



## Clearing Rules

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## 2. MEMBERSHIP

### 201. Qualifications of Participants.

- (a) ICE Clear Credit shall determine whether any applicant for status as a Participant, or any existing Participant, satisfies the qualifications established by ICE Clear Credit. Only Persons found by ICE Clear Credit to be so qualified shall be permitted to become or remain, as applicable, Participants. For the purpose of determining whether any applicant or Participant is thus qualified, ICE Clear Credit may establish minimum capital and other financial requirements for Participants, examine the books and records of any applicant or Participant (on the site of such applicant or Participant, during normal business hours, with reasonable advance notice, and, in the case of a Participant, not more frequently than annually unless ICE Clear Credit determines that a more frequent examination of the Participant is appropriate for the protection of the clearing system operated by ICE Clear Credit pursuant to these Rules), and take such other steps as it may deem necessary to ascertain the facts bearing upon the question of qualification. The Risk Committee will have certain consultation rights over any Modification (as defined in Rule 502) to the qualifications for Participants contemplated by this Rule 201.
- (b) Participants must meet and maintain such standards of business integrity, financial capacity, creditworthiness, operational capability, experience and competence as may be established by ICE Clear Credit from time to time. Without limitation of the foregoing, no applicant shall be admitted or permitted to remain, as applicable, as a Participant unless, in ICE Clear Credit's sole determination:
- (i) It is regulated for capital adequacy (the "**Regulatory Requirement**") by a competent authority such as the CFTC, SEC, Federal Reserve Board, Office of the Comptroller of the Currency, European Securities and Markets Authority, U.K. Prudential Regulatory Authority or any other regulatory body ICE Clear Credit designates from time to time for this purpose, or it is an Affiliate of an entity that satisfies the Regulatory Requirement and is subject to consolidated holding company group supervision;
- (ii) It has a minimum of \$50 million of Adjusted Net Capital (*provided* that this requirement may, at the discretion of ICE Clear Credit, be met by a Parent if such Parent provides a guarantee pursuant to Rule 205);

For purposes of this clause (ii):

**"Adjusted Net Capital"** (A) for a Participant that is an FCM, shall be as defined in CFTC Rule 1.17 and as reported on its Form 1-FR-FCM or FOCUS Report or as otherwise reported to the CFTC under CFTC Rule 1.12, (B) for a Participant that is not an FCM but is a Broker-Dealer, shall be its "net capital" as defined in SEC Rule 15c3-1 and as reported on its FOCUS Report, and (C) for a Participant that is neither an FCM nor a Broker-Dealer, shall be the amount of its net capital as determined pursuant

to a similar risk adjusted capital calculation methodology acceptable to ICE Clear Credit;

- (iii) At the time of admission, it demonstrates to the Board, upon recommendation by ICE Clear Credit senior management after consultation with the Risk Committee, that it (or, if a Parent has provided a guarantee of its obligations pursuant to Rule 205, its Parent) satisfies the internal stringent credit criteria established by the Board in its discretion, such satisfaction to be confirmed by an examination of its books and records;
- (iv) At no time after admission does it (or, if applicable, its Parent) cease to satisfy the internal credit criteria established by the Board under clause (iii) above upon its admission;
- (v) It demonstrates that it has sufficient financial ability to make its anticipated General Guaranty Fund contributions and provide Margin as required by these Rules, and it makes and maintains, so long as it is a Participant, a deposit or deposits of Collateral in the General Guaranty Fund as required by these Rules;
- (vi) It (on its own or through an arrangement acceptable to ICE Clear Credit) demonstrates operational capacity with respect to agreements (whether or not cleared) substantially similar (as determined by ICE Clear Credit) to Contracts, including (A) having the ability to process the expected volumes and values of Contracts within the required time frames (including at peak times and on peak days), (B) having the ability to submit required pricing data within the required time frames and (C) maintaining back-office facilities (or entering into a facilities management agreement in form and substance acceptable to ICE Clear Credit):
  - (1) remote from both the exchange floor and/or trading desks;
  - (2) with adequate systems (including but not limited to computer and communication systems) and records;
  - (3) with adequate number of competent personnel with sufficient operational background and experience with procedures for the management and clearance of business transacted in the Markets and Contracts in which the Participant will participate; and
  - (4) with such equipment (including computer software and hardware) as may be required by ICE Clear Credit.
- (vii) It (on its own or through an arrangement acceptable to ICE Clear Credit) demonstrates risk management competence in such agreements and Contracts;
- (viii) [Intentionally omitted.]

- (ix) It has established relationships with, and has designated to ICE Clear Credit, an approved settlement bank for confirmation and payment or delivery, as applicable, of all Margin and any other payments or deliveries required to be made by it to or from ICE Clear Credit, or has made alternate arrangements to facilitate such payments and deliveries in a timely manner and in accordance with these Rules and the ICE Clear Credit Procedures;
- (x) It has established relationships with one or more swap data repositories and/or security-based swap data repositories as necessary for reporting its cleared Contracts in accordance with applicable law;
- (xi) It provides in a timely manner all reports and information relating to the Participant, Persons controlling the Participant, and related or affiliated organizations as required by these Rules or otherwise required by ICE Clear Credit, and upon becoming aware that any such report or information was at the time provided false or misleading in any material respect, it promptly provides ICE Clear Credit a correcting amendment of or supplement to such report or information; and
- (xii) It is (and, if its Parent provides a guarantee pursuant to Rule 205, its Parent is) organized in a jurisdiction whose insolvency laws are acceptable to ICE Clear Credit.
- (xiii) It is not subject to statutory disqualification under Section 8a(2) of the CEA or Section 3(a)(39) of the Securities Exchange Act, or otherwise applicable CFTC or SEC regulations.
- (xiv) It participates in default management simulations, new technology testing and other exercises, as notified by ICE Clear Credit from time to time.

## **502. Specified Actions.**

Without limiting the general provisions of Rule 501, ICE Clear Credit shall not take nor permit to be taken any of the following actions without prior consultation with the Risk Committee (“Specified Actions”):

- (a) accept for clearing any types of transactions other than the credit default swaps published by ICE Clear Credit on its website (“Approved Products”) and, with respect to new Contracts (including for Approved Products) or the then-existing Contracts, establish, impose, make any change or addition to or deletion from or otherwise modify, directly or indirectly, (collectively, “Modify” and any such action, a “Modification”) the Rules, or, to the extent directly and materially relating thereto, the ICE Clear Credit Procedures or any other governing provisions, (the Rules, such ICE Clear Credit Procedures and such other governing provisions, collectively, the “ICE Provisions”) relating to the specific characteristics of a Contract or make the determination that a proposed Modification to the ICE Provisions relating to the specific characteristics of a Contract is not a Contract

Modification (as defined in Rule 616), it being understood that adding new series or versions of an index to an existing Contract or a new coupon or tenor for an existing Contract as contemplated by the Rules governing such Contract shall not be considered a Modification;

- (b) (i) Modify the ICE Provisions that relate to Margin, including, without limitation, (A) the methodology for calculating any Margin Requirement or the components thereof, (B) the types of currency or assets that qualify as Eligible Margin or the methodology and discounts for calculating the Value thereof, (C) the methodology for determining the interest rate charged or credited for cash Margin, (D) provisions relating to the application, or the use, rehypothecation or investment, of Margin and (E) provisions relating to Physical Settlement Margin or (ii) Modify the ICE Provisions to include material obligations relating to, or otherwise materially affecting, the manner in which Participants or their Affiliates interact with their customers and/or conduct their business outside of the Participant's direct dealings with ICE Clear Credit, including, without limitation, with respect to margin, collateral or other credit support provided by customers;
- (c) Modify the ICE Provisions that relate to (i) the structure, size or application of the General Guaranty Fund, (ii) the methodology for calculating a Participant's Required Contribution or the components thereof, (iii) the types of currency or assets eligible for, or valuation methodology or discounts applied to, a Participant's Guaranty Fund contribution, (iv) the limit on Assessment Contributions in Rules 803 and 806, (v) the time period for, or means by which, Collateral is returned to a Participant, (vi) the methodology for determining the interest rate credited for Collateral on deposit in the General Guaranty Fund, (vii) the methodology and procedures for applying amounts on deposit in General Guaranty Fund and recoveries related thereto, (viii) provisions relating to the use, rehypothecation or investment of Collateral on deposit in the General Guaranty Fund or (ix) the size, form, timing, investment guidelines, valuation or priority scheme with respect to the ICE Clear Credit Initial Contribution or the ICE Clear Credit Continuing Contribution;
- (d) Modify the ICE Provisions that relate to (i) the Closing-out Process, the CDS Default Committee or the other rights and obligations of ICE Clear Credit upon the Default of a Participant or the occurrence of an ICE Clear Credit Default, (ii) the definition of ICE Clear Credit Default or Default or the process required to determine that a Default has occurred, (iii) the definition of Termination Event, the process required to determine that a Termination Event has occurred, or the rights and obligations of ICE Clear Credit upon the occurrence of a Termination Event with respect to a Participant, (iv) the process for dispute resolution or (v) the process for effecting physical settlement of Contracts or the allocation methodology relating thereto;
- (e) Modify the ICE Provisions that relate to (i) ICE Clear Credit or any other Person seeking the consent of, or engaging in consultation with, the Risk Committee or any other specified body or other Person, (ii) the delegation of responsibility for an

action or determination to a Person other than ICE Clear Credit, (iii) ICE Clear Credit or any other Person applying a particular standard for an action or determination, including, without limitation, Rule 615 (or any successor Rule thereto) or (iv) Chapter 7 of these Rules (or any successor Chapter thereto);

- (f) Modify the ICE Provisions that relate to open access to the clearing system operated by ICE Clear Credit in accordance with these Rules for all execution venues and all Trade processing platforms, as contemplated by Rule 314 (or any successor Rule thereto); ~~and~~
- (g) Modify this Chapter of the Rules or Modify any other Risk Committee Provisions (as defined in Rule 504);~~;~~
- (h) Determine the standards and requirements for initial and continuing Participant eligibility; and
- (i) Approve or deny (or review approvals or denials of) Participant applications described in Rule 202 (or any successor Rule thereto) or the other ICE Provisions.

#### **509. The Risk Advisory Working Group.**

ICE Clear Credit shall establish a Risk Advisory Working Group as a forum to seek risk-based input from a broad array of market participants regarding all matters that could materially affect the risk profile of ICE Clear Credit. The members of the Risk Advisory Working Group shall include representatives of Participants and Non-Participant Parties. Notwithstanding anything to the contrary in these Rules, neither the Board nor the Risk Committee shall ~~not~~ have any obligation to accept any proposal made by, or take any action proposed by, the Risk Advisory Working Group, and any deliberation and/or decision by the Board or the Risk Committee with respect to any such proposal shall be made at the sole discretion of the Board or Risk Committee, respectively, with no obligation whatsoever to the Risk Advisory Working Group in respect of such deliberation or decision.