



FOIA CONFIDENTIAL TREATMENT REQUESTED

January 8, 2021

VIA CFTC PORTAL

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Amendment to ICE Clear U.S., Inc. Rules - Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commission Regulation 40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE Clear U.S., Inc. (“ICUS”) is submitting this self-certification to amend the ICUS Rules,¹ specifically the ICUS Risk Management Framework. ICUS intends to revise its Risk Management Framework no sooner than the tenth business day following the filing of this submission with the Commission, or such later date as ICUS may determine.

1. Overview

On January 27, 2020, the Commission published final rules, entitled Derivatives Clearing Organization General Provisions and Core Principles,² which amended certain regulations applicable to registered derivatives clearing organizations, such as ICUS (the “DCO Regulation Amendments”).³ The DCO Regulation Amendments modify, among others, CFTC Regulation 39.13(h)(5)(ii) and add new Regulation 39.19(c)(4)(ii). The ICUS Risk Management Framework should be amended to reflect the requirements of amended CFTC Regulation 39.13(h)(5)(ii) and new CFTC Regulation 39.19(c)(4)(ii).

2. Details of Rule Changes

CFTC Regulation 39.13(h)(5)(ii) requires derivatives clearing organizations to review the risk management policies, procedures, and practices of each of its clearing members, which address the risks that such clearing members may pose to the derivatives clearing organization, on a

¹ Capitalized terms used and not defined in this submission have the meaning set forth in the ICUS Rules.

² 85 Fed. Reg. 4800 (January 27, 2020) (RIN 3038-AE66).

³ The DCO Regulation Amendments had an effective date of February 26, 2020, and a compliance date of January 27, 2021.



periodic basis, and to document such reviews. The DCO Regulation Amendments did not change this requirement but they add an additional requirement for derivatives clearing organizations to “take appropriate action to address concerns identified in such reviews, and document . . . the basis for determining what action was appropriate to take.” ICUS needs to amend certain portions of its Risk Management Framework to address these DCO Regulation Amendments.

In addition, the DCO Regulation Amendments introduce a new event specific reporting requirement in CFTC Regulation 39.19(c)(4)(ii). This requires an event specific report to the CFTC by a derivatives clearing organization no later than 1 business day following the day on which there is a decrease of 25 percent or more in the total value of the liquidity resources available to satisfy the requirements of CFTC Regulations 39.11(e) or § 39.33(c), as applicable, either from the last quarterly report submitted under CFTC Regulation 39.11(f) or from the value as of the close of the previous business day. ICUS needs to amend certain portions of its Risk Management Framework to address these DCO Regulation Amendments. ICUS has respectfully requested confidential treatment for the foregoing Risk Management Framework amendments which were submitted concurrently with this submission.

3. Compliance with the Act and Regulations

ICUS reviewed the foregoing amendments and determined that they comply with the requirements of the Act and the rules and regulations promulgated by the Commission in implementing the Act. In this regard, ICUS reviewed the derivatives clearing organizations core principles (“Core Principles”) and determined that the amendments are potentially relevant to the following core principles and the applicable regulations of the Commission thereunder:

Risk Management (Core Principle D): ICUS is proposing to amend its Risk Management Frameworks in a manner that reflects the requirements of CFTC Regulation 39.13(h)(5)(ii), as amended by the DCO Regulation Amendments, in so doing, these amendments are consistent with the requirements of Core Principle D and Commission Regulation 39.13.

Reporting (Core Principle J): ICUS is also proposing to amend its Risk Management Framework to reflect the new event specific reporting obligation introduced by the DCO Regulation Amendments in new CFTC Regulation 39.19(c)(4)(ii), in so doing, these amendments are consistent with the requirements of Core Principle J and Commission Regulation 39.19.

4. Certifications

ICUS certifies that the proposed amendments to its Risk Management Framework discussed in this submission comply with the Act and the rules and regulations promulgated by the Commission thereunder. ICUS is not aware of any substantive opposing views expressed regarding the amendments. ICUS further certifies that, concurrent with this filing, a copy of the submission was posted on ICUS’s website, and may be accessed at <https://www.theice.com/clear-us/regulation>.



If you or your staff have any questions or require further information regarding this submission, please do not hesitate to contact the undersigned at (212) 748-3964 or Eamonn.Hahessy@theice.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eamonn Hahessy', with a long, sweeping horizontal line extending to the right.

Eamonn Hahessy
General Counsel and Chief Compliance Officer