



September 17, 2021

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

Re: ICE Clear Europe Self-Certification Pursuant to Commission Rule 40.6 –  
Clearing Membership Policy and Procedures

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, a new Clearing Membership Policy (the “Policy”) and new Clearing Membership Procedures (the “Procedures”, and collectively with the Policy, the “Documents”)<sup>1</sup> discussed herein. The amendments will 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 new Policy and Procedures to consolidate and summarize its existing clearing membership criteria and to document certain existing processes and procedures concerning the membership application process.

#### Clearing Membership Policy

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

ICE Clear Europe is adopting the new Policy which describes its clearing membership criteria (which are set forth in full detail in the Rules). The Policy does not change existing membership criteria. The Policy also addresses related processes for assessing applicants for membership, variations of permissions and termination of membership.

The Policy describes clearing membership criteria, starting with a description of the objectives, which accounts for membership risk and ensures that such risks are properly managed and that admission criteria is non-discriminatory, transparent and objective to ensure fair and open access, as well as consistent with relevant regulatory requirements. The Policy describes how these objectives are met through setting and monitoring appropriate membership criteria, establishing a due diligence process and requiring notifications regarding changes to Clearing Member business. The core clearing membership criteria, including holding sufficient capital, being a party to a Clearing Membership Agreement and others, is summarized in the Policy (with the full criteria set out in Rule 201 and the CDS Procedures).

The Policy reflects that ICE Clear Europe has established processes for clearing membership application, permission variations and clearing membership termination which are set out in further detail in the Procedures. The Policy also addresses monitoring in respect of membership criteria, including periodic in-depth counterparty reviews, periodic review of financial positions and use of its counterparty rating system, maintenance of a watch list, requiring an annual member return, and other operational monitoring.

The Policy also addresses arrangements for breach management, ongoing reviews and exception handling. This section is consistent with other ICE Clear Europe policies and governance processes. In particular, it provides that (i) the document owner is responsible for ensuring that documents remain up-to-date and are reviewed in accordance with the Clearing House's governance processes, (ii) the document owner will report material breaches or unapproved deviations from the Framework to their Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates) who will determine if further escalation will be made to relevant senior executives, the Board and/or competent authorities, and (iii) exceptions to the Policy will be approved in accordance with the Clearing House's governance process for the approval of changes to such document.

### Procedures

The Procedures describe in further detail the processes for reviewing applications for clearing membership, variations of membership permissions, on-going monitoring and membership termination. The objective is to establish a due diligence process to ensure applicants meet ICE Clear Europe membership criteria and, once members, provide notifications of any changes to their business that may impact their ability to meet the criteria.

The Procedures describe the Clearing Member application process, the consideration by relevant ICE Clear Europe departments, the process for approval or rejection of applications by the Executive Risk Committee under authority delegated by the Board and the right to appeal to the Board, additional membership conditions or criteria that

the Clearing House may, at its discretion, require prior to approval and additional information requests that ICE Clear Europe may make during the application process. The Procedures will also describe the process for a Clearing Member to obtain membership to a different membership class and the procedure through which a Clearing Member may resign or be terminated by the Clearing House (both of which are in accordance with Rule 209).

The Procedures detail the core membership requirements, which include minimum capital requirements as well as a description of additional financial requirements ICE Clear Europe may impose and of certain aspects of the calculation of member capital, including the use of subordinated debt and controller guarantees where approved by ICE Clear Europe and the disallowance of certain assets from the calculation. The Procedures also reference Guaranty Fund contributions for CDS and F&O clearing services, including replenishments in the event of application of the funds; the margin-to-capital ratio requirement; (iv) default management capabilities; and (v) EOD price submissions (for CDS Clearing Members only) as required by the CDS EOD Price Discovery Policy.

The Procedures further provide for a description of ongoing monitoring which includes: (i) periodic review of the financial position and compliance with the relevant membership requirements of each Clearing Member; (ii) quarterly review of Clearing Member capital situation and monthly review of FCM/BD Clearing Members; (iii) the quarterly counterparty rating system report, which aggregates risk factors covering credit, market price, liquidity and operational risk for each Clearing Member; (iv) the watch list highlighting Clearing Members with special risk situations; (v) annual member returns pursuant to which Clearing Members must provide certain information to ICE Clear Europe; and (vi) daily monitoring of Clearing Member performance in relation to fulfilment of obligations to cover cash payments, margin collateral and Guaranty Fund contributions as well as delivery obligations.

The Procedures also set out the same governance requirements as those described above with respect to the Policy.

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

The amendments are potentially relevant to the following core principles: (C) Participant and Product Eligibility, (D) Risk Management and (O) Governance, and the applicable regulations of the Commission thereunder.

- *Participant Eligibility.* As discussed herein, the Policy and Procedures do not change ICE Clear Europe's existing membership and minimum capital standards in this regard, but more clearly document those requirements and the process for monitoring compliance, thus maintaining compliance with the requirements of Core Principle C and CFTC Rule 39.12.
- *Risk Management.* As discussed herein, the amendments formalize and consolidate membership application and monitoring processes to ensure that Clearing Members meet admission criteria upon initial membership and continue to meet such criteria throughout their membership. The amendments

will facilitate the Clearing House's ability to manage the potential risks posed by such Clearing Members, consistent with the risk management requirements of Core Principle D and Commission Rule 39.13.

- *Governance.* As described herein, the Documents clearly define the roles and responsibilities of the document owner, the Head of Department, the senior members of the Risk Oversight Department and the senior members of the Compliance Department, consistent with governance arrangement for other ICE Clear Europe policies and procedures. ICE Clear Europe believes that the amendments to the Documents are therefore consistent with the requirements of Core Principle O and CFTC Rule 39.24.

As set forth herein, the amendments consist of a new Policy and new Procedures. ICE Clear Europe has requested confidential treatment with respect to the amendments to the Policy and Procedures, which have been submitted concurrently with this self-certification submission.

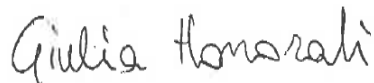
ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Europe received no substantive opposing views in relation to the proposed 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 [giulia.honorati@ice.com](mailto:giulia.honorati@ice.com) or +44 20 7429 7127.

Very truly yours,



Giulia Honorati  
Manager, Regulation & Compliance