

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-102504; File No. SR-ICC-2025-002)

February 27, 2025

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Procedures for Identification of Contract Reference Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4,² notice is hereby given that on February 13, 2025, ICE Clear Credit LLC (“ICE Clear Credit” or “ICC”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. 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

ICE Clear Credit proposes revisions to the ICE Clear Credit Rules (the “Rules”) relating to the selection of substitute reference obligations and proposes to adopt a related new set of Procedures for the Identification of Contract Reference Obligations (the “Reference Obligation Procedures” or the “Procedures”) addressing such matters in further detail. The text of the amendments to the new Procedures is attached [SIC] in Exhibit 5A, the text of the amendments to the Rules is attached [SIC] in Exhibit 5B.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used but not defined herein have the meanings specified the Rules and the Procedures.

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

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. 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

ICE Clear Credit is proposing to amend its Rules and adopt new Reference Obligation Procedures to codify and specify in further detail its processes used for selecting substitute Contract Reference Obligations,⁴ including where a Substitution Event has occurred. Under its existing Rules, ICE Clear Credit generally selects a Contract Reference Obligation for each cleared single-name CDS Contract.⁵ As such, the Contract Reference Obligation is relevant for the determination of the “Deliverable Obligations” that will apply to the Contract in the event of a Credit Event with respect to the underlying Reference Entity.⁶ In addition, in certain circumstances as discussed

⁴ As used herein, the term “Contract Reference Obligation” refers to a contract reference obligation specified under the applicable subchapter of the Rules for a particular single-name transaction type (such as a SNAC Contract Reference Obligation), consistent with the definition as used in proposed Rule 20-601.

⁵ The Contract Reference Obligation serves as the “Reference Obligation” as that term is used in the Applicable Credit Derivatives Definitions.

⁶ Specifically, pursuant to the Applicable Credit Derivatives Definitions, it is generally the case that (i) the Contract Reference Obligation will be a Deliverable Obligation, regardless of whether it meets the otherwise applicable Deliverable Obligation criteria, and (ii) in order to be eligible as such, other Deliverable Obligations must not be subordinated in right of payment to the Contract Reference Obligation.

herein (such as following a redemption in full of the Contract Reference Obligation), ICE Clear Credit, in its role as Calculation Agent with respect to the Contract as defined under its existing Rules, will identify a substitute Contract Reference Obligation.

ICE Clear Credit is proposing to adopt a new Rule 20-601, together with the new Procedures, which will clarify its responsibilities when selecting a substitute Contract Reference Obligation. Under the proposed Rule, notwithstanding anything to the contrary in the Rules or Applicable Credit Derivatives Definitions, ICC's role as a Calculation Agent with respect to identifying a Substitute Reference Obligation to replace a Contract Reference Obligation for which a Substitute Event has occurred would be limited to performing the functions set out in the ICE Clear Credit Procedures (which will include the new Reference Obligation Procedures). Rule 20-601 will also define "Contract Reference Obligation" for this purpose to be the applicable contract reference obligation for the relevant transaction type under the Rules (i.e., a SNAC Contract Reference Obligation, STEC Contract Reference Obligation, SES Contract Reference Obligation, STEFC Contract Reference Obligation, SWES Contract Reference Obligation, SAS Contract Reference Obligation, STAC Contract Reference Obligation, STASC Contract Reference Obligation, STASFC Contract Reference Obligation, STEMC Contract Reference Obligation or STSEIC Contract Reference Obligation, as applicable).

The Reference Obligation Procedures would set out in further detail the methodology and process for the identification of Contract Reference Obligations in regard to each Single-Name CDS Contract accepted for clearing by ICC (both as an initial matter and following a Substitution Event). The Reference Obligation Procedures generally would codify ICC's current practices with respect to the selection of Contract

Reference Obligations, which ICC has utilized to fulfill its obligations as Calculation Agent under its existing Rules, but would also include certain enhanced procedures for public consultation that would mark a change from its current practices, as discussed in further detail below. Pursuant to the Procedures, a Contract Reference Obligation would be identified for the Reference Entity for a single name CDS Contract when the contract is first listed for clearing at ICE Clear Credit. ICC would identify a Substitute Reference Obligation when called for under the Applicable Credit Derivatives Definitions in accordance with the new Rule 20-601 and the Procedures.⁷

The Procedures would identify the overall objective in selecting Contract Reference Obligations as seeking to reflect CDS market participants' consensus as to the most appropriately representative obligation of the relevant seniority of the Reference Entity. The Procedures note certain factors that market participants may consider relevant for this purpose, including outstanding principal amount, remaining maturity, liquidity, and availability of public information concerning the obligation. ICE Clear Credit would begin the selection process by using commercially available reference data from a data vendor to identify the most liquid reference obligation used in connection with the trading of CDS on the applicable Reference Entity, frequently known as the "Preferred" reference obligation. ICC would identify a proposed original Contract Reference Obligation based on the current Preferred, if available, or a proposed substitute Contract Reference Obligation based on a change in the Preferred.

⁷ Consistent with current practice, the Reference Obligation Procedures would state that ICC would not select a Contract Reference Obligation for a Reference Entity where "Standard Reference Obligation" or "No Reference Obligation" is indicated on the List of Eligible Reference Entities maintained by ICC.

The Procedures would detail the consultation process that ICC would undertake with Clearing Participants and other market participants to consider whether such a proposed obligation should be used as the Contract Reference Obligation. Consistent with current practice, the proposed Contract Reference Obligations would be shared with and reviewed by ICC's Operations Working Group ("OWG"), which consists of operations personnel from Clearing Participants. The role of the OWG is to review and provide feedback regarding various operational matters including consultation regarding the selection and substitution of Contract Reference Obligations. The OWG typically meets weekly and OWG meeting materials are distributed by ICC's Client Services Department to all OWG members in advance of the meeting date. There is no limit to the number of Clearing Participant operational personnel that can participate in OWG meetings. With respect to the OWG's consultation role regarding Contract Reference Obligations, OWG Members may raise objections to any proposed new or substitute Contract Reference Obligation either at an OWG meeting or by email to ICC any time before the deadline identified by ICC for raising objections to the proposed Contract Reference Obligation (the "Objection Date").

Furthermore, and also consistent with current practice, proposed Contract Reference Obligations would also be shared with and reviewed by ICC's Trading Advisory Group ("TAG"), which consists of trading personnel from Clearing Participants. The role of the TAG is to provide market insight into a variety of trading topics, including consultation regarding the selection and substitution of Contract Reference Obligations. The TAG typically meets weekly and proposed new or substitute Contract Reference Obligations are sent to the members of the TAG in advance of

meetings via email. There is no limit to the number of Clearing Participant trading personnel that can participate in TAG meetings. The TAG members may raise objections regarding the proposed Contract Reference Obligation either at a TAG meeting or by sending an email to ICC prior to the Objection Date. The Procedures would set out the process for OWG or TAG members to make objections.

The Procedures would also add a new process for public consultation, in addition to the above consultations with the OWG and TAG. At the same time of consultation with the OWG and TAG, ICC would publish any proposed original or substitute Contract Reference Obligation on its website and invite market participants to submit any objections. The Procedures also set out the process for making such objections.

The Procedures would also address the manner in which ICC would resolve any objections raised through these consultations and would postpone adopting the proposed original or substitute Contract Reference Obligation until the objections are addressed to its satisfaction. The Procedures would list a series of non-exhaustive steps that ICC may take to resolve the objections as it determines appropriate, recognizing that different steps may be appropriate for different situations or objections. Potential steps would include obtaining additional information from the objector, contacting (or asking the objector to contact) the relevant market data vendor that has identified a Preferred reference obligation regarding the identification and objections raised with respect thereto. Should such consultation with the data vendor result in the data vendor identifying a different Preferred reference obligation, ICC will consider such obligation as an alternative proposed Contract Reference Obligation through the consultation process identified in the Procedures and described above, and any objection raised with respect to an alternative

proposed Contract Reference Obligation would be resolved pursuant to the objections resolution process identified in the Procedures. Furthermore, additional steps ICC may undertake to attempt to resolve an objection include: conducting a legal review of the available proposed Contract Reference Obligation documentation, participating in further discussions with OWG members, TAG members or other market participants, consulting with the CDS Risk Committee, and/or submitting (directly or indirectly) a question to the relevant Credit Derivatives Determinations Committee whether the proposed Contract Reference Obligation is an appropriate Substitute Reference Obligation.

Finally, the Procedures identify certain exceptions to the process described in the Procedures in certain scenarios. In the case of a Succession Event that requires the identification of a new Contract Reference Obligation, ICC will follow the industry agreed timelines for implementing the Succession Event, which may not allow for the normal review process to occur or would require an abbreviated review process. Likewise, if a Contract Reference Obligation is changed in connection with the re-naming of a Reference Entity, the industry timelines may not allow ICC to conduct its regular Contract Reference Obligation review process or may require an abbreviated review process. In addition, the Procedures would not apply to the determination of a Contract Reference Obligation for a new trade resulting from a Restructuring Credit Event (which would be determined in accordance with the Rules).

(b) Statutory Basis

ICE Clear Credit believes that the proposed amendments to the Rules are consistent with the requirements of Section 17A of the Securities Exchange Act of 1934

(the “Act”)⁸ and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act⁹ 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, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed amendments are generally designed to facilitate the prompt and accurate clearance and settlement of securities transactions by codifying and documenting the process of selecting Contract Reference Obligations (both initially upon acceptance of a Contract for clearing and upon a Substitution Event), including the process for consultation with Clearing Participants through the OWG and TAG and the process of addressing objections raised in the consultation process. The amendments thus would provide greater clarity and certainty for Clearing Participants and other market participants as to the process for selection of Contract Reference Obligations, which in turn would provide greater clarity and certainty for Clearing Participants and other market participants as to the terms and conditions of contracts cleared by ICC. The amendments also expand current practices to provide for disclosure of a proposed new Contract Reference Obligation on the ICC website, giving any interested market participant additional opportunity to raise concerns or objections.

Overall, in ICC’s view, the Rule amendments and new Procedures would provide for a transparent and robust process for selection of initial and substitute Contract

⁸ 15 U.S.C. 78q-1.

⁹ 15 U.S.C. 78q-1(b)(3)(F).

Reference Obligations. ICC believes that the Rule amendments and new Procedures will therefore facilitate the accurate clearing of credit default swap contracts, within the meaning of Section 17A(b)(3)(F), while also more clearly defining the role and responsibilities of ICC in the process (as compared to the existing Rules, which address the substance that is intended to guide ICC in determining the selection of a Contract Reference Obligation but which do not address in detail the process for making a Contract Reference Obligation selection). First, the amendments provide a detailed procedure for obtaining and reflecting the views of interested market participants as to the appropriate Contract Reference Obligation. Second, by starting with a Preferred obligation used in the credit default swap market generally (including both index and single name products), the Procedures are designed to avoid creating unnecessary differences between cleared and uncleared credit default swap contracts involving the same reference entity, and thereby avoid fragmentation of the CDS market. Third, the existing consultation process, as codified by the Procedures, provides additional certainty that ICC has selected an appropriately representative Contract Reference Obligation, reflective of market expectations, by soliciting any potential objections to a Contract Reference Obligation from both operational and trading personnel of its Clearing Participants. ICC believes that these personnel are well positioned to judge the appropriateness of Contract Reference Obligations and provide feedback to ICC. Fourth, the Procedures would adopt a new, further step of soliciting feedback from any interested market participant (whether or not a Clearing Participant) through publication of the proposed Contract Reference Obligation on ICC's website (and allowing market participants to register objections). The Procedures address steps that ICC may take to

resolve any objections raised in these steps with respect to a proposed Contract Reference Obligation. In sum, ICC believes that the amended Rule and Procedures will provide clarity for Clearing Participants (and other market participants) as to the process for selecting Contract Reference Obligations, the role of ICC in that process, and the opportunities for each such participant to influence the process if they have a view as to the appropriate Contract Reference Obligation. In ICC's view, the Procedures are unlikely to impose significant additional costs or burdens on ICC itself or its Clearing Participants or other market participants, or to result in undue delay in selecting a Contract Reference Obligation. ICC has determined that the Procedures will thus enhance its ability to select appropriate Contract Reference Obligations, consistent with the Rules and the reasonable expectations and interests of market participants and other stakeholders. As a result, the amendments would promote the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts and transactions, and generally promote the protection of investors and the public interest in the operation of clearing services, within the meaning of Section 17A(b)(3)(F) of the Act.¹⁰ (ICC does not believe the amendments would affect the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, within the meaning of Section 17A(b)(3)(F).)

The amendments are also consistent with relevant provisions of Rule 17Ad-22. Rule 17Ad-22(e)(2) provides that “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [...] [p]rovide for governance arrangements that are [c]lear and

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

transparent”¹¹ and “consider the interests of participants’ customers . . . and other relevant stakeholders of the covered clearing agency”.¹² The Rules, as proposed to be revised, and new Procedures would enhance the transparency of the process for selecting Contract Reference Obligations, through codifying current practices and by providing for public consultation (and opportunity for objection) with respect to proposed new Contract Reference Obligations. The revised consultation process would also enhance ICC’s ability to consider the views of relevant stakeholders with respect to Contract Reference Obligation selection. In ICE Clear Credit’s view, the amendments to the Rules are therefore consistent with the requirements of Rule 17Ad-22(e)(2).¹³

Rule 17Ad-22(e)(21) requires that a clearing agency “be efficient and effective in meeting the requirements of its participants and the markets it serves.”¹⁴ The amendments are intended to document the process for identifying Contract Reference Obligations, including the process for consultation with Clearing Participants and other market participants and the process for addressing objections to proposed Contract Reference Obligations. The amendments will also provide an enhanced process for seeking market feedback, through public notice on its website. As such, the amendments are, in ICE Clear Credit’s view, consistent with meeting the requirements of its participants and the markets it serves in an efficient and effective way and will therefore facilitate compliance with Rule 17Ad-22(e)(21).¹⁵

¹¹ 17 CFR 240.17ad-22(e)(2)(i).

¹² 17 CFR 240.17ad-22(e)(2)(vi).

¹³ 17 CFR 240.17ad-22(e)(2).

¹⁴ 17 CFR 240.17ad-22(e)(21)(iii).

¹⁵ 17 CFR 240.17ad-22(e)(21).

Rule 17Ad-25(j) requires a clearing agency to have “written policies and procedures reasonably designed to require the board of directors to solicit, consider and document its consideration of the views of participants and other relevant stakeholders of the . . . clearing agency regarding material developments in its risk management and operations on a recurring basis.”¹⁶ The amended Rule and Procedures are consistent with this requirement. The Board, after consulting with the Risk Committee, has determined to adopt these amendments to facilitate ICC’s ability to consider the views of participants and other relevant stakeholders. As noted above, the Procedures provide for solicitation of views regarding changes to Contract Reference Obligations from Clearing Participants, through both the TAG and OWG. Furthermore, the Procedures provide for consideration of views of market participants generally, as proposed Contract Reference Obligations will be posted on the ICC website to permit market participants to raise any objections.

(B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Credit does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to update and clarify the Rules and adopt the new Procedures in relation to the selection of Contract Reference Obligations. As set forth above, the proposed amendments will generally codify existing practices relating to the selection of Contract Reference Obligations and will provide for additional public consultation with market participants. The amendments will not otherwise affect the terms of cleared Contracts. Accordingly, ICE Clear Credit does not

¹⁶ 17 CFR 240.17ad-25(j).

believe the amendments would affect the rights and obligations of Clearing Participants or other market participants clearing transactions through ICC, or affect the costs of clearing, the ability of market participants to access clearing, or the market for clearing services generally. Therefore, ICE Clear Credit 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 Received from Members, Participants or Others*

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Credit. ICE Clear Credit will notify the Commission of any comments received with respect to the proposed rule change.

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 (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICC-2025-002 on the subject line.

Paper Comments:

Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-ICC-2025-002. 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 Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). 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 am and 3 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>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-ICC-2025-002 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

¹⁷ 17 CFR 200.30-3(a)(12).