

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98603; File No. SR-ICC-2023-011]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the ICC Risk Parameter Setting and Review Policy Framework

September 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> and Rule 19b-4,<sup>2</sup> notice is hereby given that on September 27, 2023, ICE Clear Credit LLC (“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 primarily prepared by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(1) thereunder,<sup>4</sup> 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, security-based swap submission, or advance notice from interested persons.

#### I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

ICC proposes a rule change to update the ICC Risk Parameter Setting and Review Policy Framework (“RPSRP”). 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 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 to revise its RPSRP, which describes the process of setting and reviewing the risk management model core parameters and the performance of sensitivity analysis related to certain parameter settings. The parameters set and calibrated pursuant to the RPSRP are used in ICC’s risk methodology in certain calculations including, without limitation, initial margin and guaranty fund requirements, as described in the ICC Risk Management Model Description document and the ICC Risk Management Framework. 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 revise the RPSRP to add clarifying language and more detail as to how a particular parameter is calculated in response to a recent independent validator recommendation. Such proposed revisions do not represent a change in the calculation of any parameter set under the RPSRP. Specifically, ICC proposes to revise RPSRP Section 1.7.1. “Univariate Level Parameters,” which contains a description of ICC’s process of setting and reviewing the Univariate Level Parameters, which are the standardized distributions that describe the random fluctuations of the credit spread log-returns which are calibrated daily. The Univariate Level Parameters are a category of the “Integrated Spread Response Parameters” model component.<sup>5</sup> ICC proposes to provide more details to the Univariate Level Parameters with respect to the estimation of the stress period mean absolute deviation (“MAD”). The proposed revision consists of providing details on the determination of the stress period MAD, which is the period that corresponds to the peak sample MAD estimate based on 250

<sup>5</sup> The Integrated Spread Response Parameters capture credit spread and recovery rate fluctuations and is computed by creating profit/loss distributions from a set of jointly simulated hypothetical credit spread and recovery rate scenarios, such as Monte Carlo Value at Risk. The Integrated Spread Response Parameters are categorized into Univariate, Multivariate and Anti-Proccyclicality Level Parameters.

observations over the most actively traded tenor historical dataset, during which the majority of the Risk Factors<sup>6</sup> belonging to a “Market (Sub-portfolio) Group”<sup>7</sup> exhibited their highest stress MAD levels. The revisions are intended to provide enhanced details of the stress period MAD calculation and how such stress periods are selected across Risk Factors, but such revisions do not represent a change in the calculation of the Univariate Level Parameters.

Also, ICC proposes the addition of Table 2 to Section 1.7.1. of the RPSRP to provide an illustration of Market (Sub-portfolio) Group compositions across several Master Document Transaction Types<sup>8</sup> (“MDTTs”). The purpose of Table 2 is to provide further details on the composition of the Market (Sub-portfolio) Groups by providing illustrative mapping of various Market (Sub-portfolio) Groups to the applicable MDTTs. Also, ICC has made conforming changes to Exhibit 5 [sic], to account for the addition of Table 2. Finally, ICC proposes to update the RPSRP revision history to reflect the proposed changes.

##### (b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>9</sup> and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad-22.<sup>10</sup> In particular, Section 17A(b)(3)(F) of the Act<sup>11</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions cleared by ICC; the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible; and the protection of investors and the public interest. The proposed revisions to the RPSRP are limited to providing additional detail on the calculation of the stress period MAD which is used in the Univariate Level Parameters. ICC believes that the proposed additional details to the

<sup>6</sup> With respect to credit default swap contracts, each underlying index, sub-index or single name reference entity is deemed a separate “Risk Factor.”

<sup>7</sup> A Market (Sub-Portfolio) Group consists of Risk Factors that share similar market and risk profile characteristics such as geographical locations, hours of trading activity and stress periods.

<sup>8</sup> Master Document Transaction Types refers to the “Transaction Types” identified by the International Swaps and Derivatives Association, Inc. (ISDA) in the publication of their Credit Derivatives Physical Settlement Matrix.

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 17 CFR 240.17Ad-22.

<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

calculation of the stress period MAD enhance ICC policies, practices and procedures with respect to risk management. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions; to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible; and, in general, to protect investors and the public interest within the meaning of Section 17A(b)(3)(F) of the Act.<sup>12</sup>

Rule 17Ad-22(e)(4)(ii)<sup>13</sup> 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 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. ICC believes that the proposed changes provide additional clarity and more detail on ICC's current practices as to how a particular parameter is calculated in the RPSRP, which strengthens ICC's process for reviewing and setting the model core parameters and, in turn, serves to promote the soundness of ICC's risk management model and its ability to manage risks and maintain appropriate financial resources. Such changes enhance the readability and transparency of the RPSRP, which would strengthen the documentation and ensure that it remains up-to-date, clear, and transparent. 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).<sup>14</sup>

Rule 17Ad-22(e)(4)(vi)(B)<sup>15</sup> 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 testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements, including by conducting a comprehensive analysis on at least a monthly basis of underlying parameters and assumptions. Under the proposed changes, the RPSRP continues to provide a clear framework for ICC to set and review the risk management model core parameters and their underlying assumptions in the risk management model. The proposed changes provide additional clarity with respect to the Univariate Level Parameters associated with the integrated spread response model component. As such, ICC believes the proposed rule change is consistent with the requirements of Rule 17Ad-22(e)(4)(vi)(B).<sup>16</sup>

Rule 17Ad-22(e)(6)(i)<sup>17</sup> 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, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. As described above, the proposed clarifications would promote clarity and transparency in the documentation. In ICC's view, the proposed changes thus enhance and strengthen ICC's process for reviewing and setting the model core parameters, which in turn serves to promote the soundness of ICC's risk management model and system, which will continue to consider and produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, consistent with the requirements of Rule 17Ad-22(e)(6)(i).<sup>18</sup>

#### *(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 rule change to update the ICC RPSRP 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.

#### **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 Act<sup>19</sup> and paragraph (f) of the Rule 19b-4<sup>20</sup> 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-ICC-2023-011 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-2023-011. 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/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

<sup>12</sup> *Id.*

<sup>13</sup> 17 CFR 240.17Ad-22(e)(4)(ii).

<sup>14</sup> *Id.*

<sup>15</sup> 17 CFR 240.17Ad-22(e)(4)(vi)(B).

<sup>16</sup> *Id.*

<sup>17</sup> 17 CFR 240.17Ad-22(e)(6)(i).

<sup>18</sup> *Id.*

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f).

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 a.m. and 3 p.m. 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-2023-011 and should be submitted on or before October 25, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-98601; File No. SR-CBOE-2023-056]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

September 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 25, 2023, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its Fees Schedule.<sup>3</sup> The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 19% of the market share.<sup>4</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from

month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange offers tiered pricing in its Fees Schedule, like that of other options exchanges fees schedules,<sup>5</sup> which provides Trading Permit Holders ("TPHs") opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for TPHs to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

##### Customer Volume Incentive Program and Affiliated Volume Plan

The Exchange proposes to amend the Customer Volume Incentive Program ("VIP") and the Affiliated Volume Plan ("AVP"). Under the VIP, the Exchange credits each TPH the per contract amount set forth in the VIP table for Public Customer (origin code "C") orders transmitted by TPHs (with certain exceptions)<sup>6</sup> and executed electronically on the Exchange, provided the TPH meets certain volume thresholds in a month; volume for Professional Customers (origin code "U"), Broker-Dealers (origin code "B"), and Joint Back-Offices ("JBO") (origin code "J") orders are counted toward reaching such thresholds.<sup>7</sup> Specifically, the percentage thresholds are calculated based on the percentage of national customer volume in all underlying symbols excluding Underlying Symbol List A,<sup>8</sup> Sector Indexes,<sup>9</sup> the Dow Jones Industrial Average Index ("DJX"), the Mini Russell 2000 Index ("MRUT"), the MSCI EAFE Index ("MXEA"), the MSCI Emerging Market Index ("MXEF"), the Mini S&P 500 Index ("NANOS"), Mini-SPX Index ("XSP") and FLEX Micros entered and executed over the course of the month. VIP offers rates for both

<sup>5</sup> See e.g., NASDAQ Stock Market Rules, Options Rules, Options 7 Pricing Schedule, Sec. 2 Options Market—Fees and Rebates, Tiers 1-6; see also NYSE Arca Options, Fees and Charges, Customer Posting Credit Tiers in Non-Penny Issues.

<sup>6</sup> See Cboe Options Fees Schedule, Footnote 36.

<sup>7</sup> See Cboe Options Fees Schedule, Volume Incentive Program.

<sup>8</sup> See Cboe Options Fees Schedule, Footnote 34.

<sup>9</sup> See Cboe Options Fees Schedule, Footnote 47.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Exchange initially filed the proposed fee changes on September 1, 2023 (SR-CBOE-2023-045). On September 25, 2023, the Exchange withdrew that filing and submitted this proposal.

<sup>4</sup> See Cboe Global Markets U.S. Options Market Volume Summary (August 30, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).