



March 29, 2022

**VIA CFTC PORTAL**

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> 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.<sup>1</sup> ICUS intends to revise its Rules 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**

ICUS Rule 801 defines the circumstances under which ICUS may declare that an Event of Default (as defined in that rule) has occurred with respect to a Clearing Member. To increase ICUS’s flexibility to respond to extraordinary events, to protect itself, its Clearing Members and the stability of the broader financial system, ICUS is proposing to amend ICUS Rule 801 to add a cross-default Event of Default.

**2. Details of Rule Changes**

Adding a cross-default Event of Default to ICUS’s Rules would align ICUS more closely with its affiliated clearing houses. The new provision would give ICUS the discretion to declare an Event of Default if a Clearing Member, an entity affiliated with a Clearing Member, or a Clearing Member Guarantor, was declared to be in default by another clearing house or financial market utility. Under the proposed rule amendment, that other clearing house or financial market utility could be an unaffiliated third-party. The proposed cross-default provision (like all of the existing Events of Default) does not operate automatically. ICUS would take the specific facts and circumstances into account before declaring that an Event of Default had occurred. ICUS is also proposing an additional conforming change to ICUS Rule 801.

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



### 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 Principle and the applicable regulations of the Commission thereunder:

Default Rules and Procedures (Principle G): The proposed amendments to ICUS Rule 801 will enhance ICUS’s ability to, in a timely manner, respond to extraordinary events that could adversely impact ICUS, its Clearing Members and/or the stability of the broader financial system, as such they are consistent with the requirements of Core Principle G and Commission Regulation 39.16.

### 4. Certifications

ICUS certifies that the proposed amendments to ICUS Rule 801 comply with the Act and the rules and regulations promulgated by the Commission thereunder. A copy of the amendments is attached to this submission in Exhibit A. 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@ice.com](mailto:Eamonn.Hahessy@ice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Eamonn Hahessy", written over a horizontal line.

Eamonn Hahessy  
General Counsel and Chief Compliance Officer

## EXHIBIT A

(In the text of the amendment(s), below, additions are underlined and deletions are lined out)

### **Part 8 Defaults**

#### **Rule 801. Defaults**

If any of the following events shall occur with respect to any Clearing Member (regardless of whether any such event is cured by any ~~guarantor~~ Guarantor or other third party on behalf of such Clearing Member or otherwise):

(a) If such Clearing Member fails to meet any of its obligations under its Contracts with the Corporation;

(b) If such Clearing Member fails to pay any assessments levied upon it by the Corporation when and as provided in these Rules;

(c) If any Monetary Default occurs with respect to such Clearing Member;

(d) If such Clearing Member fails to make any required deposit in the Guaranty Fund when and as required pursuant to these Rules;

(e) If the Corporation shall determine that such Clearing Member is not in compliance with the provisions of Rule 202 or Rule 203;

(f) If such Clearing Member commences a voluntary or a joint case in bankruptcy or files a voluntary petition or an answer seeking liquidation, reorganization, arrangement, readjustment of its debts or any other relief for the benefit of creditors under any bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing, or if such Clearing Member applies for or consents to the appointment of a custodian, liquidator, conservator, receiver or trustee (or other similar official) for all or a substantial part of its property; or if such Clearing Member makes an assignment for the benefit of creditors; or if such Clearing Member becomes or admits that it is insolvent;

(g) If an involuntary case is commenced against such Clearing Member in bankruptcy or an involuntary petition is filed seeking liquidation, reorganization, arrangement, readjustment of its debts or any relief for the benefit of creditors under any bankruptcy or insolvency act or law of any jurisdiction, now or hereafter existing; or if a custodian, liquidator, receiver or trustee (or other similar official) is appointed of the Clearing Member for all or a substantial part of its property;

(h) If a warrant of attachment, execution or similar process is issued against any substantial part of the property of the Clearing Member;

(i) If the Securities Investor Protection Corporation files an application for a protective decree with respect to such Clearing Member;

(j) If such Clearing Member holds a short futures contract position and does not tender a delivery notice on or before the time specified by the rules of the Listing Exchange on the last day on which such notices are permitted to be tendered, or fails to make delivery by the time specified in the rules of the Listing Exchange; ~~or~~

(k) If such Clearing Member holds a long futures contract position and does not accept delivery or does not make full payment when due as specified in the rules of the Listing Exchange; or

(l) If a default, event of default, or other similar event or condition, is declared with respect to such Clearing Member, or an Affiliated Person of such Clearing Member, including a Guarantor for such Clearing Member, by another derivatives clearing organization, clearing agency or financial market utility (whether an Affiliated Person of the Corporation or not), as “default,” “event of default,” or other similar event or condition, is defined by such entity.

then, and in any such event, the Corporation may declare that an “**Event of Default**” has occurred and may determine that such Clearing Member shall be suspended as a Clearing Member.