



September 17, 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 – F&O Intraday Margin

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, certain amendments to its Finance Procedures and related policies related to intraday margining and investment of cash balances. 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.¹

Concise Explanation and Analysis

ICE Clear Europe is amending its intraday risk management processes for certain F&O client and house accounts in the following ways:

- extending the intraday margining hours (which currently run from 9:00am – 6:00pm) to 7:30am – 8:00pm (with a payment deadline of 9:00pm), London time, to cover the active portions of the trading day in relevant F&O contracts;
- implementing additional, or “buffer” margin requirements, to cover risk during periods outside these hours; and
- updating the intraday materiality threshold for margin calls.

¹ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the “Rules”).

ICE Clear Europe is adopting these amendments to facilitate compliance with margin requirements under European Union regulations and related implementing legislation and technical standards applicable to it as an authorized central counterparty under the European Market Infrastructure Regulation (EMIR).²

These amendments will principally affect F&O energy contracts cleared by ICE Clear Europe. Specifically, the extended margining hours and updated materiality threshold changes will apply to all gross margined client accounts (i.e., those client accounts margined on a “gross” basis using a minimum one business day margin period of risk (“MPOR”))³ and F&O house accounts. The buffer margin changes will apply only to the gross margined client accounts because the house accounts are already margined on a 2 business day MPOR net basis.

ICE Clear Europe is also amending certain policies relating to the deposit of uninvested cash margin with banks in light of potential increases in cash balances arising from the above changes in intraday margining, consistent with requirements under EMIR.

Finance Procedures

As part of these changes, ICE Clear Europe is proposing to amend Parts 5 and 6 of the Finance Procedures to address intraday margining procedures and certain other matters. Paragraph 5.5 is amended to clarify the circumstances in which the Clearing House would invoke a contingency method for transfer of margin, which would occur if an Approved Financial Institution or the Clearing House itself experiences a failure in its ability to send or receive SWIFT messages. Paragraph 6.1 is amended to provide that intraday margin calls for F&O Contracts can be made between 7:30 and 20:00 London time. (The existing period for intraday margin calls for other (i.e., CDS) Contracts remains unchanged at from 9:00 to 19:00 London time.) Where a contingency method applies under paragraph 5.5, intraday margin calls can be made up to 21:00 London time. The amendments also clarify that all intraday margin calls within these hours must be met within 60 minutes of notification by the Clearing House. Margin calls made outside of these hours must be met by the later of (x) within 60 minutes after notification, if any settlement system used by the Clearing House for the relevant currency is open at the time, or (y) within 60 minutes after the time at which such settlement system becomes open for business following the

² The amendments principally address requirements under Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties, as amended by Commission Delegated Regulation (EU) 2016/822 of 21 April 2016 as regards the time horizons for the liquidation period to be considered for the different classes of financial instruments (as so amended, “RTS 153/2013”). Specifically, Article 26(1)(c) of RTS 153/2013 requires ICE Clear Europe, among other matters, to be in a position to issue and collect margin calls on at least an hourly basis during the active trading day for futures products that are gross-margined using a one business day margin period of risk.

³ Contracts using a one-day MPOR are generally F&O energy contracts. Other F&O Contracts using a 2 (or more) business day MPOR, and CDS Contracts (using a 5 business day MPOR) are not subject to the hourly intraday margin requirement under Article 26(1)(c) of RTS 153/2013.

notification of the margin call by the Clearing House. Corresponding and clarifying changes are also made to the table following Part 5 of the Finance Procedures.

Additional “Buffer” Margin and Intraday Margin Materiality Threshold

ICE Clear Europe intends to collect, under the authority of its margin policies and procedures, additional, or “buffer” margin, to cover the period outside of the core intraday margining hours (from 20:00 to 7:30 the next morning). The buffer margin will be reviewed and collected daily, on the basis of the largest potential call that could have been made during the overnight period. The buffer will be charged daily on a rolling 30 day basis, but released only on a monthly basis.

The materiality threshold for intraday margin calls will be updated to be more proportional to the size of the Clearing Member’s contribution to the F&O Guaranty Fund (subject to a maximum threshold), rather than set based on the minimum Guaranty Fund contribution as it is currently.

Cash Investment Policies

Because of the possibility that it will hold additional cash balances as a result of the extended margining hours discussed above (since it may be difficult to invest such balances if received later in the day), ICE Clear Europe is proposing to amend the Investment Management Policy and adopt a set of Unsecured Credit Limits Procedures. Certain other updates and clarifications are being made to the Investment Management Policy as well.

In general, the changes to the Investment Management Policy will permit the Clearing House to hold additional uninvested balances, by eliminating the current fixed dollar limits and replacing them with the new Unsecured Credit Limits Procedures, which provide more flexible allocation guidelines based on the capital of the deposit bank and other factors. The amendments remain consistent with the requirements under EMIR that the Clearing House maintain at least 95% of its cash in qualifying investments on average during each calendar month, such that deposits in banks will be limited to the remaining 5% on average.⁴

The Investment Management Policy has also been revised to distinguish more clearly between central bank deposits and commercial bank deposits, both of which are authorized for deposit of cash. For commercial bank deposits, the \$50 million per counterparty bank limit has been removed and replaced with the new Unsecured Credit Limits Procedures, as discussed below. The limitation on not investing more than 15% of cash in bank obligations in total on any one day has also been removed, and the 5% limit on investments in bank obligations in a 30-day period has been revised to refer to an average level over a calendar month, consistent with the EMIR limitations.

Certain clarifications (unrelated to the extended margin hours) are being made to the limits on investments in sovereign obligations and central bank deposits. For

⁴ Article 45, RTS 153/2013.

sovereign obligations, for EUR denominated investments, no more than 15% of the total EUR balance of the investment portfolio must be invested in sovereign obligations of a single issuer; and no more than 20% of the total balance of the investment portfolio per currency may be invested in a single issue of a sovereign issuer. Pursuant to the proposed amendments, there is no limitation on maturity for central bank obligations and central bank deposits. The amended policy lists the Dutch National Bank, Bank of England and Federal Reserve as acceptable central banks for this purpose.

The Clearing House is adopting the new Unsecured Credit Limits Procedures, which establish a limit methodology for determining the amount of cash that may be placed in an unsecured deposit with a particular bank. The procedures establish basic requirements for any deposit bank as to regulation and credit rating (with the possibility of an exception where determined appropriate by the executive risk committee). For each qualifying institution, a limit will be established at 3% of the entity's capital minus other exposures vis-a-vis ICE Clear Europe or if the entity relies on a parent guaranty, 80% of the amount guaranteed thereunder. The limit is subject to a minimum level of USD 50 million (or a lesser level determined by the clearing House) and a maximum level of USD 200 million. "Other exposures" for this purpose include uncollateralized stress losses or exposures arising from other financial services provided by ICE Clear Europe to the institution.⁵ The methodology also provides for ongoing monitoring of deposit banks for purposes of updating limits as necessary, and addresses governance and exception handling.

Compliance with the Act and CFTC Regulations

The amendments are potentially relevant to the following core principles: (D) Risk Management, (E) Settlement Procedures and (F) Treatment of Funds and the applicable regulations of the Commission thereunder.

- *Risk Management.* As noted above, the amendments are designed to enhance the management of intraday risk faced by the Clearing House, by extending the daily hours during which the Clearing House may call for intraday margin. Related changes will also enhance management of overnight risk (outside of such hours) through additional buffer margin. The amendments will thus facilitate the measurement of credit exposure on an intraday basis during the trading day, and the management of that credit exposure through potentially more frequent intraday margin settlements, where appropriate. As a result, in ICE Clear Europe's view, the amendments are consistent with the risk management requirements under Core Principle D and Commission Rule 39.13.
- *Settlement Procedures.* The amendments will facilitate more frequent intraday margin settlement for F&O Contracts, on any intraday basis, as a result of changes in credit exposure during the trading day. As a result, the

⁵ The methodology contemplates a specific exception for Euroclear Bank SA/NV, in light of the particular function of that entity as a central securities depository and the accompanying limitations on its business, that would allow a limit of USD 200 million notwithstanding that 3% of its capital would be a lower figure.

amendments are consistent with the requirements under Core Principle E and Commission Rule 39.14 that settlement occur at least once each business day and that the Clearing House have the authority to effect settlement on an intraday basis when thresholds specified by the Clearing House are breached.

- *Treatment of Funds.* The amendments will also enhance the Clearing House's procedures for investment of cash received by it, in recognition that it may receive higher cash balances as a result of additional intraday calls for margining. The modifications to the Investment Management Policy and new Unsecured Credit Limits Procedures establish new guidelines for allocating deposits across different banks based on their capitalization and other factors. In ICE Clear Europe's view, these procedures will facilitate holding such deposits in a manner that minimizes the risk of loss or delay in access to such funds, and are therefore consistent with the requirements of Core Principle F and Commission Rule 39.15.

As set forth herein, the amendments include revisions to the Finance Procedures, a copy of which is attached hereto. The amendments also consist of revisions to the Investment Management Policy and adoption of new Unsecured Credit Limits Procedures. ICE Clear Europe has requested confidential treatment with respect to the revised Investment Management Policy and Unsecured Credit Limits Procedures, which have been submitted concurrently with this self-certification submission.

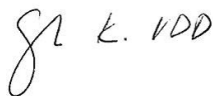
ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

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