



July 18, 2019

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 – CDS Default
Management Framework 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, the amendments to its CDS Default Management Framework (the “Framework”) discussed herein. 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 Europe may determine.

Concise Explanation and Analysis

ICE Clear Europe is adopting the amendments to the Framework in order to ensure that the Framework remains consistent with the Rules in light of recent amendments to address default management, recovery and wind-down for the CDS Contract Category (the “Recovery Rule Amendments”).¹ Consistent with the Recovery Rule Amendments, the changes to the Framework primarily relate to implementation of auction procedures, reduced gains distribution, partial contract tear-up, Clearing Member withdrawal and termination, clearing service termination and the role of the CDS Default Committee, CDS Risk Committee and Board during a default event. The amendments also include certain other enhancements and clarifications.

(I) Overall Framework

¹ See ICE Clear Europe Rule 40.6 Submission, dated May 29, 2019.

ICE Clear Europe is revising the Framework to make certain updates and enhancements, including changes to be consistent with the Recovery Rule Amendments for the CDS Contract Category. The revisions do not involve any changes to the ICE Clear Europe Rules or Procedures.²

(II) Revised Auction Procedures

Several aspects of the Framework addressing default auctions are being amended in light of the adoption, as part of the Recovery Rule Amendments, of a new set of CDS initial and secondary auction procedures (the “Revised Auction Procedures”):

- The amendments clarify that in determining the auction portfolios, the Clearing House will consider wrong-way risk to non-defaulting Clearing Members, among other listed factors;
- Clearing Members will no longer be required to confirm to the Default Management Committee their intention to bid in a particular auction (in light of the mandatory bidding requirements of under the Revised Auction Procedures);
- Consistent with the Revised Auction Procedures, the Framework will no longer provide that the last bid submitted by the Clearing Member be the only bid considered once the bidding window is closed;
- The amendments set a range for the minimum bid requirement for Clearing Members, consistent with the Revised Auction Procedures. The Framework provides examples of the calculation of the minimum bid requirement for Clearing Members, based on their respective CDS Guaranty Fund contributions as compared to the total CDS Guaranty Fund size;
- The Framework also provides several examples of the modified Dutch auction methodology used under the Revised Auction Procedures;
- The Framework reflects the two means by which Customers are able to participate in auctions under the Revised Auction Procedures: (i) via Clearing Member following mutual agreement on participation terms; and (ii) via direct participation following (subject to Customer contribution of €7.5 million to default resources (in the case of initial auctions) and certain other requirements);
- The Framework also summarizes key distinctions between initial auctions and secondary auctions under the Revised Auction Procedures;
- The existing Clearing House approach to non-competitive bids are being deleted, in light of the three tier methodology approach to juniorization of the Guaranty Fund contribution provided for in the Recovery Rule Amendments;
- The existing auction schedule in the Framework is being removed and superseded by the Revised Auction Procedures; and
- The provisions in the existing Framework for forced portfolio allocation is being removed, consistent with the Recovery Rule Amendments.

(III) Reduced Gains Distribution

² Capitalized terms used but not defined herein have the meanings specified in the Rules.

The amendments add a new section to the Framework that describes the use of reduced gains distribution (“RGD”) as a recovery tool that the Clearing House could use in accordance with the Rules in the event that its remaining default resources are insufficient to ensure solvency. The Framework incorporates and summarizes key aspects of the Recovery Rule Amendments relating to the use of RGD, including the methodology for applying RGD to both the house and customer accounts and the five consecutive business day limitation on the use of RGD (following which partial tear-up may be conducted). The Framework also provides examples of the use of RGD.

(IV) Clearing Member Withdrawal

The amendments to the Framework reflect the procedures for Clearing Member withdrawal as set out in the Recovery Rule Amendments, including both an ordinary course of business termination outside of a default and termination during a cooling off period.

(V) Partial Tear-Up

The revised Framework reflects the Recovery Rule Amendments that permit the Clearing House to proceed to partial tear-up as a final default tool where the Clearing House is unable to close out all of the defaulter’s remaining positions through auctions within the Clearing House’s remaining resources. In a partial tear-up, the Clearing House would terminate positions of non-defaulting Clearing Members that exactly offset those in the defaulting Clearing Member’s remaining portfolio (“Tear-Up Positions”), in accordance with the Recovery Rule Amendments. The Framework also describes procedures for the timing of partial tear-up and determination of the relevant termination price, in accordance with the Recovery Rule Amendments.

(VII) Clearing Service Termination

The amended Framework also reflects the Clearing House’s ability, under Rule 916 as modified by the Recovery Rule Amendments, to terminate the CDS clearing service under specified circumstances.

(VIII) Role of the CDS Risk Committee During a Default Event

Pursuant to the amendments, the CDS Risk Committee will be consulted on (i) establishing the terms of initial and secondary auctions (including defining different auction lots) and (ii) holding additional auctions and/or accepting a partial fill of an auction during the initial auction phase. The CDS Risk Committee will be consulted, with the ultimate decision to be made by the ICE Clear Europe Board (or its delegate), with respect to the following matters under the Rules:

- Whether to use CDS Guaranty Fund contributions of non-defaulting Clearing Members to cover the cost of a direct liquidation outside of a default auction;
- Whether to determine that an initial default auction has failed due to insufficient default resources;
- Whether to invoke and/or continue RGD;
- Whether to hold a secondary auction, whether that auction has failed and in the event of failure, whether to hold additional secondary auctions;

- In a secondary auction, whether to reallocate default resources to a particular lot to permit a successful auction of that lot;
- In a final secondary auction, whether to accept a “partial fill” to the extent of available default resources for the relevant lot;
- Whether to implement a partial tear-up;
- Whether to terminate the clearing service in full; and
- Whether to bypass an initial default auction or bypass secondary default management action(s).

(IX) Additional Amendments

The amendments include certain other clarifying and conforming changes and typographical corrections. In addition, the amendments remove certain outdated or unnecessary provisions, including certain examples and templates in Appendix A. With respect to liquidation of a defaulting Clearing Member’s collateral, the amendments clarify that the Head of Clearing Risk may postpone the collateral sale without seeking advice of the CDS Default Committee, which is consistent with current practice. The amendments also clarify that the risk team also consults with the CDS Default Committee with respect to establishing hedging positions with the non-defaulting Clearing Members, in addition to the Head of Clearing Risk.

Compliance with the Act and CFTC Regulations

The amendments are potentially relevant to the following core principle: (D) Risk Management and (G) Default Rules and Procedures and the applicable regulations of the Commission thereunder.

- *Risk Management.* As discussed herein, the amendments are principally designed to conform the Framework to the provisions of the Recovery Rule Amendments, which address the risks posed to ICE Clear Europe by a significant default by one or more Clearing Members. The proposed amendments add to the Framework internal procedures and processes for using the additional default tools made available by the Recovery Rule Amendments, including initial and secondary CDS auction procedures, RGD and partial tear-up. These tools are designed to permit ICE Clear Europe to restore a matched book and limit its exposure to potential losses from a CDS Clearing Member default in extreme scenarios that may not be able to be addressed by standard risk management and default procedures. The amendments also describe the procedures for full CDS clearing service termination, which act as a tool to address general business risk, operational risk and other risks that may otherwise threaten the viability of the Clearing House. In ICE Clear Europe’s view, these amendments will enhance the default management process and the overall risk management of the Clearing House, and are therefore consistent with the risk management requirements of Core Principle D and Commission Rule 39.13.
- *Default Rules and Procedures.* The amendments facilitate use of the new default management and recovery tools included in the Recovery Rule Amendments, including the new procedures for CDS auctions, juniorization of

Guaranty Fund and assessment contributions in the context of auctions, procedures for secondary auctions, RGD, and the option to invoke a partial tear-up of positions to restore a matched book in the event that it would be unable to auction the defaulter's remaining portfolio. ICE Clear Europe believes that this revised set of tools will strengthen the Clearing House's ability to efficiently, fairly and safely manage extreme default events. The amendments thus are designed, in conjunction with the Recovery Rule Amendments, to permit ICE Clear Europe to fully allocate losses arising from default by one or more Clearing Members, with the goal of permitting the Clearing House to resume normal operations. As a result, in ICE Clear Europe's view, the amendments would allow it to take timely action to contain losses and liquidity pressures, in accordance with Core Principle G and Commission Rule 39.16.

As set forth herein, the amendments consist of changes to the Framework. ICE Clear Europe has requested confidential treatment with respect to these amendments, which have been submitted currently with this self-certification submission.

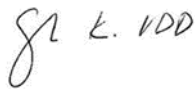
ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Europe has received no substantive opposing views in relation to the proposed rule 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 [carolyn.vandendaelen@theice.com or +44 20 7429 4515].

Very truly yours,



Carolyn Van den Daelen
Head of Regulation & Compliance