



December 17, 2021

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: ICE Clear Europe Self-Certification Pursuant to Commission Rule 40.6 –
Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures
amendments

Dear Mr. Kirkpatrick:

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”), a registered derivatives clearing organization under the Commodity Exchange Act, as amended (the “Act”), hereby submits to the Commodity Futures Trading Commission (the “Commission”), pursuant to Commission Rule 40.6 for self-certification, adoption of a new Counterparty Credit Risk Policy (the “CC Risk Policy” or “Policy”) and new Counterparty Credit Risk Procedures (the “CC Risk Procedures” or “Procedures”) discussed herein.¹ ICE Clear Europe will also be retiring its existing F&O Capital to Margin and Shortfall Margin Policy (the “Capital to Margin Policy”) and Unsecured Credit Limits Procedures (which will be replaced in substance by provisions of the new CC Risk Policy and CC Risk Procedures). The amendments will become effective on the first business day following the tenth business day after submission, or such later date as ICE Clear Europe may determine.

Concise Explanation and Analysis

ICE Clear Europe is proposing to adopt the CC Risk Policy which consolidates the Clearing House’s overall policies for monitoring counterparty credit risk. ICE Clear

¹ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

Europe is also proposing to adopt the CC Risk Procedures which consolidate and provide further detail as to the application of the Clearinghouse's policies for monitoring counterparty credit risk, in accordance with the requirements of the ICE Clear Europe Rules. Certain components of the CC Risk Policy and the CC Risk Procedures will replace components of ICE Clear Europe's current Unsecured Credit Limits Procedures and Capital to Margin Policy (as applicable, explained further below), which will both be retired. References to the Unsecured Credit Limits Procedures in other ICE Clear Europe documents will be revised in due course to reference the CC Risk Policy or the CC Risk Procedures, as applicable. The adoption of the CC Risk Policy and CC Risk Procedures is intended to generally reflect and document on a consolidated basis the Clearing House's existing policies and practices relating to counterparty credit risk management, as well as provide certain updates to current Clearing House practices, which are not intended to be material. Further explanations are provided below.

I. Counterparty Credit Risk Policy

The CC Risk Policy defines Counterparty Credit Risk and sets out the Clearing House's objectives of minimizing the risk of being materially undercollateralized as a result of a Clearing Member ("CM") default or realizing a material loss due to a Financial Service Provider ("FSP") default.

Under the policy, the Clearing House classifies prospective CM's according to risk and sets credit eligibility criteria for prospective CMs and FSPs in order to check financial stability. Prospective CMs and FSPs are assessed against such criteria during onboarding. Existing CMs and FSPs are reviewed against such criteria at least annually.

The CC Risk Policy describes ICE Clear Europe's counterparty rating system, which calculates a credit score that represents a counterparty's credit quality, and together with the exposure is used to identify the combination of the likeliness of default and heightened risk in a counterparty's portfolio of risk with ICE Clear Europe. Credit scores will be calculated by the model or, for FSPs (as provided in the CC Risk Procedures), a combination of Minimum External Rating requirements and exposure limits. See Section II below for more information. Depending on the risk classification, Counterparties may be subject to additional monitoring and potentially mitigating actions by the Clearing House.

The CC Risk Policy also describes ICE Clear Europe's counterparty risk monitoring processes, which are based on a combination of continuous monitoring and additional counterparty risk reviews, tailored to the relationships and obligations of each type of counterparty. The new policy (and related procedures) provide further detail as to the content and frequency of such reviews, as well as distinguish how such reviews will be performed with respect to high risk counterparties. Specifically, the amendments provide that all counterparties are monitored continuously through counterparty rating system scores, the Clearing House watch list and exposure limits. The Clearing House also performs Counterparty Risk Reviews on higher risk counterparties. Triggers for reviews are (i) a counterparty being added to the watch list, and (ii) there being concerns about the stability of a counterparty. Periodically, lower risk counterparties will be

subject to Counterparty Risk Reviews, such that all counterparties are subject to a risk review at least once every five years. These aspects of the Policy are generally consistent with, and will replace, the Unsecured Credit Limits Procedures.

The CC Risk Policy also addresses exposure limits and monitoring. As described in the Policy, the Clearing House will monitor its uncollateralized exposure to each CM (assuming the CM were to default) at least daily against exposure limits. The Clearing House also will monitor a CM's initial margin relative to its capital at least daily against threshold limits. If an exposure limit or threshold limit is breached, then the Clearing House will take mitigating actions to lower the exposure (such as requiring additional margin or requiring the CM to reduce its positions under the Rules). This aspect of the policy will replace existing provisions in the Capital to Margin Policy. With respect to F&O CMs, the capital-to-margin approach is being revised to eliminate the use of two separate ratios based on house and customer margin, respectively, and will continue using a single combined margin ratio, which ICE Clear Europe believes is more representative of the overall risk. Certain aspects of the Capital to Margin Policy relating to shortfall margin, while not included in the CC Risk Policy and CC Risk Procedures, are already covered by the Clearing House's F&O Risk Procedures. As such, those provisions of the Capital to Margin Policy are not necessary and can be retired.

The CC Risk Policy also describes the Clearing House's monitoring of limits with respect to FSPs. ICE Clear Europe monitors its overnight unsecured cash exposure to FSPs at least daily against exposure limits. If an exposure limit is breached, then the Clearing House will take mitigating actions to reduce its exposure (such as moving cash to different FSPs or investing cash in securities). These provisions generally replace provisions of the Clearing House's Unsecured Credit Limits Procedures.

Finally, the Policy addresses the Clearing House's document governance and exception handling processes, which are similar to those of other ICE Clear Europe policies. Specifically, the document owner will be responsible for maintaining up-to-date documents and reviewing documents in accordance with the Clearing House's governance processes. The document owner will be required to report material breaches or unapproved deviations to the Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates) who will together determine if further escalation should be made to relevant senior executives, the Board, or competent authorities. Exceptions to the CC Risk Policy will be approved in accordance with ICE Clear Europe's governance process for approval of changes to the CC Risk Policy.

II. CC Risk Procedures

The CC Risk Procedures supplement the CC Risk Policy with further detail about procedures for monitoring of counterparty credit risk. The CC Risk Procedures also support certain aspects of the existing Clearing House Liquidity and Investment Management Policy and Investment Procedures.

The CC Risk Procedures address the credit eligibility criteria for assessing the financial stability of prospective counterparties during the onboarding process and existing counterparties on at least an annual basis. Under the CC Risk Procedures, the Clearing House will produce a credit recommendation based on financial and qualitative

information concerning prospective CMs and may propose approaches to mitigating credit risk (including increased buffer margin or increased capital, among other steps).

The CC Risk Procedures set out in further detail the credit scoring process known as Counterparty Rating System (“CRS”), including the elements considered in producing such scoring, which include financial information specific to the counterparty and qualitative operational and conduct information concerning the counterparty. The CRS score will be updated at least quarterly based on the latest financial statements. Material changes in the CRS score for a counterparty will be reviewed by the Clearing House.

ICE Clear Europe ranks CMs by their CRS score in order to identify those with lower relative credit quality that may require further examination to determine whether additional actions are necessary to mitigate credit risk. CMs with the weakest classifications, as well as all other CMs linked to such CMs by a common owner with a controlling stake in the entities, may be added to the watch list. The CC Risk Procedures will outline watch list monitoring as well as procedures for removing CMs from the watch list. The CC Risk Procedures will also outline the actions the Clearing House may take to reduce exposure to counterparties on the watch list under the Rules, including requiring additional or different forms of margin, additional capital or reduction of positions.

The CC Risk Procedures also describe in further detail the ongoing continuous counterparty monitoring and trigger-based counterparty risk review processes under the CC Risk Policy, as discussed above. The CC Risk Procedures will provide for trigger-based reviews to be conducted on higher risk counterparties and additional periodic reviews on lower risk counterparties and prospective new CMs. Reviews are tailored to the relationship and obligation of the counterparty, and covers such matters as capital metrics, credit scores, financials, business description, ownership structure and risks to the Clearing House.

The CC Risk Procedures also describe the Clearing House’s procedures for setting exposures and limits for CMs and FSPs. For CMs, exposure is monitored daily against exposure limits for each CM using the uncollateralised stress loss (“USL”) as a proxy for the exposures. The procedures address the Clearing House’s processes for managing breaches of CM exposure limits. Where exposure to a CM exceeds the limit, the mitigating actions under the Rules that the Clearing House could take include (i) requiring CMs to post additional collateral to meet a “buffer” margin, (ii) requiring CMs to reduce their positions, thereby reducing their initial margin requirements, and (iii) requiring the CM to increase its capital or to implement a parental guarantee or subordinated debt to increase the exposure limit.

The Procedures also address the monitoring of the margin to capital ratio for each CM. The Clearing House, for each CM and on each business day, monitors whether the size of a CM’s positions are large relative to the CM by monitoring the ratio of their total margin to their capital (known as the margin to capital ratio). When a CM’s margin to capital ratio is above a certain threshold, the Clearing House investigates the breach in order to understand its cause. If the margin to capital ratio over a period of time is above the threshold, then ICE Clear Europe will take mitigating actions including (i) enhanced monitoring of the CM to assess whether the increased ratio is temporary, (ii)

requiring CMs to reduce positions leading to a reduction in their initial margin, and (iii) requiring the CM to increase its capital or to implement a parental guarantee or subordinated debt to increase the exposure limit. This aspect of the CC Risk Procedures replaces (but does not change the substance of) the provisions of the Capital to Margin Policy, which will be retired.

The Procedures also address monitoring of “tiering” concentration with respect to CM clients, which is intended to identify the risk from clients of a CM that could cause the default of the CM. The Clearing House periodically identifies clients of a CM whose initial margin constitutes more than a defined threshold of all client initial margin at that CM. The Clearing House may request additional information from the CM with respect to its risk management for such clients or take other risk mitigation actions as the Clearing House determines appropriate.

The Procedures also address limits set for issuers of collateral.

With respect to issuers of collateral, the Clearing House will set an overall limit with sub-limits for CM collateral, Treasury (reverse repo and other collateral) and Finance (investment of the Clearing House’s own capital and Skin-in-the-Game). The overall limit will equal the sum of the sub-limits and can be borrowed between departments. This provision represents an enhancement to the Clearing House’s existing policies and practices relating to exposure limits to address risk across different departments. If a limit is breached, ICEU may reach out to CMs for the replacement of collateral or reduce exposures to FSPs as the case may be.

The CC Risk Procedures also address the Clearing House’s procedures for setting exposures and limits for FSPs, including the roles and responsibilities of the Clearing House’s credit team and its treasury team. This aspect of the CC Risk Procedures replaces (but does not change the substance of) the provisions of the Clearing House’s Unsecured Credit Procedures, which will be retired. Details are provided regarding the allocation and monitoring of unsecured credit limits with respect to FSPs, including the minimum requirements for such FSPs and how the Clearing House allocates such limits based on the capital of the FSP and other exposures of the Clearing House to the FSP. The section also outlines ICE Clear Europe’s mitigating responses where exposure to an FSP breaches the unsecured cash limit.

Finally, the CC Risk Procedures detail ICE Clear Europe’s document governance and exception handling procedures, which will be the same as for the CC Risk Policy, described in Part I hereof.

As discussed above, since the CC Risk Policy and CC Risk Procedures cover the same substance as the Unsecured Credit Limits Procedures and Capital to Margin Policy, those documents will be retired.

Compliance with the Act and CFTC Regulations

The amendments to the Delivery Procedures are potentially relevant to the following core principles: (D) Risk Management, (F) Treatment of Funds and (O) Governance, and the applicable regulations of the Commission thereunder.

- Risk Management.* As noted above, CC Risk Procedures and CC Risk Policy are designed to more clearly document and consolidate certain of the Clearing House's practices with respect to the management of counterparty credit risk, including both the risk of losses resulting from defaulting Clearing Members' and losses resulting from the default of other Financial Service Providers to the Clearing House. They clearly describe the processes, controls and escalations with respect to the ongoing testing, monitoring and reviewing of counterparty credit risk, and the mitigation steps the Clearing House can take where risk in excess of limits is identified. The amendments also provide that ICE Clear Europe will also measure a CM's margin to capital ratio and establish and measure CM exposure limits. CMs that exceed ICE Clear Europe's exposure limit or exceed the relevant margin to capital ratio could also be subject to mitigating actions, including requiring a CM to post additional margin and requiring a CM to reduce positions leading to a reduction in their initial margin. The amendments thus enhance the overall risk management of the Clearing House and the Clearing House's margin requirements. As such, ICE Clear Europe believes the amendments are consistent with the risk management requirements of Core Principle D and Commission Rule 39.13.
- Treatment of Funds.* As discussed above, certain aspects of the CC Risk Policy and CC Risk Procedures that relate to counterparty credit risk for FSPs. As such, the amendments are intended to help the Clearing House manage and mitigate the risks arising from the custody and investment of cash provided by CMs and their customers. The amendments are therefore consistent with the requirements of Core Principle F and Commission Rule 39.15.
- Governance.* Consistent with existing policies, the CC Risk Policy and the CC Risk Procedures will continue to provide for review by the document owner to ensure that each remains up-to-date and is reviewed in accordance with the Clearing House's governance processes. They also describe the role of the Chief Risk Officer and the Head of Compliance (or their delegates) in managing material breaches of the documents. In ICE Clear Europe's view, the documents are therefore consistent with the requirements of Core Principle O and CFTC Rule 39.24.

As set forth herein, the amendments consist of the proposed CC Risk Policy and CC Risk Procedures, as well as the retiring of the existing Capital to Margin Policy and Unsecured Credit Limits Procedures. ICE Clear Europe has requested confidential treatment with respect to such documents, which have been submitted concurrently with this self-certification submission.

ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Europe received no substantive opposing views in relation to the proposed amendments.

ICE Clear Europe has posted a notice of pending certification and a copy of this submission on its website concurrent with the filing of this submission.

If you or your staff should have any questions or comments or require further information regarding this submission, please do not hesitate to contact the undersigned at George.milton@theice.com or +44 20 7429 4564.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'G. Milton', with a stylized flourish underneath.

George Milton
Head of Regulation & Compliance