



September 13, 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
– Operational Risk and Resilience Policy 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 Operational Risk and Resilience Policy (the “Operational Risk and Resilience Policy” or “Policy”) to enhance scenario analysis and testing relating to operational risk and resilience, introduce an element for emerging risks, and update the review process for the document, among other changes discussed herein.¹ 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 amending its Operational Risk and Resilience Policy to incorporate enhanced procedures for analysis and testing of operational risk and resilience scenarios, among other amendments discussed herein. The description of the Clearing House’s overall operational risk and resilience framework will update a reference to the

¹ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Operational Risk and Resilience Policy.

Outsourcing Policy to reflect its new name, the Outsourcing and Third Party Risk Management Policy.

With respect to scenario analysis and testing relating to operational risk and resilience, the amendments will add that the Clearing House must maintain an inventory of scenarios for the purposes of scenario analysis and testing. The amendments will clarify that testing must include scenarios that take into account both internal and external dependencies. The amendments will also state that a portion of the scenarios should be identified and selected for reverse stress testing (through a practical test where possible or desk top exercise). Over a three year cycle all scenarios will have to be tested at least once by a practical test or a desk top exercise. The inventory will also be reviewed on at least an annual basis in order to determine if the scenarios are still fit for purpose and if updates are required. The annual review of the inventory will be the responsibility of the First Line with Second Line review and will be approved by the Executive Risk Committee (ERC). The Executive Risk Committee will also be responsible for approving any changes to the list of scenarios outside of the annual review cycle. The detailed scope of the testing based on the scenarios in the inventory and the results of testing and assessment against the risk register will be shared with the Second Line for review. The amendments will also specify that the scenario analysis and testing results will be submitted to the ERC or relevant Board sub-committee, which ICE Clear Europe believes is the most appropriate governance level for review of such matters.

A new section on Control Validation and Assessment will be added, outlining that upon entry to the risk register or when a material change is made to a Key Control, Enterprise Risk Management (ERM) will confirm that validation of Key Controls is carried out. Additionally, the amendments will state that Validation may be verified directly by ERM or through ERM's oversight of validations performed by the First Line. The amendments will also replace references to control testing with control validation throughout the Policy to be consistent with the new section.

In the Risk Assessment section, the amendments will address Emerging Risks. The amendments will specify that there should be an assessment of the velocity for Emerging Risks. Velocity will be defined as an estimate of the time frame within which impact of a risk may be realized. Velocity will be considered as an additional factor utilized in prioritizing Emerging Risks, as further detailed in an appendix to the Policy. Certain other non-substantive drafting clarifications will be made in this section.

In the Government and Oversight section, the amendments will add provisions relating to reviews of the Policy that are consistent with other Clearing House policies. The amendments will provide that the document owner identified by the Clearing House will be responsible for ensuring that the Policy remains up-to-date and reviewed in accordance with the Clearing House's governance processes. Generally, review of the Policy will be conducted by the document owner and/or relevant staff as appropriate, with sign off being provided by the head of the department and the CRO (or their delegates). The amendments will detail the key aspects of document reviews, including at minimum, regulatory compliance, documentation and purpose, implementation, use, and open items from previous validations or reviews (where appropriate). The results of the review, including priority of findings, proposed remediations and target due date

to remediate the findings will be reported to the ERC and in certain cases to the Model Oversight Committee. The amendments will add the Head of Regulation and Compliance (or their respective delegates) to the parties to whom the document owner will report any material breaches or deviations from the Policy.

The amendments will modify and update the table on Assessment of Expected Level of Risk. The column labeled Mitigation will be renamed to Rating. The updated chart will also add examples for each level of rating.

The amendments will slightly modify and update the table on Control Effectiveness Ratings. The column labeled Effectiveness will be renamed to Rating and the column labeled Guidelines will be renamed to the more specific Control Assessment Guidelines. Moreover, an additional bullet point will be added to the guidelines under Unsatisfactory, specifying that this rating will apply where the control validation and/or assessment and audit programs result in major findings.

The amendments will update the table on Control Remediation Recommendation & Timelines. The heading labeled Control Effectiveness will be renamed to Control Effectiveness Rating and, likewise the heading labeled Mitigation will be renamed to Level of Risk Mitigation. In the scenario with a Control Effectiveness Rating of Needs Improvement and a High Level of Risk Mitigation, the recommended level will be changed from Medium to High.

A new appendix, labeled Velocity Assessment Guidance will be added to the Policy in connection with the amendments discussed above relating to Velocity of emerging risks. This section will include a chart separating the Velocity Rating into categories of Immediate (<6 months), Short Term (>6 months <18 months), and Medium Term (>18 months). The chart will also include a description for each Velocity Rating.

Finally, the amendments will remove the section labeled Control Testing Scope following the chart on Risk Mitigation (Appendix H), to conform to the change in the Policy to refer to control validation rather than control testing.

Various provisions will be renumbered or relabeled throughout the Policy.

Compliance with the Act and CFTC Regulations

The amendments to the Operational Risk and Resilience Policy are potentially relevant to the following core principles: (D) Risk Management and (O) Governance, and the applicable regulations of the Commission thereunder.

- *Risk Management.* As set forth above, the amendments are intended to enhance the Clearing House's risk management framework as it relates to operational risks. Among other changes, the amendments provide for inventory, ongoing review and testing of relevant scenarios used in evaluating operational risk and resilience. The amendments also expand the factors used in evaluating emerging risks with the addition of Velocity as a factor. Additional amendments will provide for validation of key controls. The amendments thus strengthen the management of operational risks and risk management more generally. As such, ICE Clear Europe believes the

amendments are consistent with the requirements of Core Principle D and Commission Rule 39.13.

- *Governance.* As discussed above, the amendments to the Policy add a more detailed review process for updating and reviewing the Policy, in a manner generally consistent with other Clearing House policies and procedures. The amendments also clarify the reporting of material breaches or unapproved deviations from the Policy. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Core Principle O and Commission Rule 39.24.

As set forth herein, the amendments consist of the amendments to the Operational Risk and Resilience Policy. 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,



George Milton
Head of Regulation & Compliance