

proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.¹¹

B. Consistency With Rule 17Ad-22(e)(2)(i)

Rules 17Ad-22(e)(2)(i) requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, provide for governance arrangements that are clear and transparent.¹² As described above, the proposed changes more clearly set out the responsibilities of the Legal Department and include updates with respect to relevant internal individuals and committees involved in the governance process. The Commission believes that by clearly describing the responsibilities of the Legal Department, committees, subcommittees, and their participants as noted above, these proposed changes provide for clear and transparent governance arrangements to those serving on those committees and utilizing the Governance Playbook. For the reasons stated above, the Commission believes the proposed rule changes are consistent with Rules 17Ad-22(e)(2)(i).¹³

C. Consistency With Rule 17Ad-22(e)(23)(v) Under the Act

Rule 17Ad-22(e)(23)(v) under the Act require each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for an update of the public disclosure every two years, or more frequently following changes to the covered clearing agency's system or the environment in which it operates to the extent necessary, to ensure statements previously provided remain accurate in all material respects.¹⁴

As noted above, the proposed changes assign responsibility, reference applicable regulations, and include additional information and procedures regarding maintaining and updating the Disclosure Framework in accordance with relevant regulations. Specifically, the proposed changes would update the process by which the ICC Legal Department will update the public Disclosure Framework every two years or more frequently following material changes to ICC's systems or environment in which it operates, including updates for major decisions of the Board with a broad market impact. The Commission believes that these

aspects of the Governance Playbook provide further clarity regarding ICC's policies and procedures for making a comprehensive public disclosure that is updated every two years or more frequently following material changes.

For these reasons, the Commission believes that the proposed rule change is consistent with Rule 17Ad-22(e)(23)(v) under the Act.¹⁵

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 Act¹⁶ and Rules 17Ad-22(e)(2)(i) and 17Ad-22(e)(23)(v) thereunder.¹⁷

It is therefore ordered pursuant to Section 19(b)(2) of the Act¹⁸ that the proposed rule change (SR-ICC-2022-003), be, and hereby is, approved.¹⁹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-504, OMB Control No. 3235-0561]

Proposed Collection; Comment Request; Extension: Rule 12d3-1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 12d3-1 (17 CFR 270.12d3-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*)

¹⁵ 17 CFR 240.17Ad-22(e)(23)(v).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17Ad-22(e)(2)(i) and (e)(23)(v).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 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).

²⁰ 17 CFR 200.30-3(a)(12).

("Investment Company Act") permits a fund to invest up to five percent of its assets in securities of an issuer deriving more than fifteen percent of its gross revenues from securities-related businesses (subject to certain limitations), notwithstanding the general prohibition in Section 12(d)(3) of the Investment Company Act of a registered investment company ("fund") and companies controlled by the fund purchasing securities issued by a registered investment adviser, broker, dealer, or underwriter ("securities-related businesses").

A fund may, however, rely on an exemption in rule 12d3-1 to acquire securities issued by its subadvisers in circumstances in which the subadviser would have little ability to take advantage of the fund, because it is not in a position to direct the fund's securities purchases. This exemption in rule 12d3-1 is available if: (i) The subadviser is not, and is not an affiliated person of, an investment adviser that provides advice with respect to the portion of the fund that is acquiring the securities; and (ii) the advisory contracts of the subadviser, and any subadviser that is advising the purchasing portion of the fund, prohibit them from consulting with each other concerning securities transactions of the fund, and limit their responsibility in providing advice to providing advice with respect to discrete portions of the fund's portfolio.¹

Rule 12d3-1 requires funds to amend their subadvisory contracts before they can rely on rule 12d3-1's exemption to ensure that the subadviser that engages in the transaction does not influence the fund's investment decision to engage in the transaction.

Based on an analysis of fund filings, Commission staff estimates that approximately 285 funds enter into such new subadvisory agreements each year, and that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 12d3-1. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f-3 (17 CFR 270.10f-3), 17a-10 (17 CFR 270.17a-10), and 17e-1 (17 CFR 270.17e-1), and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 12d3-1 for this contract change

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 17 CFR 240.17Ad-22(e)(2)(i).

¹³ *Id.*

¹⁴ 17 CFR 240.17Ad-22(e)(23)(v).

¹ See 17 CFR 270.270.12d3-1(c)(3).

would be 0.75 hours. Assuming that all 285 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 214 burden hours annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by August 1, 2022.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O John Pezzullo, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: May 25, 2022.

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94983; File No. SR-ICC-2022-004]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Recovery Plan and the ICC Wind-Down Plan

May 25, 2022.

I. Introduction

On April 1, 2022, CE Clear Credit LCC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the ICC Recovery Plan and the ICC Wind-Down Plan (collectively, the "Plans"). The proposed rule change was published for comment in the **Federal Register** on April 14, 2022.³ The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

As a "covered clearing agency,"⁴ ICC is required to, among other things, "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses."⁵ The Commission has previously clarified that it believes that such recovery and wind-down plans are "rules" within the meaning of Exchange Act Section 19(b) and Rule 19b-4 thereunder because such plans would constitute changes to a stated policy, practice, or interpretation of a covered clearing agency.⁶ Accordingly, a covered clearing agency, such as ICC, is required to file its plans for recovery and orderly wind-down with the Commission.⁷

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Recovery Plan and the ICC Wind-Down Plan, Exchange Act Release No. 94650 (Apr. 8, 2022); 87 FR 22276 (Apr. 14, 2022) (File No. SR-ICC-2022-004) ("Notice").

⁴ The term "covered clearing agency" is defined in Rule 17Ad-22(a)(5), 17 CFR 240.17Ad-22(a)(5). ICC became subject to the requirements in Rule 17Ad-22(e) with the amendment to the definition of the term "covered clearing agency." See Definition of "Covered Clearing Agency," Exchange Act Release No. 88616 (Apr. 9, 2020), 85 FR 28853 (May 14, 2020) (File No. S7-23-16).

⁵ 17 CFR 240.17Ad-22(e)(3)(ii).

⁶ Standards for Covered Clearing Agencies, Exchange Act Release No. 78961 (Sep. 28, 2016), 81 FR 70786, 70809 (Oct. 13, 2016) (File No. S7-03-14).

⁷ ICC became a "covered clearing agency" following a change in the definition of the term in Rule 17Ad-22(a)(5). The previous definition of "covered clearing agency" in Rule 17Ad-22(a)(5) stated that "covered clearing agency" means a designated clearing agency or a clearing agency involved in activities with a more complex risk profile for which the Commodity Futures Trading

Recovery and Wind-Down Plans have been in place at ICC for a number of years and approved by the Commission on May 10, 2021 for the first time since becoming a "covered clearing agency" under the definition in Rule 17Ad-22(a)(5).⁸

B. Recovery Plan

The proposed rule change would make general updates to ensure that the information in the Recovery Plan is current and relates to changes that impacted ICC in the past year.⁹ The Recovery Plan would be updated to specify that the information provided is current as of December 31, 2021, unless otherwise stated.

The proposed rule change would make the following updates related to ICC's ownership and operations:

- In Section II.A, add one additional entity to the list of companies owned by ICC's parent.
- In Section IV.A, adds iTraxx Index Swaptions as an example of the Index Swaptions products for which ICC provides clearing services.
- In Section IV.D, updates numbers for ICC's revenues, volumes, and expenses and includes those for Index Swaptions.
- In Section VI.A, updates locations of facilities and personnel headcount and functions.
- In Section X, updates the projected recovery and wind-down costs and regulatory capital.
- In Section XI, updates ICC's and ICE Group's financial statements.
- In Section XIII, updates the percentages held by financial services providers of clearing participant cash and collateral.

The proposed rule change would also revise Section IV.C.1 to reflect (i) the change of the Board size from eleven to nine managers, consistent with the

Commission is not the Supervisory Agency as defined in Section 803(8) of the Payment, Clearing and Settlement Supervision Act of 2010 (12 U.S.C. 5461 *et seq.*). Under this definition, ICC was not a covered clearing agency. Under the revised definition, "covered clearing agency" means a registered clearing agency that provides the services of a central counterparty or central securities depository. Under the revised definition, ICC is a covered clearing agency. See Definition of "Covered Clearing Agency," Exchange Act Release No. 88616 (Apr. 9, 2020), 85 FR 28853, 28854-55 (May 14, 2020) (File No. S7-23-16).

⁸ Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Recovery Plan and the ICC Wind-Down Plan, Exchange Act Release No. 91806 (May 10, 2021), 86 FR 26561 (May 14, 2021) (File No. SR-ICC-2021-005).

⁹ The descriptions of the Recovery and Wind-Down Plans are substantially excerpted from the Notice. Moreover, capitalized terms not otherwise defined herein have the meanings assigned to them in ICC Rules ("Rules") or the Plans.