



Olivia Bazor
Staff Attorney

September 23, 2024

**Re: Changes to ICC Treasury Policy
Pursuant to Section 5c(c)(1) of the
Commodity Exchange Act and Commission
Regulation 40.6**

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 (“ICE Clear Credit” or “ICC”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commodity Futures Trading Commission (“Commission”) Regulation 40.6, a self-certification of the changes to the ICC Treasury Operations Policies & Procedures (the “Treasury Policy”). 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.

This submission includes proposed revisions to the Treasury Policy. A description of the changes contained in the Treasury Policy follows. Certification of the changes pursuant to Section 5c(c)(1) of the Act and Commission Regulation 40.6(a) is also provided below.

Concise Explanation and Analysis

ICE Clear Credit is proposing to amend its Treasury Policy. The purpose of the Treasury Policy is to articulate the policies and procedures used to support the ICC Treasury Department (the “Treasury Department”), which is responsible for daily cash and collateral management of margin and guaranty fund assets. The purpose of the proposed changes is to make various updates and clarifications, including to further explain the goals and the responsibilities of the ICC Treasury Department in performing treasury functions for cleared contracts, as well as safeguarding securities and funds in custody. The amendments also clarify the timing of the return of a withdrawing ICC Clearing Participant’s (“Clearing Participant” or “CP”) guaranty fund (“GF”) deposit to be consistent with the Rules, as discussed herein. The amendments would clarify the ICC investment policy with respect to ICC’s own operating capital to provide greater flexibility to make direct investments, as discussed below, and update various references to SWIFT messaging so as not to become outdated. Various non-substantive drafting changes and improvements would also be made throughout the Treasury Policy, such as updating the use of defined terms, correcting typographical errors and similar changes. The amendments do not represent a change in ICC’s practices relating to treasury management, but rather are intended to improve and clarify the documentation and descriptions of such practices.



ICC proposes to update the treasury department section of the Treasury Policy.¹ The amendments would update the statement of the overall responsibilities of ICC, aided by the Treasury Department, to specifically reference facilitating the prompt and accurate clearing and settlement of securities transactions and derivatives, and safeguarding securities and funds in ICC’s custody or control for which it is responsible. Additionally, the amendments would remove the reference to the ICC Risk Management Framework when developing investment and collateral management strategies. The amendments would clarify certain references and terms throughout this section, such as referencing the “General Guaranty Fund” as defined in ICC Rule 102, as well as referencing cash and non-cash collateral (which was previously phrased as “cash and collateral” or “cash or collateral”) throughout the Treasury Policy. With respect to the Treasury Departments responsibilities to manage Guaranty Fund requirements and “posting” by Clearing Participants, the amendments would change the reference from “posting” to “collateral postings” to provide a clearer and more accurate description of Treasury’s responsibilities. Certain references to margin accounts, margin payments and margin requirements or processes (and words of similar effect) will be revised to refer more generally to accounts, payments and related clearing or processes requirements (or requirements), in order to more broadly reference overall payment requirements from the clearing process (which include but are not limited to margin). The amendments would highlight that ICE Clear Credit, rather than ICE Clear Credit’s Risk Department, generates daily requirements for all Clearing Participants (including requirements for indirect participants i.e., Client-Related requirements) because such requirements are generated automatically by ICE Clear Credit’s clearing systems as opposed being generated specifically by ICE Clear Credit’s Risk Department. Further, the amendments note that such daily requirements are based on the Clearing Participants’ cleared “positions” rather than their cleared “trades” as positions is a more accurate description of a Clearing Participants cleared activity at ICE Clear Credit. The amendments also clarify the Treasury Departments responsibility in ensuring that payments are received from Clearing Participants by removing an incorrect reference to ensuring that payments are honored by Clearing Participants’ banking relationships. Under ICC’s existing direct settlement model, as discussed below, Clearing Participants are responsible to ensure that ICC timely receives all required payments; completion of settlement is not based on whether a Clearing Participant’s bank honors a payment direction. Similarly, references to settlement issues have been generalized to reference treasury management related issues, and references to substitution of collateral for cash have been replaced by the more general description of performing collateral substitutions. These changes do not reflect a substantive change in practice, but rather are intended to provide a more comprehensive overall description of relevant payment practices. In the statement of the Treasury Departments role in developing of investment and collateral management strategies, the amendments would remove an outdated reference to such activities being done within the ICC Risk Management Framework, as the relevant investment and collateral management policies are now set out in the Treasury Policy rather than in the framework. The amendment would also generalize a reference to cash management to the broader term collateral management to more fully describe the scope of this activity and for consistency throughout the Treasury Policy. The amendments also clarify the organizational structure of the Treasury Department function, as overseen by the ICC Treasury Director who reports to the ICC Chief Operating Officer (and clarifies that the ICC Treasury Department is not and has never been a part of the operations department).

ICC also proposes to update the funds management section of the Treasury Policy.² The amendments would add conforming references to “requirements” in certain places for consistency in referring to margin and Guaranty Fund requirements. In addition, the amendments would clarify or add various defined terms relating to margin, including a defined term for “Margin” covering both initial and mark-to-market margin.

¹ Treasury Policy Section **“II. The Treasury Department.”**

² Treasury Policy Section **“III. Funds Management.”**



A definitional footnote relating to the Guaranty Fund would be removed as unnecessary in light of prior references to that term in the Treasury Policy. Additionally, the amendments would clarify that the funds would include both cash and non-cash collateral. For completeness and consistency with the existing Rules and other procedures of ICC, the amendments would state that ICC maintains and manages “House Margin” and “Client Margin” separately. The amendments also clarify that required initial margin and GF contributions are held in a manner that minimizes the risk of loss or delay in access, consistent with regulatory requirements (which reflects the standard under applicable regulations), rather than referring only to highly liquid and short-term investments. Under Section III.B., Investment Strategy, various conforming and non-substantive drafting changes would be made, including to the use of appropriate defined terms and consistent references to cash collateral (instead of cash). References in the existing Treasury Policy to certain investments to be made by the Director of Treasury would be revised to simply refer to the Treasury Department as a whole, reflecting actual practice that investments are made by Treasury Department personnel subject to the supervision of the Director of Treasury. In the discussion of investment of US dollar cash, additional clarifying language would be added to this section such as describing the role of the Federal Reserve Bank of Chicago (“FRB”) as a depository and noting that US dollar cash may be invested in US Treasury/Agency reverse repurchase agreements rather than just Treasury/Agency reverse repurchase agreements. The amendments would also reflect that ICC currently maintains multiple accounts (rather than a single account) at the FRB, as discussed below. For reverse repo transactions, the amendments would also remove an unnecessary description of certain settlement arrangements and unnecessary statements regarding steps ICC would take to ensure replacement securities are eligible and valued correctly when a substitution of securities becomes necessary (as ICC does not believe such matters are relevant to the level of detail of the description contained in the Treasury Policy). The amendments would revise the description of the calculation of the minimum cash required to be invested in bilateral reverse repos to reflect 45% of the top two Clearing Participants’ Margin requirements (taking into account specifically both initial and mark-to-market margin requirements, as opposed to referencing the generalized phrase “risk margin”), as ICC believes that this is the more detailed and accurate description of ICC’s current practices. Additionally, the amendments would acknowledge that bilateral reverse repo transactions may be settled through alternative counterparties that may be added in the future to account for the possibility that ICE Clear Credit’s financial service provider relationships may change in the future. The amendments would also clarify that ICC in practice uses more than one outside investment manager to facilitate its investment of Guaranty Fund and margin cash.

ICC also proposes revisions to the Tables of collateral liquidity requirements contained in Section III of the Treasury Policy³ to update various defined terms and references (both in the text of the Tables and the titles of the Tables) to be consistent with the other amendments being made to the Treasury Policy, such as to use the defined term Margin and to conform the terminology for the currencies and collateral (US Dollar Cash, EUR Cash, and US Treasury Securities). An amendment will also change a reference from “assets” to “collateral,” to more precisely describe the collateral being described. A statement relating to additional margin that may be called where a clearing participant does not meet the required liquidity requirements has been clarified to refer more precisely to initial margin. In addition, ICC proposes revising the participant

³ Table 1 Collateral Liquidation Assumptions (US Dollar denominated requirements); Table 2 Collateral Liquidation Assumptions (Euro denominated requirements); Table 3 House Initial Margin & Guaranty Fund Liquidity Requirements (Non-Client US Dollar denominated requirements); and Table 4 House Initial Margin & Guaranty Fund Liquidity Requirements (Non-Client Euro denominated requirements) (collectively, the “Tables”).



withdrawals' sub-section of Section III of the Treasury Policy⁴ to reflect that the requirements described are based on the ICC Rules and to add a statement that Guaranty Fund deposits will not be returned until after all positions of the withdrawing participant have been closed out and all liabilities of the participant to ICC have been satisfied, in order to be consistent with the requirements of existing Rule 807. The amendments would also remove a statement that if a participant provides notice of withdrawal less than 60 days from the end of the calendar quarter, its withdrawal will not be effective until the end of the following quarter, as this requirement is not set forth in the Rules.

The discussion of ICC's use of committed repo facilities would clarify that any expenses (including but not limited to interest expenses) incurred through such facilities following a Clearing Participant default will be attributed to the account of that CP, consistent with the general approach for allocation of close-out costs to a defaulter under the Rules.

ICC proposes revising the cash settlement section of the Treasury Policy.⁵ Under the cash settlement section, the examples of types of transaction payments have been expanded to include options premia and interest on Mark-to-Market Margin, reflecting current practice. The amendments would also add further explanation of the existing ICC direct settlement model used to manage cash movements, for consistency and to provide greater clarity as to settlement operations. As described, the direct settlement requires the Clearing Participants to establish settlement bank arrangements and make requested payments to ICC in the required timeframe. ICC maintains direct debit authority over the settlement bank accounts of Clearing Participants.

In addition, the amendments to Section IV would add to the current criteria for ICE Clear Credit's settlement banks (which include requirements as to regulation and supervision, capital requirements for non-US institution, absence of majority sovereign ownership, internal ICC credit requirements and operational capability) a requirement that the bank provide specific liquidity information, in order to facilitate management by ICC of liquidity risk from settlement arrangements. This would include providing information as to the bank's liquidity coverage ratio, and if that is not reported by the bank, ICC would use other criteria (e.g., requesting a description of the bank's liquidity risk management policy and/or requesting the liquidity coverage ratio of the bank's affiliated reporting entity within the bank's group) based on ICC's discretion, to assess the liquidity risks arising from settlement banks. In addition, as revised, the Treasury Policy would no longer specify particular backup settlement banks for ICC but reference a general requirement for ICC to maintain appropriate backup relationships. ICC believes this approach is preferable and avoids the need to amend the Treasury Policy if backup arrangements change.

The amendments would add further description of the daily settlement process (including as to cases where no net settlement is owed and bank holidays), as set forth below. Consistent with the added description of the direct settlement model as noted above, the amendments would state the responsibility of Clearing Participants to ensure that ICC timely receives all requested payments and note that failure to make timely payments may be a default. This proposed change provides greater clarity as to ICC's current practices. In the discussion of routine settlement procedures, an erroneous reference to contacting an agent bank in the event of a late payment would be removed (as the Clearing Participant would be contacted directly). The amendments would also add statements describing the daily settlement process as being conducted every business day and regarding the timing of settlement finality under the direct settlement model. Consistent

⁴ Treasury Policy Section III, Sub-Section "**D. Participants' Withdrawal.**"

⁵ Treasury Policy Section "**IV. Cash Settlement.**"



with current practice, settlement would be deemed final and irrevocable at the earlier of the time when ICC received the relevant payment, or a financial institution used by ICC sends a confirmation message that payment has been made. As noted above, the amendments would also remove references to various specific types of SWIFT messages (in light of the possibility that specific SWIFT message types may be modified, renamed, or changed from time to time by SWIFT), and describe such messages more generally. In the case of non-routine settlement, the amendments would remove an unnecessary reference to a specific SWIFT settlement instruction, since ICC and the Clearing Participant in question would be expected to separately confirm the particulars of the settlement.

In the discussion of a SWIFT outage, the amendments would clarify that the relevant scenario arises where ICC is unable to send SWIFT messages to the Clearing Participants' settlement banks (correcting an erroneous reference to ICC's direct settlement banks). The amendments would revise certain procedures for communicating directly with CP's in the event of a SWIFT outage (removing an incorrect reference to communicating with ICC's direct settlement banks as above). The amendments would also address correcting or re-issuing a SWIFT message in the event of a non-payment for certain technical reasons and remove certain references to specific types of SWIFT messages or reports that ICC believes are unnecessary, and such specific message types may be modified, renamed or changed from time to time (as noted above). The amendment would also remove a requirement that certain emails be password protected (as ICC does not believe email security measures need to be set out in the Treasury Policy). With respect to the discussion of bank-to-bank messages, the amendments would remove references to specific settlement banks and instead refer to the applicable ICC settlement bank generally (to avoid the need to amend the Treasury Policy in the event of any change in settlement banks). With respect to the scenario where a bank rejects a SWIFT debt message because of a technical defect, the amendments will remove a specific requirement to manually update the transaction summary report and manually initiate a specific reversal or correction message and add instead a general obligation to correct the prior message or reissue a corrected message.

ICC proposes revisions to settlement bank failure sub-section of Section IV of the Treasury Policy.⁶ In the event that a settlement bank fails to perform, ICE Clear Credit would instruct the CP to wire the funds to the ICE Clear Credit accounts at an alternate settlement bank. The amendments broaden the list of such alternate settlement banks that may be designated by ICC.

In the discussion of ICC's use of the FRB Accounts for depository purposes, the amendments would update the Treasury Policy to reflect that ICC currently maintains separate FRB Accounts for house and client margin in light of applicable segregation requirements (removing and updating certain outdated language that contemplated a scenario where ICC might only have one FRB account). Other amendments in this section make non-substantive changes to the use of defined terms (including new terms House Account and Client Account as well as replacing FRB customer cash account and FRB House cash account with FRB House Account and replacing FRB Client cash account with FRB Client Account). Certain conforming changes would also be made to consistently refer to Guaranty Fund and House Accounts in this section.

Further, ICC proposes revisions to the custodial assets section of the Treasury Policy.⁷ The amendments would reference ongoing monitoring according to ICE Clear Credit's Counterparty Monitoring Procedures (rather than identifying only a specific annual report that is no longer required to be submitted as ICC

⁶ Treasury Policy Section IV. Sub-Section "**A.7. Failure of Settlement Bank to Perform.**"

⁷ Treasury Policy Section "**V. Custodial Assets.**"



Counterparty Monitoring Procedures contain detailed procedures regarding the monitoring of the operational capabilities of the custodial banks). Outdated language that contemplated a scenario where ICC might have only one FRB securities account has also been removed. Amendments would identify market risk management as well as liquidity risk management as goals of ICC's policies relating to acceptable forms of collateral and associated haircuts. Certain typographical and other non-substantive drafting changes would be made in the discussion of collateral valuation.

ICC proposes revisions to the collateral "haircut" sub-section of Section V of the Treasury Policy.⁸ The discussion of the collateral haircut methodology would be revised to refer to cash and non-cash collateral generally, rather than just US Treasuries and non-USD currencies (as the current list of eligible collateral is not limited to those specific assets). Other conforming non-substantive changes will be made consistent with the rest of the Treasury Policy. Amendments would also require that the Treasury Department provide a report of current haircuts to the ICC Risk Department at a minimum once a month (as opposed to only once a month) and require that the report be provided whether or not changes were made during the month. This approach reflects ICC's current practices. The amendments would also reflect current practice that haircuts are made publicly available, and any haircut changes are notified to CPs (and not only on a monthly basis). In the excess collateral sub-section, ICC proposes noting that requests by Clearing Participants to transfer excess collateral must be completed prior to 9:00 AM ET for both EUR and British pound sterling ("GBP") denominated collateral rather than only for EUR denominated collateral as this sub-section did not contain the applicable GBP deadline for the transfer of excess GBP denominated collateral.

In the section of the Treasury Policy relating to treasury management of client business,⁹ various non-substantive drafting changes would be made, including to use the defined terms House Account, Client Account and Client Positions and Margin and conform references to various types of cash and non-cash collateral. An unnecessary reference to daily payment processes would also be removed.

ICC also proposes revisions to the treasury reconciliations section of the Treasury Policy.¹⁰ As amended, the Treasury Policy will clarify that the Treasury Department conducts a daily reconciliation process for its cash and non-cash collateral accounts in accordance with its internal procedures, which include cite checks for validating status of margin payments, a check of prior-day cash balances, withdrawals, and/or deposits, and a comparison of current and expected balances. With respect to the cite checks description, ICC proposes to replace the vague and undefined phrase "ISG requests" with the generalized and descriptive phrase "transaction activity" to improve clarity.

Other amendments would correct the identification of ICC's SWIFT BIC code and update cross-references to ICC's Counterparty Monitoring Procedures (which was formerly referred to as the CDS Clearing Counterparty Monitoring Procedures).

ICC also proposes changes to Appendix 1: ICE Clear Credit Operating Capital Investment Policy. The amendments provide that the use of direct investments in US Treasury securities is not limited to cases where other investments (e.g., reverse repo investments) are unavailable; rather, the revised guidelines would contemplate the use of direct investments primarily for stable balances (such as amounts held for regulatory capital purposes). ICC believes the change provides greater flexibility for investment of such

⁸ Treasury Policy Section V, Sub-Section "**B.3. Collateral "Haircut" Methodology.**"

⁹ Treasury Policy Section "**VI. Treasury Management for Client Business.**"

¹⁰ Treasury Policy Section "**VII. Treasury Reconciliations.**"



balances while preserving the credit quality of investments. Revisions to the guidelines for reverse repo investments in Appendix 2 would reflect that the value of collateral must be 102% of the invested amount (rather than within a range of 100.5% to 102%). This change reflects current market practice and provides greater protection to ICC. References to certain specific banks in key contacts in Appendix 2 also will be removed as unnecessary; ICC does not believe such contacts need to be maintained in the Treasury Policy, given the likelihood of changes in contact details.

ICC proposes a number of other drafting clarifications and conforming changes, such as updating names and uses of relevant defined terms, deleting outdated references and other non-substantive drafting improvements, would also be made throughout the Treasury Policy document. Various provisions and footnotes would also be relabeled or renumbered in the Treasury Policy.

Core Principle Review:

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

Financial Resources: Financial Resources: The proposed changes are consistent with the financial resources requirements of Principle B and Commission Regulation 39.33. The proposed changes are intended to update the Treasury Policy and make various drafting improvements for the purposes of clarifications. The purpose of the Treasury Policy is to assist ICC, among other matters, in accurately assessing and managing certain of its investment risks, collateral risks, and liquidity risks relating to margin, GF and other assets held by ICC. In keeping the relevant policies up-to-date and clear, ICC believes the amendments help ensure that ICC continues to maintain sufficient financial resources to withstand, at a minimum, the default of the two Clearing Participant affiliate groups to which it has the largest exposure in extreme but plausible market conditions, consistent with the requirements of Commission Regulation 39.33.

Risk Management: The changes to the Treasury Policy are consistent with the risk management requirements of Core Principle D and the risk management requirements set forth in Commission Regulations 39.13 and 39.36. The proposed amendments would update the statement of the overall responsibilities of ICC, aided by the Treasury Department, and procedures related to the management of funds constituting operating capital as well as GF contributions and margin, banking relationships, and acceptable collateral and haircuts, among other matters. ICC believes that such changes to the Treasury Policy continue to ensure that ICC possesses the ability to manage the risks associated with discharging its responsibilities, consistent with the risk management requirements of Core Principle D.

Treatment of Funds: The proposed changes are consistent with the treatment of funds requirements of Principle F and Commission Regulation 39.15. The proposed amendments provide additional details that would clarify the ICC investment policy with respect to ICC’s own operating capital to provide greater flexibility to make direct investments, and update various references to SWIFT messaging so as not to become outdated to provide that such collateral will continue to be held in a manner whereby risk of loss or of delay in access to them is minimized, consistent with the requirements of Core Principle F and Commission Regulation 39.15.



Amended Rules:

The proposed changes consist of changes to the Treasury Policy. ICC has respectfully requested confidential treatment for the Treasury Policy, which was submitted concurrently with this self-certification submission.

Certifications:

ICC hereby certifies that the amended Treasury Policy comply with the Act and the regulations thereunder. There were no substantive opposing views to the rules.

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

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 olivia.bazor@ice.com or 904-855-5580.

Sincerely,

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

Olivia Bazor
Staff Attorney