



October 5, 2022

Via Electronic Submission

The Secretary - comments@osc.gov.on.ca
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario
M5H 3S8

Re: Comments to Proposed Amendments to OSC Rule 91-507 - Trade Repositories and Derivatives Data Reporting

Dear Sir/Madam:

ICE Clear Credit LLC (“ICC” or the “clearing house”) appreciates the opportunity to comment on the rules proposed by Ontario Securities Commission (“OSC” or the “Commission”) titled Proposed Amendments to OSC Rule 91-507 - *Trade Repositories and Derivatives Data Reporting* (the “Proposed Rules” or the “Proposal”).

As background, ICC clears credit default swap (“CDS”) contracts and, accordingly, serves as a “reporting counterparty” for cleared swap trades. ICC is a Clearing Agency Exempt from Recognition in Ontario, Canada. In addition, ICC is registered with the U.S. Commodity Futures Trading Commission (“CFTC”) as a derivatives clearing organization (“DCO”) and with the U.S. Securities and Exchange Commission (“SEC”) as a securities clearing agency.

ICC supports the OSC’s stated purpose behind the Proposed Rules to coordinate international efforts to streamline and harmonize derivatives data reporting standards. ICC notes that, given the automated nature of swaps data reporting, reporting requirements that are non-harmonized can require significant systems related development, resources and expense. Accordingly, ICC appreciates the Commission’s consideration of the comments below.

Reporting of collateral and margin data should not be required for cleared swaps

Proposed amendments to OSC Rule 91-507 subsection 33(1) require that a reporting counterparty that is a derivatives dealer or a recognized or exempt clearing agency report collateral and margin data each business day until the transaction is terminated or expires. With respect to cleared swaps, ICC is opposed to this proposal. First, as an exempt clearing agency, ICC is already reporting detailed information to the OSC which includes certain collateral and margin data.¹ Importantly, the information currently provided to OSC appropriately takes into account portfolio-based margin methodologies -- whereas the Proposed Rule would require data with respect to each individual swap transaction, which would be misleading.

¹ See NI 94-102(43) requiring Form 94-102F3 Customer Collateral Report: Regulated Clearing Agency and ICC’s Exemption Order pursuant to Section 147 of the Ontario Securities Act.



Specifically, the cleared swaps initial margin methodology for the clearing house utilizes a portfolio approach whereby portfolio benefits are recognized. As such portfolio benefits are provided, the attribution of initial margin to individual cleared swap transactions will be model and assumption dependent and lead to incorrect interpretations of the levels of collateralizations and perceived riskiness of the cleared swaps. In other words, the initial margin requirements for two identical transactions cleared and reported by the same clearing house at the same time and at the same price can be substantially different as these two transactions are appended to two different cleared portfolios with different risk profiles. As the incremental impacts of the same transactions could be different, the reported initial margin requirements would be different. Accordingly, ICC strongly urges the OSC to forgo imposing a new, unnecessary and potentially misleading reporting requirement on the clearing house.

ICC notes that as a registered clearing house in the U.S., we are not currently required to report collateral and margin data to a swaps data repository under U.S. regulations.² In particular, when adopting amendments to CFTC Part 45, the CFTC recognized the sufficiency of the collateral and margin data currently reported by DCOs under other parts of CFTC regulations.³ The CFTC did, however, reserve the right to require DCO reporting counterparties to report collateral and margin data on a transaction-by-transaction basis in the future if a “need for more granular data emerges in [CFTC’s] monitoring of systemic risk or if granular data is needed as a condition for global jurisdictions to grant substituted compliance and TR access to one another.”⁴ Accordingly, ICC respectfully requests that, with respect to ICC as an exempt clearing agency, the OSC forgo imposing reporting of collateral and margin data elements until such time as a need is demonstrated. Further, in the event of such a future demonstration, ICC also requests that sufficient time be allowed for implementation given not only time needed for systems development work, but also time and resources required to develop a reasonable approach to attempt to impute meaning to numbers that are inherently devoid of meaning given their removal from portfolio-based risk management modeling.

Conclusion

ICC appreciates the opportunity to comment on the Proposed Rules, and the engagement of the OSC and its staff in the rulemaking process. ICC, as an exempt clearing agency, also appreciates OSC’s consideration of the different types of swap reporting counterparties impacted by the Proposed Rules.

² See, e.g., 85 U.S. Federal Register 75503, November 25, 2020, at pages 75514-75515 for CFTC’s discussion with respect to collateral and margin data reported by DCOs such as ICC.

³ *Id.* Also, with respect to systemic risk analysis, in addition to data currently provided to OSC and to the CFTC, ICC notes the substantial amount of quantitative data made public on ICC’s website and updated on a quarterly basis pursuant to the CPMI-IOSCO public quantitative disclosure (PQD) standards for central counterparties. Financial resources and PQD data is posted on ICC’s website here: <https://www.theice.com/clear-credit/regulation#quantitative-disclosures> In particular, PQD data includes aggregate information regarding collateral and margin. See, e.g., Sections 4.1 - 4.3 (value of default resources); Section 5.1 (assets eligible as initial margin with haircuts); Sections 6.1 and 6.2 (total initial margin by house and client); etc.

⁴ *Id.* at page 75515.



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ICC would be pleased to respond to any questions OSC may have regarding this letter. Please direct any questions or requests for information to the attention of the undersigned at heidi.rauh@ice.com or (312) 836-6716.

Sincerely,

A handwritten signature in black ink that reads "Heidi M. Rauh".

Heidi M. Rauh
Chief Compliance Officer
ICE Clear Credit LLC

Cc: Stan Ivanov, President, ICE Clear Credit LLC
Eric Nield, General Counsel, ICE Clear Credit LLC