



55 East 52<sup>nd</sup> Street  
New York, NY 10055

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## **BY ELECTRONIC TRANSMISSION**

Submission No. 21-157  
November 23, 2021

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 Rules 16.03 and 16.04 - Currency Delivery Procedures  
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 Rules 16.03 and 16.04 set forth in Exhibit A. As described below, the amendments align the Rules with the current process for delivering currency against the Euro-Hungarian forint and the U.S. dollar-Hungarian forint futures contracts through the CLS settlement system.

The Exchange’s currency futures Rules provide for the use of the CLS system in the physical delivery process for most currency futures contracts (including the USDX and most currency pair contracts). The CLS system provides significant operational efficiencies in currency deliveries generally, and allows for a single, comprehensive set of procedures and deadlines in a three-day delivery process for those futures contracts for which both currencies are supported by CLS. One such operational efficiency, is that a bank holiday on Day 2 of the CLS delivery process will not impact CLS processing of delivery instructions and therefore will not impact the determination of the last trading day for the futures contracts that use the CLS system.

The CLS system does not support a small number of currencies included in the Exchange’s currency pair futures contracts. For the Exchange, the relevant non-CLS currencies are the Czech koruna, Polish zloty and Turkish Lira. These contracts are settled through a less efficient manual process that requires the banking system in both countries to be open for business on the business day between the last trading day and the delivery day of the contract.

The Hungarian forint was added to the CLS system, which allowed delivery of the Euro-Hungarian forint and U.S. dollar-Hungarian forint futures contracts through the settlement system. Amendments to Rules 16.03 and 16.04 provide for the use of the CLS settlement system in the delivery process for expiring Euro-Hungarian forint and U.S. dollar-Hungarian forint futures contracts and also provide that the determination of the last trading day for these contracts will not be impacted by the occurrence of a bank holiday in Hungary on the Exchange Business Day that would otherwise be the last trading day for the contracts. As described above, this provision is needed for the Non-CLS delivered currency futures contracts, but is not needed CLS delivered currency futures contracts.

The Exchange is not aware of any opposing views and certifies that the amendments to Rules 16.03 and 16.04 comply with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendments comply with core principle 11 (Financial Integrity of Transactions). As described above, the amendments align the delivery procedures for two currency futures contracts with current practice. 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,

A handwritten signature in black ink, appearing to read "Jason V. Fusco". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.  
cc: Division of Market Oversight

## EXHIBIT A

### Rule 16.03. Last Trading Day

(a) Except for the [~~Euro-Forint,~~] Euro-Koruna, [~~Dollar-Forint,~~] dollar-Koruna, dollar-Canadian Large dollar-Canadian, Zloty-Euro, Zloty-Dollar, Lira-Euro and Lira-Dollar contracts, the Last Trading Day in all Currency Futures Contracts deliverable in the current delivery month shall be the second (2<sup>nd</sup>) Business Day prior to the third (3<sup>rd</sup>) Wednesday of that month. If the Last Trading Day is a bank holiday in New York, New York, then the Last Trading Day in the Currency Futures Contract deliverable in the current delivery month shall be the preceding Business Day.

(b) The Last Trading Day in the dollar-Canadian and Large dollar-Canadian contracts deliverable in the current delivery month shall be the first (1<sup>st</sup>) Business Day prior to the third (3<sup>rd</sup>) Wednesday of that month. If the Last Trading Day is a bank holiday in New York, New York or in the country of the quoted currency then the Last Trading Day in dollar-Canadian and Large dollar-Canadian contracts deliverable in the current delivery month shall be the preceding Business Day.

(c) The Last Trading Day in the [~~Euro-Forint,~~] Euro-Koruna, [~~Dollar-Forint,~~] Dollar-Koruna, Zloty-Euro, Zloty-Dollar, Lira-Euro and Lira-Dollar contracts deliverable in the current delivery month shall be the second (2<sup>nd</sup>) Business Day prior to the third (3<sup>rd</sup>) Wednesday of that month. If the Last Trading Day is a bank holiday in New York, New York or if the following Business Day (*i.e.*, the first (1<sup>st</sup>) Business Day prior to the third (3<sup>rd</sup>) Wednesday) is a bank holiday in the country of the quoted currency, or in the country of the base currency, then the Last Trading Day in the Currency Futures Contract deliverable in the current delivery month shall be the preceding Business Day.

### Rule 16.04. Delivery Procedures

(a) All deliveries must conform to government regulations in force at the time of delivery. If any national or international governmental agency or body issues an order, ruling, directive or law that conflicts with the requirements of these Rules, such order, ruling, directive or law shall be construed to take precedence and become part of these Rules and all open and new contracts shall be subject to such government orders.

#### (b) *Delivery Day*

Delivery of all outstanding Currency Futures Contracts shall be made on the third (3<sup>rd</sup>) Wednesday of the contract month. If that day is not a Business Day or is a bank holiday in either the country of the base currency or in the country of the quoted currency, then the delivery day shall be the next day which is a Business Day and is not a bank holiday in either the country of the base currency or in the country of the quoted currency.

#### (c) *Final Settlement*

(i) For the purposes of this Rule, the term “**CLS Delivered Currency Futures Contracts**” shall mean all Currency Futures Contracts which require physical delivery of base and quoted currencies, except for the [~~euro-forint,~~] euro-koruna, [~~dollar-forint,~~] dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar, and the term “**Non-CLS Delivered Currency Futures Contracts**” shall refer to Currency Futures Contracts which require physical delivery of the [~~euro-forint,~~] euro-koruna, [~~dollar-forint,~~] dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar.

(ii) For CLS Delivered Currency Futures Contracts, the Clearing Organization will match each Clearing Member having a long delivery Position (the Long Clearing Member) with one or more Clearing Members having a short delivery Position (the Short Clearing Member) in the expiring CLS Delivered Currency Futures Contract. On the Delivery Day, the Long Clearing Member shall make delivery of the

quoted currency to the account of the Short Clearing Member, and the Short Clearing Member shall make delivery of the base currency to the account of the Long Clearing Member, both deliveries to be made via CLS Bank in accordance with such procedures as CLS shall institute and amend from time to time (“**CLS Procedures**”).

(iii) For Non-CLS Delivered Currency Futures Contracts, the Clearing Organization will match each Long Clearing Member with one or more Short Clearing Members in the expiring Currency Futures Contract. The Exchange shall designate a delivery bank\* into which the Short Clearing Member shall deposit the base currency into the account of the Clearing Organization and into which the Long Clearing Member shall deposit the quoted currency into the account of the Clearing Organization, as specified in paragraph (g) of this Rule. On the delivery day, the bank, upon instructions from the Clearing Organization, shall transfer the quoted currency funds previously deposited by the Long Clearing Member to the account of the Short Clearing Member; and upon instructions from the Clearing Organization, the delivery bank holding the base currency shall transfer the base currency to the Long Clearing Member's account.

*(d) Netting of Positions*

(i) A Clearing Member may net his delivery obligations to the extent that such Clearing Member (for itself or for Customers) is both long and short in individual Currency Futures Contracts, and, if a Customer Account is involved, has a written request from the Customer to net the Customer's Account against other accounts and provided further, that the Clearing Member has a written agreement respecting delivery and receipt other than as set forth in the Rules. If the Clearing Member chooses to net, it shall indicate the net Position on its delivery commitment form or Final Position Statement. The netting shall be performed in the following sequence: (A) within each account, (B) eligible Customer Account against eligible Customer Account and (C) eligible Customer Account against Firm account.

(ii) The netting of Positions by a Clearing Member shall relieve the Clearing Organization of any further obligations with respect to any Exchange contract involved and such Clearing Member shall indemnify the Exchange and the Clearing Organization against any liability, cost or expense either may incur for any reason as a result of the Clearing Member's netting of Positions.

(e) All times stated in this Rule refer to New York Time, unless noted otherwise.

*(f) Delivery of CLS Delivered Currency Futures Contracts*

(i) All CLS Delivered Currency Futures Contracts are required to be physically delivered through the Continuous Linked Settlement system (“CLS”). Each Clearing Member must either be a CLS Bank member or be able to use an approved CLS agent bank to make the required physical delivery. Notwithstanding the foregoing requirements, the delivery obligation may be satisfied in the manner specified in subparagraph (v) of this paragraph (f).

(ii) For each expiring CLS Delivered Currency Futures Contract, a Clearing Member with a Position that remains open after the close of trading on the Last Trading Day shall submit to the Clearing Organization, on or before noon of the Last Trading Day, a statement, in the form prescribed by the Clearing Organization, detailing the Clearing Member's final delivery Position (“**Final Position Statement**”). If the Final Position Statement is received later than noon but by 3:30 pm on the Last Trading Day, the Clearing Member may be subject to Rule 16.05. A Clearing Member which submits

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\* A list of Exchange Approved Delivery Banks may be accessed at the following link:  
[https://www.theice.com/publicdocs/clear\\_us/Approved\\_Financial\\_Institutions.pdf](https://www.theice.com/publicdocs/clear_us/Approved_Financial_Institutions.pdf)

a Final Position Statement after 3:30 pm on the Last Trading Day or fails to submit a Final Position Statement shall be deemed to be in default and subject to Rule 16.05.

(iii) For each expiring CLS Delivered Currency Futures Contract, a Clearing Member with a Position that remains open after the close of trading on the Last Trading Day shall submit to CLS, on or before 5:00 pm of the Last Trading Day, the relevant instructions to either take delivery of the base currency from the Short Clearing Member and make delivery of the quoted currency to the Short Clearing Member for long Positions, or make delivery of the base currency to the Long Clearing Member and take delivery of the quoted currency from the Long Clearing Member for short Positions (“**CLS Submission**”). Notwithstanding the foregoing sentence, a Clearing Member with a Position that remains open after the close of trading on the Last Trading Day in the dollar-Canadian or small dollar-Canadian Currency Futures Contracts shall submit its CLS Submission to CLS on or before 3:00 pm of the Last Trading Day. If the CLS Submission is received by CLS later than 5:00 pm on the Last Trading Day, the Clearing Member may be subject to Rule 16.05. A Clearing Member which submits a CLS Submission after 3:00 pm on the Business Day preceding the Delivery Day or fails to submit a CLS Submission shall be deemed to be in default and subject to Rule 16.05.

(iv) On the Delivery Day:

(A) the Long Clearing Member shall have its account credited with the correct amount of the base currency and debited with the quoted currency equivalent in accordance with the CLS Procedures, and

(B) the Short Clearing Member shall have its account credited with the correct amount of the quoted currency and debited with the base currency equivalent in accordance with the CLS Procedures, and

(C) each of the Long Clearing Member and the Short Clearing Member, respectively, shall advise the Clearing Organization in writing by noon of the Delivery Day, in the event that such Clearing Member is unable to complete the delivery obligations applicable to it under the Rules.

(v) Notwithstanding paragraph (f)(i), the Long Clearing Member and the Short Clearing Member may enter into a mutually acceptable written agreement to physically deliver or financially settle the delivery obligation under conditions other than those stipulated in the Rules. Written notice of any such agreement shall be furnished by the Long Clearing Member and the Short Clearing Member to the Clearing Organization, whereupon such delivery shall be considered complete. The making of any such agreement shall relieve the Clearing Organization of any further obligations with respect to any Exchange Contract involved, and the Long Clearing Member and the Short Clearing Member shall indemnify the Exchange and the Clearing Organization against any liability, cost or expense either may incur for any reason as a result of the execution, delivery or performance of any such contract or such agreement, or any breach thereof or default thereunder.

(g) *Delivery of Non-CLS Delivered Currency Futures Contracts*

(i) Holders of long [~~euro-forint,~~ euro-koruna, [~~dollar-forint,~~ dollar-koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts shall receive delivery of the base currency and shall pay the quoted currency equivalent.

It is the responsibility of the Clearing Member having a long delivery Position to transfer the correct total amount of quoted currency funds into the account of the Clearing Organization at the delivery bank designated by the Exchange and to provide complete information for the timely transfer of the base currency into the long Clearing Member's account as specified in the procedure below:

(A) In order for a Clearing Member with a long futures Position to accept delivery for himself or for Customers it represents, it shall, no later than noon on the Last Trading Day, present long Clearing

Member's Delivery Commitments ("Delivery Commitments") to the Clearing Organization. The Clearing Member shall include the following in each Commitment:

- (1) the name of the Exchange specified delivery bank\*;
- (2) the Clearing Organization's account number at the delivery bank in which it will deliver the quoted currency funds for each outstanding long Currency Futures Contract; and
- (3) the Clearing Member shall include on each Delivery Commitment presented to the Clearing Organization the name of a bank along with the account number at such bank, at which it will receive delivery of the unit of trading for each outstanding long contract.

If such Delivery Commitments are received later than noon but not later than 3:30 p.m. on the Last Trading Day, the Clearing Member may be subject to disciplinary action. A Clearing Member which submits a Delivery Commitment subsequent to 3:30 p.m. on the Last Trading Day or fails to submit a Delivery Commitment shall be deemed to be in default and subject to Rule 16.05.

(B) The following is the procedure for holders of long dollar-koruna, [~~dollar forint~~] euro-koruna, [~~euro forint~~] zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts while taking delivery of such contracts:

The Clearing Member shall deposit into the account of the Clearing Organization at the delivery bank designated by the Exchange an amount of the quoted currency that is sufficient to pay for the delivery of the base currency on all outstanding [~~euro forint~~] and euro-koruna Currency Futures Contracts and that is for value on the Business Day immediately preceding Delivery Day. All payment advices from the remitting bank or its correspondent must be received by the delivery bank no later than 12:00 pm quoted currency time on the base currency business day immediately preceding Delivery Day.

The amount of the quoted currency deposit shall equal the value of all of the outstanding long Currency Futures Contracts based on the Settlement Price on the Last Trading Day.

Deposit of the quoted currency shall be made as an international bank wire transfer of immediately available funds.

(C) For all Currency Futures Contracts, it is the responsibility of the owner of the long Position and the Clearing Member carrying such Position to be familiar, and in conformance, with all the regulations pertaining to the holding of non-resident bank accounts in the country of the bank in which delivery of the base currency will be accepted for each outstanding long Currency Futures Contract.

(ii) Holders of short [~~euro forint~~] euro-koruna, [~~dollar forint~~] dollar koruna, zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts shall make delivery of the base currency and shall receive payment in the appropriate quoted currency.

The short Clearing Member is responsible for assuring the timely delivery of the base currency into the appropriate Clearing Organization account at the Exchange approved delivery bank and to provide complete information for the timely transfer of appropriate quoted currency into the short Clearing Member's account as specified by the procedure below:

(A) A Clearing Member with a short futures Position in order to make delivery for itself or for a Customer it represents shall, no later than noon on the Last Trading Day, present to the Clearing

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Organization short Clearing Member's Delivery Commitments. The Clearing Member shall include in each Delivery Commitment:

- (1) the name of the Exchange specified delivery bank \*;
- (2) the Clearing Organization's account number at the delivery bank in which it will deliver the base currency for each outstanding short Currency Futures Contract; and
- (3) the name of the bank to which the appropriate quoted currency payment should be sent along with the name of the account and the account number to which the quoted currency payment should be credited.

If such Delivery Commitment is received later than noon on the Last Trading Day, but not later than 3:30 p.m. on the same day, the Clearing Member may be subject to disciplinary action. A Clearing Member which submits a Delivery Commitment subsequent to 3:30 p.m. on the Last Trading Day or fails to submit a Delivery Commitment shall be deemed to be in default and subject to Rule 16.05.

(B) The following is the procedure for holders of short euro-koruna, [~~euro-forint~~] dollar-koruna, [~~dollar-forint~~] zloty-euro, zloty-dollar, lira-euro and lira-dollar Currency Futures Contracts while taking delivery of such contracts:

The Clearing Member shall deposit into the account of the Clearing Organization at the delivery bank designated by the Exchange, an amount of the base currency that is sufficient to cover the number of contracts for which delivery is being made and that is for value on the Business Day immediately preceding Delivery Day. All payment advices from the remitting bank or its correspondent must be received by the delivery bank no later than 12:00 p.m. base currency local time on the Business Day immediately preceding Delivery Day.

The amount of the base currency deposit shall equal the unit of trading for each outstanding short Currency Futures Contract. Deposit of the base currency shall be made in the form of an international bank wire transfer of immediately available funds.

(C) For all Currency Futures Contracts, it is the responsibility of the owner of the short Position and the Clearing Member carrying such Position to be familiar, and in conformance, with all the regulations pertaining to the holding of non-resident bank accounts in the country of the bank in which payment of the appropriate quoted currency will be accepted for each outstanding short Currency Futures Contract.

(iii) Notwithstanding any provision of this Rule to the contrary, the Long Clearing Member and the Short Clearing Member may enter into a mutually acceptable written agreement to physically deliver or financially settle the delivery obligation under conditions other than those stipulated in the Rules. A delivery so made shall be considered complete upon written notification of such agreement by the Long Clearing Member and the Short Clearing Member to the Clearing Organization. The making of any such agreement shall relieve the Clearing Organization of any further obligations with respect to any Exchange Contract involved, and the Long Clearing Member and the Short Clearing Member shall indemnify the Exchange and the Clearing Organization against any liability, cost or expense either may incur for any reason as a result of the execution, delivery or performance of any such contract or such agreement, or any breach thereof or default thereunder.

(h) *Costs of Delivery*

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The seller (short) shall bear the costs of transferring the base currency into the delivery bank specified by the Exchange and the costs of transferring the quoted currency out of the delivery bank. The buyer (long) shall bear the costs of transferring the base currency out of the delivery bank specified by the Exchange and the costs of transferring the quoted currency into the delivery bank. Such costs may include, but are not limited to, wire transfer charges, CLS charges, SWIFT message charges, interest charges and transaction fees.

(i) *Currency Market Disruption*

Notwithstanding the provisions above, in the event that the Clearing Organization determines that a Currency Market Disruption (as such term is defined in the Clearing Organization Rules) has occurred which impacts the ability of the Clearing Organization to meet settlement variation or final settlement obligations in any non-U.S. dollar currency (the “Impacted Currency”) for any contract, the Clearing Organization may effect settlement obligations for any Impacted Currency in U.S. dollars pursuant to the Clearing Organization Rules.