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New York, NY 10055

**BY ELECTRONIC TRANSMISSION**

Submission No. 20-43  
May 11, 2020

Mr. Christopher J. Kirkpatrick  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Amendments to ICE Futures U.S., Inc. Rules for Non-CLS Delivery FX Contracts - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)1 of the Commodity Exchange Act, as amended (the "Act") and Commodity Futures Trading Commission ("Commission") Regulation 40.6(a), ICE Futures U.S., Inc. ("Exchange") hereby submits by written certification the amendments to Exchange Rule 16.04 set forth in Exhibit A.

The Exchange's physical delivery currency pair futures contracts include eight contracts with currencies that are not supported by the CLS Bank International currency settlement system (the Non-CLS Delivery Contracts)<sup>1</sup>. Under the current delivery rules for these contracts, Clearing Members are responsible for transferring, as applicable, the base or quoted currency to an ICE Clear U.S., Inc. ("ICUS") designated bank account that is used solely for deliveries, and ICUS then disburses the applicable currencies to the relevant Clearing Members. ICUS has determined to implement a more efficient mechanism for effecting these physical settlements as specified in a separate rule filing made by ICUS this date.

In the new delivery process, for each currency, ICUS will make direct debits from (and subsequent credits to) the same Clearing Member bank accounts that ICUS currently debits (or credits) when it collects or pays house margin in that currency.<sup>2</sup> The debits will be received into, and the credits paid from, ICUS's existing house margin accounts. For each pair of Clearing

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<sup>1</sup> The Non-CLS Delivery Contracts are: U.S. Dollar/Hungarian Forint, U.S. Dollar/Czech Koruna, Euro/Hungarian Forint, Euro/Czech Koruna Polish Zloty/U.S. Dollar, Polish Zloty/Euro, Turkish Lira/U.S. Dollar and Turkish Lira/Euro.

<sup>2</sup> ICUS will debit the respective Clearing Member accounts on the business day between the Last Trading Day and the Delivery Day, and will credit the respective Clearing Member accounts on the Delivery Day, consistent with the current value dates for delivery payments from and to Clearing Members under the Exchange's Rules.

Members that are matched for delivery and separately for each contract or currency pair, the debit (and subsequent credit) will be for the net amount of the base and quoted currency due. This netting for operational convenience does not relieve Clearing Members of their obligation to perform on the contracts being delivered. Clearing Members are still obligated to make the required gross payment to their underlying customers, as specified in new Exchange Rule 16.04(g)(iii).

To reflect the new settlement process in the Non-CLS Delivery Contract rules, the Exchange has adopted amendments to Rules 16.04 (c)(iii) and (g)(i) and (ii). Those amendments delete provisions which describe the current delivery process and replace them with new rules that describe the auto debit and credit mechanism that will be used by ICUS. In addition, new paragraph (g)(iii) has been added to the Rule setting forth the Clearing Member obligation to settle payments in the quoted currency and the base currency on a gross basis. This provision also requires Clearing Members to have appropriate procedures to do so in the case of customer deliveries.

A conforming change has also been made to Rule 16.04(d) to delete current references to the netting of delivery obligations by mutual agreement of the parties to a non-CLS contract, since such netting will be automatic under the new ICUS settlement procedures.

The Exchange's rule amendments will be implemented with the June quarterly contract expirations.

## **Certifications**

The Exchange is not aware of any opposing views to the amendments and certifies that the amendments comply with the requirements of the Act and the rules and regulations promulgated thereunder. The Exchange has reviewed the designated contract market core principles ("Core Principles") as set forth in the Act and has determined that the amendments comply with the following relevant Core Principles:

### **COMPLIANCE WITH RULES--Core Principle 2**

The amendments to the delivery procedures for Non -CLS Delivery Contracts in this submission will be codified in the Exchange's rulebook and will be enforced by the Exchange. In addition, trading of these contracts is subject to all relevant Exchange rules which are enforced by the Market Regulation Department.

### **CONTRACTS NOT READILY SUBJECT TO MANIPULATION - Core Principle 3**

The amendments set forth a more efficient delivery process for expiring contracts. As delivery procedures are an essential term and condition of a futures contract, the amendments are consistent with the core principle and Appendix C to part 38 of the Regulations.

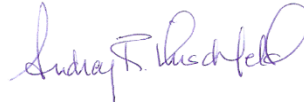
### **AVAILABILITY OF GENERAL INFORMATION-Core Principle 7**

The amendments to the delivery procedures for Non -CLS Delivery Contracts provided for in this submission will be available in the Exchange's rulebook and on the Exchange's website.

The Exchange certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website and may be accessed at (<https://www.theice.com/futures->

[us/regulation](#)). If you have any questions or need further information, please contact the undersigned at 212-748-4083 or [audrey.hirschfeld@theice.com](mailto:audrey.hirschfeld@theice.com).

Audrey R. Hirschfeld

A handwritten signature in purple ink that reads "Audrey R. Hirschfeld". The signature is written in a cursive style with a large initial "A" and "H".

SVP and General Counsel  
ICE Futures U.S., Inc.

Enc.  
cc: Division of Market Oversight  
New York Regional Office

## EXHIBIT A

### Rule 16.04 Delivery Procedures

(a) All deliveries must conform to government regulations in force at the time of delivery. If any national or international governmental agency or body issues an order, ruling, directive or law that conflicts with the requirements of these Rules, such order, ruling, directive or law shall be construed to take precedence and become part of these Rules and all open and new contracts shall be subject to such government orders.

#### (b) *Delivery Day*

Delivery of all outstanding Currency Futures Contracts shall be made on the third (3<sup>rd</sup>) Wednesday of the contract month. If that day is not a Business Day or is a bank holiday in either the country of the base currency or in the country of the quoted currency, then the delivery day shall be the next day which is a Business Day and is not a bank holiday in either the country of the base currency or in the country of the quoted currency.

#### (c) *Final Settlement*

(i) For the purposes of this Rule, the term “**CLS Delivered Currency Futures Contracts**” shall mean all Currency Futures Contracts which require physical delivery of base and quoted currencies, except for the euro-forint, euro-koruna, dollar-forint, dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar, and the term “**Non-CLS Delivered Currency Futures Contracts**” shall refer to Currency Futures Contracts which require physical delivery of the euro-forint, euro-koruna, dollar-forint, dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar.

(ii) For CLS Delivered Currency Futures Contracts, the Clearing Organization will match each Clearing Member having a long delivery Position (the Long Clearing Member) with one or more Clearing Members having a short delivery Position (the Short Clearing Member) in the expiring CLS Delivered Currency Futures Contract. On the Delivery Day, the Long Clearing Member shall make delivery of the quoted currency to the account of the Short Clearing Member, and the Short Clearing Member shall make delivery of the base currency to the account of the Long Clearing Member, both deliveries to be made via CLS Bank in accordance with such procedures as CLS shall institute and amend from time to time (“**CLS Procedures**”).

(iii) For Non-CLS Delivered Currency Futures Contracts, the Clearing Organization will match each Long Clearing Member with one or more Short Clearing Members in the expiring Currency Futures Contract. Delivery shall be made through the Clearing Members’ House margin accounts as specified in paragraph (g) of this Rule and the Clearing Organization Rules. The Exchange shall designate a delivery bank\* into which the Short Clearing Member shall deposit the base currency into the account of the Clearing Organization and into which the Long Clearing Member shall deposit the quoted currency into the account of the Clearing Organization, as specified in paragraph (g) of this Rule. On the delivery day, the bank, upon instructions from the Clearing Organization, shall transfer the quoted currency funds previously deposited by the Long Clearing Member to the account of the Short Clearing Member; and upon instructions from

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\* ~~A list of Exchange Approved Delivery Banks may be accessed at the following link:~~  
[https://www.theice.com/publicdocs/clear\\_us/Approved\\_Financial\\_Institutions.pdf](https://www.theice.com/publicdocs/clear_us/Approved_Financial_Institutions.pdf)

~~the Clearing Organization, the delivery bank holding the base currency shall transfer the base currency to the Long Clearing Member's account.~~

*(d) Netting of Positions for CLS Delivered Currency Futures Contracts*

(i) Solely with respect to CLS Delivered Currency Futures Contracts, a Clearing Member may net his delivery obligations to the extent that such Clearing Member (for itself or for Customers) is both long and short in individual Currency Futures Contracts, and, if a Customer Account is involved, has a written request from the Customer to net the Customer's Account against other accounts and provided further, that the Clearing Member has a written agreement respecting delivery and receipt other than as set forth in the Rules. If the Clearing Member chooses to net CLS Delivered Currency Futures Contracts, it shall indicate the net Position on its delivery commitment form or Final Position Statement. The netting of CLS Delivered Currency Futures Contracts shall be performed in the following sequence: (A) within each account, (B) eligible Customer Account against eligible Customer Account and (C) eligible Customer Account against Firm account.

(ii) The netting of ~~Positions~~CLS Delivered Currency Futures Contracts by a Clearing Member shall relieve the Clearing Organization of any further obligations with respect to any Exchange contract involved and such Clearing Member shall indemnify the Exchange and the Clearing Organization against any liability, cost or expense either may incur for any reason as a result of the Clearing Member's netting of such contracts ~~Positions~~.

\* \* \* \*

*(g) Delivery of Non-CLS Delivered Currency Futures Contracts*

~~(i) Holders of long euro forint, euro koruna, dollar forint, dollar koruna, zloty euro, zloty dollar, lira euro and lira dollar Currency Futures Contracts shall receive delivery of the base currency and shall pay the quoted currency equivalent.~~

~~It is the responsibility of the Clearing Member having a long delivery Position to transfer the correct total amount of quoted currency funds into the account of the Clearing Organization at the delivery bank designated by the Exchange and to provide complete information for the timely transfer of the base currency into the long Clearing Member's account as specified in the procedure below:~~

~~(A) In order for a Clearing Member with a long futures Position to accept delivery for himself or for Customers it represents, it shall, no later than noon on the Last Trading Day, present long Clearing Member's Delivery Commitments ("Delivery Commitments") to the Clearing Organization. The Clearing Member shall include the following in each Commitment:~~

~~(1) the name of the Exchange specified delivery bank<sup>\*</sup>;~~

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~~(2) the Clearing Organization's account number at the delivery bank in which it will deliver the quoted currency funds for each outstanding long Currency Futures Contract; and~~

~~(3) the Clearing Member shall include on each Delivery Commitment presented to the Clearing Organization the name of a bank along with the account number at such bank, at which it will receive delivery of the unit of trading for each outstanding long contract.~~

~~If such Delivery Commitments are received later than noon but not later than 3:30 p.m. on the Last Trading Day, the Clearing Member may be subject to disciplinary action. A Clearing Member which submits a Delivery Commitment subsequent to 3:30 p.m. on the Last Trading Day or fails to submit a Delivery Commitment shall be deemed to be in default and subject to Rule 16.05.~~

~~(B) The following is the procedure for holders of long dollar koruna, dollar forint, euro koruna, euro forint, zloty euro, zloty dollar, lira euro and lira dollar Currency Futures Contracts while taking delivery of such contracts:~~

~~The Clearing Member shall deposit into the account of the Clearing Organization at the delivery bank designated by the Exchange an amount of the quoted currency that is sufficient to pay for the delivery of the base currency on all outstanding euro forint and euro koruna Currency Futures Contracts and that is for value on the Business Day immediately preceding Delivery Day. All payment advices from the remitting bank or its correspondent must be received by the delivery bank no later than 12:00 pm quoted currency time on the base currency business day immediately preceding Delivery Day.~~

~~The amount of the quoted currency deposit shall equal the value of all of the outstanding long Currency Futures Contracts based on the Settlement Price on the Last Trading Day.~~

~~Deposit of the quoted currency shall be made as an international bank wire transfer of immediately available funds.~~

~~(C) For all Currency Futures Contracts, it is the responsibility of the owner of the long Position and the Clearing Member carrying such Position to be familiar, and in conformance, with all the regulations pertaining to the holding of non-resident bank accounts in the country of the bank in which delivery of the base currency will be accepted for each outstanding long Currency Futures Contract.~~

~~(ii) Holders of short euro forint, euro koruna, dollar forint, dollar koruna, zloty euro, zloty dollar, lira euro and lira dollar Currency Futures Contracts shall make delivery of the base currency and shall receive payment in the appropriate quoted currency.~~

~~The short Clearing Member is responsible for assuring the timely delivery of the base currency into the appropriate Clearing Organization account at the Exchange approved delivery bank and to provide complete information for the timely transfer of appropriate quoted currency into the short Clearing Member's account as specified by the procedure below:~~

~~(A) A Clearing Member with a short futures Position in order to make delivery for itself or for a Customer it represents shall, no later than noon on the Last Trading Day, present to the Clearing Organization short Clearing Member's Delivery Commitments. The Clearing Member shall include in each Delivery Commitment:~~

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- ~~(1) the name of the Exchange specified delivery bank<sup>\*</sup>;~~
- ~~(2) the Clearing Organization's account number at the delivery bank in which it will deliver the base currency for each outstanding short Currency Futures Contract; and~~
- ~~(3) the name of the bank to which the appropriate quoted currency payment should be sent along with the name of the account and the account number to which the quoted currency payment should be credited.~~

~~If such Delivery Commitment is received later than noon on the Last Trading Day, but not later than 3:30 p.m. on the same day, the Clearing Member may be subject to disciplinary action. A Clearing Member which submits a Delivery Commitment subsequent to 3:30 p.m. on the Last Trading Day or fails to submit a Delivery Commitment shall be deemed to be in default and subject to Rule 16.05.~~

~~(B) The following is the procedure for holders of short euro-koruna, euro-forint, dollar-koruna, dollar-forint, zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts while making delivery of such contracts:~~

~~The Clearing Member shall deposit into the account of the Clearing Organization at the delivery bank designated by the Exchange, an amount of the base currency that is sufficient to cover the number of contracts for which delivery is being made and that is for value on the Business Day immediately preceding Delivery Day. All payment advices from the remitting bank or its correspondent must be received by the delivery bank no later than 12:00 p.m. base currency local time on the Business Day immediately preceding Delivery Day.~~

~~The amount of the base currency deposit shall equal the unit of trading for each outstanding short Currency Futures Contract. Deposit of the base currency shall be made in the form of an international bank wire transfer of immediately available funds.~~

~~(C) For all Currency Futures Contracts, it is the responsibility of the owner of the short Position and the Clearing Member carrying such Position to be familiar, and in conformance, with all the regulations pertaining to the holding of non-resident bank accounts in the country of the bank in which payment of the appropriate quoted currency will be accepted for each outstanding short Currency Futures Contract.~~

(i) Holders of long euro-forint, euro-koruna, dollar-forint, dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts shall receive delivery of the base currency and shall pay the quoted currency equivalent. It is the responsibility of the Clearing Member having a long delivery Position to provide to the Clearing Organization complete information for the timely transfer of the correct total amount of quoted currency funds from the long Clearing Member's House margin account at an "Approved Financial Institution"\* (as such term is defined in the Clearing Organization Rules) (such margin account

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\* A list of Exchange Approved Delivery Banks may be accessed at the following link:-

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hereafter referred to as the long Clearing Member's "Quoted Currency Delivery Account") and for the timely transfer of the correct total amount of base currency funds into the long Clearing Member's House margin account at an "Approved Financial Institution" (such margin account hereafter referred to as the long Clearing Member's "Base Currency Delivery Account"), as specified in the procedure below:

(A) The Clearing Member shall deposit into and the Clearing Organization shall debit from the long Clearing Member's Quoted Currency Delivery Account an amount of the quoted currency that is sufficient to pay for the delivery of the base currency on all outstanding Non-CLS Delivered Currency Futures Contracts (subject to any netting pursuant to the Clearing Organization Rules) and that is for value on the Business Day immediately preceding Delivery Day that is not a bank holiday in the country of the quoted currency. The amount of the quoted currency so deposited and debited shall equal the value of all of the outstanding long Currency Futures Contracts (subject to any such netting) based on the Settlement Price on the Last Trading Day.

(B) On the Delivery Day the Clearing Organization shall credit the long Clearing Member's Base Currency Delivery Account in accordance with the Clearing Organization Rules, with the correct amount of the base currency, which shall equal the unit of trading for each outstanding long Currency Futures Contract (subject to any such netting) based on the Settlement Price on the Last Trading Day.

(ii) Holders of short euro-forint, euro-koruna, dollar-forint, dollar koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts shall make delivery of the base currency and shall receive payment in the appropriate quoted currency. It is the responsibility of the Clearing Member having a short delivery Position to provide to the Clearing Organization complete information for the timely transfer of the correct amount of the base currency funds from the short Clearing Member's House margin account at an "Approved Financial Institution (as such term is defined in the Clearing Organization Rules)\* (such margin account hereafter referred to as the short Clearing Member's "Base Currency Delivery Account") and for the timely transfer of the correct total amount of quoted currency funds into the short Clearing Member's House margin account at an Approved Financial Institution (as such term is defined in the Clearing Organization Rules) (such margin account hereafter referred to as the short Clearing Member's Quoted Currency Delivery Account ), as specified in the procedure below:

(A) The Clearing Member shall deposit into and the Clearing Organization shall debit from the short Clearing Member's Base Currency Delivery Account an amount of the base currency that is sufficient to cover the delivery of the base currency on all outstanding Non-CLS Delivered Currency Futures Contracts (subject to any netting pursuant to the Clearing Organization Rules) and that is for value on the Business Day immediately preceding Delivery Day that is not a bank holiday in the country of the base currency. The amount of the base currency so deposited and debited shall equal the unit of trading for each outstanding short Currency Futures Contract (subject to any such netting) based on the Settlement Price on the Last Trading Day.

(B) On the Delivery Day the Clearing Organization shall credit the short Clearing Member's Quoted Currency Delivery Account in accordance with the Clearing Organization Rules, with the

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\* A list of such Approved Financial Institutions may be accessed at the following link:  
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correct amount of the quoted currency, which shall equal the value of all of the outstanding short Currency Futures Contracts (subject to any such netting) based on the Settlement Price on the Last Trading Day.

(iii) Regardless of any netting pursuant to the Clearing Organization Rules, each Clearing Member shall be responsible for settling payments in the quoted currency and the base currency on a gross basis with its applicable Customers. Each such Clearing Member shall maintain appropriate procedures relating to the settlement process for its Customers under this Rule.

(iiiiv) Notwithstanding any provision of this Rule to the contrary, the Long Clearing Member and the Short Clearing Member may enter into a mutually acceptable written agreement to physically deliver or financially settle the delivery obligation under conditions other than those stipulated in the Rules. A delivery so made shall be considered complete upon written notification of such agreement by the Long Clearing Member and the Short Clearing Member to the Clearing Organization. The making of any such agreement shall relieve the Clearing Organization of any further obligations with respect to any Exchange Contract involved, and the Long Clearing Member and the Short Clearing Member shall indemnify the Exchange and the Clearing Organization against any liability, cost or expense either may incur for any reason as a result of the execution, delivery or performance of any such contract or such agreement, or any breach thereof or default thereunder.

[Remainder of Rule Unchanged]

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#### **Rule 16.06. Approval of Transfer Banks**

Upon application, the Exchange shall approve transfer banks that must be able to do the following:

- (a) ~~handle accounts denominated in the base currency and/or the appropriate quoted currency;~~
- (b) ~~demonstrate an ability to handle transfers in the base currency and/or the appropriate quoted currency in a timely manner; and~~
- (c) ~~issue a directive to pay that is acceptable to the Delivery Bank.~~

~~If a bank that is approved no longer meets the above requirements of this Rule, the Exchange shall remove it from the approved list of transfer banks.~~

#### **Rule 16.07. Approval of Delivery Banks**

~~The Board shall approve a delivery bank which meets the requirements of paragraphs (a) and (b) of Rule 16.06; provided, however, that the Board may from time to time establish such additional requirements and preconditions for registration as a facility for the delivery or payment of currencies as it deems necessary.~~

#### **Rule 16.08. Reserved.**

#### **Rule 16.09. Force Majeure**

The term "Force Majeure" shall mean any circumstance (including, but not limited to a strike, lockout, national emergency, governmental action, computer malfunction causing loss of data, a failure of the CLS system or act of God) which is beyond the control of a Clearing Member making or taking delivery of a contract in the manner provided for in the Rules.