



December 1, 2021

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 –
Delivery Procedures Amendments

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, amendments to its Delivery Procedures (the “Delivery Procedures” or “Procedures”)¹ discussed herein. The amendments will 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 amending its Delivery Procedures to add a new Part N1 addressing ICE Futures US Emissions Futures Contracts which will be settled by delivery through the account of the Clearing House with the relevant registry and to make certain conforming changes elsewhere in the Delivery Procedures.

Part N1 applies to ICE Futures US Emissions Futures Contracts (i) for which physical delivery is specified as being “Applicable” in the relevant Contract Terms, (ii) which

¹ Capitalized terms used but not defined herein have the meanings specified in the Delivery Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

go to physical delivery on the expiry date; and (iii) to which the Clearing House will announce by Circular that Part N1 specifically applies (such contracts “ICE Deliverable US Emissions Contracts”). These will apply to all physically deliverable US emissions futures contracts that are delivered via the Californian CITSS Registry.

Part N1 provides that deliveries under ICE Deliverable US Emissions Contracts are effected upon (i) in the case of the Seller effecting delivery, the completion of the transfer of the relevant Allowances from the relevant registry account of the Seller to the relevant registry account of the Clearing House, and (ii) in the case of the Buyer taking delivery, the completion of the transfer of the relevant Allowances from the relevant registry account of the Clearing House to the relevant registry account of the Buyer. Such delivery takes place during the Delivery Period for the relevant ICE Deliverable US Emissions Contracts in accordance with the relevant Contract Terms, and neither delivery by Seller nor receipt of delivery by Buyer requires performance by the other to occur simultaneously.

The amendments further specify certain details of the delivery process and address certain responsibilities of the Clearing House and relevant parties for delivery under ICE Deliverable US Emissions Contracts. Delivery under an ICE Deliverable US Emissions Contract is based on Open Contract Positions after expiration of the relevant Contract Set. The delivery process occurs over three consecutive Business Days. The amendments include a delivery timetable with a detailed timeframe for relevant confirmations of intent to deliver or receive, nominations of parties to delivery or receive, delivery confirmations, invoicing, release of delivery margin and sales proceeds following completion of delivery and other matters.

The amendments also detail certain limitations of liability for the Clearing House and ICE Futures US. Neither such party is liable as a result of the performance or non-performance of any Registry or Registry Operator, any errors in the account details entered into the relevant Registry systems or otherwise provided in respect of a delivery, or for complying with the contractual obligations owed to the Registry in respect of any registry account(s), among other matters.

In addition, the amendments also update Section 5.1 of the Delivery Procedures to include the ICE Deliverable US Emissions Contracts in the list of Clearing House contracts which, subject to delivery obligations, allow sellers and buyers to nominate transferors and transferees, respectively, and to more clearly distinguish emissions contracts subject to bilateral delivery under existing Part N of the Delivery Procedures from those under the new Part N1.

Compliance with the Act and CFTC Regulations

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

- *Settlement Procedures.* As discussed above, the amendments establish a new set of procedures applicable to the settlement of certain ICE Futures US Emissions Futures Contracts, under which delivery will be made through the registry account of the Clearing House. The amendments set out the role,

responsibilities and liabilities of the Clearing House, Clearing Members and designated transferors and transferees in the physical delivery process. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Core Principle E and Commission Rule 39.14.

As set forth herein, the amendments consist of the amendments to the Delivery Procedures, a copy of which is attached hereto.

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

ICE Clear Europe received no substantive opposing views in relation to the proposed 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 George.milton@theice.com or +44 20 7429 4564.

Very truly yours,



George Milton
Head of Regulation & Compliance