



April 30, 2018

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

Re: Self-Certification Pursuant to Commission Rule 40.6 – Amendments to ICE  
Clear US Rules for Listing Exchange Contributions

Dear Mr. Kirkpatrick:

ICE Clear US, Inc. (“ICE Clear US”), 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, certain amendments to the ICE Clear US Rules as discussed herein.<sup>1</sup> The amendments are to become effective on the first business day following the tenth business day after submission, or such later date as ICE Clear US may determine.

*Concise Explanation and Analysis*

ICE Clear US is amending the Rules that provide for contributions from Listing Exchanges as additional default resources.<sup>2</sup> Under ICE Clear US Rule 107, such contributions, known as Listing Exchange Default Contributions, are applied to default losses on a pro rata basis with the existing Corporation Priority Contribution made by ICE Clear US itself under the Rules. Accordingly, Listing Exchange Default Contributions are applied to cover default losses following the use of the defaulter’s own margin and guaranty fund contributions, and prior to the application of guaranty fund contributions of non-defaulting clearing members.

ICE Clear US is making additional changes to Rule 107 in order to provide for certain limitations on Listing Exchange Default Contributions, in a manner that is generally consistent with the limitations under the existing Rules on successive clearing member guaranty fund contributions. Specifically, Rule 107(c) and (f) are amended to incorporate a concept of an Exchange Cooling-off Period, which generally parallels the Cooling-off

---

<sup>1</sup> Capitalized terms used but not defined herein have the meanings specified in the Rules.

<sup>2</sup> These rules were adopted pursuant to a filing submitted to the Commission on March 15, 2018 (the “Initial Rule 107 Filing”).

Period concept applicable to clearing members. During an Exchange Cooling-off Period, a Listing Exchange's maximum obligation to provide Listing Exchange Replenishments will be limited to 550% of its required contribution level, regardless of how many clearing member defaults occur during the period. (The same cap percentage applies to clearing member guaranty fund contributions during a Cooling-off Period.) As provided in Rule 107(f), an Exchange Cooling-off Period is triggered by a complete use of a Listing Exchange Default Contribution as a result of a default or defaults, or successive uses of such contributions in an aggregate amount of the required Listing Exchange contribution during a period of 30 business days. An Exchange Cooling-off Period runs for 30 business days, but may be extended as a result of subsequent defaults occurring during the period.

The amendments also clarify the scope of liability of a Listing Exchange that has elected to terminate its use of ICE Clear US's clearing services. Revised Rule 107(d) provides that an Exchange that provides notice of termination during a specified period at the start of an Exchange Cooling-off Period, referred to as the Exchange Cooling-off Termination Period, may maintain the benefit of the Exchange Cooling-off Period contribution cap through to its termination of the clearing relationship (even if the Exchange Cooling-off Period would otherwise end). The approach generally parallels the procedures for clearing member withdrawal.

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

The amendments are potentially relevant to the following core principles: (B) Financial Resources and (D) Risk Management and the applicable regulations of the Commission thereunder.

- *Financial Resources.* As discussed in the Initial Rule 107 Filing, the requirement of Listing Exchange Default Contributions was designed to enhance ICE Clear US's overall financial resources, by increasing available default resources to be applied after the exhaustion of the defaulter's margin and guaranty fund contributions, and prior to the use of guaranty fund contributions of non-defaulting Clearing Members. The additional amendments will limit the overall liability of a Listing Exchange to make successive contributions of Listing Exchange Default Contributions in the case of a series of defaults, balancing the clearing house's goal of obtaining additional default resources with the need for the Listing Exchange to have greater certainty as to its financial obligations. The approach is generally consistent with limitations on clearing member guaranty fund contributions, and ICE Clear US believes it is similarly appropriate for Listing Exchange Default Contributions. As a result, in ICE Clear US's view, the amendments are consistent with the requirements of Core Principle B and Commission Rules 39.11 and 39.33.
- *Risk Management.* As noted above, the Listing Exchange Default Contribution requirement was designed to enhance the risk management of the clearing house by aligning the risk objectives of the exchanges that submit Contracts for clearing with those of the clearing house. The amendments will balance this goal with the need for Listing Exchanges to manage their own financial risks and potential financial liability, through the limitations on contributions during an Exchange Cooling-off Period. As a result, ICE Clear US believes the amendments are consistent with the risk management requirements of Core Principle D and Commission Rules 39.13 and 39.36.

As set forth herein, the amendments consist of changes to the Rules. A copy of the amendments is attached hereto.

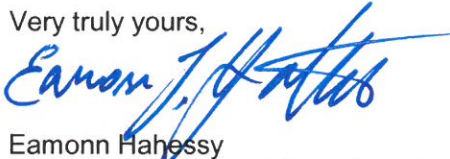
ICE Clear US hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

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

ICE Clear US 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 [eamonn.hahessy@theice.com](mailto:eamonn.hahessy@theice.com) or (212) 748-3964.

Very truly yours,



Eamonn Hahessy  
General Counsel and Chief Compliance Officer

## Rule 107. Listing Exchanges

(a) Each Listing Exchange for which the Corporation determines to provide clearing services shall enter into a clearing services agreement in the form approved by the Corporation, which shall, among other matters, require the Listing Exchange to comply with the provisions of the By-Laws and Rules applicable to Listing Exchanges. The Corporation shall have no obligation to accept, or to provide clearing services to, any particular exchange or trading facility as a Listing Exchange, subject to any requirements of applicable law.

(b) Each Listing Exchange shall provide to the Corporation, and maintain with the Corporation for so long as it is a Listing Exchange, a cash contribution of default resources to be applied pursuant to Rule 302(c)(iv) (each, a "**Listing Exchange Default Contribution**"), plus an additional amount equal to 1% of the Listing Exchange Default Contribution (such additional amount, together with the Listing Exchange Default Contribution, the "**Listing Exchange Contribution**"). The Listing Exchange Default Contribution shall initially be in an amount equal to the greater of (i) \$10 million and (ii) the arithmetic average of the Guaranty Fund Deposit Requirements of all Clearing Members as of the end of the most recent calendar year. The Corporation will recalculate the required Listing Exchange Default Contribution using the formula in the preceding sentence for each Listing Exchange as of the end of each calendar year, provided that the Listing Exchange Default Contribution will not be reduced as a result of any such recalculation. In the event of an increase in its required Listing Exchange Default Contribution as of any calendar year-end, the Listing Exchange shall be required to increase its Listing Exchange Contribution to the required level, within the timeframe and in the manner specified in the policies and procedures of the Corporation as in effect from time to time. The Corporation shall not be obligated to return the Listing Exchange Contribution (or any part thereof), except pursuant to Rule 107(d).

(c) In the event of any application of its Listing Exchange Default Contribution pursuant to Rule 302(c)(iv), the Listing Exchange shall restore its contribution to the required level on demand of the Corporation (a "**Listing Exchange Replenishment**"); provided that (i) a Listing Exchange Replenishment required as a result of the application of a Listing Exchange Default Contribution with respect to a particular Monetary Default shall not be applied to further losses from that Monetary Default; ~~and~~ (ii) during an Exchange Cooling-off Period, a Listing Exchange shall not be required to provide Listing Exchange Replenishments in the aggregate in excess of 550% of its required Listing Exchange Default Contribution immediately prior to the Monetary Default or Monetary Defaults as a result of which the Exchange Cooling-off Period commenced, regardless of how many Monetary Defaults occur during such period; and (iii) the Listing Exchange shall not be required to restore its Listing Exchange Default Contribution following the return of its Listing Exchange Contribution in accordance with Rule 107(d)).

(d) If an exchange or trading facility ceases to be Listing Exchange in accordance with its clearing services agreement, the Corporation shall return its Listing Exchange Contribution on the date that is 60 days following the expiration or termination of all Contacts resulting from transactions submitted by such Listing Exchange to the Corporation for clearing; provided that the Corporation will be entitled to retain and apply such Listing Exchange Contribution in accordance with the Rules with respect to any Monetary Default occurring prior to or upon such expiration or termination; provided that where a Listing Exchange provides notice that it will cease to be a Listing Exchange in accordance with its clearing services agreement during an Exchange Cooling-off Termination Period, the limitations in Rule 107(c)(ii) above shall remain in effect with respect to such Listing Exchange until such expiration or termination.

(e) Listing Exchange Contributions will be held in a bank approved for the purpose by the Corporation. The Corporation shall have the sole right to withdraw cash from such account or accounts. The Corporation may invest any Listing Exchange Contributions in securities which are Government Securities and other securities, and sell or dispose of any such investments, in accordance with the Corporation's investment policies and applicable law, and may engage in repurchase transactions with any cash or securities on deposit. Any interest, capital gain or other income earned on any such investments in securities shall belong and be credited to the Corporation (but without prejudice to any rate of return paid by the Corporation on cash deposited as a Listing Exchange Contribution). Rules 301(j), (l), (m) and (n) shall apply to Listing Exchange Contributions as though they were contributions to the Guaranty Fund (with references therein to Clearing Members being deemed to refer to Listing Exchanges).

(f) As used in this Rule 107:

“Exchange Cooling-off Period” means the period commencing on the date of the Exchange Cooling-off Period Trigger Event and terminating 30 Business Days thereafter; provided that an Exchange Cooling-off Period shall be automatically extended if a subsequent Exchange Cooling-off Period Trigger Event occurs 30 or fewer Business Days after the previous Exchange Cooling-off Period Trigger Event, in which case the Exchange Cooling-off Period will be extended until the date falling 30 Business Days after such subsequent Exchange Cooling-off Period Trigger Event.

“Exchange Cooling-off Period Trigger Event” means (i) any full utilization of a Listing Exchange Default Contribution pursuant to Rule 302(c)(iv) arising from a Monetary Default or Monetary Defaults; or (ii) the occurrence of circumstances in which there have been two or more utilizations of a Listing Exchange Default Contribution pursuant to Rule 302(c)(iv) as a result of Monetary Defaults within a period of 30 or fewer Business Days, in which the total amount applied is at least equal to the required Listing Exchange Default Contribution prior to the first such Monetary Default.

“Exchange Cooling-off Termination Period” means the period commencing on the date of each Exchange Cooling-off Period Trigger Event and terminating 10 Business Days thereafter; provided that if one or more subsequent Exchange Cooling-off Period Trigger Events occur during an Exchange Cooling-off Termination Period, the Exchange Cooling-off Termination Period will be extended until the date that is 10 Business Days after the last such event.

