

Exhibit B

Rule Changes to be Adopted for Commingling



ICE Clear Europesm

Clearing Rules

26 April [\[\]](#) 2012

Member up to the close of business on the immediately preceding Business Day (or such other period determined by the Clearing House at its discretion); and

- (b) *Net Amount Position* for Energy Contracts, means the price at which the Open Contract Position is recorded on the Clearing House's books based on Settlement Prices for each Contract.

The term "**Opening Days**" means the days upon which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Opening Hours**" means the hours during which the Clearing House is operational, which may vary for different Contracts or between deliveries and other business, as notified by the Clearing House from time to time.

The term "**Option**" means an Energy Contract subject to Clearing by the Clearing House that is an 'option' under article 83 of the FSMA (Regulated Activities) Order 2001 or any economically similar Contract that is not an investment.

The term "**Original Margin**" means the Permitted Cover required to be provided (by way of title transfer collateral pursuant to a Clearing Membership Agreement or as collateral pursuant to a Pledged Collateral Addendum) to the Clearing House as security for the obligations of a Clearing Member in respect of Energy Contracts pursuant to Part 5 and includes, where the context so requires, any proceeds of realisation of the same.

The term "**Permitted Co-mingled Contract**" means, with respect to an FCM Clearing Member, a Contract that is a Non-DCM/Swap which has been designated by the Clearing House by Circular and approved by the appropriate Regulatory Authority or Regulatory Authorities to be recorded in the Swap Customer Account or the DCM Customer Account, as applicable, rather than the Non-DCM/Swap Customer Account.

The term "**Permitted Cover**" means assets or cash determined by the Clearing House as permissible for Margin or Guaranty Fund Contributions, including cash in Eligible Currencies and includes, where the context so requires, any such assets transferred to the Clearing House and any proceeds of realisation of the same.

The term "**Person**" means any individual, partnership, firm, body corporate, association, trust, unincorporated organisation or other entity.

The term "**Physical Settlement Margin**" means the Permitted Cover required to be provided by Clearing Members related to the risk and size of a Clearing Member's obligations relating to physical settlement of a CDS Contract, as determined pursuant to Rule 503(f)(i).

The term "**Pledged Collateral**" means Margin (or Permitted Cover in respect thereof) provided by a Clearing Member in respect of a Pledged Collateral Account by way of security interest pursuant to a Pledged Collateral Addendum.

The term "**Pledged Collateral Account**" means a Proprietary Account or Customer Account in respect of which the Clearing House has designated that Margin (or Permitted Cover in respect thereof) is to be provided by a Clearing Member by way of security interest in

The term "**Settlement Finality Regulations**" means the Financial Markets and Insolvency (Settlement Finality) Regulations 1999.

The term "**Settlement Price**" means the settlement price for any Energy Contract as determined in accordance with the ICE Futures Europe Rules (for Contracts traded on ICE Futures Europe) or by the Clearing House in coordination with the ICE OTC Operator (for Contracts traded on ICE OTC); except that if on any day an Energy Contract ceases to be traded, then the Clearing House may treat as the Settlement Price for such Energy Contract on such day a price determined by the Clearing House at its discretion (or by the relevant Market and accepted by the Clearing House at its discretion), as reflecting the fair market value of such Energy Contract as of the close of trading in such Energy Contract on such day.

The term "**Short**", in respect of an Option, refers to the positions of Persons against whom Put Options and Call Options may be exercised.

The term "**Strike Price**" in respect of an Option, means the price of the relevant Future upon exercise of the Option.

The term "**Summary Disciplinary Committee**" means a summary disciplinary committee established pursuant to Rule 1004(c).

The term "**Surplus Collateral**" means any Permitted Cover transferred to the Clearing House by a Clearing Member that is not required to satisfy the Clearing Member's current or most recently calculated requirements in respect of Margin and Guaranty Fund Contributions.

The term "**Swap**" means (i) a "swap" as defined in the CEA and the Exchange Act, (ii) to the extent permitted to be held in an account with Swaps under Applicable Law, a "security-based swap" as defined in the CEA and the Exchange Act, and (iii) Permitted Co-mingled Contracts [recorded in the Swap Customer Account](#).

The term "**Swap Customer**", in respect of an FCM Clearing Member, means any FCM Customer with respect to any Contract arising as a result of a Transaction that is a Swap. A Person may be a Swap Customer in relation to certain Contracts and another category of FCM Customer in relation to other Contracts.

The term "**Swap Customer Account**", in respect of an FCM Clearing Member, means an account (if any) with the Clearing House (in its capacity as a registered U.S. derivatives clearing organisation clearing Swaps), the books and records of which are located in the United States of America, opened in the name of the FCM Clearing Member (acting in its capacity as a clearing member in relation to transactions connected with the provision of services to Swap Customers where segregation of related collateral is required in accordance with Section 4d(f) of the CEA and insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder and entering into market contracts in the capacity of a clearing member in relation to transactions connected with the provision of services to Swap Customers) relating to Contracts to which the Clearing Member is a party as a result of it acting for one or more Swap Customers (whose transactions the Clearing Member requests be recorded in the Swap Customer Account where the same is required in accordance with the segregation provisions of Section 4d(f) of the CEA insofar as applicable, and any applicable rules of the CFTC as promulgated thereunder) and in which such Contracts are recorded and to which monies in respect of such Contracts are debited and credited, which

may be divided for administrative convenience only into sub-accounts relating to different Swap Customers or groups of Swap Customers.

The term "**Termination Date**" means the date on which a Clearing Member's membership of the Clearing House terminates.

The term "**Trade Date Clearing**" has the meaning given to it in the Procedures.

The term "**Transaction**" means an ICE Futures Europe Transaction, an ICE OTC Transaction or a Bilateral CDS Transaction.

The term "**Transaction Rights or Obligations**" means any rights, liabilities or obligations of a Clearing Member relating to, or arising out of or in connection with any Transaction, whether pursuant to contract, tort, equity, restitution or otherwise, pursuant to the laws of any jurisdiction, which fall or fell due for performance to any Person other than a Customer of the Clearing Member in relation to the Transaction in question.

The term "**Transferee**" means a Person nominated by a Buyer to whom a transfer or delivery is to be made under an Energy Contract and includes reference to the Buyer where transfer or delivery is to be made to the Buyer.

The term "**Transferor**" means a Person nominated by a Seller by whom a transfer or delivery is to be made under an Energy Contract and includes reference to the Seller where transfer or delivery is to be made by the Seller.

The term "**Tribunal**" means an arbitral tribunal established under Rule 117.

The term "**USD**" means the lawful currency from time to time of the United States of America.

The term "**U.S. Future**" means [\(i\)](#) a Future or an Option that is an option on a Future, in either case that is traded on or subject to the rules of a designated contract market under Section 5 of the CEA [and \(ii\) Permitted Co-mingled Contracts recorded in the DCM Customer Account](#). For the avoidance of doubt, U.S. Futures will not include Swaps.

The term "**Variation Margin**" means the cash required to be provided (by way of title transfer collateral pursuant to a Clearing Membership Agreement or as collateral pursuant to a Pledged Collateral Addendum) to the Clearing House by Clearing Members in respect of Energy Contracts pursuant to Rule 503(e) and the Procedures.

The term "**Weekly Clearing**" has the meaning given to it in the Procedures.

The term "**Withdrawal Date**" means, if at any time the Clearing House decides to terminate its services, either generally or in relation to a significant part of its business or certain categories of Contract, the date on which that termination will take effect.

Rule 102 *Interpretation*

- (a) Any reference to a statute, statutory provision or rule shall include any notice, order, guidance, example, regulation or subordinate legislation made from time to time under that statute, statutory provision or rule which is in force from time to time. Any reference to a statute or statutory provision shall include such statute or provision as

Contract between the Clearing House and another Clearing Member is subject to this Part 16.

- (b) Each FCM Clearing Member shall have a Proprietary Account and one or more Customer Accounts in which its Contracts shall be registered. Except as provided herein, references in the Rules to a Customer Account of an FCM Clearing Member or to a “class” of Customer Account shall refer to one or more of the DCM Customer Account, Swap Customer Account, Non-DCM/Swap Customer Account or General Customer Account, as applicable, each such account being of a different "class". Notwithstanding anything to the contrary herein, to the extent that pursuant to a CFTC rule, order or exemption (or a Rule of the Clearing House approved thereunder) it is permissible under Applicable Law for Contracts in U.S. Futures, Swaps and/or Non-DCM/Swaps (or related Margin or Permitted Cover) to be co-mingled in a single class of Customer Account, the Clearing House may permit such co-mingling in such class of Customer Account, and references herein to the relevant Customer Account and FCM Customer shall thereupon be construed accordingly. Without limiting the foregoing, Permitted Co-mingled Contracts shall be treated as Swaps or U.S. Futures, as the case may be, and not as Non-DCM/Swaps, and the appropriate classes of Customer Account shall be construed accordingly.
- (c) Each Customer Account of an FCM Clearing Member that has executed a Pledged Collateral Addendum shall be a Pledged Collateral Account. Margin (or Permitted Cover in respect thereof) to be provided by such an FCM Clearing Member in respect of a Customer Account shall be provided in the form of Pledged Collateral, but in all other respects shall be provided in the forms, amounts, times and manners required under Rule 502 and Rule 503.
- (d) The first sentence of Rule 402(a) and the whole of Rule 405(a)(i) shall not apply to an FCM Clearing Member in respect of a Transaction or Contract where it is acting for an FCM Customer. Notwithstanding the characterisation of the relationship between an FCM Clearing Member and its FCM Customer as an agency relationship as between such parties, where an FCM Clearing Member clears a Contract for an FCM Customer, such FCM Clearing Member becomes liable to the Clearing House, and the Clearing House becomes liable to the FCM Clearing Member, on such Contract as though the Contract were for the FCM Clearing Member’s own account, subject in all cases to the provisions of this Part 16. Except as provided by Applicable Law and Rule 1605 with respect to a Customer Account (and further to the second sentence of Rule 402(a)), in performing its obligations and exercising its rights under these Rules, the Clearing House shall treat the entitlement of Clearing Members to rights as against the Clearing House pursuant to Contracts to be a full legal and beneficial entitlement and not subject to any Encumbrance (without affecting the rights of Customer as against the FCM Clearing Member with respect to such Contracts under Applicable Law) in favour of any Person other than the Clearing House (other than pursuant to the Contract Terms).
- (e) Neither Rule 402(a), Rule 405(d), Rule 408 nor clause 3.4 of a Clearing Membership Agreement shall be deemed to preclude an FCM Clearing Member from acting for an FCM Customer in connection with a Contract or Transaction. No such provision shall negate in any manner an FCM Customer’s rights with respect to customer property held by an FCM Clearing Member (and not by the Clearing House).

Rule 1605 *Margin and Segregation Rules*

- (a) An FCM Clearing Member shall require each FCM Customer to provide Margin (or Permitted Cover in respect thereof) (such assets, “**FCM Customer Collateral**”) in an amount no less than the amount of Margin of each relevant type required on a gross basis by the Clearing House with respect to the relevant Open Contract Position(s), separately for each relevant class of Customer Account (regardless of whether the FCM Clearing Member is required to provide such Margin to the Clearing House on a gross basis pursuant to Rule 503). For this purpose, “gross basis” shall mean that the margin requirement will be determined giving effect to any offset permitted under the Rules of such Open Contract Positions against Open Contract Positions relating to the same Set of the same FCM Customer in the same class of Customer Account, but without giving effect to any offset or permitted offset of such Open Contract Positions against Open Contract Positions relating to a different FCM Customer.
- (b) With respect to FCM Customer Collateral transferred to the Clearing House in respect of Contracts registered in the DCM Customer Account arising from U.S. Futures (including for the avoidance of doubt Permitted Co-mingled Contracts recorded in the DCM Customer Account) (“**FCM U.S. Futures Customer Collateral**”), the Clearing House shall receive and hold such collateral in the Clearing House DCM Segregated Account and shall hold, use and segregate such collateral as customer property in accordance with Section 4d(a) and (b) of the CEA and the regulations of the CFTC thereunder. By means of this Rule, the FCM Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under CFTC regulations.
- (c) With respect to FCM Customer Collateral in respect of Contracts registered in the Swap Customer Account arising from Swaps (including for the avoidance of doubt Permitted Co-mingled Contracts recorded in the Swap Customer Account) (“**FCM Swap Customer Collateral**”):
- (i) An FCM Clearing Member shall receive, hold and use all FCM Customer Collateral only as permitted under CEA Section 4d(f) and the regulations of the CFTC thereunder (and, to the extent applicable, Securities Exchange Act Section 3E(b) and the regulations or any orders of the SEC thereunder) and as further set forth in these Rules and the Procedures (the “**Swap Customer Segregation Requirements**”). The Clearing House shall receive and hold such collateral transferred to the Clearing House in the Clearing House Swap Segregated Account and shall segregate, hold and use all such FCM Swap Customer Collateral as customer property in accordance with the Swap Customer Segregation Requirements. By means of this Rule, FCM Clearing Member shall have satisfied the requirement to obtain a segregation acknowledgement letter from the Clearing House under the Swap Customer Segregation Requirements.
- (ii) Prior to the effectiveness of the Swap Customer Segregation Requirements, Contracts registered in the Swap Customer Account and related FCM Swap Customer Collateral shall be held in the cleared OTC derivative account class for purposes of Part 190 of the CFTC regulations. The Clearing House shall receive and hold such FCM Swap Customer Collateral transferred to the Clearing House in the Clearing House Swap Segregated Account as customer