dress rehearsal, ICC collects price submissions and fine tunes pricing parameters, if required. Once ICC has successfully completed the steps in the on-boarding process and received any required regulatory approvals, the Instrument On-boarding Policy allows ICC to deem an instrument eligible for clearing.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>3</sup> 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; in general, to protect investors and the public interest; and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F)<sup>4</sup>, because the proposed rule change enhances ICC's ability to manage the risk to ICC of new instruments by describing the on-boarding process in detail, including the steps to take prior to clearing new instruments, and by documenting the roles and responsibilities of relevant stakeholders, such as the Board, committees and working groups, and ICC personnel. As discussed above, the Instrument On-boarding Policy details the components of the on-boarding process, such as instrument selection, on-boarding governance, operational setup, risk and pricing evaluation, and dress rehearsal. ICC believes that the formalization of this document augments ICC's ability to assess and manage the risk to ICC of new instruments and avoid disruptions to operations, thereby promoting the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions; the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible; and the protection of investors and the public interest. As such, the proposed rule change is designed to promote the prompt and

accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions; to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible; and, in general, to protect investors and the public interest within the meaning of Section 17A(b)(3)(F) of the Act.<sup>5</sup>

In addition, the proposed rule change is consistent with the relevant requirements of Rule 17Ad-22.<sup>6</sup> Rule 17Ad-22(b)(3)<sup>7</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions. The Instrument On-boarding Policy describes the guiding principles that ICC maintains to ensure that it selects instruments in a prudent manner, considering various factors such as instrument open interest and volume, whether instruments can be cleared through existing systems and processes, and industry wide initiatives and protocols. The document also illustrates the risk and pricing evaluation components of the on-boarding process whereby ICC ensures that its risk models adequately capture the risks associated with new instruments and that the price dynamics of new instruments are appropriately captured by the end-of-day price discovery process. As such, ICC believes that the Instrument On-boarding Policy enhances its ability to manage and assess the risk to ICC of new instruments and avoid disruptions to operations, thereby ensuring that ICC continues to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad-22(b)(3).<sup>8</sup>

Rule 17Ad-22(d)(4)<sup>9</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to, in relevant part, identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures and implement systems that are reliable, resilient and

secure, and have adequate scalable capacity. The Instrument On-boarding Policy discusses the sequence and timing for the introduction of new instruments to ensure that ICC and its CPs are operationally ready and that ICC proceeds in a controlled manner to minimize operational risk. Moreover, the document details the testing and preparation that ICC must complete prior to the launch of new instruments for clearing, such as the dress rehearsal that lasts at least two weeks, during which the end-of-day price discovery process is executed, price submissions are collected, and pricing parameters are fine tuned (if required). ICC believes that such testing and preparation will reduce the likelihood of a disruption in operations from a new instrument and will improve ICC's ability to identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures and implement systems that are reliable, resilient and secure, and have adequate scalable capacity, consistent with the requirements of Rule 17Ad-22(d)(4).<sup>10</sup>

Rule 17Ad-22(d)(8)<sup>11</sup> requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act<sup>12</sup> applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures. The Instrument On-boarding Policy describes the roles and responsibilities of relevant stakeholders, such as the Board, relevant committees and working groups, and ICC personnel. Additionally, the governance process documented in the Instrument On-boarding Policy allows for feedback from, and notification to, relevant stakeholders, including CPs and regulators. These governance arrangements are clear and transparent, such that information relating to the assignment of responsibilities and the requisite involvement of the Board, relevant committees and working groups is clearly documented, and also promote the effectiveness of ICC's risk management procedures by detailing the responsibilities of relevant stakeholders throughout the on-boarding process, consistent with the requirements of Rule 17Ad-22(d)(8).<sup>13</sup>

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 240.17Ad-22.

<sup>7</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>8</sup> *Id.*

<sup>9</sup> 17 CFR 240.17Ad-22(d)(4).

<sup>10</sup> *Id.*

<sup>11</sup> 17 CFR 240.17Ad-22(d)(8).

<sup>12</sup> 15 U.S.C. 78q-1.

<sup>13</sup> 17 CFR 240.17Ad-22(d)(8).

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

<sup>4</sup> *Id.*

*(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 rule change to formalize the Instrument On-boarding Policy 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, Security-Based Swap Submission, or Advance Notice 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, Security-Based Swap Submission, or Advance Notice 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, security-based swap submission, or advance notice 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-2020-004 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-2020-004. 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 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, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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 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 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-2020-004 and should be submitted on or before April 29, 2020.

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

**J. Matthew DesLesDernier,**

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-88542; File No. SR-BOX-2020-04]

**Self-Regulatory Organizations; BOX Exchange LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Amend the Provisions of the Limited Liability Company Agreement and Bylaws To Accommodate the Exchange's Regulation of Multiple Facilities**

April 2, 2020.

On February 4, 2020, BOX Exchange LLC ("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<sup>2</sup> thereunder,<sup>3</sup> a proposed rule change to amend the provisions of the Exchange's limited liability company agreement and bylaws to accommodate the Exchange's potential regulation of multiple facilities. The proposed rule change was published for comment in the **Federal Register** on February 25, 2020.<sup>4</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</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 45th day after publication of the notice for this proposed rule change is April 10, 2020.

The Commission hereby is extending the 45-day time period for Commission action on the proposed rule change. 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, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designates May 25, 2020 as the date by which the Commission shall either

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

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

<sup>3</sup> See Securities Exchange Act Release No. 88236 (February 19, 2020), 85 FR 10765.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

<sup>14</sup> 17 CFR 200.30-3(a)(12).