



November 24, 2014

Ms. Melissa Jurgens
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

By Email: submissions@cftc.gov

Re: ICE Clear Europe Self-Certification Pursuant to Commission Rule 40.6 -
CDS-Related Policy Changes

Dear Ms. Jurgens:

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 amendments to certain clearing policies discussed herein. 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 designate.

Concise Explanation and Analysis

The purpose of the amendments is to amend certain of the ICE Clear Europe risk, margin and other policies relating to credit default swaps (CDS) (the “CDS Policy Amendments”) and certain liquidity policies (the “Liquidity Policy Amendments”) in order to facilitate compliance with requirements under the European Market Infrastructure Regulation (including regulations thereunder, “EMIR”)¹ that will apply to ICE Clear Europe as an authorized central counterparty and to make certain other enhancements.

In terms of the CDS Policy Amendments, the relevant policies being modified are (i) the CDS Risk Policy (“CDS Risk Policy”); (ii) the CDS Risk Model Description

¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

("CDS Model Description"); (iii) the CDS Clearing Back-Testing Framework ("CDS Back-Testing Framework"); (iv) the CDS Clearing Stress-Testing Framework ("CDS Stress-Testing Framework"); (v) the CDS Default Management Framework ("CDS Default Management Framework"); and the CDS End-of-Day Price Discovery Policy (the "CDS Pricing Policy").

The changes to the CDS Risk Policy amend the calculation of CDS initial margin requirements to comply with requirements under EMIR Article 41 and Article 24 of the implementing Regulatory Technical Standards.² As revised, the initial margin methodology is designed to provide portfolio risk coverage against at least 5-day market realizations that would occur with probability 99.5% (previously 99.0%). In other words, the estimated requirements provide risk protection equivalent to, at least, a 5-day 99.5% Value-at-Risk measure. In addition, in order to address requirements under EMIR related to procyclicality (Article 28 of the Regulatory Technical Standards) changes were made to the maximum scale used for the initial margin approach by adding a volatility scale that assigns a 25% weight to stressed period observations during the relevant lookback period. The revised initial margin requirement, including certain portfolio benefit assumptions, is expected to result in more conservative CDS initial margin requirements than under the current approach.

Similar amendments to those described above were also made to the CDS Model Description. Under the revised CDS Model Description, the overall CDS initial margin methodology, post portfolio benefits and other risk components (e.g. jump-to-default and wrong way risk), are intended to provide portfolio risk coverage against at least 5-day market realizations that would occur with probability 99.5% or higher. Conforming changes with respect to the 99.5% confidence interval were also made in the CDS Model Description. The revised CDS Model Description also reflects the use of stressed observations described above to limit procyclicality.

The CDS Model Description has also been revised to include the Clearing House's Monte Carlo Approach for Risk Management ("MC"), which has previously been applied to Western European sovereign CDS and is to be extended to all CDS. The CDS MC approach aims to model the spread risk component of initial margin by combining individual risk factors ("RFs"), i.e., single name or index family of instruments, into a copula. The value-at risk (VaR) for the profit and loss distribution can be estimated by sampling from this copula. The MC method offers a number of advantages over the existing scenario-based spread response method (the "Decomp SR"). The dependence structure of RFs is encoded into the copula, as opposed to the long-short offsets algorithm used to determine portfolio benefits under the Decomp SR. The copula can also capture tail dependence, such that various extreme scenarios can be easily simulated.

The scenario-based approach of the spread risk component with its portfolio benefit assumptions is generally expected to result in a more conservative requirement when compared to the MC VaR approach for the same coverage level. In order to ensure compliance with the 99.5% confidence interval requirement for OTC derivatives

² Commission Delegated Regulation (EU) No. 153/2013 of 19 December 2012 Supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council with regard to Regulatory Technical Standards on Requirements for Central Counterparties (the "Regulatory Technical Standards").

under EMIR, the final spread response charge will be determined as the more conservative of the Decomp SR and the MC VaR calculated at a 99.5% confidence interval.

With respect to the CDS Back-Testing Framework, changes were made to implement the 99.5% confidence interval, among certain other clarifications. The CDS Stress-Testing Framework is amended to provide further detail as to the use of daily stress testing, which allows ICE Clear Europe to discover any potential weaknesses in the risk methodologies as well as to exercise short-term measures if the tests reveal that any counterparties are inadequately collateralized. The CDS Stress-Testing Framework amendments would also add pure historical scenarios, as required under EMIR. The guaranty fund stress scenario has also been clarified, and is designed to account for (i) the occurrence of credit events for two clearing members and three reference entities on which the defaulted clearing members sold protection, (ii) adverse contracting or widening credit spread scenarios, (iii) adverse widening of Index-single name "basis", and (iv) adverse changes of the default-free discount terms structure.

Minor improvements have been made to the CDS Default Management Framework. First, ICE Clear Europe will conduct a quarterly (rather than annual) review of its CDS Default Management Framework. Also, ICE Clear Europe will perform a mock clearing member default test at least annually.

In terms of the CDS Pricing Policy, ICE Clear Europe is making certain enhancements to improve the consistency of prices and reduce the sensitivity of the final end-of-day level to a single Clearing Member's submission. Under the revised "cross and lock" methodology, the average of the mid-points of all non-crossed, non-locked matched markets for which the difference between the matched market bid and matched market offer is less than or equal to one bid-offer width is used as the final level (with additional steps taken to remove off-market submissions from influencing the final level). Under this approach, the end-of-day prices determined are less sensitive to outlying submissions. An additional clarification is made to the calculation of a Clearing Member's open interest for purposes of the end-of-day price submission process to take into account the aggregate of both house and client positions carried by the Clearing Member.

The amendments also clarify that notional limits applicable to firm trades that may be assigned to Clearing Members as a result of the end-of-day price submission process will be established at risk sub-factor and sector levels. The revised policy also clarifies the sequencing of firm trades in relation to the determination of breaches of those limits. The amendments also revise certain requirements applicable to the unwinding of firm trades entered into by Clearing Members. Although the existing policy does not require that firm trades be maintained for any particular period of time, it currently requires Clearing Members that elect to unwind a firm trade to do so at the then-current market price. There are practical difficulties with objectively determining whether an unwind transaction was executed at the then-current market price and therefore this requirement can be difficult to enforce. ICE Clear Europe is revising the policy to replace the requirement that unwind be executed at the then-current market price with the requirement that any unwind must be executed in a competitive manner. In addition, the amendments make certain clarifications with respect to permissible reversing transactions with respect to firm trades.

In terms of the Liquidity Policy Amendments, ICE Clear Europe proposes to amend its existing Liquidity Risk Management Framework (“LRMF”) and to adopt a separate Liquidity Plan that formalizes certain procedures and internal processes relating to liquidity objectives and monitoring, testing and decision-making relating to sufficiency of liquidity resources. In ICE Clear Europe’s view, the creation of the Liquidity Plan does not materially change existing procedures and processes but is intended to formalize them, in order to be consistent with requirements under EMIR.

The Liquidity Plan has been drafted in accordance with Article 32 of the Regulatory Technical Standards implementing EMIR. Consistent with Article 32, the stated objectives of the Liquidity Plan are to: (i) identify sources of liquidity risk; (ii) manage and monitor liquidity needs across a range of stressed market scenarios; (iii) maintain sufficient and distinct financial resources to cover liquidity needs; (iv) assess and value the liquid assets available to the clearing house and its liquidity needs; (v) assess timescales over which liquid financial resources should be available; (vi) manage a liquidity shortfall event; (vii) replace financial resources used in a liquidity shortfall event; and (viii) assess potential liquidity needs stemming from Clearing Members ability to swap cash for non-cash collateral. The Liquidity Plan also reflects requirements and guidance of the Bank of England.

The Liquidity Plan contains details about ICE Clear Europe’s liquidity monitoring, stress testing, reporting and management procedures. The Liquidity Plan also uses certain Key Risk & Performance Indicators (“KRPIs”) to ensure the investment policies are respected in light of ICE Clear Europe’s credit and liquidity requirements, based on a number of investment categories (such as secured investments, unsecured investments, sovereign investors) and tenor categories.

The Liquidity Plan identifies various sources of liquidity risks, including exposure to settlement banks, custodian banks, liquidity providers, investment counterparties, payment systems, clearing members and other service providers, and provides for regular stress testing based on those risks. The Liquidity Plan also addresses liquidity risk tolerances and appetite limits established by the Board in connection with stress testing. Stress testing is conducted using a range of scenarios, including both historical scenarios and forward-looking scenarios involving extreme but plausible market events and conditions. Both types of scenarios simulate extreme but plausible losses arising from the default of the clearing members with the two largest liquidity exposures, consistent with EMIR requirements. Scenarios also address the required level of liquidity resources in a range of other conditions in the relevant currencies used by ICE Clear Europe, including defaults of investment counterparties, settlement banks, Nostro agents, intraday liquidity providers and other service providers, market infrastructure failures and other systemic events (and combinations thereof).

ICE Clear Europe’s Liquidity Plan also specifies procedures for liquidity management in cases of potential liquidity stress. ICE Clear Europe has defined a series of liquidity events and stress situations, ordered by severity, which trigger a notification to the relevant level of management and, if further escalation is required, the Board. The Liquidity Plan also outlines actions that may be taken in each situation to address the liquidity event or stress.

The Liquidity Plan establishes a protocol for breaches and liquidity events, which includes reporting and escalation based on the severity of the event, mitigating actions

and replenishment of liquidity. The Liquidity Plan also provides for periodic testing of liquidity resources to ensure that they are “highly reliable” within the meaning of Article 44 of EMIR.

ICE Clear Europe has also revised its LRMF to reflect the adoption of the new, separate Liquidity Plan (and the two documents together are intended to reflect the clearing house’s approach to liquidity management). As revised, the LRMF specifies the objectives of liquidity management, and references relevant policies, including investment policies, collateral management and haircut policies, stress testing policies and operational risk management policies. The LRMF also addresses the policies for establishing liquidity risk tolerances and appetites, the range of relevant stress scenarios (which are derived from the CPSS-IOSCO Principles for Financial Market Infrastructures and Regulatory Technical Standards Article 32.4), reverse stress testing requirements in accordance with Regulatory Technical Standards Article 49, and the resources the clearing house will treat as available for liquidity management purposes. The LRMF specifies further procedures concerning liquidity shortfalls and replenishment, complementing the provisions set forth in the Liquidity Plan.

Compliance with the Act and CFTC Regulations

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

In terms of the CDS Policy Amendments, ICE Clear Europe is amending its margin model for CDS to comply with certain requirements under EMIR, specifically, the use of a 99.5% confidence interval, as well as certain other changes to limit procyclicality. As discussed above, it is expected that the revised initial margin requirement, including certain portfolio benefit assumptions, is expected to result in more conservative initial margin requirements than under the current approach. In ICE Clear Europe’s view, the revised methodology will enhance its financial resources, consistent with the requirements of Rule 39.11, and is consistent with the risk management requirements of Rule 39.13. The other CDS Policy Amendments are generally intended to enhance risk management with respect to CDS, in terms of pricing, back-testing and default management, and also are consistent with the requirements of Rule 39.13.

In terms of the Liquidity Policy Amendments, ICE Clear Europe is formalizing its existing policies, procedures and processes relating to liquidity, including as to sources of liquidity, analysis and monitoring of liquidity risks, stress testing and liquidity event management. In ICE Clear Europe’s view, these policies continue to be consistent with the financial resources requirements of Rule 39.11 and the risk management requirements of Rule 39.13.

ICE Clear Europe hereby certifies that the changes 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 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 'Patrick Davis', written in a cursive style.

Patrick Davis
Head of Legal and Company Secretary