



November 20, 2019

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 – ICE  
Futures Abu Dhabi

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 its Clearing Rules (the “Rules”)<sup>1</sup> and General Contract Terms 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 General Contract Terms in order to provide clearing services for F&O contracts to ICE Futures Abu Dhabi (“IFAD”), an affiliated newly established futures exchange which will form part of the Intercontinental Exchange, Inc. global network of exchanges.<sup>2</sup> IFAD will operate an energy futures and options market and intends to initially launch a physically delivered futures contract whose underlying is Murban crude oil.<sup>3</sup> The proposed amendments to the Rules reflect the addition of IFAD as a trading market cleared by ICE Clear Europe and include

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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 (the “Rules”).

<sup>2</sup> Intercontinental Exchange, Inc. has announced the planned launch of IFAD, which will be a recognized investment exchange under the laws of the Abu Dhabi Global Market (“ADGM”).

<sup>3</sup> The initial launch of IFAD trading is expected to be in the first half of 2020, subject to completion of all regulatory approvals and other conditions. ICE Clear Europe expects that prior to the launch, it will adopt amendments to its Delivery Procedures relating to settlement of the launched contracts, which will be filed with the Commission under Rule 40.6. IFAD has stated that it may in the future list other crude oil and crude-oil related products and other financial futures or options contracts on such futures contracts, subject to applicable regulatory authorizations.

relevant references to applicable ADGM laws and regulations. Contracts traded on IFAD and cleared at ICE Clear Europe will be F&O Contracts for purposes of the Rules.

In Rule 101, new defined terms are being added to reference IFAD itself, its rules and the various types of IFAD transactions, in a manner generally consistent with the defined terms applicable to other F&O energy markets (and transactions thereon) cleared by ICE Clear Europe. These defined terms include “IFAD,” “IFAD Block Contract,” “IFAD Block Trade Facility,” “IFAD Block Transaction,” “IFAD Contract,” “IFAD Matched Contract,” “IFAD Matched Transaction,” “IFAD Rules” and “IFAD Transaction”. In addition, defined terms are being added for relevant regulatory matters, including “FSMR” (the Financial Services and Markets Regulations 2015 of the Abu Dhabi Global Market), “FSRA” (the Abu Dhabi Global Market’s Financial Services Regulatory Authority) and “FSRA Rules” (the rules and similar materials of the FSRA).

Certain existing definitions are being updated to reference IFAD and the new defined terms (consistent with existing references to other cleared markets), including: “Applicable Law” to include references to the FSMR and the FSRA Rules; “Regulatory Authority” to include the FSRA; “Energy” to also refer to the clearing of IFAD Markets; “Energy Transaction” to include IFAD Transactions; “Market” to include IFAD; and “Non-DCM/Swap” to include an IFAD Transaction and an IFAD Contract.

The introductions to Part 9 (Default Rules) and Part 12 (Settlement Finality Regulations and Companies Act 1989) of the Rules are also being amended to reference the FSMR among other relevant Applicable Laws on which the Clearing House may rely for purposes of default management.

A new Rule 1208 is being added to address specifically settlement finality under ADGM laws. Pursuant to the rule, Clearing Members and other Participants acknowledge that modifications to Applicable Laws in the Abu Dhabi Global Market related to insolvency, which may affect Clearing Members, the Clearing House and other Participants, may apply pursuant to the FSMR as a matter of ADGM law. The rule gives notice to Clearing Members and other Participants that these modifications may apply in relation to a broader range of circumstances than those set out in Part 12 itself, and may provide expanded settlement finality protections as a matter of ADGM law compared to those which are available under English and European law, particularly as regards the settlement finality upon delivery of non-securities products such as oil.

ICE Clear Europe is also making a conforming change to its General Contact Terms to include a reference to the IFAD rules, which set out certain contract terms for IFAD contracts.

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

The rule amendments are potentially relevant to the following core principles: (B) Financial Resources, (C) Participant and Product Eligibility, (E) Settlement Procedures, (G) Default Rules and Procedures and (R) Legal Risk, and the applicable regulations of the Commission thereunder.

- *Financial Resources.* ICE Clear Europe will apply its existing energy margin methodology to IFAD contracts. ICE Clear Europe believes that this

methodology will provide sufficient margin to cover the risks from clearing such contracts, which are similar to other energy contracts cleared by ICE Clear Europe. In addition, for similar reasons, ICE Clear Europe will apply its existing F&O Guaranty Fund methodology in connection with the IFAD contracts. In ICE Clear Europe's view, the existing methodology will be sufficient to support clearing of the IFAD contracts in addition to other F&O Contracts. As a result, ICE Clear Europe believes that its financial resources will be sufficient to support clearing of IFAD contracts, consistent with the requirements of Core Principle B and Commission Rule 39.11.

- *Product Eligibility.* ICE Clear Europe believes that its existing financial resources, risk management, systems and operational arrangements are sufficient to support clearing of IFAD contracts and to manage the risks associated with such contracts. The amendments also make a conforming change to ICE Clear Europe's General Contact Terms to include a reference to the IFAD rules, which set out certain contract terms for IFAD contracts, and to update various defined terms in the Rules to reference IFAD and IFAD transactions to ensure the existing Rules apply as appropriate. As a result, ICE Clear Europe believes that the amendments are consistent with the requirements of Core Principle C and Commission Rule 39.12(b).
- *Settlement Procedures.* The amendments update Part 12 of the Rules relating to settlement finality specifically to address relevant ADGM law, including providing that Clearing Members and other Participants acknowledge that modifications to Applicable Laws in the ADGM related to insolvency may be applicable as a matter of ADGM law. The roles and rights and obligations of the Clearing House and Clearing Members in respect of delivery under IFAD contracts will be further specified in the Delivery Procedures to be adopted for particular contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements relating to ensuring settlement finality of Core Principle E and Commission Rule 39.14.
- *Default Rules and Procedures.* The amendments make clarifications to the default management provisions in Parts 9 and 12 of the Rules to reflect relevant rights under ADGM regulations. As such, the amendments are consistent with the Clearing House's ability to take timely action to continue to meet its obligations in the case of default, in accordance with Core Principle G and Commission Rule 39.16.
- *Legal Risk.* As discussed herein, the amendments add references to ADGM regulations and regulatory authorities into relevant provisions of the Rules, such as the defined term Applicable Laws, as well as generally incorporate IFAD transactions into the framework of the Rules. Other amendments further clarify the Clearing House's ability to rely on rights under the FSMR in managing a default, where applicable. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Core Principle R and Commission Rule 39.27.

As set forth herein, the amendments consist of changes to the Rules and General Contract Terms, copies of which are attached hereto.

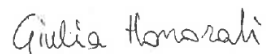
ICE Clear Europe hereby certifies that the amendments comply with the Act and the Commission's regulations thereunder.

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

Very truly yours,



Giulia Honorati  
Manager Regulation & Compliance