

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91922; File No. SR-ICC-2021-014)

May 18, 2021

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ICC's Fee Schedules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 7, 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. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ such that the proposed rule change was immediately effective upon filing with the Commission. 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 modify ICC's fee schedules to introduce credit default index swaption ("Index Option") incentive programs for the second half of 2021. These revisions do not require any changes to the ICC Clearing Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

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

(a) Purpose

The proposed changes are intended to modify ICC's fee schedules to introduce Index Option incentive programs for the second half of 2021.⁵ ICC maintains a Clearing Participant ("CP") fee schedule⁶ and client fee schedule⁷ (collectively, the "fee schedules") that are publicly available on its website, which ICC proposes to update in connection with the proposed incentive programs. Currently, clearing fees are due by CPs

⁵ Pursuant to an Index Option, one party (the "Swaption Buyer") has the right (but not the obligation) to cause the other party (the "Swaption Seller") to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Options that may be cleared by ICC, the underlying index credit default swap is limited to certain CDX and iTraxx index credit default swaps that are accepted for clearing by ICC, and which would be automatically cleared by ICC upon exercise of the Index Option by the Swaption Buyer in accordance with its terms.

⁶ CP fee details available at:
https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees_Clearing_Participant.pdf.

⁷ Client fee details available at:
https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf. As specified, all fees are charged directly to a client's CP.

and clients in accordance with the product, amount and currency set out in the fee schedules and subject to any incentive programs described in the fee schedules. ICC proposes to amend the fee schedules to include details on the proposed incentive programs for the second half of 2021, subject to any regulatory review or approval process. The proposed changes are described in detail as follows.

Under the amended CP fee schedule, the proposed 2H 2021 Standard Program automatically, and without further action by CPs, applies to CPs and provides a 25% discount, such that Index Option fees are \$2.25/million or €2.25/million, from June 1 through December 31, 2021. As an alternative, CPs may elect to participate in the 2H 2021 Prepaid Program from June 1 through December 31, 2021. Participation requires a non-refundable upfront payment of \$300,000 by June 25, 2021. Index Option fees are \$1.5/million or €1.5/million and the upfront payment is applied toward the first \$300,000 of option clearing fees due in the second half of 2021.

The amended client fee schedule offers the 2H 2021 Index Option Incentive Program, which is similar to the 2H 2021 Standard Program described above. This program automatically, and without further action by CPs or clients, applies to clients and provides a 25% discount, such that Index Option fees are \$3/million or €3/million, from June 1 through December 31, 2021. The discount or prepaid fee schedule would be applied at the time of invoice under both amended fee schedules.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of the Act, including Section 17A of the Act⁸ and the regulations thereunder applicable to it.

⁸ 15 U.S.C. 78q-1.

More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by ICC under Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder. ICC believes 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 17A(b)(3)(D),¹¹ which requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

ICC believes that the proposed discounts in the fee schedules have been set at an appropriate level. In determining the appropriate discount level and program structure, ICC took into account factors such as volume, revenue, costs and expenses, and market participation in the clearing service, including based on different fee levels. In ICC's view, the fees are reasonable under each proposed incentive program as the discounts correspond with anticipated volumes, costs and expenses, and revenues under each program, and they consider current and past market activity as well as anticipated market activity with respect to clearing Index Options at ICC.¹² Client fees remain higher than CP fees for Index Options under the proposed programs, which is in line with the current fee schedules for single names, indexes, and Index Options, given the responsibilities and

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

¹² Supporting detail and additional data, including clearing statistics for Index Options and a presentation provided to the Board in respect of the proposed incentive programs is included in confidential Exhibit 3.

obligations of CPs to ICC as opposed to clients. Furthermore, the discount for the proposed 2H 2021 Prepaid Program in the CP fee schedule is associated with the non-refundable upfront payment applied toward clearing fees. These incentive programs are designed to encourage the clearing of Index Options by CPs and clients while properly compensating ICC for the risks, costs and expenses of clearing Index Options.

Moreover, the proposed fee changes will apply equally to all market participants clearing Index Options. The 2H 2021 Standard Program under the amended CP fee schedule automatically, and without further action by CPs, applies to all CPs. As an alternative, any CP may elect to participate in the 2H 2021 Prepaid Program, which requires an upfront payment by a specified date. The 2H 2021 Index Option Incentive Program under the amended client fee schedule automatically, and without further action by CPs or clients, applies to all clients. ICC's fee schedules, including the proposed incentive programs, will continue to be transparent and to apply equally to market participants clearing indexes, single names, and Index Options at ICC. Therefore, the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among participants, within the meaning of Section 17A(b)(3)(D) of the Act.¹³ ICC therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act¹⁴ and the regulations thereunder applicable to it

¹³ 15 U.S.C. 78q-1(b)(3)(D).

¹⁴ 15 U.S.C. 78q-1.

and is appropriately filed pursuant to Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f)(2) of Rule 19b-4¹⁶ thereunder.

(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 not necessary or appropriate in furtherance of the purpose of the Act. As discussed above, the proposed changes modify ICC's CP and client fee schedules to introduce incentive programs for Index Options for the second half of 2021 and will apply uniformly across all market participants. The implementation of such changes does not preclude other market participants from offering similar incentive programs. Moreover, ICC does not believe that the amendments would adversely affect the ability of market participants to access clearing services. Accordingly, ICC does not believe the amendments impose any burden on competition not necessary or appropriate in furtherance of the purpose 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

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(2).

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁷ and paragraph (f) of Rule 19b-4¹⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2021-014 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-2021-014. 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

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(2).

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-2021-014 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.¹⁹

J. Matthew DeLesDernier
Assistant Secretary

¹⁹ 17 CFR 200.30-3(a)(12).