



FOIA CONFIDENTIAL TREATMENT REQUESTED

August 27, 2021

VIA CFTC PORTAL

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st 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,¹ specifically the ICUS Risk Management Framework. 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's Risk Management Framework contains the model used by ICUS to determine the shortfall initial margin requirement which supplements ICUS's core initial margin requirement. In the event of a Clearing Member default, shortfall margin is designed to provide enhanced protection for the non-defaulting Clearing Members' contributions to the Guaranty Fund. When determining the shortfall margin requirement, each Clearing Member's exposure to the Guaranty Fund is determined by first calculating the potential gains and/or losses posed by that Clearing Member's cleared positions, after running the positions through various stress loss scenarios. These gains and/or losses are then, respectively, either increased or decreased by what is essentially a "credit" pegged to certain initial margin contributions that support the positions. Under the methodology that is in place today, the shortfall margin requirement is the amount, if any, by which the worst case from the stress loss scenarios (the "Uncollateralized Stress Loss Amount")² exceeds a

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

² The calculation is performed for each scenario (separately for the house and customer origins) producing, after the initial margin "credit," the House and Customer Stress Loss Amounts, which is either a positive or negative number. The House and Customer Stress Loss Amounts for each scenario are aggregated, and the largest resulting negative sum is the Uncollateralized Stress Loss Amount. The Customer Stress Loss Amount is capped at zero because, consistent with CFTC regulations, if there is a default, ICUS's Rules provide that financial resources in the customer origin are not available to cover losses in the house origin, whereas financial resources in the house origin can cover losses in the customer origin.



Clearing Member's "shortfall allowance."³ For the reasons outlined below, going forward, ICUS is proposing to reduce the Uncollateralized Stress Loss Amount for a given Clearing Member by its required Guaranty Fund contribution before comparing it to the relevant "shortfall allowance."

2. Details of Rule Changes

In determining the shortfall margin requirement, ICUS currently provides a "credit" pegged to certain initial margin contributions. At present, the shortfall margin requirement is the amount by which the Uncollateralized Stress Loss Amount exceeds a Clearing Member's "shortfall allowance." Going forward, ICUS is proposing to reduce the Uncollateralized Stress Loss Amount for a given Clearing Member by its required Guaranty Fund contribution before comparing it to the relevant "shortfall allowance" to determine the shortfall margin requirement, if any. In doing so, ICUS is providing a "credit" linked to the Clearing Member's required Guaranty Fund contribution, just as it does earlier in the calculation with initial margin. This approach will align more closely with ICUS's default waterfall which uses both a defaulting Clearing Member's initial margin contribution, as well as its Guaranty Fund contribution, to reduce any resulting losses. In addition, this approach aligns more closely with the "defaulter pays" philosophy that informs the shortfall margin requirement because a defaulting Clearing Member's contribution to the Guaranty Fund is a financial resource that ICUS can avail of, just like a defaulting Clearing Member's initial margin contributions. ICUS has successfully submitted this proposed change to the shortfall margin methodology for independent validation, consistent with applicable CFTC regulations. ICUS has respectfully requested confidential treatment for this amendment to the Risk Management Framework which was submitted concurrently with this submission.

3. Compliance with the Act and Regulations

ICUS reviewed the foregoing amendment and determined that it complies 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 core principles for derivatives clearing organizations ("Core Principles") and determined that the amendments are potentially relevant to the following core principle and the applicable regulations of the Commission thereunder:

Risk Management (Core Principle D): The proposed amendment to the ICUS Risk Management Framework, which is a result of ICUS's regular review of its margin models, ensures that both the shortfall margin model, and the resulting shortfall margin requirement, are more closely aligned with the actual risk presented by a given Clearing Member. In addition, this amendment to the shortfall margin model, and the resulting shortfall margin requirement, ensures that both are more appropriately commensurate with the risks presented by the products and portfolios cleared by ICUS. Moreover, this shortfall margin model amendment has been independently validated. For these reasons, the proposed amendment to the ICUS Risk Management Framework is consistent with the requirements of Core Principle D and Commission Regulations 39.13 and 39.36.

³ The "shortfall allowance" is directly related to a Clearing Member's capital (i.e., Clearing Members with greater capital receive a larger shortfall allowance than Clearing Members with less capital). The premise of the shortfall margin requirement is that more highly capitalized Clearing Members are less likely to default and thereby potentially expose the Guaranty Fund contributions of non-defaulting Clearing Members to loss mutualization.



4. Certifications

ICUS certifies that the proposed amendment to its Risk Management Framework complies with the Act and the rules and regulations promulgated by the Commission thereunder. ICUS is not aware of any substantive opposing views expressed regarding the amendment. ICUS further certifies that, concurrent with this filing, a copy of this 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.

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