



Olivia Bazor
Staff Attorney

ICE Clear Credit LLC
Olivia.Bazor@ice.com
904-855-5580

July 3, 2024

SENT VIA CFTC PORTAL

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: ICE Clear Credit LLC Self-Certification Pursuant to Commission Rule 40.6 –
ICC Rules, Risk Management Framework, Governance Playbook and Operating
Agreement**

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICE Clear Credit” or the “ICC”), a registered derivatives clearing organization under the Commodity Exchange Act, as amended (the “Act”), hereby submits to the Commodity Futures Trading Commission (the “Commission”), pursuant to Commission Rule 40.6 for self-certification, amendments to its (i) Clearing Rules (the “Rules”), (ii) Risk Management Framework (the “Framework”), (iii) Governance Playbook (the “Playbook”), and (iv) Sixth Amended and Restated Operating Agreement (the “Operating Agreement”) to clarify certain matters relating to the operation of its Risk Committee and related risk advisory arrangements.¹ The amendments will become effective on the first business day following the tenth business day after submission, or such later date as ICE Clear Credit may determine.

Concise Explanation and Analysis

The amendments are intended principally to provide for (i) the elimination of the Risk Management Subcommittee, (ii) the establishment of a Risk Advisory Working Group and (iii) clarification of certain arrangements relating to the operation of the Risk Committee, among other clarifications.

I. Rules

ICC is eliminating its Risk Management Subcommittee, which previously was tasked with consulting with the ICE Clear Credit Board of Managers (the “Board”) and the Risk Committee as to eligible products, standards for ICC Clearing Participants (“Participants” or “CPs”) and approvals or denials of Participant applications. ICC believes the subcommittee is unnecessary and the relevant consultative and advisory functions can be performed (and indeed are typically performed in practice) by the Risk Committee itself and by the newly established Risk Advisory Working Group. Accordingly, ICC is amending the Rules to remove references to the Risk Management Subcommittee throughout, including the deletion of Rule 510 (which set out the

¹ Capitalized terms used but not defined herein have the meanings specified in the Rules, Framework, Playbook or Operating Agreement, as applicable.



responsibilities of the Risk Management Subcommittee) and Rule 511 (which addressed the membership of Risk Management Subcommittee), among others.

Rule 509 is being amended to provide for the establishment of a new Risk Advisory Working Group, as a forum to seek risk-based input from a broad array of market participants regarding all matters that could materially affect the risk profile of ICE Clear Credit, consistent with the requirements of applicable Commission regulations. The amendment clarifies that the role of the working group is advisory, such that neither the Board nor the Risk Committee is required to accept or act upon any proposal of the working group. The members of the Risk Advisory Working Group will include representatives of Participants and Non-Participant Parties. The limitations on liability in Rule 512 would be revised to apply to Risk Advisory Working Group members. Rule 512 would also provide that the working group would meet when necessary or desirable, but at least twice per year, and that the working group would provide the Risk Committee with a summary of the topics discussed at each meeting.

Consistent with the requirements of Commission regulations, ICC is also modifying its existing Risk Committee to include representatives of Non-Participant Parties. The amendments also revise the role of the Risk Committee in Rule 501 to provide generally that the Board will consult with the Risk Committee on any matters that may materially affect the risk profile of ICC (in addition to the specified actions set forth in Rule 502), and to state explicitly that the Board will consider the proposals, recommendations and other input provided by the Risk Committee.

The amendments will make certain changes to the composition of the Risk Committee in Rule 503. The size of the Risk Committee will be increased to fourteen members instead of twelve members. The two additional members of the Risk Committee will be representatives of Non-Participant Parties. The amendments set out the process for selection of these representatives. The two Non-Participant Parties will be selected by a majority vote of the other Risk Committee Members (i.e., the Participant Appointees and the three members appointed by ICC). The Non-Participant Parties must be active in clearing transactions at ICC. The selected Non-Participant Party will select an individual to serve as its Non-Participant Appointee. This person should have risk management experience and expertise and will be subject to the Risk Committee's approval which will not be unreasonably withheld. This person will also only be eligible if they are an employee of the Non-Participant Party or an Affiliate thereof. The Non-Participant Appointee may be removed at any time without cause by the Non-Participant Party that appointed the individual. If a vacancy were to occur in the position, the Non-Participant Party may appoint another individual in accordance with the Rules. In addition, a Non-Participant Party appointing a Non-Participant Appointee to the Risk Committee will have to execute a confidentiality agreement and will have to cause the Non-Participant Appointee to execute an acknowledgment of their confidentiality obligations in a form reasonably prescribed by ICC.

The amendments will clarify that a majority of the Risk Committee will constitute a quorum, deleting the additional requirement that at least half of the Participant Appointees must be present. The amendments make certain other clarifications relating to participation in meetings by audio or video conference.

In light of the expansion of the requirement to consult with the Risk Committee as described above, the amendments will clarify the consultation process in Rule 601 in the event of an emergency. Moreover, the amendments will provide that the Business Conduct Committee will hear any matter referred to it by the Review Subcommittee (rather than the Risk Management Subcommittee).

The amendments will also make conforming changes to the form of Confidentiality Agreement for Risk Committee participants to specify Market Participant instead of Clearing House member (to reflect that the Risk Committee will include Non-Participant Appointees).



Finally, the amendments would make drafting corrections and clarifications to account for the other changes being made.

II. Risk Management Framework

ICC is also amending the Framework to reflect the changes being made to the Rules as described above. References to the Risk Management Subcommittee will be deleted and references to the new Risk Advisory Working Group would be added where relevant. The amendments also remove references to an Advisory Committee, which was a committee of Non-Participant Party representatives that is no longer being maintained.

The subsection on Risk will be updated to reflect the role of the Risk Advisory Working Group, to provide risk based feedback to ICC on all matters that could materially affect the risk profile of ICC as discussed above.

III. Governance Playbook

ICE Clear Credit will also amend the Playbook to conform to the amendments to the Rules and Framework discussed above. References to the Risk Management Subcommittee and Advisory Committee will be deleted throughout the Playbook. References to the FCM Executive Council are also being removed, as that council is no longer being maintained. References to the Risk Advisory Working Group will be added where relevant.

The amendments will also delete a requirement that the election of ICC Board Members will follow no less than five business days after Risk Committee Reconstitution date. The elections will still occur after the Risk Committee Reconstitution date but will not need to be less than five business days after.

Conforming changes will also be made to the description and composition of the Risk Committee consistent with the amendments to the Rules discussed above. Specifically, the amendments add that the Risk Committee will include representatives of customers of ICC CPs and that the Board is required to consult with the Risk Committee with respect to matters that could materially affect the risk profile of the ICC. The amendments state that the Risk Committee will consist of fourteen rather than twelve members and that two of the members will be representatives of customers of CPs and address the procedures for selecting the two representatives of customers of CP members under the Rules.

The amendments will add a description of the Risk Advisory Working Group, including its purposes and membership, consistent with the amendments to the Rules discussed above. The amendments provide that the ICC Chief Risk Officer will serve as Chairperson of the Risk Advisory Working Group. Moreover, a minimum of two members will be representatives of CPs and a minimum of two representatives will be customer of CPs. Both will be nominated by the Risk Committee. The amendments also address meeting frequency, documentation of meetings and various other administrative procedures.

VI. Operating Agreement

Lastly, ICC will amend and restate its Operating Agreement to conform to the amendments to the Rules, Framework and Playbook as detailed above. The amendments will delete any reference to the Advisory Committee, including Section 3.12 in its entirety. This section previously described the establishment and composition of the Advisory Committee.

Compliance with the Act and CFTC Regulations



The amendments to the Rules, Framework, Playbook and Operating Agreement are potentially relevant to the following core principles: (D) Risk Management, (O) Governance, and (Q) Composition of Governing Boards, and the applicable regulations of the Commission thereunder.

- *Risk Management.* As set forth above, the amendments intend to establish the Risk Advisory Working Group and make certain clarifications to the operation of the Risk Committee, including the requirement of the Board to consult with the Risk Committee on matters that could materially affect the risk profile of ICC. The amended Risk Committee procedures, and the new Risk Advisory Working Group, are intended to provide advice to ICC with respect to risk matters and thus enhance the overall risk management of the clearing house. The amendments are thus consistent with the requirements of Core Principle D and Commission Rule 39.13.
- *Governance.* The amendments are intended to comply with the Commission's 2023 amendments to Commission Rule 39.24, which imposed certain requirements for risk management committees and required the establishment of a risk advisory working group. Consistent with these requirements, ICC is expanding its Risk Committee to include representatives of Non-Participant Parties and expanding the scope of consultation requirements to include all matters that could materially affect the risk profile of ICC. ICC is also establishing the Risk Advisory Working Group to seek risk-based input from a broad array of market participants, consistent with the requirements of the rule. ICE Clear Credit believes that the amendments are therefore consistent with the governance requirements of Core Principle O and Commission Rule 39.24.
- *Composition of Governing Boards.* The amendments reflect the cessation of the Advisory Committee but do not otherwise affect the composition of the governing board of ICC. Therefore, the amendments will not adversely affect the representation of Participants on the Board and the majority of the Board will continue to be independent and have no material relationships with ICC or its affiliate. ICE Clear Credit believes that the amendments are thus consistent with ensuring that the Board includes market participants and individuals who are not executives, officers, or employees of the derivatives clearing organization or an affiliate thereof, and accordingly comply with the requirements of Core Principle Q and Commission Rule 39.26.

As set forth herein, the amendments consist of the amendments to the Rules, Framework, Playbook and Operating Agreement. A copy of the amendments to the Rules is attached hereto. ICE Clear Credit has requested confidential treatment with respect to the amendments to the Framework, Playbook and Operating Agreement, which have been submitted concurrently with this self-certification submission.

ICE Clear Credit hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Credit received no substantive opposing views in relation to the amendments.

ICE Clear Credit has posted a notice of pending certification and a copy of this submission on its website concurrent with the filing of this submission, which may be accessed at <https://www.ice.com/clear-credit/regulation>.

If you or your staff should have any questions or comments or require further information regarding this submission, please do not hesitate to contact the undersigned at Olivia.bazor@ice.com or 904-855-5580.



Very truly yours,

A handwritten signature in black ink, appearing to be 'OB'.

Olivia Bazor
Staff Attorney