

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

**Treatment of Funds Held in Connection with
Clearing by ICE Clear Europe Limited of Contracts
Traded on ICE Futures Europe**

ORDER

ICE Clear Europe Limited (“ICE Clear Europe”), a registered derivatives clearing organization (“DCO”), has submitted a request that the Commodity Futures Trading Commission (“Commission”) issue an Order permitting ICE Clear Europe and its clearing members that are registered futures commission merchants (“FCM Clearing Members”) (i) to hold in a cleared swaps account, subject to Section 4d(f) of the Commodity Exchange Act (“Act”), customer money, securities, and property (collectively, “customer property”) used to margin, secure, or guarantee both cleared swaps and foreign futures and foreign options, as defined in Commission Regulation 30.1 (collectively, “foreign futures”) traded on ICE Futures Europe, an affiliated foreign board of trade located in London, England; and (ii) to provide for portfolio margining of such cleared swaps and foreign futures.

The request was posted on the Commission’s website for a 30-day public comment period which ended on April 20, 2012. Two comment letters were received during the comment period, both of which supported the Commission’s issuance of an Order pursuant to Section 4d(f) of the Act.

The Commission has reviewed the request and the record in this matter (“Submission”), and finds that ICE Clear Europe has demonstrated that it can continue to comply with the requirements under the Act and the Commission’s regulations thereunder applicable to it, including in connection with the Submission. Moreover, ICE Futures Europe is regulated by the U.K. Financial Services Authority, which is a signatory to several information sharing arrangements with the Commission and is located in a jurisdiction that has been deemed, pursuant to Commission Regulation 30.10, to have a regulatory regime that is comparable to the U.S. regulatory regime for the futures industry. Therefore,

IT IS ORDERED, pursuant to Section 4d(f) of the Act, 7 U.S.C. § 6d(f), that, subject to the terms and conditions below, ICE Clear Europe and its FCM Clearing Members that are acting pursuant to this Order may hold customer property used to margin, guarantee, or secure trades or positions in foreign futures traded on ICE Futures Europe with other customer property used to margin, guarantee, or secure cleared swaps, in a cleared swaps account or accounts maintained in accordance with Section 4d(f) of the Act (including any orders issued pursuant to Section 4d(f) of the Act) and the regulations thereunder, and provide for portfolio margining of such cleared swaps and foreign futures, subject to the requirements of Commission Regulation 39.13(g)(4). All such customer property shall be accounted for and treated and dealt with as belonging to the cleared swaps customers of the participating FCM Clearing Member consistently with Section 4d(f) of the Act and the regulations thereunder.

IT IS FURTHER ORDERED, that:

(1) This Order shall only permit energy futures and options contracts that are currently traded (as such contracts may be modified from time to time), or that will be traded in the future, on ICE Futures Europe, and cleared through ICE Clear Europe (“Covered Foreign

Futures Contracts”) to be commingled with all swaps that are currently, or will in the future, be cleared through ICE Clear Europe, in accounts subject to Section 4d(f) of the Act.

(2) Each FCM Clearing Member acting pursuant to this Order shall take appropriate measures to identify, measure, and monitor financial risk associated with carrying the Covered Foreign Futures Contracts in a cleared swaps account and implement risk management procedures to address those financial risks.

(3) ICE Clear Europe shall apply appropriate risk management oversight procedures with respect to transactions and open interest in the Covered Foreign Futures Contracts. ICE Clear Europe shall conduct oversight sufficient to assure that each FCM Clearing Member acting pursuant to this Order has the appropriate operational capabilities necessary to manage defaults in such contracts.

(4) ICE Clear Europe shall conduct financial surveillance and oversight with respect to the Covered Foreign Futures Contracts carried by each FCM Clearing Member acting pursuant to this Order.

(5) ICE Clear Europe and each FCM Clearing Member acting pursuant to this Order shall take all other steps appropriate to manage risk related to clearing the Covered Foreign Futures Contracts.

(6) ICE Clear Europe and each FCM Clearing Member acting pursuant to this Order shall hold all customer property deposited with ICE Clear Europe and such FCM Clearing Member, respectively, to margin, guarantee, or secure Covered Foreign Futures Contracts in accordance with the requirements of section 4d(f) of the Act and the Commission’s regulations thereunder.

(7) ICE Clear Europe shall at all times fulfill all representations made in the Submission, including all attachments and supporting materials thereto.

(8) Large Trader (Position) Reporting

(a) ICE Clear Europe shall provide to the Commission the information described in Part 16 of the Commission's regulations in the manner described in Parts 15 and 16 of the Commission's regulations with respect to all Covered Foreign Futures Contracts.

(b) Each FCM Clearing Member acting pursuant to this Order shall provide to the Commission the information described in Part 17 of the Commission's regulations in the manner described in Parts 15 and 17 of the Commission's regulations with respect to all Covered Foreign Futures Contracts in which it participates.

(c) Upon request by the Commission, each FCM Clearing Member acting pursuant to this Order, ICE Clear Europe, and/or ICE Futures Europe shall obtain from specified traders and provide to the Commission the information set forth in Part 18 of the Commission's regulations.

(d) If the Commission promulgates a regulation under the Act addressing obligations under Parts 15, 16, 17, and/or 18 of the Commission's regulations, then such regulation will supersede the obligations referred to in paragraphs (a) through (c) above.

(9) ICE Clear Europe shall promptly inform the Commission of any material change in applicable U.K. law or regulations relevant to its operation is a DCO clearing for ICE Futures Europe including, but not limited to, any material change to U.K. requirements for Recognised Clearing Houses or Recognised Investment Exchanges ("RIEs"), the status of contracts between ICE Clear Europe and its clearing members (arising upon the substitution of ICE Clear Europe

as clearinghouse) as Market Contracts for the purposes of Part VII of the U.K. Companies Act of 1989, and any other change in such law or regulations affecting the conclusions contained in the Submission. ICE Clear Europe also shall promptly inform the Commission of any change in ICE Futures Europe's status as an RIE and any change in ICE Futures Europe's rules that affects its cooperation with the Commission or with ICE Clear Europe.

(10) ICE Futures Europe shall maintain a binding agreement appointing an agent in the U.S. for purposes of communications, including acceptance on behalf of ICE Futures Europe of any summons, complaints, orders, subpoenas, requests for information, notice, or any other written document or correspondence issued by or on behalf of the Commission, the U.S. Department of Justice, or any U.S. clearing member, and ICE Futures Europe shall promptly inform the Commission of any change in such agent or agreement with such agent.

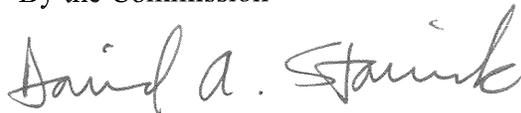
This Order is issued pursuant to Section 4d(f) of the Act based upon the representations made and supporting material provided to the Commission by ICE Clear Europe in its Submission. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the relief set forth herein is appropriate. Further, in its discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

This Order will become effective upon the expiration of the Commission's Second Amendment to July 14, 2011 Order for Swap Regulation,¹ as it applies with respect to Section 4d(f) of the Act.

¹ See 77 Fed. Reg. 41260 (July 13, 2012).

Issued in Washington, D.C., this 8th day of August, 2012.

By the Commission

A handwritten signature in cursive script that reads "David A. Stawick". The signature is written in dark ink and is positioned above the printed name and title.

David A. Stawick
Secretary of the Commission