



March 15, 2018

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

Re: Self-Certification Pursuant to Commission Rule 40.6 – Changes to ICEU F&O Initial Contribution

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, certain amendments to its policies relating to the ICE Clear Europe F&O Initial Contribution to default resources.¹ The amendments are to 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 taking certain steps to increase its Clearing House F&O Initial Contribution to default resources. The Clearing House F&O Initial Contribution is used to cover losses arising from the default of an F&O Clearing Member, and would be applied following use of the defaulter’s own margin and guaranty fund contributions, and prior to the application of guaranty fund contributions of non-defaulting F&O Clearing Members. Currently, the Clearing House F&O Initial Contribution is set in the F&O Guaranty Fund Policy (the “Policy”) at a fixed level. ICE Clear Europe is modifying the Policy to remove the fixed level, and provide that ICE Clear Europe will notify Clearing Members by circular of its contribution level in effect from time to time.²

¹ ICE Clear Europe is not making any modifications to its Clearing Rules (“Rules”) or Procedures in connection with these amendments. Capitalized terms used but not defined herein have the meanings specified in the Rules. ICE Clear Europe is not making any changes to its default resources for the CDS Contract Category.

² The ICE Clear Europe Rules and Procedures also contemplate the possibility of a separate ICE Clear Europe guaranty fund contribution, which would rank *pari passu* with contributions of non-defaulting

In connection with these changes, ICE Clear Europe expects to increase the Clearing House F&O Initial Contribution, and will notify F&O Clearing Members of the exact amount by circular.

The increased Clearing House F&O Initial Contribution reflects an agreement among ICE Clear Europe and the exchanges for which it currently clears F&O Contracts (ICE Futures Europe, ICE Futures U.S., Inc., ICE Endex Markets B.V. and ICE Endex Gas Spot Ltd.) that those exchanges should contribute to the aggregate Clearing House F&O Initial Contribution. (The exchange contributions will be in addition to ICE Clear Europe's existing contribution.) In ICE Clear Europe's view, the exchange contributions will enhance the risk practices of, and the risk sharing between, the exchanges, the F&O Clearing Members, and ICE Clear Europe itself, and create an incentive for exchanges to operate fair and orderly markets and to build liquidity in stressed market conditions. Under this approach, each exchange will make a contribution pursuant to a formula based on the average F&O guaranty fund contribution of F&O Clearing Members, subject to a minimum contribution. The clearing services agreements between ICE Clear Europe and each of the relevant exchanges will be amended to reflect this requirement.

Compliance with the Act and CFTC Regulations

The amendments are potentially relevant to the following core principles: (B) Financial Resources and (D) Risk Management and the applicable regulations of the Commission thereunder.

- *Financial Resources.* The revised approach to the Clearing House F&O Initial Contribution is designed to enhance the Clearing House's overall financial resources. Specifically, the approach will increase available F&O default resources to be applied after the exhaustion of the defaulter's margin and guaranty fund contributions, and prior to the use of guaranty fund contributions of non-defaulting F&O Clearing Members. The amendments thus will also enhance the protection of guaranty fund contributions made by non-defaulting F&O Clearing Members, by reducing the likelihood that ICE Clear Europe would need to use such contributions in the event of an F&O Clearing Member default. As a result, in ICE Clear Europe's view, the amendments are consistent with the requirements of Core Principle B and Commission Rule 39.11.
- *Risk Management.* As noted above, the new approach is designed to enhance the risk management of the Clearing House by aligning the risk objectives of the exchanges that submit F&O Contracts for clearing with those of the Clearing House. The approach will provide for risk sharing in the default waterfall between the Clearing House and the exchanges. In addition, by requiring a contribution from such exchanges, the Clearing House will create an incentive for those exchanges to operate fair and orderly markets and to build liquidity in stressed market conditions. As a result, ICE Clear Europe believes the amendments are consistent with the risk management requirements of Core Principle D and Commission Rule 39.13.

F&O Clearing Members. That contribution is currently zero. Although ICE Clear Europe does not currently propose to change that level, under the revised policy it could do so by circular to F&O Clearing Members.

As set forth herein, ICE Clear Europe is amending the Policy. ICE Clear Europe has requested confidential treatment with respect to the amended Policy, 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 has 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 patrick.davis@theice.com or +44 20 7065 7738 or Carolyn Van den Daelen, Head of Regulation and Compliance, at carolyn.vandendaelen@theice.com or +44 20 7429 4515.

Very truly yours,



Patrick Davis
Head of Legal and Company Secretary

