

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-99652; File No. SR-ICC-2024-002)

March 1, 2024

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ICC's Fee Schedules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 26, 2024, ICE Clear Credit LLC ("ICE Clear Credit" or "ICC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ such that the proposed rule change was immediately effective upon filing with the Commission. 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 modify ICC's fee schedules to implement reduced fees for credit default index swaptions ("Index Options") until further notice. These revisions do not require any changes to the ICC Clearing Rules.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

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

The proposed changes are intended to modify ICE Clear Credit's fee schedules to implement reduced fees for Index Options⁵ until further notice. ICE Clear Credit maintains a Clearing Participant ("CP") fee schedule⁶ and client fee schedule⁷ (collectively, the "fee schedules") that are publicly available on its website, which ICE Clear Credit proposes to update. Clearing fees are due by CPs in accordance with the transaction category (i.e., proprietary CP transactions or transactions on behalf of the CP's clients) product, amount and currency set out in the fee schedules and subject to any incentive program described in the fee schedules. The proposed changes to the fee

⁵ Pursuant to an Index Option, one party (the "Swaption Buyer") has the right (but not the obligation) to cause the other party (the "Swaption Seller") to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Options that may be cleared by ICE Clear Credit, the underlying index credit default swap is limited to certain CDX and iTraxx index credit default swaps that are accepted for clearing by ICE Clear Credit, and which would be automatically cleared by ICE Clear Credit upon exercise of the Index Option by the Swaption Buyer in accordance with its terms.

⁶ CP fee details available at:
https://www.ice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees_Clearing_Participant.pdf.

⁷ Client fee details available at:
https://www.ice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf. As specified, all fees are charged directly to a client's CP.

schedules are set forth in Exhibit 5A and Exhibit 5B and described in detail as follows. ICE Clear Credit proposes to make such changes effective March 1, 2024, following the completion of the applicable regulatory review process (the “Effective Date”). ICE Clear Credit proposes to implement a 50% fee discount and to maintain the reduced fees for the clearing of Index Options until further action is taken by ICE Clear Credit and the Board to remove the reduced fees and return the Index Option fees to their regular rates, subject to the completion of all necessary regulatory processes. If and when the Board takes such action to return the Index Option fees to their regular rates, ICE Clear Credit will provide the marketplace 30 calendar days advance notice of the fee change on the fee schedules posted on ICE Clear Credit’s website, which will indicate that the Index Option fees will return to their regular rate and the effective date of such change, subject to the completion of all necessary regulatory processes.

The amended CP fee schedule would reduce Index Option fees to \$1.5/million or €1.5/million until further notice. Under the current CP fee schedule, Index Option fees are \$3/million or €3/million, subject to an incentive program that provides a tiered discount schedule based on U.S. Dollar equivalent, non-discounted Index Option fees billed since the start of the year.⁸ ICE Clear Credit also discounted CP Index Option fees for: (i) a portion of 2021, which expired at the end of calendar year 2021;⁹ (ii) a portion of 2022, which expired at the end of calendar year 2022;¹⁰ and (iii) a portion of 2023,

⁸ SEC Release No. 34-90524 (November 27, 2020) (notice), 85 Fed. Reg. 78157 (December 3, 2020) (SR-ICC-2020-013).

⁹ SEC Release No. 34-91922 (May 18, 2021) (notice), 86 Fed. Reg. 27938 (May 24, 2021) (SR-ICC-2021-014).

¹⁰ SEC Release No. 34-94330 (February 28, 2022) (notice), (87 Fed. Reg. 12508 (March 4, 2022) (SR-ICC-2022- 001).

which expired at the end of calendar year 2023.¹¹ Under the proposed changes, in addition to updating the fee table, ICE Clear Credit would include a footnote to indicate that the listed fees of \$1.5/million or €1.5/million reflect a discount from ICE Clear Credit's regular CP Index Options fees of \$3/million or €3/million and that such discounted rates are applicable from the Effective Date until ICE Clear Credit provides 30 calendar days advance notice on the fee schedule posted on ICE Clear Credit's website indicating that the CP Index Option fees will return to their regular rate and the effective date of such change, subject to the completion of all necessary regulatory processes.

The amended client fee schedule would also reduce Index Option fees to \$2/million or €2/million until further notice.¹² Under the current client fee schedule, Index Option fees are \$4/million or €4/million. ICE Clear Credit also discounted client Index Option fees for: (i) a portion of 2021, which expired at the end of calendar year 2021;¹³ a portion of 2022, which expired at the end of calendar year 2022;¹⁴ and a portion of 2023, which expired at the end of calendar year 2023.¹⁵ Under the proposed changes, in addition to updating the fee table, ICE Clear Credit would include a footnote to indicate that the listed fees of \$2/million or €2/million reflect a discount

¹¹ SEC Release No. 34-96707 (January 19, 2023) (notice), (88 Fed. Reg. 4868 (January 25, 2023) (SR-ICC-2023- 001).

¹² The client fee schedule applies to transactions cleared on behalf of CP's clients, and the specified fees are directly charged to, and collected from, the applicable client's CP.

¹³ SEC Release No. 34-91922 (May 18, 2021) (notice), 86 Fed. Reg. 27938 (May 24, 2021) (SR-ICC-2021-014).

¹⁴ SEC Release No. 34-94330 (February 28, 2022) (notice), (87 Fed. Reg. 12508 (March 4, 2022) (SR-ICC-2022- 001).

¹⁵ SEC Release No. 34-96707 (January 19, 2023) (notice), 88 Fed. Reg. 4868 (January 25, 2023) (SR-ICC-2023-001).

from ICE Clear Credit’s regular client Index Option fees of \$4/million or €4/million and that such discounted rates are applicable from the Effective Date until ICE Clear Credit provides 30 calendar days advance notice on the fee schedule posted on ICE Clear Credit’s website indicating that the client Index Option fees will return to their regular rate and the effective date of such change , subject to the completion of all necessary regulatory processes.

(b) Statutory Basis

ICE Clear Credit believes that the proposed rule change is consistent with the requirements of the Act, including Section 17A of the Act¹⁶ and the regulations thereunder applicable to it. More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by ICE Clear Credit under Section 19(b)(3)(A)(ii) of the Act¹⁷ and Rule 19b-4(f)(2)¹⁸ thereunder. ICE Clear Credit believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Credit, in particular, to Section 17A(b)(3)(D),¹⁹ which requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

ICE Clear Credit believes that the proposed discounts in the fee schedules have been set at an appropriate level. In determining the appropriate discount level, ICE Clear Credit considered factors such as volume, revenue, and market participation in the clearing service, including based on different fee levels. ICE Clear Credit also considered

¹⁶ 15 U.S.C. 78q-1.

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4(f)(2).

¹⁹ 15 U.S.C. 78q-1(b)(3)(D).

costs and expenses in offering clearing of Index Options, taking into account the investments that ICE Clear Credit has made in clearing such products and the level of investment and development needed for this clearing service at this time. In ICE Clear Credit's view, the fees are reasonable as the discounts correspond with anticipated volumes, costs and expenses, and revenues, and they consider current and past market activity as well as anticipated market activity with respect to clearing Index Options at ICE Clear Credit.²⁰ Furthermore, the proposed discounts are in line with past Index Option incentive programs that ICE Clear Credit offered, which similarly reduced Index Option fees without any further action required by CPs or the CPs clients. Under the proposed changes, the same discounted rate (i.e., 50%) from ICE Clear Credit's regular Index Option fees would apply to both CP proprietary transactions and transactions cleared on behalf of the CP's clients. These reduced fees are designed to incentivize the clearing of Index Options by CPs and the CPs clients to grow this clearing service.

Moreover, the proposed fee changes will apply equally to all market participants clearing Index Options. The reduced fees for Index Options will be effective until further notice and shall apply to all CPs. ICE Clear Credit's fee schedules will continue to be transparent and to apply equally to market participants clearing indexes, single names, and Index Options at ICE Clear Credit. Therefore, the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among participants, within the meaning of Section 17A(b)(3)(D) of the Act.²¹ ICE Clear Credit therefore believes that the proposed rule change is consistent with the requirements of Section 17A

²⁰ Supporting detail and additional data, including clearing statistics for Index Options is included in confidential Exhibit 3.

²¹ 15 U.S.C. 78q-1(b)(3)(D).

of the Act²² and the regulations thereunder applicable to it and is appropriately filed pursuant to Section 19(b)(3)(A) of the Act²³ and paragraph (f)(2) of Rule 19b-4²⁴ thereunder.

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

ICE Clear Credit does not believe the proposed rule change would have any impact, or impose any burden, on competition. As discussed above, the proposed changes modify ICE Clear Credit's fee schedules to reduce fees for Index Options and will apply uniformly across all market participants. The implementation of such changes does not preclude other market participants from offering such instruments for clearing or offering incentive programs. ICE Clear Credit does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. 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 rule change have not been solicited or received. ICE Clear Credit will notify the Commission of any written comments received by ICE Clear Credit.

²² 15 U.S.C. 78q-1.

²³ 15 U.S.C. 78s(b)(3)(A).

²⁴ 17 CFR 240.19b-4(f)(2).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁵ and paragraph (f) of Rule 19b-4²⁶ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ICC-2024-002 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-ICC-2024-002. This file number should be included on the subject line if email is used. To help the Commission process

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(2).

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/sro.shtml>). 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-2024-002 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.²⁷

J. Matthew DeLesDernier,

Deputy Secretary.

²⁷ 17 CFR 200.30-3(a)(12).