

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

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**Treatment of Funds Held in Connection with  
Clearing by ICE Clear Europe Limited of  
Contracts Traded on ICE Futures Europe,  
ICE Futures US, and ICE Endex**

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**AMENDED ORDER**

ICE Clear Europe Limited (“ICE Clear Europe”), a registered derivatives clearing organization (“DCO”), has requested that the Commodity Futures Trading Commission (“Commission”) issue an amended order permitting ICE Clear Europe and its clearing members that are registered futures commission merchants (“FCM Clearing Members”) to (i) hold in a futures customer account subject to Section 4d(a) and (b) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6d(a) and (b), customer money, securities, and property (collectively, “customer property”) used to margin, secure, or guarantee both futures and options on futures (collectively, “futures”) traded on ICE Futures US and foreign futures and foreign options, as defined in Commission Regulation 30.1 (collectively, “foreign futures”), traded on ICE Futures Europe or ICE Endex; and (ii) provide for portfolio margining of such futures and foreign futures.

ICE Clear Europe has requested that the Commission amend an earlier order dated October 15, 2012 (the “October 2012 Order”), in which the Commission approved commingling of customer property related to foreign futures traded on ICE Futures Europe together with customer property related to futures traded on ICE Futures US, and provided for portfolio margining of these futures and foreign futures. The October 2012 Order was

limited to energy foreign futures traded on ICE Futures Europe and all futures traded on ICE Futures US, whether traded at the time of the October 2012 Order or in the future, and cleared through ICE Clear Europe. ICE Clear Europe has requested that the Commission amend the October 2012 Order to cover interest rate and financial foreign futures as well as energy foreign futures, and foreign futures traded on ICE Endex as well as on ICE Futures Europe.

ICE Clear Europe's current request was posted on the Commission's website for a 14-day public comment period, which ended on April 21, 2014. Two substantive comment letters were received during the comment period, and both letters supported the Commission's issuance of the requested relief.

The Commission has reviewed the request and the record in this matter ("Submission"), and finds that ICE Clear Europe has demonstrated that it can continue to comply with applicable requirements under the Act and the Commission's regulations thereunder. As a result, the Commission amends the October 2012 Order as follows:

**IT IS ORDERED**, pursuant to Section 4d(a) and (b) of the Act, that, subject to the terms and conditions below, ICE Clear Europe and its FCM Clearing Members that are acting pursuant to this order may hold customer property used to margin, guarantee, or secure trades or positions in foreign futures traded on ICE Futures Europe or ICE Endex with other customer property used to margin, guarantee, or secure trades or positions in futures traded on ICE Futures US in a segregated futures account or accounts maintained in accordance with Section 4d(a) and (b) of the Act (including any orders issued pursuant to Section 4d(a) and (b) of the Act) and the regulations thereunder, and provide for portfolio margining of such futures and foreign futures, subject to the requirements of Commission

Regulation 39.13(g)(4). All such customer property shall be accounted for and treated and dealt with as belonging to the futures customers of the participating FCM Clearing Member consistent with Section 4d(a) and (b) of the Act and the regulations thereunder.

**IT IS FURTHER ORDERED**, that:

(1) Interest rate, energy, and financial foreign futures that are currently traded (as such contracts may be modified from time to time), or that will be traded in the future, on ICE Futures Europe or ICE Endex, and cleared through ICE Clear Europe (“Covered Foreign Futures Contracts”) may be commingled with any and all futures that are currently, or will in the future be, traded on ICE Futures US and cleared through ICE Clear Europe, in accounts subject to Section 4d(a) and (b) of the Act.

(2) Each FCM Clearing Member acting pursuant to this order shall take appropriate measures to identify, measure, and monitor financial risk associated with carrying the Covered Foreign Futures Contracts in a segregated futures account and implement risk management procedures to address those financial risks.

(3) ICE Clear Europe shall apply appropriate risk management oversight procedures with respect to transactions and open interest in the Covered Foreign Futures Contracts. ICE Clear Europe shall conduct oversight sufficient to assure that each FCM Clearing Member acting pursuant to this order has the appropriate operational capabilities necessary to manage defaults in such contracts.

(4) ICE Clear Europe shall conduct financial surveillance and oversight with respect to the Covered Foreign Futures Contracts carried by each FCM Clearing Member acting pursuant to this order.

(5) ICE Clear Europe and each FCM Clearing Member acting pursuant to this order shall take all other steps appropriate to manage risk related to clearing the Covered Foreign Futures Contracts.

(6) ICE Clear Europe and each FCM Clearing Member acting pursuant to this order shall hold all customer property deposited with ICE Clear Europe and such FCM Clearing Member, respectively, to margin, guarantee, or secure Covered Foreign Futures Contracts in accordance with the requirements of Section 4d(a) and (b) of the Act and the Commission's regulations thereunder.

(7) ICE Clear Europe shall at all times fulfill all representations made in the Submission, including all attachments and supporting materials thereto.

(8) Large Trader (Position) Reporting

(a) ICE Clear Europe shall provide to the Commission the information described in Part 16 of the Commission's regulations in the manner described in Parts 15 and 16 of the Commission's regulations with respect to all Covered Foreign Futures Contracts.

(b) Each FCM Clearing Member acting pursuant to this order shall provide to the Commission the information described in Part 17 of the Commission's regulations in the manner described in Parts 15 and 17 of the Commission's regulations with respect to all Covered Foreign Futures Contracts in which it participates.

(c) Upon request by the Commission, each FCM Clearing Member acting pursuant to this order, ICE Clear Europe, ICE Futures Europe and/or ICE

Endex shall obtain from specified traders and provide to the Commission the information set forth in Part 18 of the Commission's regulations.

(d) If the Commission promulgates a regulation under the Act addressing obligations under Parts 15, 16, 17, and/or 18 of the Commission's regulations, or otherwise affecting any of the obligations under paragraphs (a) through (c) above, then such regulation will, to the extent conflicting or duplicative, supersede the obligations referred to in paragraphs (a) through (c) above.

(9) ICE Clear Europe shall promptly inform the Commission of any material change in applicable foreign laws or regulations relevant to its operation as a DCO clearing for ICE Futures Europe and ICE Endex including, but not limited to, any material change to requirements for Recognised Clearing Houses or Recognised Investment Exchanges (“RIEs”), the status of contracts between ICE Clear Europe and its clearing members as Market Contracts for the purposes of Part VII of the Companies Act of 1989, and any other change in such law or regulations affecting the representations and conclusions contained in the Submission. ICE Clear Europe also shall promptly inform the Commission of any change in ICE Futures Europe’s status as an RIE and any change in ICE Futures Europe’s or ICE Endex’s rules that affects their cooperation with the Commission or with ICE Clear Europe.

(10) ICE Futures Europe and ICE Endex shall maintain a binding agreement appointing an agent in the United States for purposes of communications, including acceptance of any summons, complaints, orders, subpoenas, requests for information, notice, or any other written document or correspondence issued by or on behalf of the

Commission, the U.S. Department of Justice, or any U.S. clearing member, and ICE Futures Europe and ICE Endex shall promptly inform the Commission of any change in such agent or agreement with such agent.

This order is issued pursuant to Section 4d(a) and (b) of the Act based upon the representations made and supporting material provided to the Commission by ICE Clear Europe in its Submission. Any material changes or omissions in the facts and circumstances pursuant to which this order is granted may require the Commission to reconsider its finding that the relief set forth herein is appropriate. Further, in its discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the exemptive relief granted in this order, as appropriate, on its own motion.

Issued in Washington, D.C., this 30<sup>th</sup> day of May, 2014.

By the Commission



Christopher J. Kirkpatrick

Deputy Secretary of the Commission