



November 5, 2020

VIA ELECTRONIC PORTAL

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

RE: ICE Clear Credit Swap Submission Related to Mandatory Clearing Determinations

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICE Clear Credit” or “ICC”) hereby submits (pursuant to the information requirements of Title 17 of the Code of Federal Regulations, Chapter 1 §39.5) to the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) credit default index swaptions referencing certain CDX index credit default swaps (“CDS”), respectively, (the “Index Swaption” or “Submitted Swaps”) for a mandatory clearing determination.

§39.5 Review of swaps for Commission determination on clearing requirement.

(b) Swap submissions.

(2) A derivatives clearing organization shall submit swaps to the Commission, to the extent reasonable and practicable to do so, by group, category, type, or class of swaps.

The Submitted Swaps are physically settled European style options referencing certain CDX index CDS, including the 5 year tenor (“5Y”) of the On-The-Run (“OTR”) series of CDX North American Investment Grade (“CDX.NA.IG”) and CDX North American High Yield (“CDX.NA.HY”) Indices. Table 1 below identifies the characteristics of the Submitted Swaps; specifically its option type, exercise style, underlying index instrument, expiration date, and strike convention, as follows:

Table 1

Option Type	Exercise Style	Underlying Index Instrument			Expiration Date	Strike Convention
		Index Name	Series	Tenor		
Call	European	CDX.NA.IG	OTR (currently 35)	5Y	Up to 1 year from OTR index roll	Spread
Put	European	CDX.NA.IG	OTR (currently 35)	5Y	Up to 1 year from OTR index roll	Spread
Call	European	CDX.NA.HY	OTR (currently 35)	5Y	Up to 1 year from OTR index roll	Price
Put	European	CDX.NA.HY	OTR (currently 35)	5Y	Up to 1 year from OTR index roll	Price

§39.5(b)(3)(i) Statement of Eligibility

“A statement that the derivatives clearing organization is eligible to accept the swap, or group, category, type, or class of swaps for clearing and describes the extent to which, if the Commission were to determine that the swap, or group, category, type, or class of swaps is required to be cleared, the derivatives clearing organization will be able to maintain compliance with section 5b(c)(2) of the Act.”

ICE Clear Credit is eligible to accept the Submitted Swaps for clearing and will be able to clear the Submitted Swaps in compliance with Section 5b(c)(2) of the United States Commodity Exchange Act (the “CEA”), including if the Commission were to determine that such swaps are required to be cleared. ICE Clear Credit is a Derivatives Clearing Organization (“DCO”) pursuant to Section 5b of the CEA, and as such is supervised by the Commission. ICE Clear Credit became a DCO on July 16, 2011 pursuant to Section 725 of the Dodd-Frank Act (the “Conversion Date”), and since the Conversion Date, ICE Clear Credit has cleared commodity-based swaps in compliance with section 5b(c)(2) of the CEA. In the case of the Submitted Swaps, the underlying index CDS will be limited to certain CDX index CDS that are accepted for clearing by ICC, as described above.¹

§39.5(b)(3)(ii) Information Related to the Act’s Swap Submission Review Requirements

“A statement that includes, but is not limited to, information that will assist the Commission in making a quantitative and qualitative assessment of the following factors:”

(A) “The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data.”

See confidential Exhibit A for details demonstrating significant outstanding notional exposure, trading liquidity and adequate pricing data for the Submitted Swaps.

(B) Clearinghouse Capabilities

“The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded.”

Rule Framework – ICE Clear Credit maintains a comprehensive set of rules that are publicly available and may be viewed at https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf and are listed herein as Exhibit B.

Exercise Procedures – ICE Clear Credit maintains the Exercise Procedures that are publicly available and may be viewed at https://www.theice.com/publicdocs/clear_credit/Exercise_Procedures.pdf and are listed herein as Exhibit C. The Exercise Procedures are intended to supplement Subchapter 26R of the Rules for Index Swaptions and provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers, the manner in which ICC will assign such exercises to Swaption Sellers, and address situations where there are technical issues.

Capacity, Operational Expertise and Resources – ICE Clear Credit is the largest, leading, and most active CDS clearinghouse in the world as measured by (1) number and diversification of cleared CDS contracts, (2) volume,

¹ ICE Clear Credit has also filed with the Commission advance notices of proposed rule changes pursuant to Commission Regulation 40.10 related to the clearing of Index Swaptions on July 15, 2019 (Submission No. 1907-1516-4754-53) and January 14, 2020 (Submission No. 2001-1415-3739-55). The Commission’s Division of Clearing and Risk notified ICE Clear Credit on September 13, 2019 and June 12, 2020 that it does not object to the rule changes described in the submissions and authorized implementation of those changes.

(3) open interest, (4) amount of default resources (margin collateral and guaranty fund deposits), and (5) number of active CDS Clearing Participants (“CPs”). As of October 2, 2020, ICE Clear Credit lists 701 CDS instruments for clearing. As of October 2, 2020, ICE Clear Credit has cleared approximately 3,780,931 trades representing over \$105.7 trillion of gross notional value, resulting in open interest of \$1.4 trillion (additional ICE Clear Credit’s statistics may be viewed at <https://www.theice.com/clear-credit>).

The following financial institutions have been approved as ICE Clear Credit CPs: Bank of America, N.A., Barclays Bank PLC, Barclays Capital Inc., BofA Securities, Inc., BNP Paribas, BNP Paribas Securities Corp., Citibank N.A., Citigroup Global Markets Inc., Credit Suisse International, Credit Suisse Securities (USA) LLC, Deutsche Bank AG, Goldman Sachs & Co. LLC, Goldman Sachs International, HSBC Bank USA, N.A., HSBC Bank plc, HSBC Securities (USA) Inc., J.P. Morgan Chase Bank, National Association, J.P. Morgan Securities LLC, Merrill Lynch International, Morgan Stanley Capital Services LLC, Morgan Stanley & Co. LLC, Nomura International PLC, Nomura Securities International, Inc., Société Générale, SG Americas Securities LLC, The Bank of Nova Scotia, UBS AG, London Branch, UBS Securities LLC, and Wells Fargo Securities LLC.

Credit Support Infrastructure – As of September 30, 2020, ICE Clear Credit’s margin on deposit is approximately \$46 billion and Guaranty Fund amount is approximately \$3.0 billion. On a daily basis, ICE Clear Credit processes millions of dollars in settlements.

(C) Impact on Systemic Risk

“The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contract.”

The effect on mitigation of systemic risk from the clearing of the Submitted Swaps is believed to be material for the following reasons:

- The Index Swaption listed for clearing is actively traded.
- ICE Clear Credit’s CPs are amongst the most active CDS market participants and continue to clear a significant portion of their clearing-eligible portfolio.
- ICE Clear Credit has developed a robust risk management framework that has been extensively reviewed by regulators, industry participants and third-party experts.
- ICE Clear Credit’s price discovery process is working successfully to provide reliable inputs to its risk models.
- Currently, outstanding positions in the Submitted Swaps are opaque to ICE Clear Credit. However, the clearinghouse is subject to the exposure of the index transactions executed upon exercise or assignment of Submitted Swaps at the relevant strike prices, which can be significantly away from the prevailing market prices for the underlying indices.

(D) Competition

“The effect on competition, including appropriate fees and charges applied to clearing.”

ICE Clear Credit’s fee structure is appropriate and its margin and guaranty fund computations suitably account for the risk brought to the clearinghouse. The clearing of the Submitted Swaps should therefore have no adverse impact on competition. The clearing fees for the Submitted Swaps are publicly available on the ICE Clear Credit website.²

² ICE Clear Credit clearing fees are publicly available at the following:
https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees_Clearing_Participant.pdf and
https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf.

(E) Insolvency Protection

“The existence of reasonable legal certainty in the event of the insolvency of the relevant derivatives clearing organization or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.”

ICE Clear Credit believes that there is reasonable legal certainty in the event of the insolvency of ICE Clear Credit or a CP with regard to the treatment of house and customer positions, funds and property in connection with the clearing of the submitted swap.

ICE Clear Credit’s CPs consist of several types of institutions, principally futures commission merchants (“FCMs”) (including FCMs that are also broker-dealers), U.S. banks and non-U.S. banks. In the event of a CP insolvency, ICE Clear Credit is of the view, based on the advice of counsel in the relevant jurisdictions, that ICE Clear Credit would be permitted to exercise its rights to close out house positions and apply margin and other property of the defaulting CP in accordance with its rules. With respect to customer positions, which must be carried through an FCM CP, the submitted swap would constitute “commodity contracts” for purposes of the commodity broker liquidation provisions of the U.S. Bankruptcy Code. Under the Bankruptcy Code and the Commission’s Part 190 regulations, ICE Clear Credit would have the ability to close out customer positions following the insolvency of the CP and/or, in appropriate circumstances, facilitate a transfer of such positions to another, solvent CP. Customer property provided in respect of submitted contracts would be subject to the protections for customer property under the Part 190 regulations for the cleared swaps account class. Under the Commission’s Part 22 regulations for cleared swaps, ICE Clear Credit is required to segregate cleared swap customer property. As such, customer property would be subject to distribution to cleared swap customers of the insolvent FCM in accordance with those regulations.

With respect to an ICE Clear Credit insolvency, ICE Clear Credit would itself be a commodity broker subject to the Bankruptcy Code and Part 190 regulations. ICE Clear Credit believes, based on the advice of counsel, that under the applicable provisions of those laws and regulations, ICE Clear Credit rules providing for the termination of all outstanding contracts and the application and/or return of remaining member and customer property to CPs would similarly be enforceable.

§39.5(b)(3)(iii) Product Specifications

“Product specifications, including copies of any standardized legal documentation, generally accepted contract terms, standard practices for managing any life cycle events associated with the swap, and the extent to which the swap is electronically confirmable.”

Pursuant to an Index Swaption, one party (the “Swaption Buyer”) has the right (but not the obligation) to cause the other party (the “Swaption Seller”) to enter into an index CDS transaction at a pre-determined strike price on a specified expiration date on specified terms. The submitted swap is electronically confirmable. Lifecycle events are processed by ICE Clear Credit and DTCC subject to determinations committee and industry groups. Product specifications are included below.

26R. Index Swaptions.

The rules in this Subchapter 26R apply to the clearance of Index Swaptions.

26R-102. Definitions.

Eligible Untranching Swaption Index

Each particular series and version of a CDX or iTraxx Europe index or sub-index, as published by the applicable Eligible Index Publisher, determined by ICE Clear Credit to be eligible and included in the List of Eligible Untranching Swaption Indices.

Eligible Index Publisher

Markit Indices Limited or its successor, or any successor sponsor of the applicable Eligible Untranching Swaption Index.

Index Swaption

A credit index swaption in respect of any Eligible Untranching Swaption Index that is physically settled into the relevant Underlying Contract (and, if applicable, any Underlying New Trade) upon exercise and has a combination of characteristics listed as eligible for such Eligible Untranching Swaption Index in, and permitted by, the List of Eligible Untranching Swaption Indices.

Index Swaption Rules

The rules set forth in Chapters 1 through 8, 20 through 22, inclusive, the CDS Restructuring Rules, as modified by the provisions of Subchapter 26E, and this Subchapter 26R.

Index Swaption Untranching Terms Supplement

Each of the following:

- (a) If the Eligible Untranching Swaption Index is a CDX.NA index, the CDX Untranching Transactions Swaption Standard Terms Supplement, as published on September 22, 2014 (the “**CDX Swaption Supplement**”).
- (b) If the Eligible Untranching Swaption Index is an iTraxx Europe index, the iTraxx Europe Untranching Transactions Standard Terms Supplement, published on September 20, 2014 (the “**iTraxx Swaption Supplement**”).
- (c) Such other supplement as may be specified by ICE Clear Credit in respect of any Eligible Untranching Swaption Index, including any successor to any of the documents listed in (a) or (b) above.

List of Eligible Untranching Swaption Indices

The list of Eligible Untranching Swaption Indices maintained, updated and published by ICE Clear Credit on the ICE Clear Credit website, specifying the following information with respect to each index or sub-index:

- (a) the name and series of such index, including any applicable sub-index designation;
- (b) the “Annex Date” and, if applicable, the “Effective Date” of the index or sub-index;
- (c) one or more eligible “Expiration Dates”;
- (d) one or more eligible “Strike Prices” for each Expiration Date;
- (e) the Relevant Index Swaption Untranching Terms Supplement;
- (f) with respect to the underlying index or sub-index, the versions (and related annex dates) eligible for clearing;

Relevant Index Swaption Untranching Terms Supplement

With respect to an Eligible Untranching Swaption Index, the Index Swaption Untranching Terms Supplement specified for such Eligible Untranching Swaption Index in the List of Eligible Untranching Swaption Indices.

Underlying Contract

The CDX.NA Untranching Contract or iTraxx Europe Untranching Contract, as applicable, that is the underlying swap transaction into which an Index Swaption settles upon exercise.

Underlying New Trade

A single name Contract that is a New Trade (as defined in the Relevant Index Swaption Untranching Terms Supplement) that arises as a result of the exercise of an Index Swaption in the case of a Restructuring Credit Event.

26R-103. Application of Rules

An Index Swaption shall be a CDS Contract for purposes of Chapters 20, 20A, 21 and 26E (unless the context otherwise requires), but, for the avoidance of doubt, Chapter 22 shall not apply to the Index Swaption itself (as opposed to any Underlying Contract or Underlying New Trade). Following exercise and Physical Settlement of an Index Swaption, the relevant Underlying Contract (and any applicable Underlying New Trade) shall be a CDS Contract for all purposes of these Rules.

26R-309. Acceptance of Index Swaption Contracts by ICE Clear Credit.

- (a) A CDS Participant shall make all reasonable efforts to not submit a Trade for clearance as an Index Swaption, and any such Trade shall not be a Conforming Trade, if the Novation Time would be at a time when a Trade in the Underlying Contract could not be submitted for clearance (or at a time when the CDS Participant would be under an obligation to make reasonable efforts not to submit such a Trade in the Underlying Contract) under these Rules.
- (b) A CDS Participant shall as soon as reasonably practicable notify ICE Clear Credit if any Trade it has submitted for clearance was not at the time of submission, or ceases to be prior to the Novation Time, a Conforming Trade.

26R-315. Terms of the Cleared Index Swaption.

- (a) Any capitalized term used in this Subchapter 26R but not defined in these Index Swaption Rules shall have the meaning provided in the Relevant Index Swaption Untranching Terms Supplement.
- (b) For purposes of the CDS Committee Rules, the CDS Region for each Index Swaption referencing a CDX.NA index is the North American Region, and the CDS Region for each Index Swaption referencing an iTraxx Europe index is the European Region.
- (c) Each Index Swaption will be governed by the Relevant Index Swaption Untranching Terms Supplement, as modified by these Index Swaption Rules. In the event of any inconsistency between the Relevant Index Swaption Untranching Terms Supplement or the Confirmation (including in electronic form) for an Index Swaption and these Index Swaption Rules, these Index Swaption Rules will govern.

26R-316. Updating Relevant Index Swaption Untranching Terms Supplement.

- (a) Where a new version of an Index Swaption Untranching Terms Supplement (a “**New Standard Terms**”) is published as of a date that is subsequent to the date of the version that is specified as the Relevant Index Swaption Untranching Terms Supplement for any Index Swaption(s) (the “**Existing Standard Terms**”), and the Board or its designee determines that Index Swaptions referencing the Existing Standard Terms are fungible with Index Swaptions referencing the New Standard Terms, and so notifies Participants, Index Swaptions referencing the Existing Standard Terms shall become Index Swaptions referencing the New Standard Terms on the date determined by the Board or its designee (the “**Standard Terms Update Date**” and each prior Index Swaption Untranching Terms Supplement subject to such determination, a “**Superseded Standard Terms**”). Any Trade referencing a Superseded Standard Terms submitted for clearing as an Index Swaption shall, upon acceptance for clearing, become an Index Swaption referencing the New Standard Terms.
- (b) The Board or its designee may determine a different Standard Terms Update Date applicable to individual Index Swaptions or groups of Index Swaptions or may determine a Standard Terms

Update Date applicable to all Index Swaptions referencing the earlier version or annex of a series described in clause (a) of this Rule, as it deems appropriate.

26R-317. Terms of Index Swaptions.

With respect to each Index Swaption, the following terms will apply:

- (a) The following provisions will apply to an Index Swaption (or the relevant Underlying Contract) in respect of a CDX.NA index:
- (i) Section 8.10(a) of the 2014 Definitions is hereby amended by replacing the “.” at the end of subparagraph (B) thereof with “; and” and adding the following as a new subparagraph (C):

“(C) the tenth calendar day after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such Index Swaption.”.
 - (ii) Except for purposes of Section 1.39 of the 2014 Definitions, a Credit Event Notice and Notice of Publicly Available Information with respect to an Index Swaption for a Credit Event will be deemed to have been effectively delivered by the Notifying Party for purposes of Section 5.2(b) of the CDX Swaption Supplement only when the Resolution is effective, under the CDS Committee Rules, that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such Index Swaption. Notwithstanding anything to the contrary in the 2014 Definitions or the Relevant Index Swaption Untranching Terms Supplement, any delivery of a Credit Event Notice and/or Notice of Publicly Available Information by a CDS Participant (other than the deemed delivery as provided in this Rule 26R-317(a)(ii)) shall not be valid. For the avoidance of doubt, Section 5.5 of the CDX Swaption Supplement shall not apply.
 - (iii) For the purposes only of Section 1.16(a)(ii)(A)(II) of the 2014 Definitions (as incorporated in the Relevant Index Swaption Untranching Terms Supplement), Section 1.17 of the 2014 Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
 - (iv) With respect to an Index Swaption for which it is Resolved by the Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii) or the DC Rules, as applicable, the party that is Buyer under the Underlying Contract may not deliver a Notice of Physical Settlement until the later of (1) the Expiration Date of the Index Swaption and (2) the date it is determined that the method of settlement for a particular Credit Event with respect to the Underlying Contract is the Fallback Settlement Method due to the occurrence of one of the events in Section 6.1 of the 2014 Definitions, and as further provided in the CDS Physical Settlement Rules and this Subchapter 26R;

provided that no such notice shall be effective in any event if the Index Swaption is not effectively exercised. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 10.1 and 10.2 of the 2014 Definitions.

- (v) The provisions of “Clearing of Underlying Swap Transaction” in the CDX Swaption Supplement shall be inapplicable; provided that the Underlying Contract shall be cleared as provided in Rule 26R-319.
- (b) The following provisions will apply to an Index Swaption in respect of an iTraxx Europe index:
- (i) Section 8.10(a) of the 2014 Definitions is hereby amended by replacing the “.” at the end of subparagraph (B) thereof with “; and” and adding the following as a new subparagraph (C):

“(C) the tenth calendar day after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such Index Swaption.”.
 - (ii) The first paragraph of “Operation of each Underlying Swap Transaction” under Section 4 of the iTraxx Swaption Supplement is amended by inserting “or a Resolution is effective, under the CDS Committee Rules, that a Credit Event has occurred for which there is Publicly Available Information” after “DC Credit Event Announcement occurs”.
 - (iii) Clause (b) of “Operation of each Underlying Swap Transaction” under Section 4 of the iTraxx Swaption Supplement is amended by inserting “or a Resolution is effect, under the CDS Committee Rules, that such a Credit Event has occurred” after “DC Credit Event Announcement occurs”.
 - (iv) Notwithstanding anything to the contrary in the 2014 Definitions or the relevant iTraxx Swaption Supplement, any delivery of a Credit Event Notice and/or Notice of Publicly Available Information by a CDS Participant (other than notices with respect to a Relevant Restructuring Credit Event as provided in the CDS Restructuring Rules and this Subchapter 26R) shall not be valid.
 - (v) For the purposes only of Section 1.16(a)(ii)(A)(II) of the 2014 Definitions (as incorporated in the Relevant Index Swaption Untranching Terms Supplement), Section 1.17 of the 2014 Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
 - (vi) With respect to an Index Swaption for which it is Resolved by the Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii) or the DC Rules, as

applicable, the party that is the Buyer under the Underlying Contract may not deliver a Notice of Physical Settlement until the later of (1) the Expiration Date of the Index Swaption and (2) the date it is determined that the method of settlement for a particular Credit Event with respect to the Underlying Contract is the Fallback Settlement Method due to the occurrence of one of the events in Section 6.1 of the 2014 Definitions, and as further provided in the CDS Physical Settlement Rules and this Subchapter 26R; provided that no such notice shall be effective in any event if the Index Swaption is not effectively exercised. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 10.1 and 10.2 of the 2014 Definitions.

- (vii) Notwithstanding anything to the contrary in the iTraxx Swaption Supplement, the Reference Obligation for purposes of a New Trade (as defined therein) will be the Reference Obligation for the Restructured Entity in question as specified by ICE Clear Credit following consultation with the CDS Risk Committee (which for the avoidance of doubt may be determined by reference to any Standard Reference Obligation).
 - (viii) The provisions of "Clearing of Underlying Swap Transaction" in the iTraxx Swaption Supplement shall be inapplicable; provided that the Underlying Contract and any New Trade shall be cleared as provided in Rule 26R-319.
- (c) The Settlement Method for Index Swaptions shall be Physical Settlement in accordance with these Index Swaption Rules (and for this purpose, the CDS Physical Settlement Rules shall not apply to settlement of an Index Swaption, but may apply to settlement of an Underlying Contract or Underlying New Trade entered into upon settlement of an Index Swaption, to the extent provided therein and herein).
- (d) The following terms will apply to each Index Swaption:
- (i) The "Agreement" is the Participant Agreement between the relevant CDS Participant and ICE Clear Credit.
 - (ii) The "Effective Date", if applicable, is the date specified in the List of Eligible Untranching Swaption Indices for the relevant Eligible Untranching Swaption Index.
 - (iv) The "Calculation Agent" is ICE Clear Credit, except as provided in the CDS Committee Rules.
 - (v) The Option Style is European, such that the Index Swaption may only be exercised on the Expiration Date.
 - (vi) With respect to the Underlying Contract:
 - (A) The Initial Payment Amount and Initial Payment Payer are inapplicable.
 - (B) De Minimis Cash Settlement is inapplicable.

- (C) The “Fixed Rate” is the rate specified in the List of Eligible Untranching Swaption Indices for the relevant Eligible Untranching Swaption Index and Scheduled Termination Date.
- (e) For each Index Swaption, the following terms will be determined according to the particular Index Swaption terms submitted for clearing:
- (i) Which of the Eligible Untranching Swaption Indices is the “Eligible Untranching Swaption Index.”
 - (ii) The “Swaption Trade Date”.
 - (iii) Which of the eligible Expiration Dates specified for the Eligible Untranching Swaption Index in the List of Eligible Untranching Swaption Indices is the “Expiration Date”.
 - (iv) The “Swaption Buyer”.
 - (v) The “Swaption Seller”.
 - (vi) The Option Type, which shall be either (1) “Payer” or “Call” (in which case the Swaption Buyer will be the Fixed Rate Payer under the Underlying Contract) or (2) “Receiver” or “Put” (in which case the Swaption Seller will be the Fixed Rate Payer under the Underlying Contract).
 - (vii) Which of the eligible Strike Prices specified for the Eligible Untranching Swaption Index in the List of Eligible Untranching Swaption Indices is the “Strike Price”.
 - (viii) The “Premium”.
 - (ix) With respect to the Underlying Contract:
 - (A) The “Annex Date”.
 - (B) Which of the eligible Scheduled Termination Dates specified for the Eligible Untranching Swaption Index is the Scheduled Termination Date.
 - (C) The “Original Notional Amount”.

26R-318 Exercise and Assignment

- (a) Any exercise of a Contract that is an Index Swaption shall be made only in accordance with these ICE Clear Credit Rules and such exercise procedures as ICE Clear Credit may adopt from time to time (the “**Exercise Procedures**”), notwithstanding any provisions of the Relevant Index Swaption Untranching Terms Supplement to the contrary.
- (b) Any Participant which has or carries (for its House Account or Client Origin Account) an Open Position in an Index Swaption on the Expiration Date for which it is the Swaption Buyer may

issue (or, if applicable in the case of a Client-Related Position, its Non-Participant Party may issue) an exercise notice (a “**Swaption Exercise Notice**”) thereof, in whole or in part, on the Expiration Date, in such form and manner and by such deadline as ICE Clear Credit may prescribe pursuant to the Exercise Procedures. ICE Clear Credit may establish minimum exercise amounts for a partial exercise of an Index Swaption pursuant to the Exercise Procedures.

- (c) No Index Swaption will be automatically exercised on the Expiration Date, except as otherwise provided in the Exercise Procedures.
- (d) Upon receipt of one or more Swaption Exercise Notices in respect of Open Positions in a particular Index Swaption in respect of its Expiration Date, ICE Clear Credit will assign such Swaption Exercise Notices to Participants which have or carry Open Positions in such Index Swaption for which they are Swaption Sellers. Assignments shall be made across all such Open Positions of Swaption Sellers for both the House Account and Client Origin Account in accordance with the applicable Exercise Procedures.
- (e) Assignment by ICE Clear Credit of a Swaption Exercise Notice to a Participant that is a Swaption Seller shall constitute exercise of the relevant Open Position in such Index Swaption between ICE Clear Credit, as Swaption Buyer and such Swaption Seller. The exercise of both the Open Position between the Swaption Buyer and ICE Clear Credit and the offsetting Open Position between ICE Clear Credit and the Swaption Seller shall be deemed effective simultaneously at the time of such assignment, as recorded in the books and records of ICE Clear Credit.
- (f) Any Index Swaption that has not been validly exercised by the Participant that is the Swaption Buyer under these ICE Clear Credit Rules and the Exercise Procedures by the applicable deadline on the Expiration Date shall expire and all rights and obligations of the parties with respect thereto shall terminate. An Index Swaption for which a Participant is the Swaption Seller that is not assigned a Swaption Exercise Notice in accordance with these ICE Clear Credit Rules and the Exercise Procedures shall expire and all right and obligations of the parties with respect thereto shall terminate.
- (g) For the avoidance of doubt, assignment of a Swaption Exercise Notice to a Participant does not establish any direct rights as between the Participant (or Non-Participant Party) exercising an Index Swaption as Swaption Buyer and the Participant receiving such assignment. All exercised Index Swaptions remain obligations between the relevant Participant and ICE Clear Credit.

26R-319 Settlement of Index Swaptions

- (a) Upon the effective exercise of an Index Swaption in accordance with Rule 26R-318:
 - (i) A Contract (a “**Resulting Contract**”) in the form of the Underlying Contract shall come into effect as between the exercising Swaption Buyer and ICE Clear Credit and an

exactly offsetting Resulting Contract shall come into effect as between ICE Clear Credit and the assigned Swaption Seller ((A) if the Index Swaption Option Type is “Payer”, with such Swaption Buyer being the Fixed Rate Payer and such Swaption Seller being the Floating Rate Payer, or (B) if the Index Swaption Option Type is “Receiver”, with such Swaption Seller being the Fixed Rate Payer and such Swaption Buyer being the Floating Rate Payer, and in either case with ICE Clear Credit taking the opposite position). Each such Resulting Contract will, without further action of any party, automatically be a cleared CDS Contract under the Rules. ICE Clear Credit will make appropriate entries on its books and records to reflect each such Resulting Contract. Except as expressly provided in this Subchapter 26R, each such Resulting Contract shall thereafter be subject to the applicable subchapter of the Rules for CDS Contracts of that type.

- (ii) ICE Clear Credit, as calculation agent, shall determine the applicable settlement payment or payments (as determined under the Relevant Index Swaption Untranching Terms Supplement, and based on the strike adjustment amount and accrued amount thereunder) which shall be owed by the Swaption Buyer or the Swaption Seller under any exercised Index Swaption, in respect of such exercise. Such amount shall be payable on the ICE Business Day specified in the ICE Clear Credit Procedures, notwithstanding anything to the contrary in any Relevant Index Swaption Untranching Terms Supplement.
 - (iii) Without limiting its other rights hereunder, ICE Clear Credit may call for additional Initial Margin and/or Mark-to-Market Margin in respect of any Resulting Contract or Underlying New Trade.
- (b) If an Index Swaption is effectively exercised and one or more Event Determination Dates shall have occurred on or prior to the Expiration Date, then in addition to any settlement pursuant to subsection (a) above:
- (i) If there is an Auction Settlement Date in respect of such Event Determination Date, settlement of amounts owed under the Index Swaption in respect thereof (including without limitation any auction cash settlement amount and any fixed rate payment or accrual rebate) shall occur as set forth in the Relevant Index Swaption Untranching Terms Supplement, subject to clause (ii) below;
 - (ii) Notwithstanding anything to the contrary in the Relevant Index Swaption Untranching Terms Supplement or related auction terms supplement applicable to the Underlying Contract, in the case of an Auction Settlement where the Exercise Date occurs after the Auction Date, ICE Clear Credit, as calculation agent, shall determine an additional amount (the “**Additional Accrual**”) equal to (A) an amount calculated at the Fixed Rate on the relevant portion of the Original Notional Amount subject to the credit event for the period from and including the Credit Event Resolution Request Date to but excluding the Expiration Date; minus (B) an amount calculated at the Fixed Rate on such portion of the Original Notional Amount for the period from and including the Fixed Rate Payer Payment Date immediately preceding the Expiration Date to but excluding the Expiration

Date. If the Additional Accrual is positive, the Index Swaption party that is the applicable Fixed Rate Payer for the Underlying Contract shall be entitled to receive such amount from the Index Swaption party that is the applicable Floating Rate Payer for the Underlying Contract, but without duplication of any accrual rebate amount owed pursuant to clause (i) above; and (ii) if the Additional Accrual is negative, the Index Swaption party that is the applicable Fixed Rate Payer for the Underlying Contract shall be obligated to pay the absolute value of such amount to the Index Swaption party that is the applicable Floating Rate Payer for the Underlying Contract, but without duplication of any fixed amount owed pursuant to clause (i) above.

- (iii) If the Fallback Settlement Method applies in respect of such Event Determination Date, settlement of the related Credit Event shall occur in accordance with the Physical Settlement Rules, provided that (A) references therein to a Physically Settled CDS Contract or CDS Contract (including for purposes of establishing Matched Delivery Pairs) shall be deemed to refer to the exercised Index Swaption, (B) ICE Clear Credit will match Swaption Buyers and Swaption Sellers for purposes of establishing Matched Delivery Pairs promptly following the Expiration Date for such Index Swaptions, (C) the Buyer in respect of the relevant Underlying Contract may not deliver a Notice of Physical Settlement until the later of the Expiration Date and the date such Matched Delivery Pair is established, and (C) the NOPS Cut-off Date shall be the later of (i) the date that would be determined for the Underlying Contract and (ii) the third ICE Business Day following the Expiration Date.
- (c) Upon the occurrence of an M(M)R Restructuring Credit Event with respect to an Index Swaption for which the DC Credit Event Announcement or Regional CDS Committee Restructuring Announcement occurs on or prior to the Expiration Date (an “**Existing Restructuring**”):
 - (i) (A) The Swaption Buyer and Swaption Seller may deliver MP Notices on or prior to the Expiration Date with respect to Index Swaption as though it were the Underlying Contract; provided that if the Swaption Buyer does not effectively exercise the Index Swaption, or if the Swaption Seller is not effectively assigned an exercise notice for the Index Swaption, any such notice will be ineffective; and (B) the CDS Restructuring Rules in Subchapter 26E and ICE Clear Credit Restructuring Procedures shall apply with respect to such MP Notices (with references therein to a Restructuring CDS Contract being deemed to refer to the relevant component of such Index Swaption (or, as applicable, the New Trade that will arise therefrom following exercise thereof), provided that Matched Restructuring Pairs for this purpose will be determined solely between Swaption Buyers and Swaption Sellers of the same Index Swaption.
 - (ii) If the Index Swaption is effectively exercised, then in addition to the rights and obligations under subsection (b) above, a Contract constituting an Underlying New Trade for purposes of the Relevant Index Swaption Untranching Terms Supplement shall come into effect as between the exercising Swaption Buyer and ICE Clear Credit and an exactly offsetting Contract constituting an Underlying New Trade shall come into effect as between ICE Clear Credit and the assigned Swaption Seller ((A) if the Index

- Swaption Option Type is “Payer”, with such Swaption Buyer being the Fixed Rate Payer and such Swaption Seller being the Floating Rate Payer, or (B) if the Index Swaption Option Type is “Receiver”, with such Swaption Seller being the Fixed Rate Payer and such Swaption Buyer being the Floating Rate Payer, and in either case with ICE Clear Credit taking the opposite position). Each such Underlying New Trade will, without further action of any party, automatically be a cleared CDS Contract under the ICE Clear Credit Rules hereunder. ICE Clear Credit will make appropriate entries on its books and records to reflect each such New Trade. Except as expressly provided in this Subchapter 26R, each such Underlying New Trade shall thereafter be subject to the applicable subchapter of the Rules for CDS Contracts of that type.
- (iii) Notwithstanding anything to the contrary herein, with respect to such an Existing Restructuring, an Event Determination Date will only occur with respect to the relevant Underlying New Trade if Swaption Buyer or Swaption Seller has delivered a Credit Event Notice with respect to the Existing Restructuring no later than the relevant Exercise Cut-off Date in accordance with Rule 26R-319(c)(i).
 - (iv) With respect to an Existing Restructuring, if an Event Determination Date has occurred with respect to the relevant Underlying New Trade, (1) if there is an Auction Settlement Date for such Event Determination Date, settlement of amounts owed in respect thereof shall occur as set forth in the Relevant Index Swaption Untranching Terms Supplement, where applicable, on the basis of the MP Notices delivered by the relevant parties in the Restructuring Matched Pair; and (2) if the Fallback Settlement Method applies for such Event Determination Date, settlement of the related Credit Event shall occur in accordance with the Physical Settlement Rules, provided that (A) the relevant Matched Restructuring Pair shall be deemed to be the Matched Delivery Pair, (B) references in the Physical Settlement Rules to a Physically Settled CDS Contract or CDS Contract shall be deemed to refer to the Underlying New Trade, (C) the Buyer in respect of the Matched Delivery Pair may not deliver a Notice of Physical Settlement until the Expiration Date, and (D) the NOPS Cut-off Date shall be the later of (i) the date that would be determined for the Underlying Contract and (ii) the third ICE Business Day following the Expiration Date.

26R-502. Specified Actions.

Notwithstanding anything to the contrary in Rule 502(a) but without limiting the application of Rule 616 to any Modification (including the requirement of consultation with the Risk Committee, as provided in Rule 502(a), prior to determining that a Modification is not a Contract Modification), none of the following shall constitute a Specified Action: (a) adding eligible Strike Prices, (b) adding new eligible Expiration Dates, (c) adding new versions or series of an Eligible Untranching Swaption Index, or (d) adding new eligible Scheduled Termination Dates for Underlying Contracts.

26R-616. Contract Modification.

It shall not constitute a Contract Modification if the Board or its designee updates the List of Eligible Untranching Swaption Indices (and modifies the terms and conditions of related Index Swaptions) to give effect to determinations by the Regional CDS Committee (or applicable Dispute Resolver) or a Credit Derivatives Determinations Committee, including, without limitation, determinations of Succession Events or circumstances giving rise to Successors and Succession Dates or Substitute Reference Obligations or implementation of Standard Reference Obligations (or changes thereto).

§39.5(b)(3)(iv) Participant Eligibility

“Participant eligibility standards, if different from the derivatives clearing organization’s general participant eligibility standards.”

The participant eligibility standards related to the Index Swaption are not different from ICE Clear Credit’s general participant eligibility standards.

§39.5(b)(3)(v) Price Discovery

“Pricing sources, models, and procedures, demonstrating an ability to obtain sufficient price data to measure credit exposures in a timely and accurate manner, including any agreements with clearing members to provide price data and copies of executed agreements with third-party price vendors, and information about any price reference index used, such as the name of the index, the source that calculates it, the methodology used to calculate the price reference index and how often it is calculated, and when and where it is published publicly.”

See the ICE Clear Credit End-of-Day Price Discovery Policies and Procedures attached hereto as Confidential Exhibit D.

§39.5(b)(3)(vi) Risk Management

“Risk management procedures, including measurement and monitoring of credit exposures, initial and variation margin methodology, methodologies for stress testing and back testing, settlement procedures, and default management procedures.”

See the ICE Clear Credit Risk Management Framework attached hereto as Confidential Exhibit E. See the ICE Clear Credit Risk Management Model Description document attached hereto as Confidential Exhibit F.

See the ICE Clear Credit Risk Management Backtesting Framework attached hereto as Confidential Exhibit G.

See the ICE Clear Credit Risk Management Stress Testing Framework attached hereto as Confidential Exhibit H.

See the ICE Clear Credit Clearing Participant Default Management Procedures attached hereto as Confidential Exhibit I.

§39.5(b)(3)(vii) Rules, Policies and Procedures

ICE Clear Credit maintains a comprehensive set of rules that are publicly available and may be viewed at https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf and are listed herein as Exhibit B. ICE Clear Credit also maintains the Exercise Procedures, which are intended to supplement Subchapter 26R of the Rules. The Exercise Procedures provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers, the manner in which ICC will assign such exercises to Swaption Sellers, and address situations where there are technical issues. The ICE Clear Credit Exercise Procedures may be viewed at https://www.theice.com/publicdocs/clear_credit/Exercise_Procedures.pdf and are listed herein as Exhibit C.

See the ICE Clear Credit Risk Management Framework attached hereto as Confidential Exhibit E. See the ICE Clear Credit Risk Management Model Description document attached hereto as Confidential Exhibit F.

§39.5(b)(3)(viii) Communication to Members Regarding this Submission

“A description of the manner in which the derivatives clearing organization has provided notice of the submission to its members and a summary of any views on the submission expressed by the members (a copy of the notice to members shall be included with the submission.)”

ICE Clear Credit posted a copy of this submission (absent any confidential exhibits) on its public website on November 5, 2020. Written comments relating to the submission have not been solicited or received. ICE Clear Credit will notify the CFTC of any written comments received by ICE Clear Credit.

Pursuant to applicable law, ICE Clear Credit respectfully requests confidential treatment of the confidential exhibits attached as part of this submission and any other information or documents which may at any time be submitted in connection with this submission and which may be marked “Confidential” or for which confidential treatment may be requested.

Confidential treatment of the confidential exhibits attached as part of this submission and any subsequent related documents is justified under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* and the Rules Regarding Availability of Information, 12 C.F.R. § 261.15 (2006). The confidential exhibits attached as part of this submission contain confidential business and commercial information (together with confidential intellectual property) related to ICE Clear Credit’s clearing facility and ICE Clear Credit’s CPs, the disclosure of which could have a material adverse effect on, and cause injury to, the operations and competitive position of ICE Clear Credit and its CPs. We believe that the confidential exhibits are entitled to protection pursuant to exemptions (b)(4) and (b)(8) of the Freedom of Information Act. In particular, the confidential exhibits provide information that is useful to potential competitors and would be competitively harmful to ICE Clear Credit and its CPs if disclosed to the public.

In the event that a determination is made to release any confidential portion of this submission, we respectfully request an opportunity to discuss or to revise as appropriate prior to such release.

If you should have any questions or comments, please do not hesitate to contact me at 312-836-6742.

Respectfully submitted,



Eric Nield
General Counsel

- Enc: Confidential Exhibit A – Outstanding Notional Exposure, Trading Liquidity and Pricing Data
Exhibit B – ICE Clear Credit Rules available at:
https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf
Exhibit C – ICE Clear Credit Exercise Procedures available at:
https://www.theice.com/publicdocs/clear_credit/Exercise_Procedures.pdf
Confidential Exhibit D – ICE Clear Credit End-of-Day Price Discovery Policies and Procedures
Confidential Exhibit E – ICE Clear Credit Risk Management Framework
Confidential Exhibit F – ICE Clear Credit Risk Management Model Description document
Confidential Exhibit G – ICE Clear Credit Risk Management Backtesting Framework
Confidential Exhibit H – ICE Clear Credit Risk Management Stress Testing Framework
Confidential Exhibit I – ICE Clear Credit Clearing Participant Default Management Procedures