

**Maria Zyskind**  
Staff Attorney

May 24, 2018

**Re: Updates to ICC Rules Relating to EU  
General Data Protection Regulation Pursuant  
to Section 5c(c)(1) of the Commodity  
Exchange Act and Commission Regulation  
40.6(a)**

**VIA ELECTRONIC PORTAL**

Mr. Christopher Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“ICC”) hereby submits, pursuant to Section 5c(c)(1) of the Commodity Exchange Act (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), a self-certification of changes to the ICC Clearing Rules (the “Rules”) to comply with certain requirements of the European Union (“EU”) General Data Protection Regulation (“GDPR”).<sup>1</sup> ICC is registered with the Commission as a derivatives clearing organization (“DCO”). ICC intends to implement the changes no sooner than the tenth business day following the filing of this submission with the Commission at its Washington, D.C. headquarters and with its Chicago regional office.

ICC proposes revisions to Rule 407 in order to update its policies on data protection to facilitate compliance with the GDPR, which takes effect on May 25, 2018. This submission includes a description of the changes to the ICC Rules. Certification of the changes pursuant to Section 5c(c)(1) of the Act and Commission Regulation 40.6(a) is also provided below.

The amendments reflect that ICC’s policies on use of personal data will now primarily be stated in a privacy notice made available to Clearing Participants (“CPs”) and other market participants, and accordingly certain existing provisions in the Rules relating to personal data will be removed or modified. ICC proposes minor changes to terminology in Rule 407(a)(iv) to replace the term Data Protection Directive with Data Protection Regulation which will refer to the GDPR. ICC proposes corresponding changes throughout the document. Under the proposed revisions, Rule 407(i) states that subsections (i) through (m) apply to the extent that ICC is within scope of the GDPR, and notes ICC’s right to process “Personal Data” (as defined in the GDPR)<sup>2</sup> for purposes permitted under the GDPR. The proposed amendments also remove existing subsections (j) and (k) as the relevant provisions containing ICC’s obligations with respect to Personal Data will now be set out in a privacy notice, and, instead, include ICC’s commitment to keeping Personal Data confidential in a new subsection (j) and intentionally omit subsection (k). The proposed updates to Rule 407(l) specify that CPs must ensure they have a lawful basis for processing Personal Data provided to ICC. ICC also proposes including references to defined

<sup>1</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016.

<sup>2</sup> Personal Data is defined in the GDPR as information related to a natural person that would identify that person, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

terms used in the GDPR in Rule 407(m). The proposed new Rule 407(n) states that recording telephone conversations with ICC will take place to the extent permitted or required under applicable law.

Core Principle Review:

ICC reviewed the DCO core principles ("Core Principles") as set forth in the Act. During this review, ICC identified the following Core Principle as being impacted:

Legal Risk: The revisions to the ICC Rules are consistent with the requirements of Core Principle R and Commission Rule 39.27. The amendments facilitate compliance by ICC and its CPs with the requirements of the GDPR by updating ICC's Rules on data protection. The amended Rules also provide additional clarity and transparency regarding the obligations of ICC and its CPs regarding Personal Data. ICC does not believe that the amendments will adversely impact its ability to comply with any Core Principles or Commission regulations.

Amended Rules:

The proposed changes consist of changes to Rule 407 to comply with certain requirements of the GDPR.

Annexed as an Exhibit hereto is the following:

- A. Proposed amendments to the ICC Rules

Certifications:

ICC hereby certifies that the changes comply with the Act and the regulations thereunder. There were no substantive opposing views to the changes.

ICC further certifies that, concurrent with this filing, a copy of the submission was posted on ICC's website, and may be accessed at: <https://www.theice.com/clear-credit/regulation>

ICC would be pleased to respond to any questions the Commission or the staff may have regarding this submission. Please direct any questions or requests for information to the attention of the undersigned at (312) 836-6854.

Sincerely,



Maria Zyskind  
Staff Attorney