



## **BY ELECTRONIC TRANSMISSION**

Submission No. 22-133  
September 6, 2022

Mr. Christopher J. Kirkpatrick  
Secretary of the Commission  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Amendments to the Delivery Procedures for Certain California Carbon Futures Contracts - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”) and Commission Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby self-certifies the amendments to the Delivery Procedures applicable to certain physical environmental futures contracts, which are described below.

### **Background on Delivery Procedures**

The procedures for delivering allowances against the Exchange’s complex of environmental futures contracts are codified in the ICE Clear Europe (“ICEU”) [Delivery Procedures \(“Procedures”\)](#). Specifically, Part N of the Procedures sets forth the process for direct bilateral delivery of allowances from the seller to the buyer and Part N.1. sets forth the process for intermediated delivery through ICEU. For direct deliveries under Part N, the allowances are transferred directly from an account identified by the Selling Clearing Member at the relevant registry to an account identified by the Buying Clearing Member at such registry. Payment for the allowances, however, flows from the Buying Clearing Member to ICEU, and after ICEU confirms delivery of the Allowances by the seller, from ICEU to the Selling Clearing Member.

Part N.1 of the Procedures, which was adopted in December of 2021<sup>1</sup>, provides for allowances to be transferred from an account identified by the Selling Clearing Member at the relevant registry to the ICEU account, and after ICEU receives payment from the buyer, from the ICEU Account to an account identified by the Buying Clearing Member at the registry.<sup>2</sup>

### **Changes to the Delivery Procedures**

Currently, the Exchange lists a suite of futures contracts which call for delivery of California Carbon Allowance or California Carbon Offset (“CCA Contracts”) that are settled through direct bilateral delivery under Part N of the Procedures. Commencing with the expiration of the February 2023 contract, certain

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<sup>1</sup> [See ICEU Submission](#), dated December 1, 2021.

<sup>2</sup> In order to be registered in the Compliance Instrument Tracking System Service with the California Air Resources Board, the entity must be registered as a derivatives clearing organization under the CEA and be “located” in the United States. Since ICEU does not meet these requirements, it has entered into an intercompany services agreement with ICUS under which ICUS has registered with the tracking system service and will act as an agent for ICEU to effect delivery against California Carbon Allowance Futures.

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ICE Futures US, Inc. a designated contract market under  
the Commodity Exchange Act, as amended.

CCA Contracts will be settled via intermediated delivery through ICEU under Part N.1 of the Procedures. A list of all CCA Contracts impacted by the change follows below:<sup>3</sup>

PCC	Contract
CAO	California Carbon Allowance Vintage 2016 Future
CAP	California Carbon Allowance Vintage 2017 Future
CAW	California Carbon Allowance Vintage 2018 Future
CAX	California Carbon Allowance Vintage 2019 Future
CAY	California Carbon Allowance Vintage 2020 Future
CAZ	California Carbon Allowance Vintage 2021 Future
CB0	California Carbon Allowance Vintage 2022 Future
CB1	California Carbon Allowance Vintage 2023 Future
CB4	California Carbon Allowance Vintage 2024 Future
CB5	California Carbon Allowance Vintage 2025 Future
CA9	California Carbon Allowance Specific Vintage 2019 Future
CC0	California Carbon Allowance Specific Vintage 2020 Future
CC1	California Carbon Allowance Specific Vintage 2021 Future
CC2	California Carbon Allowance Specific Vintage 2022 Future
CC3	California Carbon Allowance Specific Vintage 2023 Future
CC4	California Carbon Allowance Specific Vintage 2024 Future
CCT	California Carbon Allowance Specific Vintage 2025 Future
CCO	California Carbon Offset Futures

In addition to providing ICEU with greater control over the delivery of allowances, the Exchange believes intermediated delivery will also benefit buyers and sellers by allowing them to remain anonymous throughout the process unless there is a delivery default or dispute.

The Exchange has surveyed participants which trade the Contracts, who were generally in favor of intermediated delivery. A few participants expressed concerns about being able to redeliver allowances they received as a buyer against Contracts they sold.<sup>4</sup> As such, the Exchange is delaying implementation of the change until the February 2023 expiration in order to provide participants with adequate time to adjust their spread positions or acquire necessary allowances to cover delivery obligations. The amendment to the delivery procedures for the CCA Contracts will become effective on September 22, 2022, for deliveries against the February 2023 expiration and all subsequent expiration months.

The Exchange has reviewed the designated contract market core principles ("Core Principles") as set forth in the Act and has determined that the amendments comply with the following relevant Core Principles:

<sup>3</sup> CCA option on futures contracts, as well as, California Carbon Allowance Current Auction Clearing Price Futures ("ACP") and California Carbon Allowance Advance Auction Clearing Price Futures ("ACA") are not included in the amendments provided herein, given the contracts do not call for delivery of California Carbon Allowances or Carbon Offsets at expiration. Rather, such contracts expire into futures contracts or are abandoned, in accordance with the contract specifications.

<sup>4</sup> Certain California Carbon Allowance contracts allow delivery of allowances for the named vintage year and prior years. As such, a buyer receiving Vintage 2021 Allowances delivered against the Vintage 2021 CCA Futures Contract may redeliver those allowances against Vintage 2022 CCA Futures Contracts they sold. Redelivery of such allowances will not be possible through the intermediated delivery structure as all allowances must be delivered at the same time and are held by ICEU before being delivered to the buyer the subsequent day under Part N.1 of the Procedures.

**COMPLIANCE WITH RULES--Core Principle 2**

The amendments to the delivery procedures for California Carbon futures contracts in this submission will be codified in the ICEU rulebook, incorporated into the Exchange Rules by reference and will be enforced by the Exchange. In addition, trading of and delivery against these contracts is subject to all relevant Exchange rules which are enforced by the Exchange.

**CONTRACTS NOT READILY SUBJECT TO MANIPULATION - Core Principle 3**

The amendment to the delivery procedures for California Carbon futures contracts better align the delivery process with the flow of payment. As delivery procedures are an essential term and condition of a futures contract, the amendments are consistent with the core principle and Appendix C to part 38 of the Regulations.

**AVAILABILITY OF GENERAL INFORMATION-Core Principle 7**

The delivery procedures for California Carbon futures contracts, will be announced via Exchange and/or ICEU notices and Parts N and N.1 of the ICEU Rules will be posted on the ICE website. Further, a copy of the Exchange Notice announcing the change can be found [here](#).

The Exchange further certifies that, concurrent with this filing, a notice of pending certification was posted on the Exchange's website as well as a copy of this submission, which may be accessed at (<https://www.theice.com/futures-us/regulation>).

If you have any questions or need further information, please contact me at 212-748-4021 or at [jason.fusco@theice.com](mailto:jason.fusco@theice.com).

Sincerely,



Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.  
cc: Division of Market Oversight