

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f-3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f-3 as if it were an open-end investment company.

#### *Early Withdrawal Charges*

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c-3 under the Act permits an interval fund to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. rule 23c-3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase. A Fund will not impose a repurchase fee on investors who purchase and tender their shares.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c-3 to the extent necessary for the Funds to impose EWCs on shares of the Funds

submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to contingent deferred sales loads imposed by open-end investment companies under rule 6c-10 under the Act. Rule 6c-10 permits open-end investment companies to impose contingent deferred sales loads, subject to certain conditions. Applicants note that rule 6c-10 is grounded in policy considerations supporting the employment of contingent deferred sales loads where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c-10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N-1A concerning contingent deferred sales loads.

#### *Asset-Based Distribution and/or Service Fees*

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to the extent necessary to permit the Fund to pay asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in

connection with a Fund's financing the distribution of its shares through asset-based distribution and/or service fees.

For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

#### **Applicants' Condition**

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c-10, 12b-1, 17d-3, 18f-3, 22d-1, and, where applicable, 11a-3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-15430 Filed 7-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-86378; File No. SR-ICC-2019-005]**

### **Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to ICC's Stress Testing Framework**

July 15, 2019.

#### **I. Introduction**

On May 16, 2019, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change (SR–ICC–2019–005) to revise the ICC Stress Testing Framework. The proposed rule change was published in the **Federal Register** on May 24, 2019.<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 proposed rule change would revise the ICC Stress Testing Framework, which describes various stress tests executed by ICC and the governance process surrounding these tests. The proposed changes relate primarily to clarifications, updates, and clean-up changes to the descriptions of stress scenarios and governance throughout the Stress Testing Framework, as well as the removal of a section of the Stress Testing Framework that is no longer relevant.<sup>4</sup>

### A. Overall Clarifications and Updates

To foster clarity and enhance the readability and flow of the Stress Testing Framework, The proposed rule change would reorganize the Stress Testing Framework by moving various concepts and sections throughout the document. For instance, ICC would introduce the cover-2 requirement, including related definitions, earlier in the document. Specifically, the cover-2 requirement introduction will be moved from the Guaranty Fund Sizing Sensitivity Analysis section of the Stress Testing Framework to the Methodology section, which is an earlier section of the Stress Testing Framework. ICC also proposes to introduce the forward looking (hypothetically constructed) scenarios in the Methodology section as well, and to add language describing the forward looking (hypothetically constructed) scenarios, and move two paragraphs on their construction from the Predefined Scenarios section to the Methodology section. ICC also proposes to move the General Wrong Way Risk and Contagion Stress Test section from its current location between the adequacy and sensitivity analysis sections of the Stress Testing Framework to instead follow the Display of Discordant Behavior among Instrument Groups section.

ICC is also proposing changes to terminology throughout the Stress Testing Framework. For instance, it will refer to “reference entity group” as “Risk Factor Groups” (“RFG”) throughout the document and define a Clearing Participant RFG as a Clearing Participant Affiliate Group. Other changes include specifying the reference entities in a RFG for stress testing and the addition of language to further explain the calculation of Loss-Given Default and Expected Loss-Given Default with respect to the forward looking hypothetically constructed scenarios. ICC will also make various grammatical changes.

Other proposed changes relate to clarifying edits, utilization of bulleted lists, and cross-references to more clearly define scenarios and explain concepts throughout the Stress Testing Framework. For example, the proposed rule change would amend the ‘Predefined Scenarios’ section to indicate which scenarios are not expected to be realized as market outcomes and utilize bulleted lists to more clearly define the scenarios corresponding to the Historically Observed Extreme but Plausible Market Scenarios and the Historically Observed Extreme but Plausible Market Scenarios reflecting a baseline credit event. ICC proposes to cross-reference relevant sections when noting information found in those sections and make corresponding changes throughout the document. In describing the Hypothetically Constructed (Forward Looking) Extreme but Plausible Market Scenarios, ICC proposes to specifically refer to “reference entities” as “Single Name Risk Factors;” incorporate language on the associated adverse credit event analysis; and utilize a bulleted list to more clearly define the scenarios corresponding to the Hypothetically Constructed (Forward Looking) Extreme but Plausible Market Scenarios. In discussing the Extreme Model Response Test Scenarios, ICC proposes to add the word “Market” to the phrase “Historically Observed Extreme but Plausible Market scenarios” and to utilize a bulleted list to more clearly define the scenarios corresponding to the Extreme Model Response Test Scenarios. With respect to stress test results, ICC will specify that it considers hypothetical losses on a cover-2 basis and cross-reference a section on the remediation of poor stress testing performance.

ICC also proposes to remove the ‘Correlation Sensitivity Analysis based on Monte Carlo Simulations’ section. Given the transition from a stress-based methodology to a Monte Carlo

simulations-based methodology for certain components of the Initial Margin model, references to the Monte Carlo sensitivity analysis as a stress testing analysis in the Stress Testing Framework are no longer relevant.

### B. Governance Clarifications and Updates

ICC is proposing several clarification and update changes related to the governance section of the Stress Testing Framework by making clarifying changes related to frequency of review and governance roles. Specifically, ICC proposes to clarify the frequency at which stress testing results are reviewed and discussed, as well as the various roles played by management in the governance of the Stress Testing Framework, including the Risk Committee, Chief Risk Officer, Risk Department, Risk Oversight Officer, and Risk Working Group.

## 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.<sup>5</sup> For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>6</sup> and Rules 17Ad–22(b)(3) and 17Ad–22(d)(8) thereunder.<sup>7</sup>

### 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 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; and to comply with the provisions of the Act and the rules and regulations thereunder.<sup>8</sup>

As described above, the proposed changes to the Stress Testing Framework would introduce certain core concepts earlier in the document. The Commission believes that, by introducing ICC’s cover-2 requirement in the Methodology section, which

<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. 34–85938 (May 24, 2019), 84 FR 25310 (May 31, 2019) (SR–ICC–2019–005) (“Notice”).

<sup>4</sup> This description summarizes the description found in the Notice, 84 FR at 25311–25312.

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

<sup>6</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>7</sup> 17 CFR 240.17Ad–22(b)(3) and 17 CFR 240.17Ad–22(d)(8).

<sup>8</sup> 15 U.S.C. 78q–1(b)(3)(F).

would be earlier in the document than its current placement, the proposed rule change would strengthen the documentation surrounding ICC's stress testing methodology by highlighting and emphasizing to the document's users, especially those involved in the daily risk management process, that the methodology's scenarios establish whether available financial resources are sufficient to cover hypothetical losses of the two greatest clearing participant affiliate groups.

Additionally, the proposed rule change updates terminology and makes other clarifying updates. Some examples of changes include: "CP AG" used to reference clearing participants under a common parent, "Lehman Brothers" shortened to "LB", "sum" replaces "total," utilization of a table to list reports associated with stress scenarios, and minor placement and numbering changes to figures in the document. The Commission believes that these clarification updates enhance the readability of the Stress Testing Framework.

Further, as described above, the proposed rule change removes information that is no longer relevant (such as the 'Correlation Sensitivity Analysis based on Monte Carlo Simulations' section) and moves sections around (such as moving the 'General Wrong Way Risk and Contagion Stress Test' ahead of the adequacy and sensitivity analysis sections rather than between these sections). The Commission believes that these revisions enhance the documentation of the Stress Testing Framework by ensuring that it contains only currently relevant information and groups related sections in a non-disruptive manner.

The Commission believes that by enhancing readability and ensuring that the documentation of ICC's Stress Testing Framework remains up-to-date, clear, and transparent, the clarification and clean-up changes described above will promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds within the meaning of Section 17A(b)(3)(F) of the Act.<sup>9</sup>

#### *B. Consistency With Rule 17Ad-22(b)(3)*

Rule 17Ad-22(b)(3) 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 participant families to which it

has the largest exposure in extreme but plausible market conditions.<sup>10</sup>

The Commission believes that the proposed changes to the Stress Testing Framework described above provide further clarity and transparency regarding ICC's stress testing practices by strengthening the documentation surrounding ICC's stress testing methodology through the introduction of the cover-2 concepts earlier in the document, updates to stress testing terminology to maintain uniformity, and providing additional clarity on the reporting of stress testing scenarios.

The Commission further believes that these proposed revisions enhance ICC's approach to identifying potential weaknesses in the risk management system with changes to procedures related to the identification and remediation of poor stress testing performance. Specifically, as described above, the proposed changes more clearly define the scenarios corresponding to the Historically Observed and Hypothetically Constructed Extreme but Plausible Scenarios and, with respect to stress results, specify that it considers hypothetical losses on a cover-2 basis and cross-references a section on remediation of poor stress testing performance. The Commission therefore believes that these proposed changes support ICC's ability 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>11</sup>

#### *C. Consistency With Rule 17Ad-22(d)(8)*

Rule 17Ad-22(d)(8) 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 the clearing agency's risk management procedures.<sup>13</sup>

As described above, the proposed changes clarify the frequency at which stress testing results are reviewed and discussed as well as the actions taken upon identification of poor testing results. Further, the proposed changes describe the involvement of the Chief

Risk Officer, Risk Oversight Officer, Risk Department, Risk Working Group, the Risk Committee, and the Board in addressing poor stress testing results. The Commission believes that by making such clarifications, the proposed changes strengthen the governance arrangements set forth in the Stress Testing Framework by clearly documenting responsibility for the identification and remediation of poor stress testing performance. As such, the Commission believes that these governance arrangements are consistent with the requirements of Rule 17Ad-22(d)(8).<sup>14</sup>

#### **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 Act<sup>15</sup> and Rules 17Ad-22(b)(3) and 17Ad-22(d)(8) thereunder.<sup>16</sup>

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act<sup>17</sup> that the proposed rule change (SR-ICC-2019-005) be, and hereby is, approved.<sup>18</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

#### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #16039 and #16040; OKLAHOMA Disaster Number OK-00131]**

#### **Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oklahoma**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA-4453-DR), dated 07/12/2019.

*Incident:* Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

<sup>14</sup> 17 CFR 240.17Ad-22(d)(8).

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

<sup>16</sup> 17 CFR 240.17Ad-22(b)(3) and 17 CFR 240.17Ad-22(d)(8).

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</sup> 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).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

<sup>10</sup> 17 CFR 240.17Ad-22(b)(3).

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

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

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

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