



March 9, 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 –
Price Submission Disciplinary Framework 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, the amendments to its Price Submission Disciplinary Framework (to be renamed the “Price Submission Disciplinary Procedure”, referred to herein as the “Procedure”) discussed herein.¹ 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 amending its Price Submission Disciplinary Procedure to: (i) remove the description of the End of Day Price Discovery Process as unnecessary since it is set forth in the existing CDS End of Day Price Discovery Policy; (ii) update the process in respect of Missed Submissions to provide that (a) a Clearing Member may be granted one waiver per product class in a calendar year for a Missed Submission, rather than one waiver over the course of the clearing membership, and (b) the Clearing

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

House has an additional five days to review a Clearing Member's response to an initial Notice of Investigation under Rule 1002(b) before sending the subsequent Letter of Mindedness under Rule 1002(f); (iii) update governance and exception handling provisions; and (iv) make various drafting clarifications and improvements.

General Drafting Clarifications and Improvements

By way of general drafting clarifications and improvements, the document title is changed from "Price Submission Disciplinary Framework" to "Price Submission Disciplinary Procedure". Former Section 2.2 (End of Day Price Discovery Process) and Appendix A is removed as these matters are covered in the existing CDS End Of Day Price Discovery Policy (the "Policy"), and current Section 2.3 is renumbered 2.2. A cross-reference to the Policy is added to Section 1.1. To aid with readability, the term "CDS Clearing Member" is shortened to "CM" throughout the Procedure and several sentences are shortened or reformulated with change to their substantive meanings. References to CDX products are replaced by references to CDX indices, a more precise term. A reference to Markit Group Limited is updated to its current name IHS Markit.

Price Submission Disciplinary Procedure

The stated purpose of the Procedure is simplified and clarified to provide that the document outlines the procedure to be used internally by ICE Clear Europe when taking disciplinary action in relation to price submissions. The statement that spread submissions will be counted as Missed Submissions is replaced by a statement that submissions not adhering to the format described in Section 2.2.3 of the End of Day Price Discovery Policy, which requires index submissions to follow market convention in terms of providing prices as spreads, and be either midpoint or bid-offer, will be counted as Missed Submissions. The legal basis description is amended to include a cross reference to Rule 503(g), rather than restate the text of Rule 503(g).

Price Submission Incentives

In this section, a cross-reference to the deleted section 2.2 is removed. Certain non-substantive drafting clarifications are made to the discussion of Obvious Errors.

Fixed Cash Assessments for Missed Submissions

The amendments provide that a CM in receipt of a Notice of Investigation issued in respect of an alleged Missed Submission will have five days to submit written comments. The amendments provide for an additional five days for the Clearing House to review the Clearing Member's comments before sending a Letter of Mindedness under Rule 1002(f). Such amendment improves the process by affording the Clearing Member an opportunity to respond to the initial notice and giving the Clearing House time to assess the Clearing Member's response before determining whether to take further action under the Rules.

The amendments also change the process for waiver of Missed Submissions (if a waiver is granted, no assessment would be due for the Missed Submission). Rather than a

Clearing Member receiving one waiver over the course of its clearing membership for a Missed Submission, a Clearing Member will be eligible for one waiver per calendar year for Missed Submissions for single-name products and one waiver per calendar year for Missed Submissions for index products. Waivers will be limited to Missed Submissions caused by technical failures. The Clearing Members will be required to provide an adequate written explanation of the technical failure and summary of planned remedial actions. Only the first instance of a Missed Submission for the product category in any calendar year will be eligible for a waiver.

Following the expiry of the ten day period from the Issuance of a Letter of Mindedness with respect to a Missed Submission, where an assessment amount will be collected, a cash assessment notice will be issued, which will be calculated according to the cash assessment calculation details provided in the procedure.

The amendments also clarify the procedures by which a Clearing Member may assert that one or more Missed Submissions were due to extraordinary circumstances outside of its control, including to provide that the Head of Regulation and Compliance will determine whether such circumstances apply.

Based on its experience with Missed Submissions, ICE Clear Europe believes the revised approach to waivers strikes a better balance than the current, one-time waiver, between the need for robust submissions under the Policy and the goal of not unnecessarily penalizing Clearing Members for technical failures.

Document Governance and Exception Handling

The amendments include detail with respect to the governance and exception handling of the Procedure. Specifically, the Procedure states that the document owner is responsible for ensuring that the Procedure remains up-to-date and is reviewed in accordance with the Clearing House's governance processes. The Procedure further provides that the document owner is to report material breaches or unapproved deviations from the Procedure to the document owner's Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates) who together will determine if further escalation is required. Finally, exceptions to the Procedure will be approved in accordance with the Clearing House's governance process for the Procedure. The approach to governance and exception handling is consistent with that of other ICE Clear Europe procedures.

Compliance with the Act and CFTC Regulations

The amendments to the Delivery Procedures are potentially relevant to the following core principles: (E) Settlement Procedures, (H) Rule Enforcement and (O) Governance and the applicable regulations of the Commission thereunder.

- *Settlement Procedures.* The amendments are intended to support the End of Day Price Discovery Process, which is used by the Clearing House to determine end of day settlement prices and thus facilitate daily valuation, margining and settlement of CDS Contracts. As such, the amendments are

consistent with the settlement procedures requirements of Core Principle E and Commission Rule 39.14.

- *Rule Enforcement.* As discussed herein, the amendments are intended to strengthen the End of Day Price Discovery Process by clarifying disciplinary procedures for Missed Submissions and expanding the availability of waivers where appropriate. The inclusion of an opportunity for a Clearing Member's response to an initial Notice of Investigation, and an opportunity for the Clearing House to review the response will better ensure that the Clearing House has sufficient time and information to assess a Clearing Member's formal response in respect of a Missed Submission before determining whether to take further action under the Rules. The amendments thus enhance the Clearing House's overall ability to fairly enforce compliance with its Rules and policies (including the price submission policy), consistent with the requirements of Core Principle H and CFTC Rule 39.17.
- *Governance.* As described above, the amendments more clearly define the roles and responsibilities of the document owner, the Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates), consistent with governance arrangements for other ICE Clear Europe policies and procedures. ICE Clear Europe believes that the amendments to the Procedure are therefore consistent with the requirements of Core Principle O and CFTC Rule 39.24.

As set forth herein, the amendments consist of the amendments to the Procedure. ICE Clear Europe has requested confidential treatment with respect to the amendment, which has 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 giulia.honorati@ice.com or +44 20 7429 7127.

Very truly yours,



Giulia Honorati
Manager, Compliance and Regulation