



August 9, 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 40.6 –
Liquidity and Investment Management Policy and Liquidity Management
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, amendments to its Liquidity and Investment Management Policy (“Policy”) and its Liquidity Management Procedures (“Procedures”) discussed herein¹. 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 modifying its Liquidity and Investment Management Policy and its Liquidity Management Procedures to make certain enhancements, clarifications and updates as described below. The amendments remove certain provisions that are no longer needed in light of the Clearing House’s adoption of its separate Liquidity Stress

¹ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Liquidity and Investment Management Policy and the Liquidity Management Procedures, as applicable.

Testing Procedures.² Other changes clarify and update the descriptions in the Policy and Procedures to reflect the Clearing House’s current practices with respect to its cash and collateral management functions. Certain non-substantive drafting and grammatical updates have also been made.

Liquidity and Investment Management Policy

The purpose statement of the Policy has been updated to remove an incorrect reference to a prior name of the Policy. The description of the Policy’s background has been updated to clarify that liquidity management and investment management are key activities related to ensuring that the Clearing House has adequate liquidity to cover its payment obligations each day during normal business operations as well as during technical issues with providers. This is consistent with the Clearing House’s current liquidity practices.

The discussion on Clearing Member Assets has been amended to refer more precisely to Clearing Member margin requirements and Guaranty Fund contributions instead of liabilities more generally. The amendments also provide that the list of eligible assets for margin and Guaranty Fund contributions is set out in the List of Permitted Cover, rather than in the Collateral and Haircut Policy and the same change has been made in other instances in the Policy. The remainder of the discussion on Margin and Guaranty Fund contributions has been removed because such matters are addressed in other existing policies and procedures and do not need to be repeated in the Policy.

The section discussing cash management has been updated to improve clarity and readability of provisions relating to the transfer and investment of cash collected through the Clearing House’s Assured Payment System (“APS”). Specifically, the amendments would more clearly reflect that ICE Clear Europe transfers cash to concentration banks, invests this cash and performs collateral exchanges involving cash. The amendment will not change the substance of the description.

The Policy’s overview of liquidity risk has been amended to make certain non-substantive drafting improvements, including to state that the Clearing House’s liquidity risk arises primarily from two events, (i) defaults and (ii) technical issues at financial service providers. The discussion on liquidity shortfalls due to default situations clarifies that for reasons of efficiency, the Clearing House may, to the extent permitted by the Rules and Procedures, choose to use available cash before selling assets from the default waterfall in order to make payments owed by the Clearing House. The same updates have been made to the Liquidity Management Procedures.

The amendments revise the discussion of liquidity shortfalls due to technical issues to state more clearly the options available to ICE Clear Europe. The current version of the Policy references the Clearing House’s ability to use its uncommitted or committed repo lines or liquidate non-cash collateral. As revised, the Policy state more generally that if such a shortfall occurs at a service provider, ICE Clear Europe may use assets not affected by that service provider to generate the liquidity needed, which may include uncommitted and committed repo lines, as well as using cash in other currencies or

² ICE Clear Europe has separately filed for self-certification under Rule 40.6 a rule change with respect to its Liquidity Stress Testing Procedures. See Submission to Commission, (filed August 9, 2023).

liquidating non-cash collateral. The same updates have been made to the Liquidity Management Procedures.

The amendments add in the list of components that make up the Clearing House's liquidity risk management strategy that the Clearing House seeks to avoid over-concentrations of assets at individual service providers where possible and practical. Additionally, as part of such strategy, the Clearing House will monitor requested in addition to actual cash inflows and outflows. Additionally, the amendments clarify that Liquidity Stress Tests ("LSTs") will be used as part of such strategy in order to monitor liquidity needs under operational conditions as well as stressed markets. These amendments reflect current practice.

The discussion on liquidity monitoring and stress testing has been updated to state that the Clearing House will monitor liquidity inflows and outflows intraday to ensure that it meets its payment obligations in a timely manner. The amendments also state that the Clearing House will run the LST each day in order to ensure that it has sufficient liquidity to meet its payment obligations when pairs of Clearing Member families default under extreme but plausible market conditions or when liquidity providers are unavailable. These statements reflect current practices. The amendments remove certain other discussion of liquidity stress testing, including as to the review of Liquidity Stress Test Models, on the basis that such matters will be addressed in the proposed Liquidity Stress Testing Procedures. The amendments also provide that Liquidity Stress Testing Procedures will be reviewed on a periodic basis as provided therein in order to ensure that they remain fit for purpose.

The discussion on investment of cash has been clarified to state that the Clearing House monitors its liquidity needs on an intraday basis, consistent with current practice. The amendments also revise the strategy discussion to state more precisely that a part of the investment process is to finalize the Clearing House's investment balances or balances for securing cash after the deadlines have passed for Clearing Members to withdraw or exchange margin (as opposed to more generically referring to investing or securing such balances)..

A non-substantive drafting change has been made to the conflicts of interest provision relating to parties and employees involved in the investment process.

The discussion of collateral management has been revised to reflect that applicable haircuts for non-cash collateral and cash in different currencies are set out in the Clearing House's published List of Permitted Cover. The amendments also specifically reference CSDs (central securities depositories) in addition to other custodians more generally.

The amendments provide that Approved Financial Institutions with which the Clearing House may interact for purposes of liquidity and investment management are approved in accordance with eligibility and other criteria set through the Clearing House's existing Counterparty Credit Risk Policy (instead of the Unsecured Credit Limited Procedures, which was replaced by the Counterparty Credit Risk Policy) and managed by the Credit Risk team. An example has been removed as unnecessary detail.

Liquidity Management Procedures

The updates to the purpose of the Procedures state that the Clearing House manages its liquidity needs in order to ensure that it has sufficient liquid resources available to settle its financial obligations when they fall due during normal operations as well as during defaults of Clearing Members or technical issues with service providers. The change is intended to clarify the overall purposes of the liquidity framework, but is not intended to substantively change the Clearing House's liquidity management. A clarificatory update has also been made to provide that terms used in the Procedures are defined in the Clearing House's Rules only and not also in the Procedures.

The Procedures have been amended to provide that the list of the Clearing House's sources of payment obligations relevant to liquidity management represent are not exhaustive and represent five main sources. The amendments clarify certain such sources of obligations and add an additional category representing costs from liquidating a default Clearing Member's position in the case of a default. The addition of other default obligations to the list of principal obligations is not intended to change ICE Clear Europe's payment obligations (which are set out in the Rules and are not changing in this amendment) but to address the sources of payment obligations in the case of Clearing Member default more comprehensively in the Procedures. The amendments also clarify that in normal, non-default circumstances, the Clearing House's payment obligations are covered naturally by variation margin and physical delivery amounts taken from the Clearing Members expecting to receive physical delivery and paid to the delivering Clearing Member and similar cash settlements. A footnote has been added to provide further detail for contracts that utilize delivery vs. payment settlement. . Additionally, cash deposited to cover margin requirements and invested will be returned to the Clearing House as cash and will be available to meet cash collateral withdrawals and exchanges. The amendments described in this paragraph are intended to more clearly describe the Clearing House's current practices and do not represent any substantive change in such practices.

Further, and in the same vein, the amendments reflect that the Clearing House nets cash flows between the Clearing House and each settlement account. This change more precisely reflects current settlement and netting practice under the Rules and Finance Procedures (which occurs at settlement account level for Clearing Members with multiple settlement accounts). The updates further clarify the scenarios where that the Clearing House has potentially uncovered liquidity needs because there is an issue with its normal processes. In particular, the amendments include further description of types of firm defaults that drive such potential needs, specifically, defaults of firms where the payer in a cash settled trade is unable to pay, or a firm due to receive a physical delivery is unable to pay, or an investment counterparty is unable to fulfil its obligations under the trade.

The list of the Clearing House's structural arrangements in place for minimizing liquidity risk have been updated to reference explicitly physical settlement and cash settlement requirements (in addition to VM and IM) in discussing ICE Clear Europe's obligations. This is a drafting clarification that is consistent with the scope of payments made under the Rules. Further non-substantive updates have been made to the list to improve readability and clarity.

In the daily liquidity timeline, the updates clarify that following calculation (rather than settlement) of EOD transfers, the Clearing House's new payment obligations will only arise from withdrawals of excess initial margin and substitutions from Clearing Members. This update is to reflect the Clearing House's current practices. Other non-substantive updates have been made to the daily liquidity timeline to improve readability and clarity.

The amendments include updates to the discussion of the Clearing House's special considerations for cash settlements and physical deliveries. The amendments remove discussions of additional margin as not relevant for liquidity management purposes (the right to call for additional margin under the Rules and Finance Procedures would not be changed). Instead, the amendments note that cash settlements and physical deliveries will often be concentrated around particular dates, which can lead to larger payment obligations on those dates and therefore potential increased liquidity risk. Such risk will be minimized because the settlement and delivery dates and amounts are typically known in advance so the Clearinghouse can adjust its investment program to ensure sufficient available liquidity. The updates also note that the Clearing House has arrangements for additional liquidity to ensure that the quarterly deliveries of UK Gilts run smoothly, due to such trades using a delivery vs. payment settlement process. The foregoing changes do not materially change the substance of the Clearing House's practices but are instead intended to improve the clarity of the Procedures and to ensure that they conform to current practice. Further updates to the section include removal of a reference to the Clearing House's LSTs; as mentioned, information regarding LSTs will separately be included in the Clearing House's Liquidity Stress Testing Procedures.

The discussion of the Clearing House's approach to identifying and monitoring liquidity needs has been amended to state that the Clearing House monitors pending payments and payment requests from Clearing Members in near real time each day, including outstanding payment requests which could lead to a default. (This replaces a statement that the Treasury and Banking Services department monitors such payment requests; ICE Clear Europe does not believe it is necessary to specify in the Procedures a particular department for such matters.) Such monitoring is done using exception-based monitoring tools. LSTs are used each day to calculate the Clearing House's liquidity exposure under stressed scenarios which are designed to cover the default of the two Clearing Member families with the largest liquidity exposures to the Clearing House under the wide range of extreme but plausible market scenarios used for credit stress testing. Such scenarios also cover the default of individual Clearing Member families and, separately, defaults or unavailability of individual liquidity service providers. Much of the remaining detail in this section relating to LST calculations, procedures and scenarios would be removed, as such matters would be set out separately in the proposed Liquidity Stress Testing Procedures.

The discussion of the Clearing House's available sources of liquidity has been updated to reflect that for its normal liquidity planning, the Clearing House aims to cover its payment obligations without having to liquidate non-cash assets. This reflects the Clearing House's current practice. The list of the Clearing House's additional resources for liquidity has been replaced with a statement that such resources are included in the LST as set provided in the Liquidity Stress Testing Procedures.

The amendments add that to generate liquidity in the case of a Clearing Member default, the Clearing House will typically use the pool of cash it has available from all the Clearing Members' Initial Margin and Guaranty Fund contributions (which do not include cash from FCM client accounts as such cash is required to be segregated) in order to meet its payment obligations. The amendments provide that if the Clearing House's default waterfall liquidity in the case of a Clearing Member Default is exhausted without covering the liquidity need then the Clearing House may but is not required to invoke its Recovery Plan. This flexibility is consistent with the approach under the Rules and the Recovery Plan itself.

The amendments also clarify that it is the Clearing Risk team (not the Credit Risk team) that monitors the price of non-cash collateral and cash denominated in currencies other than the required currency will be monitored by the Clearing Risk team and calls for additional Initial Margin if there is a shortfall in the value of the collateral held, reflecting actual practice.

With respect to ICE Clear Europe's sources and mitigations of liquidity risk from defaults, the amendments reflect that the Clearing House's investment accounts are generally in its own name at the custodian, but in some cases may be in the name of the investment adviser. The amendments reflect that the Clearing House aims to avoid over-concentrations of assets with individual account holders where possible and practical. Additionally, in some cases the custodian may be part of the same group of companies as the Investment Adviser, so liquidity risk through the custodian side of the business is possible. The amendments also provide that the Clearing House's liquidity risk in respect of investments with counterparties will be managed through liquidation haircuts in the LST.

With respect to the Clearing House's sources and mitigations of liquidity risk from technical issues, the amendments address the risk that where the Clearing House's investment accounts are not in its own name, the Clearing House will not be able to access assets in the accounts if there were a technical issue with the account holder. In order to mitigate this risk, the Clearing House avoids over-concentration of assets at individual providers where possible and practical.

In the description of the Clearing House's timescale on liquid resources, the list of examples of the Clearing House's liquid resources have been updated to include non-cash collateral from non-default Clearing Members subject to same-day liquidation, in line with current practice. Consistent with the Rules, any required replenishment of such assets would be addressed through the default waterfall and would be outside the scope of the Procedures.

The updates include a statement that substitutions of cash with non-cash collateral or with cash in other currencies must conform to the List of Permitted Cover, which reflects current requirements. The amendments also clarify that the Clearing House ensures that there is sufficient cash available to cover likely withdrawals due to collateral substitutions or withdrawal of excess margin. Certain provisions relating to analysis of relevant scenarios would be removed as such matters would be addressed in the Liquidity Stress Testing Procedure. The Procedures state that Clearing House monitor such requests for substitutions during the day. The amendments remove certain

statements related to liquidation of non-cash collateral that are not relevant to substitution or withdrawal of margin.

The amendments to the discussion on liquidity shortfalls are, as mentioned above, the same in the Liquidity and Investment Policy.

The discussion on periodic reviews of LSTs and liquidity providers has been removed as such matters are addressed in the proposed Liquidity Stress Testing Procedures.

Compliance with the Act and CFTC Regulations

The amendments to the Delivery Procedures are potentially relevant to the following core principles: (B) Financial Resources and (D) Risk Management, and the applicable regulations of the Commission thereunder.

- *Financial Resources.* As discussed above, the amendments to the Policy and Procedures are intended to more clearly describe and document liquidity risk management practices, in order to ensure Clearing House has adequate liquidity to cover its normal course payment obligations and its payment and other obligations in the event of Clearing Member default or other liquidity events. The amendments more clearly address the determination of the Clearing House's liquidity needs (including clarifications relating to liquidity needs arising from physical delivery and cash settlement and substitution and withdrawal of cash margin). The amendments also better document the Clearing House's relevant sources of liquidity, for consistency with the default resources of the Clearing House, and with the Clearing House's investment practices for cash margin and Guaranty Fund contributions. The amendments also address the Clearing House's mitigations of various types of liquidity risk. As such, ICE Clear Europe believes the amendments will facilitate its ability to measure, monitor and manage its liquidity risks, in a manner consistent with the requirements of Core Principle B and Commission Rule 39.11(e).
- *Risk Management.* For similar reasons, the amendments are intended to enhance the Clearing House's overall risk management. In particular, the amendments to the Policy and Procedures are intended to more clearly describe the Clearing House's current liquidity risk management practices. The amendments also clarify the Clearing House's sources and mitigations of various types of liquidity risk. The amendments remove other provisions that will be included in the proposed Liquidity Stress Testing Procedures. The amendments do not otherwise materially change the Clearing House's existing liquidity risk management practices but are intended to better document those practices. The amendments will thus facilitate the Clearing House's ability to manage the risks associated with discharging its responsibilities, consistent with the requirements of Core Principle D and Commission Rule 39.13.

As set forth herein, the amendments consist of the amendments to the Liquidity and Investment Management Policy and Liquidity Management 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 or +44 20 7429 4564.

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