

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100679; File No. SR-ICC-2024-008)

August 8, 2024

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Back-Testing Framework

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 July 30, 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 prepared primarily 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 ICE CDS Clearing: Back-Testing Framework (“Back-Testing Framework”). 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, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

ICC proposes revising the Back-Testing Framework, which describes ICC's back-testing approach and procedures and includes guidelines for remediating poor back-testing results. The proposed amendments enhance how credit default swap index options that expire in-the-money- within the margin period of risk, are treated for profit or loss purposes in back-testing and other clarifications. ICC believes that 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 revisions are described in detail as follows.

ICC proposes to enhance Subsection 2.4. of the Back-Testing Framework by adding a detailed description on how in-the-money ("ITM") expiring credit default swap ("CDS") index option ("Index Swaption") positions, within the margin period of risk ("MPOR"),³ are treated in back-testing. Specifically, the proposed revisions enhance how Index Swaptions that expire ITM within the MPOR, are treated for profit or loss ("P/L") purposes in back-testing. The proposed revisions provide that with respect to Index Swaptions that expire ITM within the MPOR, for back-testing calculation purposes, the mark to market ("MTM") value of the expired ITM Index Swaption positions are

³ Margin-period-of-risk or MPOR for back testing purposes reflects the greatest considered risk horizon used for ICC's initial margin requirements.

replaced with their corresponding intrinsic values (“IV”)⁴ of such Index Swaptions based on their corresponding underlying CDS index’s end-of-day price at the given back-testing day. The ITM Index Swaption position, with a positive IV, results in an option exercise on the expiration date and reflects the positive value to the option holder of buying/selling the underlying CDS index position at the fixed option strike price and selling/buying the underlying CDS index position at the end-of-day price for a profit. Likewise, the sold ITM Index Swaption position, with negative IV, results in the assignment of an underlying CDS index position to the seller of the option on the expiration date, where the assigned underlying CDS index position could be bought or sold protection position depending on the type of the sold option instrument. The unrealized P/L for the exercised/assigned ITM Swaption positions, within the MPOR, are computed against the underlying MTM, after the ITM Index Swaptions expiration date, for-back testing purposes.

Also, ICC proposes the addition of Table 5, ‘Minimum 5-Day P/L Detail for Expiring Options Positions’ to Subsection 2.4. Table 5 provides an illustrative example of the computation of MTM and unrealized P/L for back-testing purposes for an ITM Index Swaption position that expires within the MPOR. The example calculation provided in Table 5 is intended to provide further transparency of ICC’s back-testing P/L treatment of ITM Index Swaptions that expire within the MPOR.

ICC proposes additional clarifications to the Back-Testing Framework. The proposed amendments include the addition of footnote 1 in Subsection 1.1 that clarifies

⁴ In the context of ITM Index Swaptions, intrinsic value or IV is the difference between the current price of the underlying CDS index and the Swaption’s exercise price.

‘Net Asset Value’ is also referred to and is equivalent to ‘Mark to Market.’ Also, ICC proposes to change references from “P&L” in Table 3 and Table 4 to “P/L” to consistently refer to ‘profit or loss’ throughout the Back-Testing Framework.

Lastly, ICC proposes to update Section 6, “Revision History”.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁵ and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.⁶ In particular, Section 17A(b)(3)(F) of the Act⁷ requires, in part, that the rules of ICC (as a registered clearing agency) promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, assure the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and protect investors and the public interest. The proposed amendments include enhancements on how expiring Index Swaptions are valued in back-testing. The additional revisions further ensure clarity and transparency with respect to ICC’s back-testing approach, procedures, and guidelines for remediating poor back-testing results. As such, ICC believes that the proposed rule change would help assure the soundness of the model by ensuring that back-testing analysis is conducted properly to assess the performance of the model. 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

⁵ 15 U.S.C. 78q-1.

⁶ 17 CFR 240.17Ad-22.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.⁸

Rules 17Ad-22(e)(2)(i) and (v)⁹ require 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. ICC's Back-Testing Framework clearly assigns and documents responsibility and accountability for performing back-testing analyses and remediating poor back-testing results. The enhancements on how expiring Index Swaptions are treated in back-testing, the Back-Testing Framework would continue to ensure that ICC maintains clear and transparent governance procedures and arrangements with respect to the performance, review, and reporting of back-testing results and the remediation of poor back-testing results. As such, in ICC's view, the proposed rule change continues 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 Rules 17Ad-22(e)(2)(i) and (v).¹⁰

Rule 17Ad-22(e)(4)(ii)¹¹ requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by

⁸ *Id.*

⁹ 17 CFR 240.17Ad-22(e)(2)(i) and (v).

¹⁰ *Id.*

¹¹ 17 CFR 240.17Ad-22(e)(4)(ii).

maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. As discussed above, the proposed revisions would enhance how expiring Index Swaptions are treated in back-testing. The additional revisions enhance the clarity and transparency of the Back-Testing Framework, which would strengthen the documentation and ensure that it remains up-to-date, clear, and transparent. ICC believes that the proposed changes would enhance ICC's ability to manage risks and maintain appropriate financial resources, including by ensuring that back-testing analysis is conducted properly to assess the performance of the model. As such, the proposed amendments would strengthen ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad-22(e)(4)(ii).¹²

Rule 17Ad-22(e)(6)(vi)¹³ requires each covered clearing agency 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 (A) conducting back-tests of its margin model at least once each day using standard predetermined parameters and assumptions; and (B) conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for back-testing on at least a monthly basis, and considering modifications to

¹² *Id.*

¹³ 17 CFR 240.17Ad-22(e)(6)(vi).

ensure the back-testing practices are appropriate for determining the adequacy of ICC's margin resources. The Back-Testing Framework continues to require the performance of daily, weekly, monthly, and quarterly portfolio-level back-testing analyses, and the remediation of poor-back-testing results. The proposed amendments consist of enhancements to the treatment of expiring Index Swaptions for back-testing purposes, and other clarifications to the Back-Testing Framework. These procedures in the Back-Testing Framework continue to promote the soundness of ICC's model and ensure that ICC's risk management system is effective and appropriate in addressing the risks associated with discharging its responsibilities. The proposed changes are thus consistent with the requirements of Rule 17Ad-22(e)(6)(vi).¹⁴

(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 ICC's Back-Testing Framework will apply uniformly across all market participants. Therefore, ICC 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. ICC will notify the Commission of any written comments received by ICC.

¹⁴ *Id.*

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-2024-008 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-2024-008. 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-2024-008 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.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).