



November 13, 2019

By Electronic Filing

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: **Self-Certification Pursuant to CFTC Regulation 40.6 – Permit FCM Clearing Members to Clear on Behalf of Customers (Eris Clearing, LLC Submission 2019-01C)**

Dear Mr. Kirkpatrick:

Eris Clearing, LL (“Eris Clearing”), a registered derivatives clearing organization (“DCO”) under the Commodity Exchange Act, as amended (the “Act”), hereby notifies the Commodity Futures Trading Commission (the “Commission”), that pursuant to Commission Regulation 40.6 it is self-certifying all Eris Clearing Rules applicable to customer clearing so as to permit FCM Clearing Members to clear on behalf of Customers, as described herein.¹ The Rules shall become effective on or following November 26, 2019.

Concise Explanation and Analysis

1. Overview

Pursuant to the Commission’s Order of Registration dated July 1, 2019, granting Eris Clearing registration as a derivatives clearing organization (“DCO Order”), “[p]rior to permitting FCM Clearing Members to clear on behalf of Customers, Eris Clearing shall submit all rules applicable to customer clearing to the Commission pursuant to Commission Regulation 40.5 or 40.6.” Accordingly, Eris Clearing is making this self-certification to satisfy the requirement in the DCO Order and pursuant to discussions with staff in the Division of Swap Dealer and Intermediary Oversight (DSIO).

2. Discussion of Rules

The Eris Clearing Rulebook in its entirety, including all Rules related to FCM Clearing Members, were previously submitted to the Commission as part of the DCO registration process. The

¹ Capitalized terms used in this filing, but not defined herein, have the same meaning as specified in Eris Clearing Rules.

pertinent Rules relevant to this filing have not been amended from those previously submitted to the Commission. Exhibit A to this filing contains the Eris Rulebook in its entirety. As there have not been any amendments to the Rulebook as previously submitted to and approved by the Commission in connection with the Commission's approval of Eris Clearing as a DCO, other than to update the date of the Rulebook to reflect this submission, there are not any deletions or additions to be indicated in Exhibit A. What follows is a description of the unique substantive Rules related to FCM Clearing Members.

Rule 101: This Rule sets forth the definitional terms of the Eris Clearing Rulebook and, as pertinent to this certification, the definitions of "FCM Clearing Member," "FCM," "Customer," and "Customer Account."

Rule 301(e): This Rule provides that, in addition to all requirements required of a Clearing Member, an FCM Clearing Member must be duly organized and in good standing in its state of organization, maintain back-office facilities staffed with experienced and competent personnel or enter into a facilities management agreement in a form and substance acceptable to Eris Clearing, and maintain minimum regulatory capital of \$5 million, or such higher amount as imposed by the Commission, another Government Agency, or Self-Regulatory Organization.

Rule 306(b) and (c): These Rules provide that, in addition to events for which all Clearing Members must submit written notice, an FCM Clearing Member must also submit written notice for events related to, among other things, material changes and events related to the FCM's finances, ownership, business, back-offices systems or facilities manager, and risk management process.

Rule 307: This Rule Requires FCM Clearing Members to have a complete list of omnibus and carrying broker accounts it maintains and to record in its records the gross long and short positions held in an omnibus account. The Rule also makes clear that where an FCM Clearing Member maintains an omnibus account with another FCM Clearing Member it remains financially responsible for that omnibus account.

Rule 308: This Rule sets forth the minimum financial requirements that must be maintained by an FCM Clearing Member and the related financial reporting required of an FCM Clearing Member.

Rule 309(a) and (c): Subparagraph (a) of the Rule provides that Customer funds deposited by an FCM Clearing Member will be held in a "Customer Segregated" account such that the FCM Clearing Member shall satisfy the acknowledgement letter requirements under Commission Regulation 1.20. Subparagraph (c) of the Rule provides that Eris Clearing will transfer Customer property from a Customer Account of one FCM Clearing Member to the Customer Account of another FCM Clearing Member, upon request of such Customer.

Rule 310(c)-(e): This Rule provides that an FCM Clearing Member must maintain adequate accounting systems and internal controls to safeguard Customer assets. Additionally, it requires an FCM Clearing Member to provide to Eris Clearing, upon request, back-office system reports and a listing of each of its Customers' method of access to Eris Exchange, LLC.

Rule 311: This Rule requires FCM Clearing Members to Maintain written disaster recovery and business continuity policies and procedures.

Rule 313: Consistent with Commission regulations, this Rule requires FCM Clearing Members to hold Customer funds and assets separate from those of the FCM Clearing Member and provides that Eris Clearing will comply with applicable segregation requirements of Section 4d of the Act with respect to Customer Funds held by Eris Clearing.

In addition to the rules identified above, FCM Clearing Members must comply with all Rules that are applicable to any other Clearing Member or apply to any other activities that they might undertake with regard to Eris Clearing.

Compliance with the Act and Commission Regulations

Eris Clearing reviewed the DCO Core Principles and determined that the following Core Principles and the relevant Commission regulations may be pertinent to permitting FCM Clearing Members.

1. Core Principle C - Participant and Product Eligibility

Recognizing the unique position that FCM's have within the futures industry and regulatory scheme, because of their role as intermediary for those wishing to trade futures contracts, it is appropriate that Eris Clearing impose additional requirements on FCM Clearing Members that are not imposed upon Direct Clearing Members. The requirements, in particular relating to financial requirements, risk management, and protection of Customer assets are consistent with those imposed upon FCMs by the Commission and other DCOs.

2. Core Principle F - Treatment of Funds

As discussed above, Eris Clearing requires FCM Clearing Members to hold Customer assets in compliance with Section 4d of the Act and the Commission regulations, thereunder. Further, Eris Clearing will hold all Customer assets received from FCM Clearing Members in accordance with Section 4d of the Act and the Commission regulations, thereunder and separate from Eris Clearing's own funds and those of Direct Clearing Members, which will be held in Member Property Accounts. Additionally, Eris Clearing will only invest Customer assets in instruments that comply with CFTC Regulations.

Certification, Opposing Views and Posting on Website

Eris Clearing has discussed the matter of permitting FCM Clearing Members with its Board of Directors, its Risk Management Committee, and potential FCM Clearing members, and has not received any substantive opposing views regarding these Rules.

Eris Clearing certifies that these Rules comply with the Act and the rules and regulations promulgated thereunder.

Eris Clearing has posted this submission concurrently on Eris Clearing's website at <https://www.erisx.com/regulation/exchange-notices/>.

In the event that you have questions or require further information regarding this submission, please do not hesitate to contact the undersigned at michael.piracci@erisx.com or 646-961-4486.

Very truly yours,

/s/

Michael A. Piracci
Chief Compliance Officer
Eris Clearing, LLC

Exhibit A

SEE ATTACHMENT