



Clearing Rules

Table of Contents

1.	INTERPRETATION	3
2.	MEMBERSHIP	28
3.	CLEARING OF CONTRACTS	41
4.	MARGIN	51
5.	RISK COMMITTEE	69
6.	MISCELLANEOUS	81
7.	DISCIPLINARY RULES	95
8.	GENERAL GUARANTY FUND	107
9.	ARBITRATION RULES	143
10.	SETTLEMENT FINALITY LAWS	153
11-19.	[RESERVED]	166
20.	CREDIT DEFAULT SWAPS	167
20A.	CDS PORTABILITY RULES	186
21.	REGIONAL CDS COMMITTEES AND DISPUTE RESOLUTION PROCEDURES ..	190
22.	CDS PHYSICAL SETTLEMENT	211
23-25.	[RESERVED]	228
26.	CLEARED CDS PRODUCTS	229
	Schedule 401: Eligible Collateral & Thresholds	421
	Schedule 503: Form of Risk Committee Confidentiality Agreement	422
	Schedule 511: Form of Risk Advisory Working Group Confidentiality Agreement	428
	Schedule 702: Schedule of Assessments for Missed Price Submissions	431

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102. Definitions.

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Direct Liquidation

~~The meaning specified in Rule 20-605(d)(v).~~

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20. CREDIT DEFAULT SWAPS

The rules in this Chapter 20 apply to the clearance of CDS Contracts.

20-605. CDS Participant Default.

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- (d) In effecting the Closing-out Process, without limiting the generality of paragraph (a) of this Rule, ICE Clear Credit shall have the right, in consultation with the CDS Default Committee, to take any or all of the following actions as it determines to be appropriate to eliminate, reduce or replace the risk of the Open CDS Positions of the Defaulting CDS Participant (each, a **“Standard Default Management Action”**). In effecting Standard Default Management Actions (other than a Default Auction), ICE Clear Credit shall use only resources provided by the Defaulting CDS Participant and, if needed and in consultation with the Risk Committee pursuant to Rule 20-605(l)(iv) below, Initial Phase Default Resources. In effecting a Default Auction, ICE Clear Credit may use Initial Phase Default Resources and Final Phase Default Resources, in accordance with Rules 802(a) and (b).

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- (v) Subject to Rule 20A-02, if applicable, to enter into Trades with other CDS Participants that replace or mitigate the risk of all or part of the Open CDS Positions of the Defaulting CDS Participant and any Initial Cover Transactions (upon which such Open CDS Positions and Initial Cover Transactions shall terminate (to the extent not previously terminated)). Such Trades ~~shall~~may be entered into pursuant to ~~(i) one or more Default Auctions conducted pursuant to the Default Auction Procedures or (ii) direct transactions with market participants or other process established taking into account recommendations of the CDS Default Committee (such transactions pursuant to clause (ii), “Direct Liquidation”).~~

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- (iii) ICE Clear Credit will consult with the CDS Default Committee, in accordance with Rule 20-617, with respect to any determinations as to (A) ~~entering into Trades through Direct Liquidation~~, (B) the particular structure and characteristics of any Default Auction in accordance with the Default Auction Procedures, including designations of particular lots, (B) in connection with a Default Auction, whether to hold another such auction, whether to accept a partial fill of any lot in any Default Auction, and whether to reconstitute the lots for any such subsequent auction, and (C) the particular structure and characteristics for a Secondary Auction in accordance with the Secondary Auction Procedures.
- (iv) ICE Clear Credit will consult with the Risk Committee, to the extent practicable under the circumstances (and in any event will use reasonable efforts to so consult), with respect to any determinations as to (A) ~~using resources under Rule 802(b) to cover Remaining Reimbursement Obligations from a Direct Liquidation~~; (B) deciding that a Default Auction has failed because of insufficient Initial Phase Default Resources and Final Phase Default Resources; (B) any RGD Determination and any determination whether the RGD Continuation Conditions are satisfied, (C) holding a Secondary Auction and determining that a Secondary Auction has failed (and in the event of a failed Secondary Auction, determining to hold additional Secondary Auctions under the Secondary Auction Procedures), (D) determining to apply Excess Successful Lot Resources or Allocated Failed Lot Resources to cover a Lot Resource Shortfall in a Secondary Auction (as such terms are defined in the Secondary Auction Procedures), (E) designating a Final Auction Partial Fill (as defined in the Secondary Auction Procedures), (F) implementing a Partial-Tear Up, (G) issuing a Termination Circular in respect of all outstanding Contracts, (H) bypassing a Default Auction in favor of proceeding directly to Secondary Default Management Actions and/or (I) bypassing the use of any Secondary Default Management Action. For this purpose, ICE Clear Credit may call an emergency meeting of the Risk Committee without regard to the notice requirements of Rule 507 but on such notice as ICE Clear Credit determines to be reasonable under the circumstances. Such notice shall specify in reasonable detail the matters to be discussed. ICE Clear Credit shall provide with such notice or otherwise a reasonable time in advance of the meeting the relevant proposals or other written materials providing background in reasonable detail regarding the agenda items. In the event that a quorum of the Risk Committee is not present at such emergency meeting, ICE Clear Credit will adjourn such emergency meeting and designate a new time for such emergency meeting. Notwithstanding the foregoing, if Board or the Eligible Officer, as applicable, determines in good faith that the delay caused by consulting with the Risk Committee would create significant risks to the clearing system operating by ICE Clear Credit, to the

Defaulting CDS Participant or to the remaining CDS Participants, consultation with the Risk Committee will be deemed to be impracticable under the circumstances. Where ICE Clear Credit acts with respect to such matters without prior consultation with the Risk Committee, it will use its reasonable best efforts to consult with the Risk Committee as soon as practicable thereafter as to any further actions that may be taken with respect to such matters.

- (v) Notwithstanding anything to the contrary herein, any decision by ICE Clear Credit (A) ~~to use resources under Rule 802(b) to cover Remaining Reimbursement Obligations from a Direct Liquidation, (B)~~ that a Default Auction has failed because of insufficient Initial Phase Default Resources and Final Phase Default Resources; (BE) to make an RGD Determination or continue a Loss Distribution Period, (CD) to hold a Secondary Auction or that a Secondary Auction has failed (and in the event of a failed Secondary Auction, to hold additional Secondary Auctions under the Secondary Auction Procedures), (DE) to apply Excess Successful Lot Resources or Allocated Failed Lot Resources to cover a Lot Resource Shortfall in a Secondary Auction, (EF) to designate a Final Auction Partial Fill, (EG) to implement a Partial Tear-Up, (GH) to issue a Termination Circular in respect of all outstanding Contracts, (HI) to bypass a Default Auction in favor of proceeding directly to Secondary Default Management Actions and/or (IJ) to bypass the use of any Secondary Default Management Action shall be made by majority vote of the Board and shall not be delegable to an Eligible Officer or any other Person.