

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-101196; File No. SR-ICC-2024-008)

September 26, 2024

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change  
Relating to the ICC Back-Testing Framework

I. Introduction

On July 30, 2024, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its Back-Testing Framework (“BTF”).<sup>3</sup> The proposed rule change was published for comment in the Federal Register on August 23, 2024.<sup>4</sup> The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

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

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

<sup>3</sup> ICC’s Back-Testing Framework summarizes its formal statistical approach to determining whether its Value-at-Risk (VaR) model can reliably forecast risk.

<sup>4</sup> Securities Exchange Act Release No. 100679 (Aug. 8, 2024), 89 FR 66154 (Aug. 14, 2024) (File No. SR-ICC-2024-008) (“Notice of Filing”).

## II. Description of the Proposed Rule Change

### A. Background

ICC is registered with the Commission as a clearing agency for the purpose of clearing Credit Default Swap (“CDS”) contracts.<sup>5</sup> In addition to clearing CDS contracts, ICC also clears options to purchase index CDS contracts, which are also known as “Index Swaptions.”

As noted above, the proposed rule change would amend ICC’s BTF. The BTF describes how ICC conducts back-testing and how ICC remediates poor back-testing results. The proposed rule change would amend ICC’s BTF to (1) better describe how ICC treats its back-testing Index Swaption positions that expire in-the-money and within the margin period of risk (“MPOR”),<sup>6</sup> and (2) make other updates and clarifications.

### B. Index Swaption Positions

ICC’s proposed rule change would revise Subsection 2.4 (“Detailed Daily-Portfolio Back-Testing Results”) of the BTF to (1) add a description of ICC’s treatment of expiring in-the-money and within-the-MPOR Index Swaption positions, and (2) add an illustrative example in the form of a new Table 5.

#### 1. Subsection 2.4: Description of Expiring In-the-Money Index Swaption Positions

The proposed rule change would revise Subsection 2.4 to explain how ICC treats its back-testing Index Swaption positions that expire in-the-money and within the MPOR. ICC proposes that when a particular portfolio contains Index Swaption positions that expire within

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<sup>5</sup> Capitalized terms not otherwise defined herein have the meanings assigned to them in ICC’s BTF or Clearing Rules, as applicable.

<sup>6</sup> “Margin-period-of-risk or ‘MPOR’ is a maturity factor that is applied to reflect the length of exposure period *over* which the defaulted portfolio is exposed to changes in value.” Securities Exchange Act Release No. 100008 (Apr. 22, 2024), 89 FR 32496 (Apr. 26, 2024) (File No. SR-ICC-2024-003) (“Notice of Filing”).

the MPOR, ICC would replace the Mark-to-Market (“MTM”) values of the expired option positions with the corresponding Intrinsic Values (“IV”). In doing so, ICC would use the end-of-day (“EOD”) prices as of the given day that ICC is back-testing.

In carrying out this process, ICC would use the following assumptions, as noted in the revised Subsection 2.4:<sup>7</sup>

- i. The IV is positive for a bought option position and negative for a sold option position that is in-the-money.
- ii. The option position with positive IV results in an option exercise on the expiration date and reflects the positive value to the option holder buying/selling the underlying index position at the fixed strike price and selling/buying the underlying index position at the EOD-price for a profit.
- iii. The sold option position, with negative IV, results in the assignment of an underlying index position to the seller of the option on the expiration date.
- iv. The assigned underlying index position could be bought or sold protection depending on the type of sold option instrument.
- v. The unrealized P/L for the exercised/assigned option positions are computed against the underlying MTM value for all days after the CDS index option’s expiration date.

## 2. Addition of Table 5 to Subsection 2.4

The proposed rule change also would add to Subsection 2.4 a new Table 5, entitled “Minimum 5-Day P/L Detail for Expiring Options Positions.” Table 5 would provide an

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<sup>7</sup> Currently, the BTF assigns a standardized P/L value of \$0.00 to such positions.

illustrative example of the back-testing computation described in the BTF and the unrealized profit / loss (“P/L”) for an in-the-money Index Swaption position that expires within the MPOR.

### C. Other Additions and Revisions to Table 3, Table 4, and Section 6

In addition to the changes related to Index Swaption positions, the proposed rule change also would make updates and clarifications to other sections of the BTF. The proposed rule change would change references from “P&L” in Table 3 and Table 4 to “P/L” to consistently refer to “profit or loss” throughout the BTF. Moreover, the proposed rule change would update Section 6, “Revision History,” to reflect the revisions proposed herein. Finally, the proposed rule change would add a new footnote 1 in Subsection 1.1. This footnote would explain that the term “Net Asset Value” is also referred to and is equivalent to “Mark-to-Market,” as used in the BTF.

### 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>8</sup> Under the Commission’s Rules of Practice, the “burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization [(“SRO”)] that proposed the rule change.”<sup>9</sup>

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements, must all be sufficiently detailed

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<sup>8</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>9</sup> Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

and specific to support an affirmative Commission finding,<sup>10</sup> and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.<sup>11</sup> Moreover, “unquestioning reliance” on an SRO’s representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.<sup>12</sup>

After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to ICC. 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>13</sup> and Rule 17Ad-22(e)(6)(vi)(A).<sup>14</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 ICC be designed, to promote the prompt and accurate clearance and settlement of securities transactions.<sup>15</sup>

As noted above, the proposed rule change primarily would add to the BTF description of how ICC back-tests Index Swaptions positions that expire in-the-money within the MPOR. The

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

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

<sup>12</sup> *Susquehanna Int’l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017) (“*Susquehanna*”).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(6)(vi)(A).

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

proposed rule change also would ensure the consistent use of the term “P/L” and explain the equivalence of the terms “Net Asset Value” and “Mark-to-Market.”

The enhanced description of ICC’s approach to back-testing Index Swaptions positions that expire in-the-money within the MPOR would strengthen ICC’s back-testing by making the results a more accurate representation of potential P/L for such positions. Under the BTF as revised, ICC would calculate P/L for such positions, using the assumptions and process described above, rather than just assuming zero value for all as per the current practice.

Consistent use of the term “P/L” and establishing the equivalence of the terms “Net Asset Value” and “Mark-to-Market” would also strengthen ICC’s back-testing. The changes would help ensure the consistent and clear operation of the BTF by eliminating any potential confusion among the use of these terms. This should, in turn, help support the accuracy and reliability of ICC’s back-testing.

Thus, the proposed rule change would help ensure that ICC continues to reliably forecast risk and that its back-testing accurately verifies that the number of actual, observed losses is consistent with the number of projected losses. Because ICC uses back-testing to forecast and manage the risk associated with clearing Index Swaption transactions, these improvements to the BTF should help ICC avoid losses that could result from the mismanagement of such risk. Because such losses could disrupt ICC’s ability to operate and thus clear and settle transactions, the Commission finds the proposed rule change would promote the prompt and accurate clearance and settlement of securities and derivative transactions.

Therefore, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.<sup>16</sup>

B. Consistency with Rule 17Ad-22(e)(6)(vi)(A) of the Act

Rule 17Ad-22(e)(6)(vi)(A) requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by conducting backtests of its margin model at least once each day using standard predetermined parameters and assumptions.<sup>17</sup>

The proposed changes described above will enhance ICC's risk-based margin system by enhancing ICC's ability to calculate P/L more precisely for back-testing by factoring in accurate P/L values of ITM Index Swaption positions. This enhancement, along with the other changes detailed herein, will ensure that the predetermined parameters and assumptions (here, the BTF) that ICC management relies upon to regularly review, test, and verify its margin requirements are more accurate than the previous iteration of ICC's risk-based margin system.

Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(6)(vi)(A).<sup>18</sup>

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<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(6)(vi)(A).

<sup>18</sup> 17 CFR 240.17Ad-22(e)(6)(vi)(A).

#### IV. Conclusion

Based on the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and with the requirements of Section 17A(b)(3)(F) of the Act<sup>19</sup> and Rule 17Ad-22(e)(6)(vi)(A).<sup>20</sup>

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act<sup>21</sup> that the proposed rule change (SR-ICC-2024-008), be, and hereby is, approved.<sup>22</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Vanessa A. Countryman,**  
*Secretary.*

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<sup>19</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>20</sup> 17 CFR 240.17Ad-22(e)(6)(vi)(A).

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</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>23</sup> 17 CFR 200.30-3(a)(12).