



Eric Nield
General Counsel

July 6, 2023

Re: Updates to ICC Default Auction Procedures—Initial Default Auctions Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commission Regulation 40.6(a)

VIA ELECTRONIC PORTAL

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

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICC”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), a self-certification of changes to ICC’s Default Auction Procedures—Initial Default Auctions (the “Auction Procedures”).¹ 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 to revise its Auction Procedures. In the event of the default of an ICC Clearing Participant (“CP”), the Auction Procedures are designed to facilitate liquidation of the defaulter’s portfolio through a multi-lot modified Dutch auction.

The purpose of the proposed amendments is to incorporate feedback received from market participants during ICC’s 2022 default test to revise the Auction Procedures to provide ICC greater flexibility to determine that a minimum bid requirement is not appropriate for an auction participant in certain circumstances and/or to decide for a particular auction lot that so-called “juniorization” of participants’ guaranty fund contributions based on competitiveness of bidding is not appropriate. With respect to the minimum bid requirement, market participants expressed concern that certain market participants may not trade, or have the operational, risk management or other capacity to trade or otherwise manage, particular products cleared through ICC (e.g., index swaptions). If a participant were forced to bid for lots including such products, the participant might acquire in the default auction products for which it may not have the ready capability to manage the risk of its positions. Forcing participants to acquire such positions may result in an increase in systemic risk. Similarly, market participants have expressed concerns that while juniorization may in general incentivize robust bidding in the auction process, there may be particular situations where, in the light of the characteristics of the lot and participants involved in the auction, the risk of juniorization could make it more difficult to auction the lot successfully or might otherwise be undesirable or inappropriate for the auction.

To address these concerns, ICC proposes the following amendments to the Auction Procedures. Currently, under Section 2.4 of the Auction Procedures, all non-defaulting CPs and Direct Participating Customers² (collectively, “Auction Participants”) are required to bid for a minimum notional amount of contracts for each

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

² A Direct Participating Customer is a customer of a CP that has been authorized to participate in an ICC default auction pursuant to the requirements set out in the Auction Procedures.



auction lot determined pro rata based on its required contribution to the ICC guaranty fund (“Minimum Bid Requirement”), subject to certain exceptions. ICC proposes to amend Section 2.4 to provide an additional exception to the extent ICC determines that the Minimum Bid Requirement would be inappropriate for certain Auction Participant(s) in light of: (i) the operational and other capabilities of such Auction Participant(s) to clear contracts in the relevant auction lot, or (ii) the conditions in the market for the contracts in the relevant auction lot. These amendments would allow ICC to determine that a Minimum Bid Requirement should not apply, among other cases, where the relevant Auction Participant does not have risk management or other operational capabilities to clear the relevant contracts. It also provides ICC with flexibility to eliminate a Minimum Bid Requirement in other circumstances it determines to be appropriate, to address market conditions and other circumstances that may be prevailing at the time.

Furthermore, ICC proposes amending Section 2.6 of the Auction Procedures to allow ICC to determine that for a particular auction lot, all Auction Participants will be treated as Senior Bidders in circumstances where ICC determines that “juniorization” may negatively impact ICC’s ability to conduct a successful default auction given the then current market conditions. The effect of such a determination would be that “juniorization” of Lot Guaranty Fund Contributions and Lot Assessment Contributions will not occur, such that all such contributions will be applied on a pro rata basis rather than based on the relative competitiveness of bids made. ICC believes this flexibility is appropriate to address potential scenarios where juniorization may make it more difficult to run a successful auction or is otherwise inappropriate or undesirable for the auction in light of the particular circumstances at the time.

In addition, ICC received feedback from market participants during ICC’s 2022 default test that making the foregoing revisions to ICC’s Auction Procedures would better align such procedures with the default procedures of other clearing houses (e.g., LCH Ltd, LCH SA, and Eurex). According to such market participants, the foregoing clearing houses have rules and/or default procedures that, in general, exclude non-defaulting clearing members from mandatory participation in default auctions where such non-defaulting clearing members do not have exposure to the products in the default auction portfolio.

Core Principle Review:

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

Financial Resources: The revisions to the Auction 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 provide ICC greater flexibility to determine that a minimum bid requirement is not appropriate for an auction participant in certain circumstances and/or to decide for a particular auction lot that so-called “juniorization” of participants’ guaranty fund contributions based on competitiveness of bidding is not appropriate. The revisions would allow ICC to determine that a Minimum Bid Requirement should not apply, among other cases, where the relevant Auction Participant does not have risk management or other operational capabilities to clear the relevant contracts. Such revisions provide ICC with flexibility to eliminate a Minimum Bid Requirement in other circumstances it determines to be appropriate, to address market conditions and other circumstances that may be prevailing at the time. Such changes are designed to promote effective and efficient auctions to facilitate the close-out of a defaulter’s portfolio. In ICC’s view, these enhancements strengthen ICC’s ability to manage its financial resources and withstand the pressures of defaults, consistent with the requirements of Core Principle B.

Risk Management: The revisions to the Auction 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 revisions are designed to protect against auction participants acquiring products in a default auction for which it may not have the ready capability to manage the risk of its positions. Forcing auction participants to acquire such positions may result in an increase in systemic risk, and the revisions are designed to avoid this increase in systemic risk. Such changes allow ICC to more



efficiently and safely manage its auction process. ICC believes that the proposed revisions augment ICC's procedures relating to default management and enhance ICC's ability to withstand defaults and continue providing clearing services. The proposed changes thus serve to promote the soundness of ICC's risk management system, thereby ensuring that ICC possesses the ability to manage the risks associated with discharging its responsibilities, consistent with the risk management requirements of Core Principle D.

Default Management: The revisions to the Auction Procedures and consistent with default procedure requirements of Core Principle G and the default procedure requirements set forth in Commission Regulation 39.16. ICC's default management rules and procedures contained in the ICC Rules and the Auction Procedures are publicly available on ICC's website. The proposed amendments enhance ICC's ability to withstand defaults and continue providing clearing services, including by promoting effective and efficient default auctions by adding flexibility in the application of minimum bid requirements and maximizing ICC's ability to efficiently and safely manage its auction process in default events, to ensure that ICC can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default. In ICC's view, the revisions to the Auction Procedures enhance ICC's default procedures by increasing the likelihood of ICC conducting an effective and efficient default auction, consistent with the default procedure requirements of Core Principle G.

Amended Rules:

The proposed changes consist of revisions to the ICC Initial Default Auction Procedures.

Annexed as an Exhibit hereto is the following:

- A. Proposed amendments to the ICC Initial Default Auction Procedures

Certifications:

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

ICC 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 eric.nield@ice.com or 312-836-6742.

Sincerely,

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

Eric Nield
General Counsel