



June 19, 2020

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 – Investment  
Management Procedures and Liquidity and Investment Management Policy

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 Investment Management Procedures (the “Procedures”) and its Treasury and Banking Services Policy, which is being renamed the Liquidity and Investment Management Policy (the “Policy”, and collectively with the Procedures, the “Documents”) discussed herein. The revisions do not involve any changes to the ICE Clear Europe Clearing Rules.<sup>1</sup> 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 adopting the amendments to the Documents following an annual review by Treasury to:

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

- Include investment limits and criteria for the investment of ICE Clear Europe’s contribution to default resources (a.k.a. “skin in the game”), in addition to the investment of clearing member contributions;
- Similarly include investment limits and criteria for the investment of ICEU’s regulatory capital;
- Remove the requirement for 50% of the investable balance per currency to be invested in overnight reverse repurchase agreements (“repos”), as this requirement was potentially constraining the use of central bank deposits where available;
- Include cross currency sovereign bonds as acceptable assets (“collateral”) under reverse repos; and
- Eliminate the separate section regarding investments in ‘times of insufficient market supply’ (as it was unclear when this applied). Instead, the revised Documents include a single set of relevant permitted investments and collateral in the acceptable lists for all market circumstances (and the allocation to different investment and collateral within those lists can be managed across different market circumstances).

Certain other clarifications are also being made to the Procedures, including to the glossary, and conforming changes are being made to the Policy. The Policy is also being renamed the Liquidity and Investment Management Policy to reflect its coverage of investment management more broadly.

#### Amendments to the Procedures

The purpose section of the Procedures is being updated to note that it addresses permitted investments and concentration limits relating to ICE Clear Europe contributions to default resources and regulatory capital in addition to clearing member margin and guaranty fund contributions (which are covered by the existing Procedures).

With respect to overall investment considerations, a number of modifications are being made. The requirement that at least 50% of the investable portfolio in each currency should be invested in overnight reverse repurchase agreements is being removed. (This change facilitates use of central bank deposits where available to ICE Clear Europe for the relevant currency.) A requirement that no more than 5% of the investible funds can be held as unsecured cash each calendar month is being added, which requirement is being applied separately to (i) ICE Clear Europe’s regulatory capital; and (ii) total Clearing Member cash and Clearing House skin in the game. Central bank deposits are considered secured and thus outside of the 5% threshold. The table of authorized investments and concentration limits for investments of cash provided by Clearing Members and ICE Clear Europe skin in the game is being amended as follows:

- US, UK and EU government agency bonds are being added to the list of eligible instruments (as a distinct category from sovereign obligations (renamed sovereign bonds) of those countries).

- Qualifying government agency bonds will have a maximum maturity of 13 calendar months and minimum credit ratings of AA- from at least two nationally recognized statistical rating organizations (“NRSROs”).
- US and UK government agency bonds will have no issuer concentration limits and their maximum portfolio limits will be 20% of the total USD or GBP, as applicable, balance in a single issue.
- EU government agency bonds will have an issuer concentration limit of 15% of the total EUR balance in a single issuer.
- For qualifying US, UK and EU sovereign bonds, minimum credit ratings of are being deleted.
- The maximum concentration limit for reverse repurchase agreements is being amended to apply per counterparty family instead of per counterparty.
- Commercial bank obligations are being amended to refer to commercial bank deposits and related maximum counterparty concentration limits are being amended to clarify that unsecured cash limits for financial service providers are set out separately.<sup>2</sup>

A new table of authorized investments and concentration limits for investment of ICE Clear Europe’s regulatory capital is being added. Authorized instruments will be limited to US, UK and EU sovereign bonds and US, UK and EU government agency bonds with a maximum maturity of 90 days. The US and UK sovereign and government agency bonds will have no issuer concentration limit and a portfolio concentration limit of 20% (for sovereign bond) and 25% (for government agency bonds) of the total USD or GBP balance, as applicable, in a single issue. The EU government agency bonds will have a maximum counterparty concentration limit of 25% of the EUR balance in a single issuer. EU sovereign bonds will need to be issued by the German, French, Belgian or Dutch governments. The minimum credit ratings for government agency bonds will be AA- from at least two NRSROs. The acceptable collateral table for reverse repo transactions is being revised to include certain additional types of underlying collateral as well as to permit greater use of cross-currency collateral (e.g., a EUR denominated reverse repo on US Sovereign Bonds), subject to additional haircuts. The range of accepted collateral is being extended to include Supranational obligations denominated in USD, EUR and GBP and USD government agency bonds, in addition to the existing permitted US, UK and EU Sovereign Bonds. The required credit rating for all collateral will be AA-/Aa3, consistent with current requirements. The revisions allow greater use of cross-currency reverse repo involving US, UK and EU sovereign bond collateral, subject to a 4% haircut (as compared to 2% for repo in the same currency). The Procedures also provide that ICE Clear Europe’s preferred form of collateral will be sovereign bonds in same currency of as reverse repo and the use of non-preferred collateral will be reviewed monthly by the Head of Treasury and the Chief Risk Officer (or their delegates).

The section regarding changes to the investment criteria in times of insufficient market supply is being deleted. In ICE Clear Europe’s view, under the existing procedures it is not entirely clear when this section would apply. Furthermore, the revised investment limits discussed above are, in ICE Clear Europe’s view,

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<sup>2</sup> Currently set out in the existing Unsecured Credit Limit Procedures.

appropriate for all market circumstances and provide sufficient flexibility to permit ICE Clear Europe to manage changes in supply of particular types of investments. The amendments provide that investments will be monitored against the concentration limits and investment criteria daily by Treasury and Finance and clarify that breaches of both concentration limits and the investment criteria will be escalated to the Risk Oversight and Compliance team. The amendments also note that concentration limit and investment criteria breaches can also trigger general regulatory notifications. The glossary section of the Procedures is being amended as follows:

- The terms Central Bank Obligations and Commercial Bank Obligations are being removed as no longer necessary as the Procedures will refer to, respectively, central bank deposits and commercial bank deposits instead;
- The term EU Sovereign Obligations is being amended to the more general defined term, Government Agency Bonds, which is defined as bonds issued by or that have their principal and interest fully guaranteed by their government;
- The term Permitted Investment Counterparties for FCM Customer Funds is being amended slightly for clarification;
- The term UK Sovereign Obligations and US Sovereign Obligations is being removed and references to these terms are being removed or amended to, respectively, UK Sovereign Bonds and US Sovereign Bonds; and
- The term Supranational Obligations is being added and defined as securities that: (i) are issued by institutions that are owned or established by governments of two or more countries that are all members of the Organization for Economic Co-operation and Development (OECD) or of the European Union (EU); and (ii) are fully guaranteed as to principal and interest by those governments.

### Amendments to the Policy

As noted above, the Policy is being renamed the Liquidity and Investment Management Policy. The amendments to the Policy conform to the amendments to the Procedures, including to provide that management of ICE Clear Europe's skin in the game and regulatory capital are within the scope of the Policy. Accordingly, the description of ICE Clear Europe investment management objective is being broadened to refer to safeguarding cash generally rather than Clearing Member cash specifically. The amendments also include non-substantive changes to refer to both liquidity management and investment in various places. In the purpose section of the Policy, the statement that the Policy constitutes ICE Clear Europe's liquidity risk management framework for the purposes of EMIR is being deleted. In the background section of the Policy, the statement that Treasury Banking Services operates within the risk appetites set by the board and in compliance with applicable regulations is being deleted as unnecessary (given that the Board-adopted risk appetites apply to all activities of the Clearing House).

### *Compliance with the Act and CFTC Regulations*

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

- *Financial Resources.* As set forth above, the amendments detail investment limits and criteria to facilitate management of the liquidity of ICE Clear Europe's skin in the game and regulatory capital. The amendments allow greater flexibility to maintain liquid resources in the form of central bank deposits by removing requirements relating to maintaining certain minimum balances in overnight reverse repos. Further, the new table of authorized investments and concentration limits document existing practice for investment of ICE Clear Europe's regulatory capital in highly liquid government securities that constitute liquid financial assets for purposes of this core principle. The concentration limits provided, which are consistent with those set with respect to cash from Clearing Members and skin in the game, further support maintenance of sufficient liquid financial assets consistent with this core principle. 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.* The amendments are intended to enhance ICE Clear Europe's investment management policies. As noted above, the amendments extend these policies to cover investment limits and criteria relating to ICE Clear Europe's skin in the game and regulatory capital. Allowing for greater investment flexibility through the removal of the requirement for 50% of the investable balance per currency to be invested in overnight reverse repo also removes a constraint to appropriate risk management that otherwise limits ICE Clear Europe's ability to use central bank deposits. As a result, in ICE Clear Europe's view, the amendments are consistent with the risk management requirements of Core Principle D and Commission Rule 39.13.
- *Treatment of Funds.* The amendments require assets of the Clearing House and Clearing Members be held in a manner that minimizes risk of loss and invested in assets with minimal credit, market and liquidity risk. As noted above, the amendments apply to both the Clearing House's own assets and Clearing Member assets. The amendments to the acceptable collateral table set out appropriate investment, concentration, maturity, rating and other criteria for investments and reverse repo collateral that are intended to minimize credit, market and liquidity risks from these investments. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Core Principle F and Commission Rule 39.15.

As set forth herein, the amendments consist of changes to the Policy and the Procedures. ICE Clear Europe has requested confidential treatment with respect to the amendments to the Policy and the Procedures, which have been submitted currently 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 rule 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 Robert.barlow@theice.com or +44 02074294575.

Very truly yours,

A handwritten signature in black ink, appearing to be 'R. Barlow', written over a faint horizontal line.

Robert Barlow  
Compliance & Regulatory Analyst