



October 17, 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 – Amendments to ICE  
Clear Europe Clearing Rules 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, the amendments to the ICE Clear Europe Clearing Rules (the “Rules”)<sup>1</sup> and Procedures 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 amending its Rules and Procedures to make various drafting updates, clarifications and corrections, including to various references throughout the Rules and Procedures to the names of trading venues for which ICE Clear Europe provides clearing services, to delivery facilities and information systems used by the Clearing House, and to certain contracts cleared by the Clearing House. Certain changes are also being made to use more generic references to trading facilities and contracts to limit the need for future changes to the ICE Clear Europe Rules as a result of non-substantive changes to names and other corporate events.

Specifically, ICE Clear Europe is making amendments to Parts 1, 2, 4, 5, 8, 9, 11, 12, 15, 16, 19, 20 and 22 of the Rules, the Standard Terms annexes contained in the Exhibits to the Rules, and to the Clearing Procedures, Finance Procedures, Delivery

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

Procedures, CDS Procedures, FX Procedures, Business Continuity Procedures, Contract Terms Procedures and Membership Procedures. The text of the amendments to the Rules and Procedures is attached hereto. The amendments are described in detail as follows.

1. Removal of References to LIFFE.

The amendments remove throughout the Rules unused references to the LIFFE market (and related terms referencing LIFFE or LIFFE contracts). Trading in all LIFFE contracts was transitioned to ICE Futures Europe in 2014,<sup>2</sup> and LIFFE is no longer an operational exchange. The LIFFE exchange has since been de-recognized as a recognized investment exchange under UK law and the corporate vehicle has been wound up. The Rules and Procedures nonetheless retain certain outdated references to LIFFE and related terms that are now being deleted. These include the definitions of "LIFFE", "LIFFE Block Contract", "LIFFE Block Trade Facility", "LIFFE Block Transaction", "LIFFE Clearing Member", "LIFFE Contract", "LIFFE Matched Contract", "LIFFE Matched Transaction" and "LIFFE Rules" in Rule 101 (and related uses of such definitions throughout the Rules, including in the definitions of "Financials & Softs", "Financials & Softs Clearing Member", "Financials & Softs Transaction" and "Market"). Corresponding changes have also been made to the Delivery Procedures to remove references to "LIFFE" and the "LIFFE Rules" in relation to Financials & Softs Contracts that are now traded on ICE Futures Europe. These changes have been made in paragraphs 8 and 15 of the general provisions of the Delivery Procedures and in the product-specific sections as follows: Part O, paragraphs 1.1-1.3; Part O, Delivery Timetable; Part Q, paragraphs 1.1-1.3; Part Q, Delivery Timetable; Part R, paragraphs 1.1-1.3; Part R, Delivery Timetable; Part T, paragraphs 1.3 and 1.11; Part U, paragraphs 1.2, 1.4 and 1.5; and Part U, Delivery Timetables.

2. Corporate Reorganization of Endex Markets.

A number of changes to the Rules are being made to reflect changes in the corporate structure of the ICE Endex markets cleared by ICE Clear Europe. Specifically, ICE Endex Gas B.V. (which operated the spot market, and was referred to in the Rules as "ICE Endex Continental") was merged into ICE Endex Derivatives B.V. (which operated the regulated market, and was referred to in the Rules as "ICE Endex"), with the surviving entity renamed ICE Endex Markets B.V.<sup>3</sup> Accordingly, the defined term "ICE Endex" in the Rules are being revised to refer to ICE Endex Markets B.V. As a result of the transaction, ICE Endex now operates two markets, its regulated market and the ICE Endex Spot Market (formerly the ICE Endex Continental market). In Rule 101 the following definitions are being revised accordingly: "Energy", "Energy Transaction", "ICE Endex", "ICE Endex Block Transaction", "ICE Endex Matched Transaction", "ICE Endex Rules" and "Market". In addition, the defined terms "ICE Endex Continental" and "ICE Endex Continental Rules" are to be replaced

<sup>2</sup> See Exchange Act Release No. 34-73348 (SR-ICEEU-2014-017) (Oct. 14, 2014); 79 Fed. Reg. 62688 (Oct. 20, 2014); see also ICE Futures Europe's 'LIFFE to ICE Futures Europe Transition Notice' dated September 2014, available at [https://www.theice.com/publicdocs/circulars/14108\\_attach.pdf](https://www.theice.com/publicdocs/circulars/14108_attach.pdf).

<sup>3</sup> This merger is described in more detail in ICE Endex Circular E16/045 of 30 November 2016, available at <https://www.theice.com/publicdocs/endex/circulars/E16045.pdf>.

with "ICE Endex Spot Market" and "ICE Endex Spot Market Rules". The definitions of "ICE Natural Gas Continental Spot", "ICE Natural Gas Continental Spot Contract", "ICE Natural Gas Continental Spot Matched Contract", "ICE Natural Gas Continental Spot Matched Transaction" and "ICE Natural Gas Continental Spot Transaction" are to be replaced with "ICE Endex Spot Market Transaction" and "ICE Endex Spot Market Contract." Corresponding changes are being made throughout the Rules and Procedures, including in Rules 201, 404 and 1906 and in the Delivery Procedures in paragraph 5.1 and Part J. A new Rule 401(r) is being added to clarify that a Contract will only arise in relation to an ICE Endex Spot Market Transaction where the product is designated by ICE Endex Spot Market as a cleared product. This clarification is needed because not all products traded on the ICE Endex Spot Market are cleared by ICE Clear Europe; some are held on an over-the-counter basis. Parts 20 and 22 of the Rules are being deleted as no longer necessary, as those Parts provided transitional rules relating to various ICE Endex contracts at the time of the transition of these contracts to the Clearing House from another clearing house in 2013. All affected contracts have now expired.

### 3. Removal of Unused Participating Exchange Link Provisions.

The Rules currently contain a number of defined terms and other provisions relating to linkages between ICE exchanges and non-ICE exchanges (referred to in the Rules as "Participating Exchanges"), principally set out in current Rule 410. Although such linkages at one time existed between LIFFE and two Japanese exchanges, and were briefly on-boarded by the Clearing House after the LIFFE transition in 2014, they have been terminated, there are no such linkages currently in effect, and none are contemplated at this time. As a result, ICE Clear Europe is deleting Rule 410. ICE Clear Europe is further deleting references to Participating Exchanges, and related terms and provisions, throughout the Rules, including in Rules 102(j)(ii), 106(a)(iv), 401(a)(xiv), 405(b), 408(a)(vi), 905(a)(iii), 905(b)(xix), 1201(f)(xii), 1201(l), 1201(n), 1202(b)(ix)-(x), 1202(m), 1202(n), 1202(o)(xi) (which will become 1202(m)(xi)), 1203(k), 1204(a)(v), 1204(j) and 1205(d).

### 4. References to Delivery Facilities.

The definition of "Delivery Facility" in Rule 101 is being amended to reflect the full range of delivery mechanisms and providers used in connection with various cleared Contracts, including balancing systems, gas networks, securities settlement systems, custodians, vessels, terminals, ports and emissions registries. The broader definition reflects current practice for the facilities used for delivery under the diversity of contracts cleared by the Clearing House, and is intended to reduce the need to change the rules for the launch of new deliverable contracts. Relatedly, Rule 106(a)(xiv) is being amended to delete the references to obligations under the specific rules of each particular delivery facility and replace these with a generic reference to obligations under *"the rules or terms of a Delivery Facility or as [are] needed to comply with any obligation or to exercise any right under these Rules"*. This makes use of the broadened "Delivery Facility" definition. A similar change is being made to Rule 404(a)(x) to use the generic "Delivery Facility" defined term.

### 5. General References to Markets

Related to the amendments discussed above relating to LIFFE and ICE Endex, ICE Clear Europe is replacing other individual references to specific markets for which it clears, throughout the Rules and Procedures, with the more general term "Market." The definition of "Market" in Rule 101 is being amended so that it covers the specified ICE trading venues for which arrangements already exist "and any other Exchange for which the Clearing House provides or may provide Clearing services". These changes simplify various references throughout the Rules to exchanges, trading facilities and markets generally (without need to identify each such facility), and in particular will allow for certain references to "Exchange" to be amended to "Market" throughout the Rules and Procedures, resulting in greater consistency. This will also reduce documentation risks associated with corporate reorganizations at exchange level, as occurred for LIFFE and ICE Endex (discussed above). The changes also remove the various references to market-specific rules (for example, to the rules of ICE Futures Europe) and replace these with a more generic definition of "Market Rules" where possible. The definition of "Market Rules" in Rule 101 is being amended to refer more generically to "the rules, regulations, procedures of, and agreements governing, a Market". New definitions of "EFRP", "Energy Block Trade Facility", "Energy Block Transaction", "F&O Block Contract", "F&O Block Transaction", "F&O Matched Contract" and "F&O Matched Transaction" are being added to remove the need to refer to trading venue-specific contracts and transactions throughout the Rules. For example, the definition of "F&O Matched Transaction" covers all F&O Transactions occurring on a Market (without need to use separate defined terms to refer to F&O Transactions occurring on each of ICE Endex, ICE Endex UK, ICE Futures Europe and ICE Futures US). Similarly, the "F&O Block Transaction" defined term covers all Financials & Softs Block Transactions and Energy Block Transactions. Corresponding changes are being made to the definitions of "Basis Trades", "Bclear", "Business Day", "Contract Terms", "EFPs", "EFSs", "Financials & Softs Block Trade Facility", "Financials & Softs Block Transaction" and "Soft Commodity EFRP" in Rule 101 and also at Rules 102(f), 111(c)(ii), 201(a)(ii)-(iv), 401(a)(i)-(v), 401(n), 405(b)(i), 1201(f)(x), 1202(b)(iii), 1202(h) and 1202(m)(vi). Similar changes are also being made to paragraphs 2.4(c), 6.2(b)(iii) and 6.4(b) of the Clearing Procedures and paragraph 1.1(c) of the Delivery Procedures. It will still be necessary to list the Markets cleared by the Clearing House in Rule 101; these changes merely reduce the complexity of any future changes in those Markets.

## 6. Changes to Delivery Procedures

In the Delivery Procedures, various drafting changes are being made to ensure that the Delivery Procedures are consistent with the Rules and with the current operational practices of ICE Clear Europe. The changes include replacing outdated references to the "Market Delivery Settlement Price" (MDSP) with references to the "Exchange Delivery Settlement Price" (EDSP), which is the term now used in the Rules to refer to the settlement price for F&O Contracts. In addition, a small change is being made to remove a requirement to mark delivery documentation as "urgent" (as this is not done, and is not necessary, in operational practice). A number of drafting improvements are also being made to address inconsistencies and errata from previous changes to the Delivery Procedures and to align the document with current operational models, system functionality and system names. The relevant changes are being made to paragraph 2 of the general provisions of the Delivery Procedures and to

the following product-specific sections: Part A, paragraphs 2.2, 7.3 and 8; Part B, paragraphs 1.2, 5.1, 5.2 and 5.5; Part C, paragraph 2.3; Part D, paragraph 7.1; Part N, paragraph 2.3; Part O, paragraph 1.2; Part P, paragraphs 1.1-1.3 and Delivery Timetable; Part Q, paragraph 1.2; Part R, paragraph 1.2; Part T, paragraph 1.3; Part U, paragraphs 1.3 and 1.6; and Part BB, paragraph 1.2. In addition, changes to paragraph 1.2 of the general provisions of the Delivery Procedures are being made to refer to the "clearing operations department" of ICE Clear Europe, which is the correct name of the relevant department.

In paragraph 5.4 of the general provisions of the Delivery Procedures, the words "of such Transferor/Transferee" are being added at the end of the last sentence to clarify that the relevant form must be signed by an authorized signatory of the Transferor or Transferee (as applicable). Changes are also being made to paragraph 17.5 of the Delivery Procedures to refer more generally to the provisions of "Contract Terms" and "Market Rules" that apply following non-performance of contractual obligations, rather than just the ICE Futures Europe Rules (since ICE Clear Europe provides clearing services to various Markets). In addition, the reference to the specific provisions of the ICE Futures Rules is being updated to refer to the correct provisions.

Various changes are also being made to the Delivery Procedures to remove references to certain products that are no longer cleared by ICE Clear Europe following delistings by the relevant exchange. These include ICE Futures ERU Futures Contracts, ICE UK Base Electricity Futures Contracts (EFA), ICE UK Peak Electricity Futures Contracts (EFA), ICE Endex TTF Natural Gas Working Days Next Week (WDNW) Futures Contracts, ICE Endex GASPOOL Natural Gas Daily Futures Contracts, ICE Endex NCG Natural Gas Daily Futures Contracts, ICE Endex ZTP Natural Gas Daily Futures Contracts and Japanese Government Bond Contracts. In addition, for Equity Futures/Options Contracts changes are being made to reflect the fact that Turkish securities are not available as an underlying. In the case of the ICE Futures ERU Futures Contracts, the changes involve not only deleting references to the contracts but also removing all defined terms relating to Emission Reduction Units ("ERUs"), for example "Emission Reduction Unit", "ERU Contract", "ERU Delivery Amount" and "ERU Transfer Request", and the instances in which these appear, because such units are no longer valid deliverables for the relevant contracts. The relevant changes are being made to paragraphs 5.1, 6.1 and 11 of the general provisions of the Delivery Procedures and to the following product-specific sections: Part A, heading and preamble; Part A, paragraphs 1.1, 2.1-2.4, 3.2, 5.1, 6.1, 8 and 9.1; Part F, heading and paragraphs 1.1(j), 3.3, 3.5(a), 3.6, 6.1, 7.1 and 9.1; Part G, heading and paragraphs 1.1(j), 2.2, 2.4-2.5, 5.2, 6.2 and 8.2; Part H, heading and paragraphs 1.1(f), 2.3, 2.5-2.6, 5.2, 6.2 and 8.2; Part I, heading and paragraphs 1.1(n), 3.3, 3.5-3.6, 6.2, 7.2 and 9.2; Part V (deletion); and Part Z, paragraphs 1.2 and 2.1. The table of contents is also being updated accordingly.

The Delivery Procedures are being amended to reflect the current systems used by ICE Clear Europe to communicate with Clearing Members and facilitate delivery. There are a number of references to obsolete systems in the current published version of the Delivery Procedures. In some cases, there is no reference at all to the appropriate system used by ICE Clear Europe to communicate a particular piece of information to Clearing Members (or vice versa). The changes involve removing

references to systems that are no longer used for the relevant purpose, for example the Universal Clearing Platform (UCP), Trade Registration System (TRS) and Crystal, and adding new references to the current systems such as the Extensible Clearing System (ECS) and Managed File Transfer System (MFT). The changes are being made to paragraph 16 of the general provisions of the Delivery Procedures and to the following product-specific sections: Part A, paragraph 5.3; Part B, sections 2 and 4; Part K, section 4; Part L, section 4; Part O, section 1 (Delivery Timetable); Part P, section 1 (Delivery Timetable); Part Q, section 1 (Delivery Timetable); Part R, sections 1 (Delivery Timetable) and 2 (Delivery Documentation Summary); Part S, paragraph 1.1; Part T, paragraph 1.3; Part U, paragraphs 1.6 and 1.9; Part W, paragraph 1.8; and Part X, paragraph 1.8.

## 7. Other Updates to Definitions

The amendments include a number of other drafting clarifications, typographical corrections and drafting improvements to the definitions in Rule 101. In particular, the definition of “Portfolio Risk Margin” is being removed as unnecessary in the Rules (as it is part of the concept of Initial Margin) and other references in the Rules to Portfolio Risk Margin are being removed or replaced with Initial Margin, as applicable. The definitions of “Transferor” and “Transferee” are being amended to include an explicit reference to Part 7 of the Rules and the Delivery Procedures, in order to clarify that the terms are intended to refer to persons nominated by Buyers or Sellers to make or receive delivery of products in the course of the delivery process under the Rules and the Delivery Procedures. The definition of “Person” in clauses (a) and (b) thereof is being revised to refer to “any similar structure in any other jurisdiction,” a clarification requested by market participants to clearly cover funds and similar structures that exist in civil law jurisdictions in Europe such as Germany. The definition of “Force Majeure Event” is being amended to include a missing word to clarify the application of the term to Sponsored Principals and ensure consistency with other aspects of the definition. The definition of “Future” is being clarified such that it does not include Options (which are covered by a separate defined term). The definition of “Mark-to-Market Margin” is being clarified by addition of a reference to cover such margin transferred to a Sponsored Principal as well as a Clearing Member. Clause (b) of the definition of “Set” is being amended to use the defined term “Strike Price” instead of an undefined term. In the definition of “Settlement and Notices Terms,” a reference to FCM/BD Clearing Members that are CDS Clearing Members is being corrected.

In addition, with respect to certain other definitions, typographical corrections, updates to cross-references to various Rules and Procedures and corrections to alphabetical ordering are being made.

## 8. Additional Clarifications and Updates

ICE Clear Europe is making a number of additional clarifications, drafting updates and similar corrections to other provisions of the Rules.

In Rule 102(i), a change is being made to clarify, for completeness, that social security contributions also fall within the meaning of the term "tax" throughout the

Rules. In the UK, as well as income tax, there are “national insurance contributions” payable by employers and employees, and similar concepts apply in several other countries. This amendment ensures that all taxes are being covered when representations and indemnities exist under the rules. In several places throughout the Rules and Procedures, amendments are being made to replace undefined terms with defined terms, for greater clarity and drafting precision. In this regard, a drafting change is being made to Rule 106(a)(vii) to use the defined term "Person" in place of the undefined term "body". In Rules 106(e)(i) and 113(e), paragraph 6.1(i)(v) of the Finance Procedures and paragraph 17.6 of the Delivery Procedures, similar changes are being made to use the defined term "Applicable Law" instead of undefined terms such as "applicable law" or "law". In the net sum calculation in Rule 906(a), the word "margin" in the explanation of the variable "M" has been replaced with the defined term "Margin". Similarly, Rule 913(a)(xiv) is being amended to remove the terms "strike price" and "exercise price" and replace these with the defined term "Strike Price." In Rule 1604(b), the lower case term "transfer" is being replaced with the defined term "Transfer," which is given a particular meaning by Rule 904(a) in the context of the default management steps that ICE Clear Europe is permitted to take under the Rules and Procedures. In paragraph 2.2(e) of the Clearing Procedures, "commodities" is being replaced with the defined term "Deliverables", which is the defined term that includes commodities in addition to other types of deliverable. In the Finance Procedures, at paragraph 4.2, references to "accounts" are being replaced with the defined term "Nominated Bank Accounts". These changes are generally intended to clarify the Rules but are not intended to change the substantive rights or obligations of the Clearing House or Clearing Members.

In Rule 106(b), an amendment is being made to clarify that Clearing Members and Customers are deemed to consent to disclosure of information by ICE Clear Europe where made pursuant to Applicable Law generally, rather than just pursuant to the provisions of the Financial Services and Markets Act 2000, which may not be the only applicable law for non-UK Clearing Members.

Various changes are being made throughout the Rules and Procedures in order to be consistent in the use of such terms as “section” and “paragraph,” including to Rule 109(j), Rule 904(g), Sections 3(n), 3(o), 10, 13(a) and 13(c) of the Standard Terms, paragraphs 2.2, 4.5 6.1(i) and 13.3 of the Finance Procedures, paragraphs 3.1 and 10.2 of the FX Procedures and paragraph 8.2(h)(ii) of the CDS Procedures.

In Rule 110(b), a drafting clarification is being made to highlight that this provision is also subject to Rule 110(g) (in addition to Rule 110(c)). Rule 110(g) (which by its terms overrides Rule 110(b)) provides that ICE Clear Europe does not have the right to extend the time at which a payment is due to a Clearing Member beyond the time immediately prior to the commencement of the daily payment cycle for the relevant payment currency.

Changes at Rule 117(a) are being made to remove the words "Subject to Rule 1518" and provide that any Dispute not subject to the procedures of Part 10 of the Rules or the Complaint Resolution Procedures shall be subject to arbitration. This change is intended to reduce the risk of procedural questions as to the dispute resolution process which is applicable in a given scenario. Rule 1518 by its terms overrides Rule 117 in

the relevant circumstances stated thereunder and so the deleted language is not needed.

The words “and the deposit of securities” and “and securities” are being deleted in Rule 202(a)(xi). This reflects current operational processes, under which amounts transferred to and from ICE Clear Europe by Clearing Members for the purposes of Margin, Guaranty Fund Contributions, fees and amounts due under contracts pursuant to a margin call will only be in the form of cash (and not securities or other financial instruments). Securities may be substituted for cash margin pursuant to a separate process.

Changes at Rule 206(a) include Clearing Member Capital requirements in the Membership Procedures, in addition to under the CDS Procedures and Finance Procedures. The Capital requirements themselves are not being changed.

A clarification is being made to Rule 401(b) to improve the current drafting by providing that new contracts arising at the moment that alternative delivery is agreed are “Contracts reversing the existing Contract or Contracts.” An alternative delivery agreement results in the cancellation of the existing cleared contract through an offsetting contract. The change reflects current practice and is not intended to have any effect on the way in which the offsetting process operates.

In Rule 401(n), changes are being made to clarify the application of the Rule to Customer-CM Transactions that arise when an F&O Contract arises pursuant to Rule 401. (In such case, an offsetting Customer-CM F&O Transaction arises simultaneously between the Customer and Clearing Member.) The Customer-CM Transaction are subject to the same conditions as to when contracts can be voided as other contracts under Part 4 of the Rules.

Changes are being made to Rule 405(b)(i) to correctly refer to the execution venues which can submit contracts to ICE Clear Europe for clearing, namely CDS or FX trade execution processing platforms and venues falling within the definition of “Market”. These changes clarify that the deemed representations given by counterparties to contracts as to the accuracy of transaction data equally arise in a scenario where the transaction was originally executed through one of these alternative venues, and not solely in relation to transactions that take place on Exchanges.

The word “day” in Rule 406(a) is being replaced with “Business Day” to reflect the fact that Open Contract Positions are not calculated on non-Business Days. Changes refer to “Contracts that are Futures” and “Contracts that are Options”, to replace the current references “Futures that are F&O Contracts” and “Options that are F&O Contracts”, which are redundant.

A minor drafting change is being made to Rule 502(c) to clarify that the particular set of Procedures referred to here are the Finance Procedures. Relatedly, a clarification is being made in Rule 502(d) to confirm that the ability of the Clearing House to “specify proportions or maximum proportions of asset classes” extends to cash and relates solely to cash or assets “to be provided as Margin.”



Changes in Rule 502(k) (which relates to certain considerations in making certain changes in eligible assets for Margin and Permitted Cover and related haircuts) clarify the application of this provision to all Contract types and not just F&O Contracts, consistent with existing practice. Rule 503(d) is being amended to clarify the calculation of intra-day margin in the context of certain customer positions carried on a gross basis. The new drafting clarifies that Margin is calculated based on the Open Contract Position plus "the net additional exposure relating to any Contracts held gross which have not been contractually netted or aggregated in accordance with Rule 406". The amendment is not intended to change margin calculations, but avoid uncertainty as to the treatment of gross positions under the current drafting of the Rules consistent with provisions used by other ICE clearing houses.

In Rule 803(c), drafting changes are being made to clarify that only "Long" Option Contracts can be abandoned by notice to ICE Clear Europe, consistent with the rights applicable to options under the existing Contract Terms and existing operational processes. Minor drafting improvements are also being made in Rules 803(a), 804 and 808(a).

Rules 908(b), (c) and (d) are being revised to make certain non-substantive drafting clarifications. Further, in those subsections, with regard to amounts falling within "N" (the post-default net sum calculation), which form the first layer of the default waterfall (subparagraph (i) in Rules 908(b), (c) and (d)), amendments provide that such amounts must be applied "subject to the restrictions set out in Rule 906(c)". Rule 906(c) imposes restrictions on the setting off of assets recorded in different Customer Accounts of a Defaulter against shortfalls on Proprietary Accounts or other Customer Accounts of the same Defaulter, promoting segregation under the European Market Infrastructure Regulation and U.S. laws. The drafting does not affect the operation of Rule 906(c), but makes the Rules easier to follow by directing readers to Rule 906(c) in the context of the default waterfall provisions in Rule 908. Finally, changes are being made to subparagraph (iii) to clarify that this layer of the waterfall does not include guaranty fund contributions of a Sponsor of a Defaulter (that is a Sponsored Principal).

Minor drafting changes are being made to Rule 908(g)(i)(A)-(D) to add the words "in question" after the second instance of "Defaulter". These changes are intended to resolve any ambiguity as to which guaranty fund contributions are to be used in the situation where more than one default takes place simultaneously.

The exclusion of ICE Clear Europe's liability in Rule 919(r) is being amended to remove the reference to requirements of "law" generally and replace this with a reference to requirements of "Applicable Laws or this Rule 919". The amendments also clarify that the exclusion of liability does not apply to the extent that Rule 919 itself provides that a particular sum is payable by ICE Clear Europe. This is consistent with ICE Clear Europe's interpretation of the existing effect of this provisions, but adds clarity for users.

An amendment is being made to Rule 1103(f) to add a reference to Part 9 of the Rules in the provision setting out that Clearing House Contributions will be used "only for the purposes of meeting shortfalls arising directly or indirect from Defaults" in

accordance with specified provisions of the Rules and existing requirements of Applicable Laws. The added reference to Part 9 is appropriate as it contains the majority of the provisions governing Clearing Member defaults, after some provisions were moved out of Part 11 several years ago.

A drafting change is being made in Rule 1202(b)(vii) to reflect the fact that Financials & Softs Contracts are already contemplated within the definition of a "Future" and accordingly the reference to Financials & Softs Contracts can be deleted. ("Future" refers to "an F&O Contract or FX Contract"; "F&O Contracts" include Financials & Softs Contracts (in addition to Energy Contracts).) A similar change is to be made in Rule 1202(k) to refer to "Contracts" rather than "Financials & Softs Contracts" specifically (which fall within the more general "Contracts" definition).

In the Clearing Procedures, in paragraphs 2.3(b)(xxv), (xxvii), (xxxix) and (xli), references to the "Standard Omnibus Indirect Account For CDS" and the "Standard TTFCA Omnibus Indirect Account For CDS" in account codes "X" and "Y" are being removed. These net margin omnibus accounts for indirect clearing are not actually used for CDS Contracts.

A drafting clarification is being made in paragraph 4.2(a) of the Clearing Procedures to provide that that initial margin calculations be "based on" the net positions for each Contract Set in a Proprietary Account. (This does not entail any change in the way margin is currently calculated.) In paragraph 4.2(b), the reference to the "Risk Committee" is being replaced with a reference to the relevant "product risk committee," which is the correct name of the relevant committee that reviews the policy for setting initial margin parameters.

References to "Buyer's Security" and "Seller's Security" in paragraphs 4.6(c)(i) and 4.8 the Clearing Procedures is being amended to replace "Security" with "security" (reflecting that "Security" is not a defined term in the Rules or Procedures). Changes are also being made to paragraphs 4.6(c) and 4.8 to refer to particular items that may be specified in the Delivery Procedures.

In paragraph 6.1(a)(i) of the Clearing Procedures, an incorrect reference to "Proprietary Account Position" is being corrected. The capitalized term "Collateral" in paragraph 6.3(b) of the Clearing Procedures is being replaced with the lower case term "collateral", as there is no definition of the former term in the Rules or Procedures. The word "Initial" before the words "Margin requirement" is also being deleted in the same provision since the relevant requirement concerns all kinds of Margin (including Variation Margin or Mark-to-Market Margin).

In the Finance Procedures, a new paragraph 1.11 is being added to provide definitions for the various currencies referenced the Finance Procedures which are not defined in the Rules. Related to this, the reference to Canadian Dollars, Swiss Francs and Swedish Kroner in paragraph 2.1 is being deleted and replaced by the words "Other currencies" to reflect the fact that a broader range of currencies are actually received as income on non-cash collateral. Changes are being made to paragraph 4.1(a)(vi) to clarify that Clearing Members that transfer non-cash assets to ICE Clear Europe as collateral must have an account in the currency of the income payable on the non-cash

asset. A non-substantive drafting clarification is being made in paragraph 4.2 to address Clearing Members that act in more than one product category.

In paragraph 6.1(i) of the Finance Procedures, the current reference to "bank holidays" is being amended to refer also to "public holidays," because "bank holiday" is a UK-specific term that is not necessarily used in other jurisdictions. Certain other changes clarify that relevant actions must be taken "by" a specified date, rather than "on" that date. Paragraph 8.2 of the Finance Procedures is being amended to refer to the "risk department", since "Risk" is an undefined term.

Changes are being made to paragraph 10.9 of the Finance Procedures to reflect the fact that the London Gold Fixing is being replaced as the relevant global benchmark for gold prices by the London Bullion Market Association Gold Price, which is administered by ICE Benchmark Administration Limited.

In the Contract Terms Procedures, the term "Clearing Counterparty" (which is not used or defined in the Rules or other Procedures) is being changed to "Clearing Member" for consistency.

In the Membership Procedures, in paragraph 1.3, the full name of the relevant committee, the "Executive Risk Committee", will be used. Various drafting changes are also being made to the table at paragraph 4.2. These updates reflect the relevant defined terms used in the Rules (as being amended hereby).

In addition to the foregoing, certain corrections and updates to cross-references and numbering, as well as minor and non-substantive corrections to capitalization and other typographical corrections, are being made throughout the Rules and Procedures.

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

The amendments are potentially relevant to the following core principle: (R) Legal Risk Considerations and (E) Settlement Procedures and the applicable regulations of the Commission thereunder.

- *Legal Risk Considerations.* As discussed herein, the amendments are designed to clarify, simplify and harmonize various aspects of the Rules and Procedures, to be consistent with current operations and reflect current practices, to remove outdated references to contracts no longer cleared, to address changes in Markets served and delivery facilities used and simplify references to those Markets and facilities, and similar matters. Taken together, these amendments will enhance the clarity of the legal framework provided by the Rules and Procedures under which the Clearing House operates, and are therefore consistent with the requirements of Core Principle R and CFTC Rule 39.27.
- *Settlement Procedures.* As discussed herein, amendments to the Delivery Procedures are being made to clarify the relevant forms to be signed by authorized signatories of Transferors and Transferees and to reflect current

systems used by ICE Clear Europe to communicate with Clearing Members and facilitate delivery. The amendments also remove various outdated references. The amendments improve clarity with respect to the obligations of ICE Clear Europe, Clearing Members and other market participants with respect to physical deliveries and are therefore consistent with the requirements of Core Principle E and CFTC Rule 39.14.

As set forth herein, the amendments consist of changes to the Rules and Procedures, a copy of which is attached hereto.

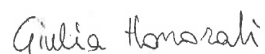
ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

ICE Clear Europe received no substantive opposing views in relation to the amendments. ICE Clear Europe has conducted a public consultation on amendments to its Rules that included the rule changes set forth herein.<sup>4</sup> ICE Clear Europe received three detailed and written responses to the overall consultation, which included four specific comments relating to the amendments described in this filing. It has discussed aspects of the Rule changes, as were presented in such consultation, with those interested Clearing Members who responded. Based on feedback received by ICE Clear Europe, those Clearing Members who responded supported all the changes described herein. With respect to the amendments that are subject to this filing, one Clearing Member in each case asked certain questions concerning the rationale for amendments to the definition of "Person", Rule 401(b), Rule 503(d) and Rule 503(f)(i), the rationale for each of which is presented above. The rationale for these changes was clarified in a call with the relevant Clearing Members. ICE Clear Europe determined that the questions were adequately addressed by oral explanations and discussions with Clearing Members and that no material changes to the amended Rules were required.

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@theice.com](mailto:Giulia.honorati@theice.com) or +44 20 7429 7127.

Very truly yours,



Giulia Honorati

Manager Regulation & Compliance

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<sup>4</sup> ICE Clear Europe Circular C19/046 (March 8, 2019), available at [https://www.theice.com/publicdocs/clear\\_europe/circulars/C19046.pdf](https://www.theice.com/publicdocs/clear_europe/circulars/C19046.pdf).