



16 January 2024

Chief Counsel's Office
Attention: Comment Processing, Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley, Assistant Executive Secretary
Attention: Comments/Legal OES (RIN 3064-AF29)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Docket ID OCC-2023-0008; Docket No. R-1813, RIN 7100-AG64; RIN 3064-AF29;
Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with
Significant Trading Activity ("Proposal")

To Whom It May Concern,

ICE Data Services ("IDS")¹ appreciates the opportunity to comment on the Proposal by the Office of the Comptroller of the Currency, The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (together, Agencies) on the Proposal.² From its perspective as a provider of services designed to help clients comply with certain aspects of the Basel Committee on Banking Supervision (BCBS) standards on capital requirements for market risk, IDS comments on the proposed approach for market risk and modellability assessment.³ IDS is appreciative of the opportunity to share our perspectives with the Agencies.

I. Background on IDS and its Services Related to the Proposal

IDS provides market infrastructure, data services and technology solutions to a broad range of customers including financial institutions, corporations, and government entities. IDS provides, among other things, fixed income pricing, reference data and analytics designed to support financial institutions' and investment funds' pricing activities, securities operations, research, and portfolio management. IDS produces daily evaluations for approximately 3 million fixed income securities spanning approximately 150 countries and 80 currencies, including sovereign,

¹ ICE Data Services is comprised of several wholly owned subsidiaries of Intercontinental Exchange, Inc. (NYSE: ICE).

² <https://www.govinfo.gov/content/pkg/FR-2023-09-18/pdf/2023-19200.pdf>

³ *Id.*



corporate and municipal bonds, mortgage, and asset-backed securities as well as leveraged loans. IDS reference data complements the evaluated pricing by providing our clients a broad range of descriptive information, covering millions of financial instruments.

IDS is also a provider of high quality over-the-counter (OTC) derivatives data and valuation calculation services for currencies, equity, commodities, energy, credit, and interest rate derivatives, providing clients with independent calculated valuations and market data based on multi-sourced, validated data in conjunction with market standard analytics. In addition, as noted above, IDS offers services designed to help clients comply with certain aspects of the BCBS standards on capital requirements for market risk, which we refer to as the Fundamental Review of the Trading Book (FRTB) services. The FRTB services offered by IDS include (i) an extensive historical dataset with associated analytics for Expected Shortfall model calibration; (ii) metrics and calculations associated with the Standardized approach; and (iii) observation-level data services (also known as our Real Price Observation and Risk Factor Eligibility Test Service, herein referred to as the RPO/RFET service). The RPO/RFET service is designed to assist banks, who follow the Internal Model Approach ("IMA"), by giving those banks both observation data needed to run their models through their machine-readable observation files and a way to verify that risk factors have sufficient data to qualify as a modellable risk factor.⁴

Our comments below are narrowly focused on the IMA aspects of the Proposal and are based on our experience as a provider of the FRTB services described above.

II. Jurisdictional Alignment of the Internal Model Approach

IDS appreciates that the Agencies largely based the risk factor model eligibility requirements within the Proposal on the BCBS standards on Minimum Capital Requirements for Market Risk.⁵ ICE believes that it is important, particularly for global banks, for the U.S. regulation to align with the BCBS standards and thereby create consistency across jurisdictions in the methodologies for determining non-modellable risk factors (NMRFs). Therefore, we support the current proposal to adopt the BCBS standards for modellability determinations based on either 100 real price observations over the last year (i.e., commonly referred to as the 100-trading day requirement) or a minimum of 24 real price observations per year with no fewer than 4 eligible observations in any 90-day period.

⁴ Please see this link for more details on the ICE FRTB services: <https://www.theice.com/market-data/regulation/frtb>

⁵ See: <https://www.bis.org/bcbs/publ/d457.pdf>



III. Definition of "Real Price"

The Proposal defines a real price *"as a price at which the banking organization has executed a transaction, a verifiable price for an actual transaction between third parties transacting at arm's length, or a price obtained from a committed quote made by the banking organization itself or another party, subject to certain conditions discussed below."*⁶ The Proposal would allow a bank to utilize real price information from third party providers if the transaction or the committed quote is processed by the third party or *"for which there is an agreement between the banking organization and the third party that the third party would provide evidence of the transaction or committed quote to the banking organization upon request."*⁷ The Proposal acknowledges that there may be challenges (e.g., legal restrictions) with the provisioning of prices at the individual transaction or quote level and permits third parties to provide the number or corresponding real prices observed, the date of the observations if the bank to be able to appropriately map the information to its risk factors.

Question 139 asks "what, if any, conditions or limitations should the agencies consider applying to help ensure the validity of such information, such as only allowing information related to individual derivative transactions to qualify as a real price and not information provided on a pooled basis." In response, IDS supports allowing information provided on a pooled basis with respect to derivatives transactions and further supports evidencing real prices on a pooled basis for other instruments such as mortgage-backed securities, where only aggregated transaction information (e.g., within a specific program such as FNMA 30YR Pools) is publicly available and individual transactions are not. We believe such pooled information is appropriate to establishing real prices for the purpose of demonstrating market liquidity for applicable risk factors and should be permitted.

In addition, IDS believes that banks would benefit from further clarity around the definition of a committed quote and when it constitutes a real price. The Proposal defines a committed quotes as *"a price from an arm's-length provider at which the provider of the quote must buy or sell the instrument."*⁸ In line with guidance provided by other jurisdictions,⁹ IDS suggests that the adopting release clarify that such quotes are verifiable prices when actual *bona fide* competitive bid and offer quotations are provided; or that quotes that conform to market and industry customs (e.g., when only one-sided quotes are norm) are also deemed committed quotes.¹⁰ We believe the term 'bona fide' better conforms with trade customs and norms

⁶ Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity. 88 F.R 64132 proposed September 18, 2023.

⁷ *Id.*

⁸ Proposal, p.64229

⁹ Bank of England CP 16/22, Appendix 4, Article 325be, Paragraph 5(a)(iii). See <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2022/november/cp1622app4.pdf>, pg. 229.

¹⁰ European Banking Authority No 575/2013, Article 325be(3). See https://www.eba.europa.eu/sites/default/files/document_library/EBA-RTS-2020-03%20Final%20draft%20RTS%20on%20Risk%20factor%20modellability.pdf, pg. 18.



whereas 'committed' carries the assumption of a legal burden to execute which is operationally challenging to monitor and measure.

IV. Modelling Assessment and the Risk Factor Eligibility Test

Under the Proposal, a bank would only be permitted to use prices obtained from a third-party provider for their modelling assessment if *"the third-party provider's internal audit function or another external party audit the validity of the third-party provider's pricing information."*¹¹

In this regard, IDS contracts an external firm to provide a SOC-1 audit of its controls applicable to the real price data that we provide clients. We have received feedback from early adopter clients in non-US jurisdictions that the SOC-1 audit meets the required standards of their regulators with regards to the use of IDS data for modelling assessment or for augmenting clients' internal real prices with IDS prices. We believe that U.S. banks would benefit from clarity by the Agencies that an audit of the 'validity' of pricing information refers to the controls governing the capture of transactions and committed quote information and not assessing the validity of the data based on the intent of the parties behind the transactions or the quotes.

The Proposal closely aligns the model eligibility of risk factor requirements with the BCBS language. Namely that a risk factor passes the Risk Factor Eligibility Test (RFET), as measured on a quarterly basis, if (i) there at least 100 real prices in the prices twelve-month period (i.e., the "100-day test"), or (ii) there are at least 24 real prices in the previous twelve-month period as long as each rolling 90-day period contains at least four real prices (i.e., the "4 in 90 test").¹² The Proposal explicitly permits a one-month time lag when using third-party real prices as well as pro-rating the observation counts for newly issued risk factors. IDS supports the proposal for the RFET which is consistent with the BCBS and the addition outlined in the Proposal that allows for the one month lag when using third-party real prices and believes they should be included in the final rules.

V. Data Quality and Documentation Requirements

IDS is concerned about a perceived ambiguity with respect to the applicability of the data quality requirements described below. In particular, we believe that certain banks may interpret the requirement to reconcile the price data used in their internal models with those used by the front office and internal risk management models with data obtained from third parties for purposes of the RFET (i.e., to evidence real prices). Since third parties are not required to provide individual transaction-level prices, such interpretation may prevent banks from using third parties in their modelling assessment. Therefore, we request clarification

¹¹ Proposal, p.64132

¹² Proposal, p.64133



that the data quality requirements do not require reconciliation against individual transaction information used to perform the RFET.

In the Proposal, the Agencies set forth the data quality requirements that would be required for data used in the internally modelled capital calculation (IMCC). Specifically, for a risk factor to be deemed modellable, it needs to pass the specific RFET and meet the following seven proposed data quality requirements. A risk factor that fails to meet the data quality requirements would be a non-modellable risk factor. The seven data quality requirements are:¹³


1. Data reflects prices observed or quoted in the market.
2. Data used in the models capture both systematic and idiosyncratic risks.
3. Data used to calibrate the internal models appropriately reflect volatility and correlations of risk factors of market risk covered positions.
4. Data used to calibrate internal models can include a combination of other modellable risk factors.
5. Data inputs need to be updated frequently, at least on a weekly basis.
6. Data needs to be reflective of market prices observed or quoted in periods of stress (i.e., for determining the liquidity horizon-adjusted shortfall).
7. Proxy data is allowable where the bank can demonstrate sufficient evidence of the appropriateness of the proxies.

Under the first data quality requirement, a bank would be required to periodically reconcile the price data used to calibrate its internal models with data used by the front office and internal risk management models.¹⁴ For the reasons stated above, we believe it is important for the Agencies to explicitly state that reconciliation is not required for data used for RFET step of assessment of modellability.

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IDS appreciates the opportunity to present its perspective and views on the Proposal. Should any questions arise about the content of this letter, please do not hesitate to contact me.

Respectfully submitted,


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ICE Data Services, Intercontinental Exchange, Inc.

¹³ Proposal, p. 64134-64135-

¹⁴ Proposal, p.64134.