

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101489; File No. SR-ICC-2024-012)

October 31, 2024

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC End-of-Day Price Discovery Policies and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 21, 2024, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been primarily prepared 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

The principal purpose of the proposed rule change is to revise the End-of-Day Price Discovery Policies and Procedures (“EOD Procedures”). These revisions do not require any changes to the ICC Clearing Rules (the “Rules”).

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes to revise the EOD Procedures, which sets out ICC's end-of-day ("EOD") price discovery process that provides prices for cleared contracts using submissions made by Clearing Participants ("CPs"). ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed amendments are described in detail as follows.

The primary purpose of the proposed revisions is to address Commodity Futures Trading Commission ("CFTC") exam findings. As requested for clarification purposes by the CFTC, the proposed changes highlight that the meaning of the term 'Most-Actively-Traded-Instrument' ("MATI") is context-dependent. As MATI is defined to refer to the most-liquid instrument in a specified group of instruments, application of MATI is context-dependent on the specific group of instruments under review.

In order to clarify the meaning of MATI the proposed revisions provide examples of the meaning of MATI when used in the context of different groups of instruments defined as: (i) index risk factors,³ (ii) single name risk factors⁴ and (iii) single name risk

³ Index risk factor is defined in Section 1.2.1.a. of the EOD Procedures as a group of clearable CDS index instruments sharing the same index or sub-index (e.g., CDX.NA.IG), but having any combination of series, version and scheduled termination date (i.e., tenor).

⁴ Single name risk factor is defined in Section 1.2.1.b. of the EOD Procedures as the group of clearable single name CDS instruments sharing the same reference entity but having any combination of currency of denomination, reference obligation debt tier, restructuring clause, coupon and scheduled termination date.

sub-factors.⁵ The proposed examples illustrate the most common contexts for the use of the term MATI throughout the EOD Procedures. Specifically, ICC proposes to revise Section 1.2.3., in which the term MATI is defined, to include the following examples of the application of the term MATI to different groups of instruments. In the context of index risk factors, the proposed revisions provide that the MATI for this category typically is the contract (i) with a scheduled termination date corresponding to the 5-year “tenor” and (ii) being the most recent series and version of the applicable cleared credit default swap (“CDS”) index instrument. In the context of single name risk factors, the proposed revisions provide an example of the MATI for a Standard North American Corporate single name risk factor (which is an example of a single name risk factor) which typically is the contract (i) with a scheduled termination date corresponding to the 5-year “tenor,” (ii) having US Dollar as the currency of denomination, (iii) having a coupon of 100 basis points, (iv) referencing deliverable obligations having a senior debt tier, and (v) having ‘XR14’⁶ restructuring clause. In the context of single name risk sub-factor, proposed revisions provide the example of the MATI which is the most actively traded coupon and scheduled termination date in the group of single name instruments sharing the same reference entity, currency of denomination, reference entity debt tier and restructuring clause. In addition, ICC proposes to add a second example of the MATI in the context of a specific coupon within a single name risk sub-factor, which is the most actively traded schedule termination date (i.e., tenor) in the group of single

⁵ Single name sub-risk factor is defined in Section 1.2.1.b. of the EOD Procedures as a group of clearable single name CDS instruments sharing the same reference entity, currency of denomination, reference obligation debt tier, but having any combination of coupon and scheduled termination date.

⁶ Under applicable ISDA Credit Derivatives Definitions, ‘XR14’ references no restructuring under the 2014 ISDA Definitions.

name instruments sharing the same reference entity, currency of denomination, reference entity debt tier, restructuring clause and coupon.

In addition, ICC proposes additional clarifying revisions to Section 1.2.3. of the EOD Procedures to clarify that the term Most Actively Traded Coupon (“MATC”) refers to the coupon of the MATI for a single name risk factor, or single name risk sub-factor, depending on the stated context.

ICC believes its proposed revisions to describe the use of the terms MATI and MATC provides a clearer, more robust context to the information presented in the EOD Procedures. Also, ICC proposes to revise Section 5, Table 12 ‘Glossary of Commonly Used Terms’, to align with the revised terms presented earlier in the EOD Procedures.

Furthermore, ICC proposes revisions to Sections 2.1.2. of the EOD Procedures to clarify the definition and use of consensus bid-offer widths (“BOW”). As background, BOWs are estimates of the bid-offer widths for the two-way market available for each clearing-eligible instrument at a specific time on each business day.⁷ ICC proposes to clarify in Section 2.1.2. to describe consensus BOW as the estimate of the prevailing market BOW during a given period. In addition, such revisions clarify that ICC determines a consensus BOW for each on-the-run index and for all single name benchmark-instruments at the appropriate EOD BOW execution time. ICC also proposes to add further detail to Section 2.1.2. with respect to ICC’s estimates of consensus BOWs to add that such estimations are performed with respect to each index risk factor MATI. Also, with respect to consensus BOWs for single name instruments, ICC proposes to add

⁷ Section 2.1 of the EOD Procedures.

additional detail to Section 2.1.2. to clarify that ICC estimates a consensus BOW from Clearing Participant submitted mid-prices for all single name benchmark-instruments.

In addition, ICC proposes to revise Section 2.1.4. of the EOD Procedures to more accurately describe the calculation of EOD BOWs, which is the BOW calculated for each clearing-eligible instrument at the applicable end of the clearing day. Specifically, ICC proposes to revise Section 2.1.4.a. to clarify that the reference to consensus BOW means such consensus BOW established of the instrument for which the EOD BOW is being calculated. Furthermore, ICC proposes to revise Section 2.1.4.b. which describes the process for calculating EOD BOWs for single name instruments. Such proposed revisions are intended to improve clarity and readability. In the description of the factors ICC applies to each consensus BOW, the proposes revisions clarify that such list of factors includes observed intraday price variability. Also, the proposed revisions add the description that the benchmark-instrument BOW resulting after applying the listed factors to the benchmark-instrument consensus BOW is referred to in the EOD Procedures as the benchmark-instrument ‘systematic’ BOW. Further, ICC proposes to add details related to ICC’s determination of the systematic BOW for each benchmark-instrument for non-MATC coupons to clarify that ICC’s calculation involves use of the benchmark-instrument consensus BOW established for non-MATC benchmark-instruments belonging to the given single name risk sub-factor. The proposed amendments also modify the titles in Table 2, Table 4, and Table 6, which present very similar information, to clarify their distinct uses. ICC proposes to (i) modify the title of Table 2 to indicate the presented data is for the purpose of determining the variability band for each market proxy group, (ii) modify the title of Table 4 to indicate the presented data is for the

purpose of selecting which market proxy group's variability band to apply to each index risk factor, and (iii) modify the title of Table 6 to indicate the presented data is for the purpose of selecting which market-proxy groups' variability band to apply to the benchmark-instruments associated with each given single name risk factor. Furthermore, ICC proposes to revise the content of Table 4 to remove obsolete references to the CDX-NAIGHVOL and iTraxx HiVol index risk factors as those index types are no longer clearing eligible at ICC. Also, ICC proposes to update the content of Table 6 to clarify that both the Standard Latin American and Standard Australia single name risk factors includes not only sovereign single instruments, but also corporate instruments, to more accurately reflect the single name risk factors currently cleared at ICC.

Finally, ICC purposes to revise Section 2.5. of the EOD Procedures to revise the instruments for which ICC publishes daily EOD prices on the Intercontinental Exchange, Inc. ("ICE, Inc.") website. This proposed change is to address a CFTC exam finding related to publication of CDS index instrument daily settlement prices. ICC currently publishes EOD prices for a subset of cleared index instruments to the website, but proposes to revise this practice to instead publish EOD prices for every clearing eligible index instrument as required by the CFTC. Furthermore, ICC proposes to revise Section 2.5. to clarify the description of the single name instruments for which it publishes daily EOD prices on the website. Section 2.5. currently states that ICC publishes prices for every listed risk sub-factor, and ICC proposes to clarify this description to state that for every single name risk sub-factor, ICC publishes the price of all MATI for each clearable coupon, which is a more accurate description of the daily single name settlement prices ICC publishes on the ICE, Inc. website. ICC believes the proposed daily publication of

settlement prices for all clearing eligible index instruments will improve pricing transparency to market participants and the public.

ICC also proposes a number of other drafting clarifications and conforming changes to the EOD Procedures, such as updating the use of relevant defined terms, section cross-references and other non-substantive drafting improvements. The amendments would also update the revision history section to the EOD Procedures.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁸ and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.⁹ In particular, Section 17A(b)(3)(F) of the Act¹⁰ requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. ICC believes that the proposed amendments promote its ability to maintain the effectiveness and integrity of its EOD price discovery process. The clarifications to the MATI, MATC and BOW further ensure that the EOD Procedures remain effective, clear, and up-to-date to support the effectiveness of ICC's EOD price discovery process. The proposed rule change is therefore consistent with the prompt and accurate clearing and settlement of the contracts cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and

⁸ 15 U.S.C. 78q-1.

⁹ 17 CFR 240.17ad-22.

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.¹¹

The amendments would also satisfy relevant requirements of Rule 17Ad-22.¹² Rule 17Ad-22(e)(2)(i) and (v)¹³ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The EOD Procedures continue to subject the ICC EOD price discovery process to a governance and oversight structure that promotes transparency and accountability and clearly assigns and documents responsibility for relevant actions and decisions. ICC believes that the proposed changes would promote transparency in ICC's price discovery process by providing additional clarity and transparency in ICC's EOD price discovery process by clarifying and defining the use of MATI, MATC and consensus BOW. As such, the proposed revisions continue to ensure that ICC maintains policies and procedures that are reasonably designed to provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility, consistent with the requirements of Rule 17Ad-22(e)(2)(i) and (v).¹⁴

Rule 17Ad-22(e)(3)(i)¹⁵ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing

¹¹ Id.

¹² 17 CFR 240.17ad-22.

¹³ 17 CFR 240.17ad-22(e)(2)(i) and (v).

¹⁴ Id.

¹⁵ 17 CFR 240.17ad-22(e)(3)(i).

legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually. ICC maintains a sound risk management framework that identifies, measures, monitors, and manages the range of risks that it faces. The EOD Procedures is a key aspect of ICC's risk management approach, which continues to be subject to review on a specified periodic basis and approved by the Board annually. The proposed amendments provide for additional clarity regarding the calculation of EOD prices, and the expansion of the daily publication of EOD prices. In ICC's view, such changes would promote transparency in ICC's price discovery process and thus enhance implementation of the EOD Procedures. The proposed changes would thus strengthen ICC's ability to manage risk associated with its price discovery process, and ICC's risk management more generally as ICC uses the resulting EOD prices for risk management purposes, and ICC would continue to derive reliable, market-driven prices from its price discovery process. As such, the amendments would satisfy the requirements of Rule 17Ad-22(e)(3)(i).¹⁶

(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. The proposed changes to the EOD Procedures will apply uniformly across all market participants. Therefore, ICC does not believe the

¹⁶ Id.

amendments would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) *Clearing Agency's Statement on Comments on the Proposed Rule 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*

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 email to rule-comments@sec.gov. Please include file number SR-ICC-2024-012 on the subject line.

Paper Comments:

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-ICC-2024-012. This file number should be included on the subject line if email 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.ice.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-2024-012 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

Vanessa A. Countryman,
Secretary.

¹⁷ 17 CFR 200.30-3(a)(12).