



DCO Rules

UNITED STATES COMMODITY FUTURES TRADING COMMISSION

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Request For Confidential Treatment - Detailed Written Justification	
CFTC FOIA Letter 2025 06 24.pdf	



Olivia Bazor
Staff Attorney

June 24, 2025

Re: Changes to ICC Default Management Procedures & ICC CDS Clearing Rules 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 (“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), a self-certification of the changes to the ICC Clearing Participant (“Clearing Participant”) Default Management Procedures (the “Default Management Procedures”) and the ICC Clearing Rules (the “Rules”).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.

This submission includes proposed revisions to the Default Management Procedures and the Rules. A description of the changes contained in the Default Management Procedures and the Rules follow. 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

ICC proposes to revise the Default Management Procedures and to make related changes to the Rules. The 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 defaulting CP’s portfolio. The proposed revisions (i) remove Direct Liquidation² transactions as both a hedging and liquidation mechanism, (ii) update ICC’s position porting functionality and (iii) make general updates and clarifications, all as discussed herein. The proposed updates are described in detail as follows.

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

² Direct Liquidation is defined in Rule 20-605(d)(v), but in general means direct transactions with market participants.



I. Remove Direct Liquidation Transactions

ICC proposes to eliminate references to Direct Liquidation in the Default Management Procedures as a hedging and liquidation mechanism in the context of managing a defaulting CP's portfolio. ICC believes that the use of Direct Liquidation transactions is no longer necessary or desirable, as such functionality is now fully available through ICC's Default Management System ("DMS") through its hedge and liquidation auction capabilities.

ICC proposes changes to reflect the removal of Direct Liquidation throughout the Default Management Procedures. As a result of the removal of Direct Liquidations as a hedging and liquidation mechanism, ICC proposes to remove "Direct Liquidation" as a defined term in Section 2. and as a Standard Default Management Action³ in Section 3. ICC proposes to remove language from Section 6.5.2. that describes the operational set-up necessary to execute hedging and/or liquidation transactions directly with CP counterparties, as such operational set-up no longer will be necessary with the removal of Direct Liquidation transactions. Furthermore, ICC proposes to remove Direct Liquidation transactions from the list of items that the CDS Default Committee⁴ may be consulted on in Section 7. Consultation on this matter will no longer be necessary given the removal of Direct Liquidation transactions.

ICC proposes to remove Direct Liquidation transactions in the context of liquidating a defaulting CP's portfolio from the Default Management Procedures by deleting Section 8.6. in its entirety. Current Section 8.6. describes the process and steps that ICC would follow should it determine to execute Direct Liquidation transactions to liquidate a defaulting CP's portfolio by way of bilateral transactions directly with counterparties. While the current Default Management Procedures include the option for Direct Liquidation transactions, current Section 8.6. notes that the preferred method of liquidating a defaulting CP's portfolio is by way of an auction (as described in current Section 8.5. of the Default Management Procedures). ICC believes that the automated liquidation auction capabilities of the DMS offer a more efficient and transparent approach to liquidating a defaulting CP's portfolio as compared to Direct Liquidation transactions. As a result, ICC believes that the DMS liquidation auction process has superseded the need for ICC to maintain the capability to directly execute bilateral Direct Liquidation transactions.

ICC also proposes to remove direct execution of transactions in the context of hedging a defaulting CP's portfolio from the Default Management Procedures by removing Section 8.4. in its entirety. Current Section 8.4. describes the process and steps that ICC would follow should it determine to execute an Initial Cover Transaction⁵ by way of bilateral transactions directly with counterparties. While the current Default Management Procedures include the option for the direct execution of Initial Cover Transactions, current Section 8.4. notes that the preferred method of executing Initial Cover Transactions is by way of an auction

³ Rule 20-605(d) defines certain Standard Default Management Actions that ICC has the right to take in effecting the closing-out process.

⁴ Rule 20-617(a) defines the CDS Default Committee, which is responsible for taking certain actions provided in the Rules and ICC procedures upon a CP default.

⁵ Initial Cover Transaction is defined in Rule 20-605(d)(i), but is generally understood to mean a hedging transaction.



(as described in Section 8.3. of the Default Management Procedures). ICC believes that the automated hedge auction capabilities of the DMS offer a more efficient and transparent approach to hedging a defaulting CP's portfolio as compared to the direct execution of an Initial Cover Transaction. As a result, ICC believes that the DMS hedge auction process has superseded the need for ICC to maintain the capability to directly execute bilateral Initial Cover Transactions. ICC also proposes to remove a reference to executing Initial Cover Transactions with market participants in Section 7.3. that is no longer necessary given the removal of the option for the direct execution of Initial Cover Transactions.

ICC proposes to make changes to the Rules analogous to the above-described changes to the Default Management Procedures to remove Direct Liquidation transactions as both a hedging and liquidation mechanism. ICC proposes to remove the definition of "Direct Liquidation" from Rule 102. Also, ICC proposes to remove Rule 20-605(d)(v)(ii) which covers the option to execute hedge or liquidation transactions by way of direct transactions with market participants. As a result of the proposed deletion of the option to execute hedge or liquidation transactions by way of direct transactions with market participants, ICC proposes to further revise Rule 20-605(d)(v) to indicate that hedge and liquidation transactions "shall" (instead of "may") be entered into pursuant to Default Auctions⁶ and, as with the proposed revisions, Default Auctions will be the only mechanism remaining for the execution of hedge and liquidation transactions. In addition, ICC proposes deleting references to Direct Liquidation from Rule 20-605(l), including with respect to entering into trades through Direct Liquidation and using resources to cover certain obligations from a Direct Liquidation. As a result of the above-described changes, certain sub-sections of Rules 20-605(d)(v) and 20-605(l) are proposed to be re-numbered or re-lettered as appropriate.

II. Update ICC's Position Porting Functionality

ICC proposes changes to the Default Management Procedures to describe ICC's updated position porting capabilities. As part of the post-default porting process, ICC shares with its Futures Commission Merchant/Broker Dealer CPs ("potential receiving CPs") certain client portfolios cleared by the defaulting CP(s), identifies potential receiving CPs willing to take on the portfolios, and subsequently selects to which potential receiving CPs each client portfolio is transferred, if any. Currently, ICC's post-default porting process relies on ICC's Client Services and Support department ("CSS") using and maintaining a manual Excel-based tool (the "Porting Tool") to generate the necessary emails and attachments required as part of the post-default porting process. Due to additional porting functionality incorporated in the DMS, ICC proposes to replace the manual Porting Tool process with the automated DMS porting functionality.

ICC proposes to reflect the removal of the Porting Tool throughout the Default Management Procedures. ICC proposes to remove "Porting Tool" as a defined term in Section 2. ICC proposes to remove the entirety of Section 4.3.2.3. which discusses how ICC maintains and updates certain information in the Porting Tool. Section 4.3.2.3. is no longer necessary with the de-commission of the Porting Tool.

ICC proposes revisions to Section 10.1. of the Default Management Procedures to remove all references to the steps necessary to use the manual Porting Tool, including removal of references to the ICC Chief Operating Officer (who currently requests use of the Porting Tool) and references to CSS (who currently performs the described Porting Tool steps). As a replacement for the manual Porting Tool steps, ICC

⁶ Default Auction is defined in Rule 102, but is generally understood to mean an auction conducted pursuant to the Default Auction Procedures.



proposes to add to Section 10.1. a description of the steps necessary to execute the DMS porting functionality, including the following:

- Creation of a porting event in the DMS;
- Selection of the client accounts at the defaulting CP(s) that will be offered for porting;
- Make available for download the portfolios associated with the client accounts offered for porting to the identified non-defaulting CPs; and
- Enable each non-defaulting CP to select in the DMS which client account they are willing to accept.

In addition, ICC proposes to modify Section 10.1. of the Default Management Procedures to note that the above listed steps related to the porting functionality of the DMS will be performed by the ICC Risk department upon the request of the ICC Chief Risk Officer. ICC believes migrating the manual Porting Tool process to the automated DMS porting tool will improve the efficiency and accuracy of ICC's post-default porting process, reducing manual steps and reducing the risk of potential manual errors.

In furtherance of the proposed changes to migrate the porting process from the manual Porting Tool to the more efficient DMS porting functionality, ICC proposes the following additional changes to the Default Management Procedures. Amended Section 10.4. removes language on the use of the Porting Tool and includes language on the use of the DMS porting functionality in respect of a porting event, including canceling a porting event in the DMS if the ICC Chief Risk Officer determines not to transfer any porting portfolios (i.e., client portfolios of the defaulting CP). ICC proposes further changes to Sections 10.5. and 10.6., which discuss how ICC determines which porting portfolios to try to transfer to potential receiving CPs. Currently, pursuant to Section 10.5., potential receiving CPs use email to communicate to CSS the porting portfolios they are willing to receive, and CSS records such responses in the Porting Tool. The proposed changes to Section 10.5. automate this process using the DMS. Namely, pursuant to amended Section 10.5., potential receiving CPs use the DMS to select the client accounts they are willing to receive. Additionally, current Section 10.6. describes the assignment of porting portfolios to relevant receiving CPs, including how CSS communicates such assignments to receiving CPs using the Porting Tool to generate and send emails. Amended Section 10.6. describes the use of the DMS to record and communicate such assignments. Amended Section 10.6. also instructs the ICC Head of Treasury, upon instruction of the ICC Chief Operating Officer, to perform any required money movements associated with the transfer of client account positions. ICC also proposes to remove Section 10.7. in its entirety, which describes the use of the Porting Tool to execute transfers, as it is no longer necessary given the removal of the Porting Tool.

Finally, ICC proposes new Section 11. to the Default Management Procedures, related to position management. Proposed new Section 11. describes how the DMS maintains position records reflecting the execution of relevant default management actions. Specifically, at the end of each day, the DMS generates position files and CSS coordinates with relevant teams to execute the position transfers/adjustments in the clearing system.

III. General Updates and Clarifications

ICC proposes to make certain clarifying, conforming and other non-substantive changes to the Default Management Procedures, as further set out below.



- ICC proposes to remove “Approved Auction Participants” as a defined term in Section 2., as this term is not used elsewhere in the document;
- ICC proposes to amend the title of Table 1 in Section 4.3.2.2. to correct a typographical error;
- ICC proposes to clarify relevant roles and responsibilities in Section 4.3.2.2. by adding the “Transfer Coordinator” role to Table 1 to reflect current practices. Such role is not new and is currently referenced elsewhere in the current Default Management Procedures (e.g., Section 4.3.2.1.);
- ICC proposes to correct a typographical error in Section 10. to change “non-Defaulting” to “non-defaulting”;
- ICC proposes terminology updates to replace certain manual tasks associated with the use of the Porting Tool and reflect the use of the DMS in Section 10., including replacing “distributes” with “makes available” and “collates” with “reviews”;
- ICC proposes to update current Section 12. to include the proposed changes in the revision history of the document;
- ICC proposes to update footnote 4 and remove footnote 5 which contain procedures that were previously retired⁷; and
- ICC proposes minor revisions to re-number section references and footnotes based on the changes described above.

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: The revisions to the Default Management Procedures and the Rules 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 eliminate references to Direct Liquidation as a hedging and liquidation mechanism in the context of managing a defaulting CP’s portfolio. As described above, ICC believes that the use of Direct Liquidation transactions is no longer necessary or desirable, as such functionality is now fully available through the DMS through its hedge and liquidation auction capabilities. ICC believes that the automated liquidation and hedge auction capabilities of the DMS offer a more efficient and transparent approach, which enhances ICC’s ability to manage a default. ICC also proposes to replace the manual Porting Tool process with the automated DMS porting functionality, which will improve the efficiency and accuracy of ICC’s post-default porting process, reducing manual steps and reducing the risk of potential manual errors, thereby enhancing 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 and the Rules are consistent with the risk management requirements of Core Principle D and the risk management requirements set forth

⁷ See Filing Submission Number 2111-0412-4305-27 dated November 4, 2021.



in Commission Regulation 39.36. As described above, the proposed changes enhance ICC's ability to manage the risk of a default by (i) removing Direct Liquidation transactions as both a hedging and liquidation mechanism, (ii) updating ICC's position porting functionality, and (iii) making general updates and clarifications. These changes improve efficiency, transparency and accuracy of ICC's default processes, reducing manual steps and reducing the risk of potential manual errors, all of which enhances ICC's ability to manage the risk of a default. The clarification and clean-up changes ensure that the documentation of ICC's Default Management Procedures and Rules remains up-to-date, transparent, and focused on clearly articulating the policies and procedures used to support ICC's default management process such that ICC can take timely action in case of a default. 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: ICC believes that its existing rules and procedures, including the amended Default Management Procedures and Rules, are consistent with the default rules and procedures requirements of Core Principle G. The proposed changes to the Default Management Procedures and Rules continue to ensure that ICC can take timely action to contain losses and liquidity demands and continue meeting its obligations in the event of a default, including by using the DMS with respect to its hedge and liquidation auction capabilities and automated porting functionality, which promotes ICC's ability to efficiently and safely manage its close-out process, thereby enhancing ICC's ability to withstand defaults and continue providing clearing services. Additionally, ICC believes that the clarification and clean-up changes further enhance ICC's default management process by ensuring that the Default Management Procedures and Rules remain up-to-date, clear, and transparent to ensure that ICC can take timely action to contain losses and liquidity demands and continue meeting its obligations in the event of a default.

Amended Rules:

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

Certifications:

ICC hereby certifies that the amended Default Management Procedures and the Rules 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 904-371-8568.



Sincerely,

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

Olivia Bazor
Staff Attorney

Clearing Rules

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102. Definitions.

...

Direct Liquidation

~~The meaning specified in Rule 20-605(d)(v).~~

...

20. CREDIT DEFAULT SWAPS

The rules in this Chapter 20 apply to the clearance of CDS Contracts.

20-605. CDS Participant Default.

...

- (d) In effecting the Closing-out Process, without limiting the generality of paragraph (a) of this Rule, ICE Clear Credit shall have the right, in consultation with the CDS Default Committee, to take any or all of the following actions as it determines to be appropriate to eliminate, reduce or replace the risk of the Open CDS Positions of the Defaulting CDS Participant (each, a “**Standard Default Management Action**”). In effecting Standard Default Management Actions (other than a Default Auction), ICE Clear Credit shall use only resources provided by the Defaulting CDS Participant and, if needed and in consultation with the Risk Committee pursuant to Rule 20-605(l)(iv) below, Initial Phase Default Resources. In effecting a Default Auction, ICE Clear Credit may use Initial Phase Default Resources and Final Phase Default Resources, in accordance with Rules 802(a) and (b).

...

- (v) Subject to Rule 20A-02, if applicable, to enter into Trades with other CDS Participants that replace or mitigate the risk of all or part of the Open CDS Positions of the Defaulting CDS Participant and any Initial Cover Transactions (upon which such Open CDS Positions and Initial Cover Transactions shall terminate (to the extent not previously terminated)). Such Trades ~~shall~~**may** be entered into pursuant to ~~(i) one or more Default Auctions conducted pursuant to the Default Auction Procedures or (ii) direct transactions with market participants or other process established taking into account recommendations of the CDS Default Committee (such transactions pursuant to clause (ii), “Direct Liquidation”).~~

...

(I)

...

- (iii) ICE Clear Credit will consult with the CDS Default Committee, in accordance with Rule 20-617, with respect to any determinations as to (A) ~~entering into Trades through Direct Liquidation~~, (B) the particular structure and characteristics of any Default Auction in accordance with the Default Auction Procedures, including designations of particular lots, (BC) in connection with a Default Auction, whether to hold another such auction, whether to accept a partial fill of any lot in any Default Auction, and whether to reconstitute the lots for any such subsequent auction, and (CD) the particular structure and characteristics for a Secondary Auction in accordance with the Secondary Auction Procedures.
- (iv) ICE Clear Credit will consult with the Risk Committee, to the extent practicable under the circumstances (and in any event will use reasonable efforts to so consult), with respect to any determinations as to (A) ~~using resources under Rule 802(b) to cover Remaining Reimbursement Obligations from a Direct Liquidation~~; (B) deciding that a Default Auction has failed because of insufficient Initial Phase Default Resources and Final Phase Default Resources; (BC) any RGD Determination and any determination whether the RGD Continuation Conditions are satisfied, (CD) holding a Secondary Auction and determining that a Secondary Auction has failed (and in the event of a failed Secondary Auction, determining to hold additional Secondary Auctions under the Secondary Auction Procedures), (ED) determining to apply Excess Successful Lot Resources or Allocated Failed Lot Resources to cover a Lot Resource Shortfall in a Secondary Auction (as such terms are defined in the Secondary Auction Procedures), (EF) designating a Final Auction Partial Fill (as defined in the Secondary Auction Procedures), (EG) implementing a Partial-Tear Up, (GH) issuing a Termination Circular in respect of all outstanding Contracts, (HI) bypassing a Default Auction in favor of proceeding directly to Secondary Default Management Actions and/or (IJ) bypassing the use of any Secondary Default Management Action. For this purpose, ICE Clear Credit may call an emergency meeting of the Risk Committee without regard to the notice requirements of Rule 507 but on such notice as ICE Clear Credit determines to be reasonable under the circumstances. Such notice shall specify in reasonable detail the matters to be discussed. ICE Clear Credit shall provide with such notice or otherwise a reasonable time in advance of the meeting the relevant proposals or other written materials providing background in reasonable detail regarding the agenda items. In the event that a quorum of the Risk Committee is not present at such emergency meeting, ICE Clear Credit will adjourn such emergency meeting and designate a new time for such emergency meeting. Notwithstanding the foregoing, if Board or the Eligible Officer, as applicable, determines in good faith that the delay caused by consulting with the Risk Committee would create significant risks to the clearing system operating by ICE Clear Credit, to the

Defaulting CDS Participant or to the remaining CDS Participants, consultation with the Risk Committee will be deemed to be impracticable under the circumstances. Where ICE Clear Credit acts with respect to such matters without prior consultation with the Risk Committee, it will use its reasonable best efforts to consult with the Risk Committee as soon as practicable thereafter as to any further actions that may be taken with respect to such matters.

- (v) Notwithstanding anything to the contrary herein, any decision by ICE Clear Credit (A) ~~to use resources under Rule 802(b) to cover Remaining Reimbursement Obligations from a Direct Liquidation, (B)~~ that a Default Auction has failed because of insufficient Initial Phase Default Resources and Final Phase Default Resources; (BE) to make an RGD Determination or continue a Loss Distribution Period, (CD) to hold a Secondary Auction or that a Secondary Auction has failed (and in the event of a failed Secondary Auction, to hold additional Secondary Auctions under the Secondary Auction Procedures), (DE) to apply Excess Successful Lot Resources or Allocated Failed Lot Resources to cover a Lot Resource Shortfall in a Secondary Auction, (EF) to designate a Final Auction Partial Fill, (EG) to implement a Partial Tear-Up, (GH) to issue a Termination Circular in respect of all outstanding Contracts, (HI) to bypass a Default Auction in favor of proceeding directly to Secondary Default Management Actions and/or (IJ) to bypass the use of any Secondary Default Management Action shall be made by majority vote of the Board and shall not be delegable to an Eligible Officer or any other Person.