

Maria Alarcon
Staff Attorney

January 7, 2021

**Re: Updates to ICC Rules Pursuant to
Section 5c(c)(1) of the Commodity Exchange
Act and Commission Regulation 40.6(a)**

VIA ELECTRONIC PORTAL

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICC”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), a self-certification of changes to the ICC Clearing Rules (the “Rules”)¹ to clarify an existing requirement of Participants regarding the provision of margin or collateral (“Non-Participant Collateral”) by clients (“Non-Participant Parties”). ICC is registered with the Commission as a derivatives clearing organization (“DCO”). ICC intends to implement the changes no sooner than the tenth business day following the filing of this submission with the Commission at its Washington, D.C. headquarters and with its Chicago regional office.

ICC proposes revisions to Rule 406(b) to clarify an existing requirement of Participants regarding the provision of Non-Participant Collateral by Non-Participant Parties and to update the terminology in a manner that is consistent with amended Commission Regulation 39.13(g)(8)(ii),² applicable to ICC as a DCO, which requires compliance by January 27, 2021. ICC proposes that the changes will be effective on or about January 27, 2021 and subject to any regulatory review, approval, or other process. ICC will issue a circular notification, in advance of the effective date of the proposed changes. This submission includes a description of the changes to the ICC Rules. Certification of the changes pursuant to Section 5c(c)(1) of the Act and Commission Regulation 40.6(a) is also provided below.

ICC proposes changes to Rule 406, which sets out certain requirements with respect to client-related positions of futures commission merchant (“FCM”) and broker-dealer Participants. Under current Rule 406(b), a Participant must require each Non-Participant Party to provide Non-Participant Collateral in an amount no less than ICC’s margin requirement with respect to the relevant client-related position(s). The proposed changes clarify that such amount would be commensurate with the risk presented by such Non-Participant Party. The proposed changes also remove general language whereby ICC may require additional margin with respect to Non-Participant Parties and, instead, direct Participants to identify Non-Participant Parties with heightened risk profiles and collect margin from them at a level exceeding 100% of ICC’s margin requirement, by such amount as is commensurate with the risk presented. Such changes are intended to clarify and incorporate terminology that is consistent with amended Commission Regulation 39.13(g)(8)(ii)³ to facilitate compliance.

¹ Capitalized terms used but not defined herein have the meanings specified in the Rules.

² 17 CFR 39.13(g)(8)(ii).

³ Id.

In connection with the proposed amendments, ICC would also revoke Circular 2012/008 (the “Circular”)⁴ which requires FCM Participants to collect margin from Non-Participant Parties in respect of such Non-Participant Parties’ non-hedge positions, at a level that is 10% greater than ICC’s related margin requirement with respect to each product and swap portfolio.

Core Principle Review:

ICC reviewed the DCO core principles (“Core Principles”) as set forth in the Act. During this review, ICC identified the following Core Principles as being impacted:

Financial Resources: The revisions to the ICC Rules are consistent with the financial resources requirements of Core Principle B and the financial resource requirements set forth in Commission Regulation 39.33. The amended language in Rule 406(b) protects the financial integrity of ICC and Participants, as it results in Participants collecting Non-Participant Collateral in an amount commensurate with the risk presented by Non-Participant Parties and is more appropriate in light of amended Commission Regulation 39.13(g)(8)(ii).⁵ The proposed changes further promote ICC’s ability to manage the risks posed by Non-Participant Parties, including by directing Participants to identify Non-Participant Parties with heightened risk profiles and collect margin from them at a level exceeding ICC’s margin requirement, by such amount as is commensurate with the risk presented, thereby promoting ICC’s ability to continue to manage its financial resources and withstand the pressures of defaults.

Risk Management: The amendments to the ICC Rules are consistent with the risk management requirements of Core Principle D. The proposed changes to Rule 406(b) would replace the requirement in the Circular, which ICC believes is appropriate to facilitate compliance with amended Commission Regulation 39.13(g)(8)(ii),⁶ and better support ICC’s ability to manage the risks posed by Non-Participant Parties as the proposed changes result in Participants collecting Non-Participant Collateral at levels commensurate with the risk presented by each Non-Participant Party. The proposed changes also provide clarity and transparency on the requirement in Rule 406(b) regarding the provision of Non-Participant Collateral and thus strengthen the Rules with clear and more specific guidance. ICC believes that the amendments continue to ensure that ICC possesses the ability to manage the risks associated with discharging its responsibilities.

Amended Rules:

The proposed changes consist of changes to ICC Rule 406.

Annexed as an Exhibit hereto is the following:

- A. Proposed amendments to the ICC Rules

Certifications:

ICC hereby certifies that the changes comply with the Act and the regulations thereunder. There were no substantive opposing views to the changes.

ICC further certifies that, concurrent with this filing, a copy of the submission was posted on ICC’s website, and may be accessed at: <https://www.theice.com/clear-credit/regulation>

⁴ The Circular was issued on April 20, 2012 and is available at the following:
https://www.theice.com/publicdocs/clear_credit/circulars/Circular_2012_008_FINAL.pdf.

⁵ 17 CFR 39.13(g)(8)(ii).

⁶ Id.

ICC would be pleased to respond to any questions the Commission or the staff may have regarding this submission. Please direct any questions or requests for information to the attention of the undersigned at (312) 836-6854.

Sincerely,

A handwritten signature in cursive script that reads "Maria Alarcon".

Maria Alarcon
Staff Attorney