



Maria Alarcon
Staff Attorney

August 2, 2021

**Re: ICC Self-Certification Pursuant to
Commission Rule 40.6 – ICC Sixth Amended
and Restated Operating Agreement;
Governance Playbook**

VIA ELECTRONIC PORTAL

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICE Clear Credit” 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 amendment and restatement of its Fifth Amended and Restated Operating Agreement (such amended and restated document, the “Sixth Amended and Restated Operating Agreement” or “Sixth A&R Operating Agreement”) as well as corresponding amendments to its Governance Playbook.¹ ICE Clear Credit intends to implement the amendments no sooner than the tenth business day following the filing of this submission with the Commission at its Washington, D.C. headquarters and with its Chicago regional office.

Concise Explanation and Analysis

ICE Clear Credit is adopting the Sixth A&R Operating Agreement, which amends and restates its Fifth Amended and Restated Operating Agreement and is making corresponding changes to the Governance Playbook. The revisions are described in detail as follows.

I. Sixth A&R Operating Agreement

ICE Clear Credit is adopting the Sixth A&R Operating Agreement to reduce the number of managers on its Board of Managers (the “Board”) designated by its Parent, ICE US Holding Company L.P., (“ICE-designated managers”) and to remove outdated provisions and make other non-substantive amendments.

Board of Managers

Amendments to Section 3.02(a)(i) reduce the number of Parent Independent Managers (those independent managers designated by the Parent with no material relationships with ICE Clear Credit or its affiliates) from four to three managers. They also remove all references to names of such Parent Independent Managers, as such persons have been appointed and need not be named in the operating agreement. Section 3.02(a)(ii) reduces the number of Parent Non-Independent Managers (those non-independent managers designated by the Parent) from three to two managers. The amendments also similarly remove all references to names of such Parent Non-Independent Managers. The amendments do not change the

¹ Capitalized terms used but not defined herein have the meanings specified in the Sixth A&R Operating Agreement.



number of Risk Committee Independent Managers or Risk Committee Non-Independent Managers (those independent and non-independent managers designated by the Risk Committee under the Rules, rather than by the Parent).

The amendments also update Section 3.03 to reflect prior amendments to the operating agreement that the Board will meet no less frequently than quarterly at such time and place as may be determined by the chair and may meet more frequently (either in person or telephonically) as circumstances dictate, and remove a requirement that the Board meet telephonically no less than twice per calendar year.

Removal of Outdated Information Related to Conversion

Sections 2.01 and 2.02 are being revised to remove outdated provisions of the Fifth Amended and Restated Operating Agreement relating to the operation of the Clearing House prior to its conversion in 2011 to a Delaware limited liability company and to reflect the occurrence of that conversion. Related defined terms are being removed and/or updated as necessary to reflect these changes.

General Drafting Clarifications and Improvements

ICE Clear Credit additionally is making other general drafting clarifications and improvements. The changes revise outdated references to the name, jurisdiction of organization, and/or governing document of certain Intercontinental Exchange, Inc. entities and replace references to the Chief Executive Officer with references to the President (which is the correct title of the relevant officer) to reflect prior amendments to the operating agreement. The other changes include updating the Clearing House's and the Parent's notice information, updating the Clearing House's registered office and agent in Delaware, referencing the Fifth Amended and Restated Operating Agreement where necessary, updating the definition of ICE's Board of Director Governance Principles to refer to the current Independence Policy of the Board of Directors of ICE as well as other typographical and grammatical updates.

II. Governance Playbook

ICE Clear Credit is making conforming changes to update the composition of the Board and to make other non-substantive amendments to the Governance Playbook, which consolidates governance arrangements set forth in ICE Clear Credit's Rules, operating agreement, and other ICE Clear Credit policies and procedures. The changes to Section III.A similarly reduce the number of Parent Independent Managers from four to three managers and the number of Parent Non-Independent Managers from three to two managers. Amended footnote 1 references the current version of the limited partnership agreement of the Parent and updates the jurisdiction of organization of the Parent.² In Section III.C, ICE Clear Credit makes a minor clarification with respect to the receipt and review of resignation letters from managers. Additionally, the changes to Section III.F update the number of independent managers on the Board as well as a link to ICE's Board of Director Governance Principles.

Compliance with the Act and Commission Regulations

The amendments to the Sixth A&R Operating Agreement and the Governance Playbook are potentially relevant to the following core principles: (O) Governance and (Q) Composition of Governing Boards and the applicable regulations of the Commission thereunder.

² See submission of ICE Clear Credit to the Commission dated April 13, 2021 for more information on the change in the jurisdiction of organization of the Parent.



- *Governance.* ICE Clear Credit believes the remaining Board size of nine following the reduction in the number of ICE-designated managers is appropriate and consistent with the ongoing effective oversight of the Clearing House by the Board. The amendments will not affect the number of managers designated by the Risk Committee, and thus will not adversely affect representation of Participants on the Board. Moreover, a majority of the Board will continue to be independent and have no material relationships with ICE Clear Credit and its affiliates. The other amendments and clarifications will also help the Clearing House ensure that its governance arrangements remain clear and transparent. ICE Clear Credit believes that the amendments are therefore consistent with the requirements of Core Principle O and Commission Rule 39.24.
- *Composition of Governing Boards.* The amendments reduce the number of Parent-designated Managers, but do not affect the number of Managers designated by the Risk Committee. As such, the amendments have the overall effect of increasing the proportion of the Board that is designated by the Risk Committee. As noted above, a majority of the Board will continue to be independent and have no material relationships with ICE Clear Credit or its affiliates. The amendments will not adversely affect the representation of Participants on the Board. ICE Clear Credit believes that the amendments are thus consistent with ensuring that the Board includes market participants and individuals who are not executives, officers, or employees of the derivatives clearing organization or an affiliate thereof, and accordingly comply with the requirements of Core Principle Q and Commission Rule 39.26.

As set forth herein, the amendments consist of the amendments to the Sixth A&R Operating Agreement and the Governance Playbook. ICE Clear Credit has requested confidential treatment with respect to the Sixth A&R Operating Agreement and the Governance Playbook, which have been submitted concurrently with this self-certification submission.

ICE Clear Credit hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Credit received no substantive opposing views in relation to the proposed amendments.

ICE Clear Credit 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 maria.alarcon@theice.com or 312-836-6854.

Very truly yours,

A handwritten signature in black ink that reads "Maria Alarcon". The signature is written in a cursive, flowing style.

Maria Alarcon
Staff Attorney