



July 3, 2023

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 Rule 40.6  
– Collateral and Haircut Procedures Amendments

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, amendments to its Collateral and Haircut Procedures to modify the type of gold that may be accepted as collateral.<sup>1</sup> 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 revising Appendix A to the Collateral and Haircut Procedures to modify the eligibility criteria for accepting gold as collateral. As revised, to be eligible, gold will have to be held on an “allocated” basis<sup>2</sup> by the relevant custodian in the name of the Clearing House. Specifically, the change will provide that for the purposes of margin, gold transferred by a Clearing Member will first be held in an unallocated

---

<sup>1</sup> Capitalized terms used but not defined herein have the meanings specified in the Collateral and Haircut Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

<sup>2</sup> Allocated gold held by a custodian is specifically identified for a particular owner. Unallocated gold represents a claim against the relevant custodian for an amount of metal held in bulk.

account and in the name of the Clearing House. Such gold will only be recognized as Permitted Cover or eligible collateral when it is transferred from the unallocated accounts to an allocated account of the custodian held in the name of the Clearing House and thereupon deemed allocated pure gold bullion of recognized good delivery.

The amendments will remove existing provisions that permit unallocated gold to serve as eligible collateral. Although such unallocated gold is technically permitted as margin under the existing Collateral and Haircut Procedures, ICE Clear Europe has not in practice accepted gold as collateral, as the demand from Clearing Members has not been sufficient to justify the completion of certain operational testing procedures required to make the process technically live. As a result, ICE Clear Europe does not believe the amendment will require any Clearing Members to change their current margin postings. The amendment is intended to further clarify that only allocated pure gold bullion is considered collateral, as opposed to unallocated, in line with certain requirements under the European Market Infrastructure Regulation (EMIR) that gold collateral be held in allocated form.<sup>3</sup>

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

The amendments to the Collateral and Haircut Procedures are potentially relevant to the following core principles: (D) Risk Management and (R) Legal Risk Considerations and the applicable regulations of the Commission thereunder.

- *Risk Management.* As set forth above, the amendments will require that any gold posted as margin be in allocated form, rather than unallocated form. Limiting margin to allocated gold (which is generally viewed as being subject to reduced risks from custodian failure) is consistent with the requirement to limit collateral to assets with minimal credit, market, and liquidity risks, and accordingly the amendments would not increase the risk of the Clearing House from such collateral. The amendments would not otherwise change the Clearing House's current application of haircuts or concentration limits for Permitted Cover. As a result, the amendments are consistent with managing the risks associated with discharging its responsibilities as a DCO and thus comply with the requirements of Core Principle D and Commission Rule 39.13.
- *Legal Risk Considerations.* As discussed above, the amendments aim to ensure compliance with the requirements of the EMIR RTS, which limits gold accepted as margin to gold held in allocated form. As a result, the amendments will support the Clearing House's compliance with applicable law in all relevant jurisdictions and maintenance of its authorization by the appropriate licensing authority in relevant jurisdictions. As such, the amendments are consistent with the requirements of Core Principle R and Commission Rule 39.27.

---

<sup>3</sup> Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties, Annex I, Section 3 (the "EMIR RTS").

As set forth herein, the amendments consist of the amendments to the Collateral and Haircut Procedures. ICE Clear Europe has requested confidential treatment with respect to the amendments, 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 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 [George.milton@theice.com](mailto:George.milton@theice.com).

Very truly yours,

A handwritten signature in blue ink, appearing to read 'G. Milton', is positioned above the typed name.

George Milton  
Head of Regulation & Compliance