



August 21, 2024

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 Rule 40.6 –
Counterparty Credit Risk Policy and Procedures

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 (i) Counterparty Credit Risk Policy (the “Policy”) and (ii) Counterparty Credit Risk Procedures (the “Procedures”) to make certain updates and clarifications.¹ 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

The amendments are intended principally to clarify certain requirements applicable to financial services providers and custodians, remove certain provisions and references that are no longer relevant following the termination of the CDS clearing business, and update the document governance procedures, among other updates and clarifications.

I. Counterparty Credit Risk Policy

The amendments to the Policy, in the discussion of links with other financial market infrastructure as a source of credit risk, remove a reference to the definition of link under Securities and Exchange Commission rules (in light of ICE Clear Europe’s withdrawal from SEC registration as a securities clearing agency following the termination of its credit default swap clearing service) and reference instead the definition of link provided by the CPMI-IOSCO Principles for Financial Market Infrastructures.

With respect to the continuous monitoring of all Counterparties, the amendments will make a conforming change to add public news to the sources that will be used to be

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



consistent with the existing Procedures. The amendments will also delete a reference to the reviews occurring weekly as in practice reviews occur daily. Lastly, the amendments clarify that Counterparty Risk Reviews will be tailored to the business role of each type of counterparty with ICE Clear Europe (in addition to the relationships and obligations of such counterparty).

The amendments will make certain overall clarifications relating to document governance, consistent with other ICE Clear Europe policies and procedures, including as to regular document review by the document owner, reporting of the review to the Executive Risk Committee (and Model Oversight Committee with respect to certain findings), and the timeframe for remediation. Changes to the Policy must be approved in accordance with ICE Clear Europe's governance process.

The amendments will make the same clarifications relating to document governance, consistent with the Procedures and other ICE Clear Europe policies and procedures, such as the regular document review by the document owner, reporting of the review to the Executive Risk Committee (and Model Oversight Committee with respect to Model IV or Reg IV findings), and that the document owner must complete this before the next annual review. Changes to the Procedures must be approved in accordance with ICE Clear Europe's governance process and will follow the completion of all necessary internal and regulatory approvals.

II. Counterparty Credit Risk Procedures

In the Procedures, a corresponding change to the definition of link to that described above for the Policy will be made.

The amendments will clarify the application of eligibility criteria to different types of Counterparties. The amendments clarify that all Counterparties must comply with the eligibility criteria and are screened for KYC and AML purposes. FSPs also must comply with unsecured credit limits, consistent with current practices. Counterparties must also have in place appropriate agreements with the Clearing House.

Under the amendments, Counterparties that are not a securities settlement system or a central bank and are used for the deposit of collateral must be subject to prudential rules as rigorous as those outlined in the EU Capital Requirement Directive (and equivalent UK standards) and must also have robust accounting practices, safekeeping procedures and internal controls. Such FSPs outside of the EU and UK that are used for the deposit of collateral will be checked against approved sources of information to ensure that they are subject to the prudential rules as stringent as those outlined in the Directive.

The amendments clarify that the required update of the Counterparty Rating System for clearing members is conducted quarterly based on quarterly financial statements and is conducted annually for FSPs. The amendments also clarify that a Counterparty Risk review is completed for the approval of all new FSPs.

The amendments will make a number of typographical and similar corrections to the discussion of the CRS, as well as changes to distinguish between the CRS model itself and the CRS score generated by the model.

In the discussion for limits for issuers of collateral, the amendments will make clear that independent criteria (in addition to external ratings) are required for issuers of investments. Under these criteria, the causes leading to a breach and exposure will be investigated if the top day parameter is above the limit. If the average threshold is reached over a period, the Clearing House will take mitigating steps such as enhanced monitoring, reduction, and elimination of exposure or ineligibility.

Various changes to the definitions in the Procedures will also be made, such as adding a definition for Risk Classification applicable to risk bands used for classifying FSPs and changing Minimum External Rating to Minimum Rating as it will now also take into account the internal credit score.

The amendments will also address concentration limits for custodians. The limits will be set for each custodian as a percentage of the Clearing House's total collateral. In addition, the amendments clarify that minimum credit eligibility criteria may include ratings from an external rating agency or internal CRS score.

Finally, the amendments will include substantially the same overall clarifications relating to document governance as those discussed above for the Policy, consistent with other ICE Clear Europe policies and procedures, including as to regular document review by the document owner, reporting of the review to the Executive Risk Committee (and Model Oversight Committee with respect to certain findings), and the timeframe for remediation. Changes to the Procedures must be approved in accordance with ICE Clear Europe's governance process.

Compliance with the Act and CFTC Regulations

The amendments to the Policy and Procedures are potentially relevant to the following core principles: (D) Risk Management, (F) Treatment of Funds, and (O) Governance, and the applicable regulations of the Commission thereunder.

- *Risk Management.* The amendments to the Policy and Procedures are designed to more clearly document certain of the Clearing House's practices with respect to the management of counterparty credit risk and reviews, for the spectrum of Counterparties (including financial services providers and custodians) faced by the Clearing House. The amendments also enhance the Clearing House's policies and practices relating to eligibility criteria for Counterparties and ongoing monitoring of credit exposure. In ICE Clear Europe's view the amendments thus enhance the overall risk management of the Clearing House. As such, ICE Clear Europe believes the amendments are consistent with the requirements of Core Principle D and Commission Rule 39.13.

- *Treatment of Funds.* As discussed above, the amendments enhance the criteria applicable to custodians and issuers of investments. Thus, the amendments ensure that assets provided by clearing members and their customers are held in a manner which minimizes the risk of loss or of delay in accessing such assets, and that funds are invested in instruments with minimal credit, market and liquidity risks. The amendments are therefore consistent with the requirements of Core Principle F and Commission Rule 39.15.
- *Governance.* As discussed above, the amendments update the documentation governance, review and approval provisions for the Policy and Procedures, in a manner consistent with other ICE Clear Europe procedures and policies. The amendments more clearly set out the roles of relevant personnel and committees and in the governance process, among other enhancements. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Core Principle O and Commission Rule 39.24.

As set forth herein, the amendments consist of the amendments to the Counterparty Risk Policy and Procedures. ICE Clear Europe has requested confidential treatment with respect to the amendments, 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 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 George.milton@ice.com or +44 20 7429 4564.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'G. Milton', is written over a light blue circular stamp.

George Milton
Head of Regulation & Compliance