



March 24, 2016

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:
Amendments to Certain Default Provisions in the Event of a Resolution
Proceeding

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 Clearing Rules discussed herein. The amendments are to become effective on the business day following the tenth business day after submission, or such later date as ICE Clear Europe may determine.

Concise Explanation and Analysis

The purpose of the rule amendments is to modify the ICE Clear Europe Clearing Rules to clarify the application of certain default-related provisions in the context of resolution proceedings with respect to the Clearing House or a Clearing Member. Such proceedings may arise under so-called special resolution regimes that may apply to the Clearing House or a Clearing Member in the event of its failure or insolvency, as an alternative to traditional bankruptcy or insolvency proceedings in the relevant jurisdiction.¹

¹ Such regimes include the UK Banking Act 2009, the EU Bank Recovery and Resolution Directive (“EU BRRD”) (Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms), the orderly liquidation authority under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and similar laws.

In Rule 101, ICE Clear Europe is adopting amendments to the definition of Insolvency and Insolvency Practitioner and adding a new defined term Insolvency Resolution Step. These amendments are designed to reflect certain limitations on the termination of Contracts and exercise of default remedies that may apply under the terms of a special resolution regime.

The principal amendment is the addition of the new defined term “Insolvency Resolution Step,” which will constitute a type of Insolvency event. (Under the Rules, an Insolvency in turn constitutes an Event of Default that permits the exercise of the default rights and remedies specified in the Rules.) With respect to the Clearing House itself, an Insolvency Resolution Step will occur where the relevant governmental authority exercises its stabilization powers under the UK Banking Act 2009, unless all of the substantive obligations of the Clearing House to Clearing Members continue to be performed (in which case, the resolution step will not constitute an Insolvency or Event of Default). With respect to a Clearing Member, an Insolvency Resolution Step includes a similar proceeding under the UK Banking Act 2009 or EU BRRD, and would also include a resolution proceeding under other resolution regimes that may apply to such Clearing Member, unless that resolution regime would not permit the Clearing House to exercise default remedies as a result of such proceeding. The definition of Insolvency Resolution Step, and the related definition of Event of Default, thus takes into account any limitations imposed by the relevant resolution regime on the declaration of a default and exercise of default remedies in the context of a resolution proceeding.

Compliance with the Act and Commission Regulations

The amendments to the Clearing Rules are potentially relevant to Core Principle (G) (Default Rules and Procedures) and the applicable regulations of the Commission thereunder.

- *Default Rules and Procedures.* The amendments are intended to update the Clearing House’s default rules and procedures to reflect explicitly certain limitations that may apply under applicable law in the context of a resolution proceeding with respect to the Clearing House or a Clearing Member. The amendments clarify when such a resolution proceeding will constitute an Event of Default under the Rules, and thus when certain default rights and remedies under the Rules may be exercised in the context of such a resolution proceeding, consistent with applicable law. ICE Clear Europe believes that the amended Clearing Procedures are thus consistent with the requirements of Core Principle G and Commission Rule 39.16.

As described herein, the amendments consist of changes to the ICE Clear Europe Clearing Rules. A copy of such revisions is attached hereto.

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

ICE Clear Europe published the proposed amendments for consultation with its Clearing Members. In response to the consultation, two Clearing Members inquired about the regulatory process surrounding the proposed changes. In addition, one

Clearing Member suggested that additional clarifications be made to limit the application of other aspects of the Insolvency definition. ICE Clear Europe does not believe that such additional clarifications are necessary or appropriate in the context of these proposed rule changes, and has determined not to make such clarifications.

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, Dee Blake, Director of Regulation, at dee.blake@theice.com or +44 20 7065 7752 or Paul Swann, President & Managing Director, at paul.swann@theice.com or +44 20 7065 7700.

Very truly yours,

A handwritten signature in black ink, appearing to read 'P. Davis', with a long horizontal flourish extending to the right.

Patrick Davis
Head of Legal and Company Secretary