



January 08, 2024

BY ELECTRONIC TRANSMISSION

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

Re: Submission Pursuant to Section 5c(c)(1) of the Commodity Exchange Act and Commission Regulation 40.6(a) - Amendments to the ICE Clear U.S., Inc. Clearing Member Default Management Procedures and Default Auction Procedures

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE Clear U.S., Inc. (“ICUS”) is submitting this self-certification to amend the ICUS Rules,¹ specifically the ICUS Clearing Member Default Management Procedures (“Default Management Procedures”) and the ICUS Default Auction Procedures (“Default Auction Procedures,” collectively “Default Procedures”). ICUS intends to revise the Default Procedures no sooner than the tenth business day following the filing of this submission with the Commission, or such later date as ICUS may determine.

1. Overview

The proposed changes to the Default Management Procedures are designed to reflect the fact that ICUS no longer clears contracts that reference bitcoin. The proposed change to the Default Auction Procedures corrects a drafting error.

2. Details of Rule Changes

In May 2019, ICUS submitted proposed amendments to the Default Management Procedures to the Commission designed to govern the clearing of physically settled digital currency contracts (“Digital Currency Contract Amendments”).² Subsequently, after those Digital Currency Contract Amendments were implemented, ICUS started to clear and physically settle certain contracts that

¹ Capitalized terms used and not defined in this submission have the meaning set forth in the ICUS Rules.

² ICUS submitted these proposed amendments to the Commission on May 23, 2019, pursuant to Commission Rule 40.6(a) (the “May 23, 2019 Filing”). Although the May 23, 2019 Filing addressed contracts that reference digital currencies generally (“Digital Currency Contracts”), the proposed self-certification was limited to daily and monthly physically settled futures contracts, denominated in USD, that referenced bitcoin.



referenced bitcoin. On July 28, 2023, ICE Futures U.S., Inc. (“IFUS”) announced that it would delist those remaining contracts referencing bitcoin, and cleared by ICUS, with a last trading day of September 28, 2023. With the delisting of those contracts by IFUS, and following a periodic review, ICUS is proposing to amend its Default Management Procedures to reverse the Digital Currency Contract Amendments that were implemented following the May 23, 2019 Filing.³ Those Digital Currency Contract Amendments reflected a slightly different asset waterfall for Clearing Member defaults involving both Digital Currency Contracts and other asset classes, as well as a Digital Currency Contract specific skin-in-the-game contribution. The proposed amendment to the Default Auction Procedures removes a vestigial reference to a governing body that ICUS has never established.

ICUS has respectfully requested confidential treatment for the foregoing amendments to the Default Procedures which were submitted concurrently with this submission.

3. Compliance with the Act and Regulations

ICUS reviewed the foregoing amendments and determined that they comply with the requirements of the Act and the rules and regulations promulgated by the Commission in implementing the Act. In this regard, ICUS reviewed the derivatives clearing organizations core principles (“Core Principles”) and determined that the amendments are potentially relevant to the following Core Principles and the applicable regulations of the Commission thereunder:

Risk Management (Core Principle D): The proposed amendments to the Default Management Procedures will appropriately align them with the actual risks presented by the products that ICUS clears, following the delisting of the bitcoin contracts. For this reason, these proposed amendments are consistent with the requirements of Core Principle D and Commission Regulations 39.13 and 39.36.

Default Rules and Procedures (Core Principle G): The proposed amendments to the Default Management Procedures and Default Auction Procedures clarify those procedures, making them more efficient if they have to be implemented. As a result, these amendments are consistent with the requirements of Core Principle G and Commission Regulation 39.16.

4. Certifications

ICUS certifies that the amendments to the Default Procedures, comply with the Act and the rules and regulations promulgated by the Commission thereunder. ICUS is not aware of any substantive opposing views expressed regarding the amendments. ICUS further certifies that, concurrent with this filing, a copy of the submission was posted on ICUS’s website and may be accessed at <https://www.theice.com/clear-us/regulation>.

³ ICUS implemented analogous amendments to its Rules and Risk Management Framework following a September 29, 2023 filing with the Commission.



If you or your staff have any questions or require further information regarding this submission, please do not hesitate to contact the undersigned at (212) 748-3964 or Eamonn.Hahessy@ice.com.

Sincerely,

A handwritten signature in black ink that reads "Eamonn Hahessy". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Eamonn Hahessy
General Counsel and Chief Compliance Officer