

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101970; File No. SR-ICC-2024-012)

December 19, 2024

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

I. Introduction

On October 21, 2024, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (the “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 revise ICC’s End-of-Day Price Discovery Policies and Procedures.³ The proposed rule change was published for comment in the Federal Register on November 6, 2024.⁴ 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

ICC is registered with the Commission as a clearing agency for the purpose of clearing Credit Default Swap (“CDS”) contracts.⁵ ICC’s EOD Procedures set out ICC’s end-of-day (“EOD”) price discovery process, which provides prices for cleared contracts using submissions made by Clearing Participants. ICC uses its EOD price discovery process to provide market-

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 in the End-of-Day Price Discovery Policies and Procedures (“EOD Procedures”) as applicable.

⁴ Securities Exchange Act Release No. 101489 (Oct. 31, 2024), 89 FR 88094 (Nov. 6, 2024) (File No. SR-ICC-2024-012) (“Notice”).

⁵ Capitalized terms not otherwise defined herein have the meanings assigned to them in EOD Procedures, as applicable.

driven prices for cleared CDS instruments and cleared derivatives of CDS instruments. ICC uses the resulting EOD prices for risk management purposes and distributes them to Clearing Participants and their clients. ICC also publishes a subset of EOD prices on its public website.

ICC proposes to revise the EOD Procedures. The primary purpose of the proposed revisions is to address Commodity Futures Trading Commission (“CFTC”) exam findings.⁶ The proposed revisions clarify the meanings of certain terms used in the EOD Procedures, specifically Most-Actively-Traded-Instrument; Most-Actively-Traded-Coupon; and bid-offer widths. The proposed changes also make other miscellaneous updates to the EOD Procedures.

B. Most-Actively-Traded-Instrument

The term Most-Actively-Traded-Instrument (“MATI”) is used by ICC throughout the EOD Procedures to refer to the most-liquid instrument in a specified group of instruments. Because the most-liquid instrument in a given group of instruments will depend on the specific group of instruments at issue, the MATI varies. Currently, Section 1.2.3 of the EOD Procedures, titled Most-Actively-Traded Instrument, defines the term MATI as “the most-liquid instrument in the group of instruments” and specifies the typical MATI for index risk sub factors and corporate single name risk sub factors. To highlight the context-dependent nature of the term MATI, the proposed rule change would modify the definition of MATI and provide examples of a typical MATI for a given risk factor rather than identifying a specific MATI. The proposed examples would illustrate the specific contexts in which the term MATI is most commonly used.

Specifically, ICC would strike a statement that the term MATI is “defined” as “the most-liquid instrument in the group of instruments” and replace it with a statement that ICC uses the term MATI “to refer to the most-liquid instrument in a specified group of instruments.”

⁶ Notice, 89 FR 88095.

Similarly, with regard to the specific contexts in which the term MATI is most commonly used, the proposed rule change would strike two statements describing the “typical” MATI for “index risk sub factors” and “investment grade North American and European corporate [single name] risk sub factors.” The statement regarding index risk sub factors would be replaced with an example of the MATI for “an index risk factor,” which typically is the contract with a scheduled termination date corresponding to the 5-year “tenor” and being the most recent series and version of the applicable cleared CDS index instrument. The current statement regarding single name risk factors would be replaced with an example of the MATI for a single name risk factor “for investment grade North American corporate SN risk factors,” which typically is the contract with a scheduled termination date corresponding to the 5-year “tenor,” having U.S. Dollar as the currency of denomination, having a coupon of 100 basis points, referencing deliverable obligations having a senior debt tier, and having an “XR14” restructuring clause.⁷

The examples in subsection 1.2.3 would further be expanded to include examples of the MATI for “a SN risk sub-factor and the MATI for “a specific coupon within a SN risk sub-factor,” which typically would be 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, and the most actively traded schedule termination date (*i.e.*, tenor) in the group of single name instruments sharing the same reference entity, currency of denomination, reference entity debt tier, restructuring clause, and coupon, respectively.

C. Most Actively Traded Coupon

⁷ Under applicable ISDA Credit Derivatives Definitions, ‘XR14’ references no restructuring under the 2014 ISDA Definitions.

Subsection 1.2.3 also currently defines the term Most-Actively-Traded Coupon (“MATC”) as the coupon associated with a single name risk sub factor’s MATI. ICC proposes additional clarifying revisions to this provision of subsection 1.2.3. Specifically, the current statement that “ICC further defines the coupon associated with a SN risk sub-factor’s MATI as the most-actively traded coupon (“MATC”) for that risk sub-factor” would be replaced with a statement that “ICC uses the term” MATC to refer to the coupon of the MATI for a SN risk factor, or SN risk sub-factor, depending on the stated context.

D. Bid-Offer Widths

Section 2 of the EOD Procedures addresses ICC’s methodology for producing EOD prices. ICC is proposing to make changes to clarify the use of bid-offer widths (“BOW”) in Section 2 of the EOD Procedures.

ICC proposes revisions to subsection 2.1.2, which addresses consensus BOWs, to clarify the definition and use of consensus BOWs. 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. ICC proposes to amend subsection 2.1.2 to describe a consensus BOW as the estimate of the prevailing market BOW during a given period. The revisions would further 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 subsection 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. With respect to consensus BOWs for single name instruments, ICC proposes to add additional detail to subsection 2.1.2 to clarify that ICC estimates a consensus BOW from Clearing Participant-submitted mid-prices for all single name benchmark-instruments.

ICC proposes to revise subsection 2.1.4, which covers EOD BOWs, to describe the calculation of EOD BOWs more accurately. The EOD BOW is the BOW calculated for each clearing-eligible instrument at the applicable end of the clearing day. ICC calculates the EOD BOW by first determining a consensus BOW for an instrument.

Subsection 2.1.4.a describes how ICC determines EOD BOWs for index instruments. Section 2.1.4.a currently includes a statement that “ICC compares the consensus BOW to the three predefined BOWs.” The proposed rule change would revise that statement to clarify that “ICC compares the consensus BOW established for that instrument to the three predefined BOWs.”

ICC also proposes to revise subsection 2.1.4.b, which describes the process for calculating EOD BOWs for single name instruments. In the description of the factors ICC applies to each consensus BOW, the proposed revisions clarify that such list of factors includes observed intraday price variability. The proposed revisions also add a statement 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. Finally, ICC proposes to add to subsection 2.1.4.b details related to ICC’s determination of the systematic BOW for each benchmark instrument for non-MATC coupons. These proposed changes 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.

E. Other Updates

Within Section 2, ICC proposes to amend subsection 2.1.3 and 2.1.4, which covers variability bands and EOD BOWs respectively. The proposed amendments modify the titles of

Table 2, Table 4, and Table 6, and clarify the uses of the tables. The titles of Table 2 and Table 4 are currently “Assignment of Index Risk Factors to Market Proxy Groups.” ICC proposes to expand the title of Table 2 to include a statement that the table is used for the purpose of determining the variability band for each market proxy group. ICC proposes to add language to the caption for Table 4 to clarify that the table is used for the purpose of selecting which market proxy groups variability band to apply to each index risk factor. ICC also 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.

The title of Table 6 is currently “Assignment of SN Risk Factors to Market Proxy Groups.” ICC proposes to expand the title of Table 6 to include a statement that the table is used for the purpose of selecting which market-proxy groups variability band to apply to the benchmark instruments associated with each given risk factor. ICC also proposes to update the content of Table 6 to clarify that both the Standard Latin American and Standard Australian single name risk factors include not only sovereign single instruments, but also corporate instruments, to more accurately reflect the single name risk factors currently cleared at ICC. Specifically, ICC proposes to append the phrase “& Corporates” to the current bullets for “Standard Australia Sovereign” and “Standard Asia Sovereign.”

ICC proposes to revise subsection 2.5, which addresses distribution of EOD prices, to revise the instruments for which ICC publishes daily EOD prices on the Intercontinental Exchange, Inc. (“ICE, Inc.”) website. With respect to index instruments, ICC currently publishes EOD prices for a subset of cleared index instruments to the website. The proposed rule change would modify this practice such that ICC would instead publish EOD prices for every clearing

eligible index instrument as required by the CFTC.⁸ With respect to single name instruments, the proposed rule change would not substantively modify the EOD prices that ICC publishes on the ICE, Inc. website, but rather would revise subsection 2.5 to clarify the description of the single name instruments for which it publishes daily EOD prices on the website. Specifically, subsection 2.5 currently states that ICC publishes prices for every listed risk sub-factor. The proposed rule change would clarify this description to state that, for every single name risk sub-factor, ICC publishes the price of all MATI for each clearable coupon. In ICC's view, this is a more accurate description of the daily single name settlement prices ICC publishes on the ICE, Inc. website.⁹ 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.¹⁰

Finally, ICC proposes 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 of the EOD Procedures.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.¹¹ Under the Commission's Rules of Practice, the "burden to demonstrate that a

⁸ Notice, 89 FR 88096.

⁹ Id.

¹⁰ Id.

¹¹ 15 U.S.C. 78s(b)(2)(C).

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.”¹²

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 and specific to support an affirmative Commission finding,¹³ 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.¹⁴ 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.¹⁵

After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC. More specifically, for the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹⁶ and Rule 17Ad-22(e)(6)(iv).¹⁷

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

¹² Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Susquehanna Int’l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17Ad-22(e)(6)(iv) and (e)(18).

transactions.¹⁸ As discussed above, the proposed rule change would clarify ICC's EOD pricing methodology, including 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. The proposed rule change would also more accurately describe the calculation of EOD BOW and require that ICC publish EOD prices for every clearing eligible index instrument instead of just a subset of them. These changes would clarify ICC's methodology for EOD and BOW calculations, thereby enhancing ICC's ability to calculate accurate EOD prices. Further, EOD prices are distributed to Clearing Participants and their clients. Enhancing ICC's ability to calculate accurate EOD prices is critical to ICC's ability to manage the risks of clearing and settling CDS given that ICC bases margin and guaranty fund requirements on these prices. Moreover, ensuring that ICC's Clearing Participants, their clients, and other market participants have correct pricing information for the instruments that ICC clears would promote the prompt and accurate clearance and settlement of CDS transactions by reducing the chance there are inaccuracies in the settlement of such transactions. Accordingly, the proposed rule change would promote the prompt and accurate clearance and settlement of transactions at ICC, consistent with Section 17A(b)(3)(F) of the Act.¹⁹

B. Consistency with Rule 17Ad-22(e)(6)(iv)

Rule 17Ad-22(e)(6)(iv) requires that ICC 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, among other things, uses reliable sources of timely price data and uses procedures and sound valuation models for addressing

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 15 U.S.C. 78q-1(b)(3)(F).

circumstances in which pricing data are not readily available or reliable.²⁰ As discussed above, the proposed rule change would clarify how ICC’s price data—EOD BOWs—are calculated, and how consensus BOWs are defined and calculated. The proposed rule change also would require that ICC publish EOD prices for every clearing eligible index instrument rather than just a subset of them, as is ICC’s current practice. Clarifying ICC’s EOD pricing methodology and ensuring that EOD prices for all clearing eligible index instruments are published will help ICC ensure that the sources for its price data are both timely and reliable, which in turn will support and enhance ICC’s risk-based margin system. Accordingly, the proposed rule change is consistent with Rule 17Ad-22(e)(6)(iv).²¹

²⁰ 17 CFR 240.17Ad-22(e)(6)(iv).

²¹ 17 CFR 240.17Ad-22(e)(2)(v).

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 Act²² and Rule 17Ad-22(e)(6)(iv)²³ thereunder.

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act²⁴ that the proposed rule change (SR-ICC-2024-012) be, and hereby is, approved.²⁵

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

J. Matthew DeLesDernier,

Deputy Secretary.

²² 15 U.S.C. 78q-1(b)(3)(F).

²³ 17 CFR 240.17Ad-22(e)(2)(v).

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 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).

²⁶ 17 CFR 200.30-3(a)(12).