



April 7, 2022

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

Re: ICE Clear Europe Self-Certification Pursuant to Commission Rule 40.6 –  
Delivery Procedures Amendments

Dear Mr. Kirkpatrick:

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”), a registered derivatives clearing organization under the Commodity Exchange Act, as amended (the “Act”), hereby submits to the Commodity Futures Trading Commission (the “Commission”), pursuant to Commission Rule 40.6 for self-certification, amendments to its Delivery Procedures (the “Delivery Procedures” or “Procedures”)<sup>1</sup> discussed herein. The amendments will become effective on the first business day following the tenth business day after submission, or such later date as ICE Clear Europe may determine.

*Concise Explanation and Analysis*

ICE Clear Europe is amending Part N of its Delivery Procedures to include delivery procedures applicable to settlement of a new ICE Futures Europe futures contract, the ICE Futures Europe Carbon Credit Contract, which will be cleared by ICE Clear Europe. The amendments to Part N detail settlement procedures applicable to ICE Futures Europe Carbon Credit Contracts (i) for which physical delivery is specified as being “Applicable” in the relevant Contract Terms, and (ii) which go to physical delivery on the expiry date (such contracts “ICE Deliverable Carbon Credit Contracts”). The amendments make certain other clarifications to Part N, which also addresses ICE Deliverable US Emissions Contracts, as well as conforming changes elsewhere in the Delivery Procedures. As a result of the amendments, settlement under ICE Deliverable Carbon Credit Contracts will generally be made under the same delivery procedures as

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings specified in the Delivery Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

settlement under ICE Deliverable US Emissions Contracts, except as noted in the amended procedures.

The amendments to Part N clarify that the definition of “Allowance” means any and all transferrable or assignable interests (in property, equity, contract or otherwise) in an instrument, certificate, permit, asset, security, right, contract or allowance that is designed as a deliverable instrument for an ICE Deliverable US Emissions Contract in the relevant Contract Terms.

A parallel definition of “Carbon Credit” has been added for the ICE Deliverable Carbon Credit Contract, which provides that such any and all transferrable or assignable interests (in property, equity, contract or otherwise) in an instrument, certificate, permit, asset, security, right, contract or allowance that is designed as a deliverable instrument for an ICE Deliverable Carbon Contract in the relevant Contract Terms.

The definition of “Registry” and the details about the procedures relating to bilateral delivery (i.e., delivery directly between a seller and buyer, rather than through a Clearing House account) through a Registry approved by the Clearing House has been updated to apply to the physical delivery of Carbon Credits under ICE Deliverable Carbon Credit Contracts (as applicable) in addition to the physical delivery of Allowances under US Emissions Contracts (as applicable).

The discussion about the Clearing House’s processes with respect to Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs) has been updated to apply to EFPs and EFSs made in accordance with ICE Futures Europe Rules and Procedures (to address the ICE Deliverable Carbon Credit Contracts) in addition to ICE Futures US Rules and procedures (as applicable).

The amendments add a new paragraph 2.6 to the Delivery Specifications section which specifies that, for the avoidance of doubt, (i) the Registry is a Delivery Facility; and (ii) Allowances and Carbon Credits are Deliverables (both changes tie the delivery specifications to relevant defined terms used in the Rules).

The amendments update the discussion of limitations of liability for the Clearing House and ICE Futures US to also apply to ICE Futures Europe (as the exchange for the ICE Deliverable Carbon Credit Contracts).

Finally, the section describing and providing a Delivery Timetable detailing processes and timing related to the delivery of Allowances under ICE Deliverable US Emissions Contracts has been updated to apply to delivery of Carbon Credits under the ICE Deliverable Carbon Credit Contracts as well (as applicable).

#### *Compliance with the Act and CFTC Regulations*

The amendments to the Delivery Procedures are potentially relevant to the following core principles: (C) Participant and Product Eligibility and (E) Settlement Procedures, and the applicable regulations of the Commission thereunder.

- *Participant and Product Eligibility.* The amendments are designed to establish delivery procedures and specifications relating to new ICE Deliverable Carbon

Credit Contracts, which will be traded on ICE Futures Europe and cleared at ICE Clear Europe. The ICE Deliverable Carbon Credit Contracts will be cleared in substantially the same manner as other emissions contracts, including the ICE Futures US Emissions Contracts, and will be supported by ICE Clear Europe's existing F&O financial resources, risk management systems and operational arrangements. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Core Principle C and Commission Rule 39.12(b).

- *Settlement Procedures.* As discussed above, the amendments establish delivery procedures relating to new ICE Deliverable Carbon Credit Contracts, under which physical delivery will be made through the Registry approved by the Clearing House. The amendments set out the role, responsibilities and liabilities of the Clearing House, Clearing Members and designated transferors and transferees in the physical delivery process, in line with Delivery Procedures for other types of cleared emissions contracts, particularly the ICE Deliverable US Emissions Contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Core Principle E and Commission Rule 39.14.

As set forth herein, the amendments consist of the amendments to the Delivery Procedures, a copy of which is attached hereto.

ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Europe received no substantive opposing views in relation to the proposed amendments.

ICE Clear Europe has posted a notice of pending certification and a copy of this submission on its website concurrent with the filing of this submission.

If you or your staff should have any questions or comments or require further information regarding this submission, please do not hesitate to contact the undersigned at [George.milton@theice.com](mailto:George.milton@theice.com) or +44 20 7429 4564.

Very truly yours,



George Milton  
Head of Regulation & Compliance