



**Olivia Bazor**  
Staff Attorney

May 15, 2023

**Re: Updates to the ICC Clearing Participant  
Default Management Procedures 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 21<sup>st</sup> 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 Participant ("CP") Default Management Procedures ("Default Management Procedures"). 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 revising the ICC Default Management Procedures. This submission includes a description of the changes to the ICC Default Management Procedures. Certification of the changes pursuant to Section 5c(c)(1) of the Act and Commission Regulation 40.6(a) is also provided below.

The ICC Default Management Procedures set forth ICC's default management process, including the actions taken by ICC to determine that a CP is in default of its obligations to ICC under the Rules, as well as the actions taken by ICC in connection with the close-out of the defaulter's portfolio (the "Close-Out"). These revisions do not require any changes to ICC's existing default management rules or any other procedures as the proposed revisions are limited to providing additional details with respect to ICC's testing of ICC Recovery Plan and the ICC Wind-Down Plan (the "Plans")<sup>1</sup>. The proposed updates are described in detail as follows.

Specifically, ICC purposes to revise the ICC Default Management Procedures by adding Section 4.6 Recovery and Wind-Down Tests. Section 4.6 adds detailed procedures with respect to ICC's annual Recovery and Wind-Down testing. ICC conducts Recovery and Wind-Down testing at least every twelve months demonstrating ICC's readiness to execute the Plans as applicable (i) to address uncovered credit losses, liquidity shortfalls and general business risk, operational risk, or any other risk that threatens ICC's viability as a going concern, and (ii) in the event recovery actions fail to preserve ICC's viability as a going concern or ICC makes a business decision to exit all clearing activities, to wind-down ICC in an orderly manner (the "Recovery and Wind-Down Test").

Proposed Section 4.6 also includes details on how the scope of each Recovery and Wind-Down Test is determined. It is the responsibility of the ICC Risk Oversight Officer ("ROO") to plan and coordinate the execution of the Recovery and Wind-Down Test, including the determination of the scope of the Recovery and Wind-Down Test which includes

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<sup>1</sup> The ICC Recovery Plan and ICC Wind-Down Plan are the plans for the recovery and orderly wind-down of ICC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or other losses.



coordination with the ICC Close-Out Team.<sup>2</sup> Such scope will include which recovery and wind-down scenarios will be tested, the selected stress scenario(s), and the recovery tools to be tested. In the determination of which scenarios and tools are to be tested, ICC will give consideration to scenarios, business processes, and tools which have not been recently tested. In addition, ICC will consider the applicability of new Rules, procedures, or newly implemented ICC capabilities (e.g., new cleared contracts). The scope also will include all three wind-down options set forth in the ICC Wind-Down Plan. Section 4.6 further provides that with respect to the testing of business processes and tools to address CP default scenarios, ICC may choose to include such testing in ICC's default management tests, and testing of non-CP default scenarios will be conducted through a separate table-top exercise.

Furthermore, proposed Section 4.6 assigns responsibility for the execution of the Recovery and Wind-Down Test to the ICC Close-Out Team, capturing results, and making them available to the ROO. The ROO collates the results and, identifies any issues or lessons learned, including any revisions that should be made to the ICC Recovery Plan or ICC Wind-Down Plan. The ROO collates the information from the Recovery and Wind-Down Test into a presentation which is reviewed with the Close-Out Team, the ICC Risk Committee and the ICC Board of Managers. The ROO maintains a list of work items for the future development and/or enhancement of the business processes and capabilities necessary to execute the Plans.

#### 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 Default Management Procedures are consistent with the financial resources requirements of Core Principle B and the financial resource requirements set forth in Commission Regulation 39.33. The proposed changes set out procedures for with respect to the annual testing of the Plans included in the ICC Default Management Procedures, which enhances ICC's ability to manage a default. Such changes strengthen ICC's ability to manage its financial resources and withstand the pressures of defaults, thereby ensuring that ICC maintains sufficient financial resources to withstand, at a minimum, the default of the two CP 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 amendments to the Default Management Procedures are consistent with the risk management requirements of Core Principle D and the risk management requirements set forth in Commission Regulation 39.36. As described above, the proposed changes enhance ICC's ability to manage the risk of a default by adding the detailed procedures of the process with respect to the annual Recovery and Wind-Down testing, thereby ensuring that ICC possesses the ability to manage the risks associated with a potential default event, consistent with the risk management requirements of Core Principle D.

**Default Management:** ICC believes that its existing rules and procedures, including the amended ICC Default Management Procedures, are consistent with the default rules and procedures requirements of Core Principle G. The proposed changes continue to ensure that ICC can take timely action to contain losses and liquidity pressures and continue meeting its obligations, by detailing ICC's readiness to execute the Plans, which promotes ICC's ability to efficiently manage its Close-Out process, thereby enhancing ICC's ability to withstand defaults and continue providing clearing services.

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<sup>2</sup> The ICC Close-Out Team is comprised of ICC management, the ROO, and the most senior member of the ICC Treasury Department.



Amended Rules:

The proposed changes consist of changes to the ICC Default Management Procedures. ICC has respectfully requested confidential treatment for the ICC Default Management Procedures, which were submitted concurrently with this self-certification submission.

Certifications:

ICC hereby certifies that the amended ICC Default Management Procedures 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.theice.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](mailto:olivia.bazor@ice.com) or 904-855-5580.

Sincerely,

A handwritten signature in black ink, appearing to read 'Olivia Bazor', written in a cursive style.

Olivia Bazor  
Staff Attorney