



May 10, 2017

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 the CDS End-of-Day Price Discovery Policy

Dear Mr. Kirkpatrick:

ICE Clear Europe Limited (“ICE Clear Europe”), a registered derivatives clearing organization under the Commodity Exchange Act, as amended (the “Act”), hereby submits to the Commodity Futures Trading Commission (the “Commission”), for self-certification pursuant to Commission Rule 40.6, the rule amendments 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

ICE Clear Europe is amending its CDS End-of-Day Price Discovery Policy (the “EOD Price Discovery Policy”) to change the calculation of firm trade notional limits for single-name CDS contracts. ICE Clear Europe is also making certain amendments to its Price Submission Disciplinary Framework (the “Disciplinary Framework”), which addresses missed price submissions by CDS Clearing Members for CDS contracts (“Missed Submissions”). The revisions are described in detail herein. ICE Clear Europe does not otherwise propose to change its Clearing Rules¹ or Procedures in connection with these amendments.

Under the EOD Price Discovery Policy, CDS Clearing Members are required to submit end-of-day prices for specific instruments relating to their open CDS interest at

¹ Capitalized terms used but not defined herein will have the meanings specified in the ICE Clear Europe Clearing Rules (the “Rules”).

the Clearing House. ICE Clear Europe determines end-of-day settlement price levels from these price submissions, using its settlement price methodology. (ICE Clear Europe is not changing the settlement price methodology in connection with these amendments.) To encourage CDS Clearing Members to submit high-quality price submissions, ICE Clear Europe, on random days, selects a subset of instruments to be eligible for required firm trades in cleared CDS contracts between CDS Clearing Members ("Firm Trades"). ICE Clear Europe currently utilizes a "cross and lock" algorithm for identifying Firm Trades. CDS Clearing Member pairs identified by the algorithm as crossed or locked markets in these instruments, based on their price submissions, may be required to enter into Firm Trades with each other.

ICE Clear Europe currently establishes pre-defined maximum notional amounts for Firm Trades in single-name CDS contracts. Currently, single-name Firm Trade notional limits are set at the CDS Clearing Member level. The notional limits are intended to limit the risk (on an overnight basis) that a given CDS Clearing Member may face as a result of a Firm Trade, including in situations where submission errors or outlying pricing submissions have led to a Firm Trade.

ICE Clear Europe is modifying the EOD Price Discovery Policy to provide that single-name Firm Trade notional limits will instead apply on a group level to affiliated CDS Clearing Members, rather than at an individual CDS Clearing Member level. Under the current approach, an affiliate group may have multiple clearing memberships, which in turn leads to a group-wide limit that can be multiples of the single entity limit. Affiliated groups may use this approach, for example, where different clearing entities are needed for house or customer transactions originating from different jurisdictions. The result can be that an affiliated group with multiple CDS Clearing Members may be subject to significantly higher risk of Firm Trades, based on the aggregate notional, than it would if it cleared all of the same business through a single legal entity. In addition, over time, ICE Clear Europe has broadened the process for determining Firm Trades to include all submissions, including those classified as outlying pricing submission (or "obvious errors"), which has made Clearing Members eligible to receive Firm Trades on a potentially wider range of submissions. As a result, there is heightened interest in adjusting the Firm Trade allocation process so that CDS Clearing Members are not overly penalized for Firm Trades in terms of group-wide risk exposure.

Under the amendments, Firm Trade notional limits for single-name CDS will be implemented at the "CP affiliate group" level. A CP affiliate group consists of all CDS Clearing Members that own, are owned or are under common ownership with other CDS Clearing Members. In determining Firm Trades, ICE Clear Europe will track the notional amounts of potential Firm Trades assigned to each CDS Clearing Member at the risk sub-factor and sector level. If the cumulative risk sub-factor notional for the CP affiliate group exceeds the notional limit for that sub-factor, ICE Clear Europe will not designate further Firm Trades in that risk sub-factor for any CDS Clearing Member in the CP affiliate group. Cumulative sector notional limits will be applied similarly to CP affiliate groups. As under the current approach, the notional amount of reversing transactions will not count toward CP affiliate group notional limits.

Certain other clarifications and updates changes have been made to the EOD Price Discovery Policy. The amendments add certain background standards relating to risk appetite and related metrics and limits, reflecting the overall approach of the Clearing House to such matters. The policy is also being revised to specify additional procedures relating to model validation and policy review, consistent with overall Clearing House risk governance policies. The policy specifies certain metrics to be tracked by the clearing risk department and risk oversight department, and sets out escalation and notification protocols for those metrics, as well as for any deviations from the policy.

ICE Clear Europe is also amending the Disciplinary Framework, specifically with regard to the procedures for imposing fines, known as fixed cash assessments, for Missed Submissions. The amendments formalize certain procedures around notices and preliminary determinations with respect to Missed Submissions, consistent with the procedures for disciplinary proceedings under Part 10 of the Rules. Consistent with the current framework, at the end of each calendar month, ICE Clear Europe will collect the details of alleged Missed Submission(s). The Clearing House will issue a Notice of Investigation under Rule 1002 to the relevant CDS Clearing Member with alleged Missed Submission(s). Within five days after the Notice of Investigation, and following an investigation, ICE Clear Europe will issue a Letter of Mindedness under Rule 1002 setting out its preliminary factual conclusions and intended course of action (which would be imposition of a fixed cash assessment). The CDS Clearing Member will have ten days from the date of the Letter of Mindedness to note any factual errors or objections. Following such ten day period, the Clearing House would finalize its findings and course of action. ICE Clear Europe is not changing the levels of cash assessments for Missed Submissions that are determined to have occurred under the revised policy.

During an investigation into a Missed Submission, if a CDS Clearing Member is able to demonstrate that the alleged Missed Submission(s) are the first instance(s) of a Missed Submission for a particular instrument, provide an adequate explanation for the Missed Submission, and a remedial plan of action to prevent future Missed Submissions, ICE Clear Europe may take no further action, provided that another Missed Submission for the same type of instrument does not occur within ninety days of the first Missed Submission. If a second Missed Submission were to occur in that period, the CDS Clearing Member will be subject to a cash assessment for both the initial and subsequent Missed Submissions.

In addition, consistent with the current framework, if a CDS Clearing Member is able to demonstrate that an alleged Missed Submission was due to extraordinary circumstances outside of the CDS Clearing Member's control (such as a market-wide disruption), the head of clearing compliance has the ability to determine that a CDS Clearing Member should not be subject to a cash assessment. Neither of these two exceptions will preclude ICE Clear Europe from undertaking disciplinary action against a CDS Clearing Member who persistently fails to submit end-of-day prices or submits prices treated as obvious errors by the end of day pricing algorithm.

Compliance with the Act and Commission Regulations

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

- *Settlement Procedures.* The amendments enhance the EOD Price Discovery Policy used to determine the end-of-day settlement price for CDS Contracts. The amendments are designed to maintain the incentive for Clearing Members to provide accurate end-of-day price submissions, while appropriately treating affiliated CDS Clearing Members as a group for purposes of the notional limit for Firm Trades. In particular, the amendments will avoid unfairly penalizing affiliated Clearing Members with Firm Trades, and limit the potential overnight risk that an affiliate group may face as a result of the Firm Trade process. ICE Clear Europe further believes that the enhancements to the Disciplinary Framework will reinforce the price submission process, by clarifying the procedures for implementing fines and cash assessments for Missed Submissions. As a result, ICE Clear Europe believes that the amendments will facilitate the clearing house's ability to conduct daily settlements with its clearing members, in accordance with the settlement procedures requirements of Core Principle E and Commission Rule 39.14.
- *Rule Enforcement.* As noted above, the enhancements to the Disciplinary Framework are intended to reinforce the price submission process, by clarifying the disciplinary procedures for implementing fines and cash assessments in the case of a Missed Submission. As a result, the amendments will facilitate the ability of the clearing house to enforce compliance with the EOD Price Discovery Policy, which is a key aspect of the clearing house's settlement process. In ICE Clear Europe's view, the amendments are therefore consistent with the rule enforcement requirements of Core Principle H and Commission Rule 39.17.

As set forth herein, the amendments consist of revisions to the EOD Price Discovery Policy and Disciplinary Framework. ICE Clear Europe has requested confidential treatment with respect to these amended policies, 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 has received no substantive opposing views in relation to the 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, 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,



Patrick Davis
Head of Legal and Company Secretary