



GUIDANCE
ICE Futures Europe EFP EFS Policy
October 2012

ICE Futures Europe Guidance on the Exchange for Physical (“EFP”) and Exchange for Swaps (“EFS”) trading facilities

This Guidance updates earlier Guidance issued and contains a summary overview of each facility followed by detailed Guidance on the permitted use of the EFP/EFS facilities and the factors to be considered when bringing an OTC position on-Exchange. It further includes the timings and method of reporting the EFP/EFS trades to the Exchange.

Each Member should ensure that it has appropriate systems and controls in place to ensure that EFPs and EFSs are registered in accordance with Exchange Regulations. Failure to do so may render the Member liable to disciplinary action by the Exchange and potentially the FSA or other regulatory authorities.

1. Summary overview of EFP and EFS facilities

- The EFP facility allows Members to register Futures trades linked to physical and forward transactions.
- The EFS facility allows Members to register futures trades linked to swap transactions.
- The EFS facility can be used to register ICE Futures Swap Futures Contracts.
- The ICE Brent Futures leg of an ICE Brent Futures/NYMEXWTI trade may be registered using the EFS facility.
- EFP/EFSs must be reported to the Exchange by the method set out in point 4(b) of this Guidance.
- EFP and EFS trades may be submitted to the Exchange at any time during the hours set out below in point 4 (a) of this Guidance.
- On the day of the expiry of a contract month/date, EFP and EFS trades in respect of the expiring contract date/month may be submitted to the Exchange up to the times set out in point 4(a) below.
- EFS transactions in respect of options for an expiring contract month cannot be registered after the cessation of trading for the relevant expiring contract month.
- The Exchange may require Members to supply evidence of the underlying physical or swap transaction either prior to or following registration of the trade and may refuse registration in its sole and final discretion.

2. Permitted use of EFP/EFS facilities

The two key uses of the EFP/EFS facilities are as follows: -

1. To permit bilaterally traded physical and paper transactions to be hedged using ICE Futures Europe contracts in a single contingent transaction (e.g. where the seller of a crude oil cargo becomes the buyer of Futures and the buyer of a crude oil cargo becomes a seller of Futures).
2. To enable holders of OTC swap or option positions to replace them with the equivalent in ICE Futures Europe contracts, including ICE Swap Futures Contracts.

There are a number of pricing mechanisms that are used OTC which the Exchange will accept on an EFP/EFS registration basis.

These include, inter alia:

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| <ul style="list-style-type: none"> • BWAVE -Brent Weighted Average Price | <p>When an OTC swap or physical transaction is based on the ICE BWAVE, the ICE GWAVE, ICE Futures Europe marker or MOPs and the OTC contract has been executed contingent on its conversion into ICE Futures Europe contract at an agreed time, date or trigger point subsequent to the trade.</p> |
| <ul style="list-style-type: none"> • GWAVE -Gas oil Weighted Average Price | |
| <ul style="list-style-type: none"> • MOPs -Mean of Platts price | |
| <ul style="list-style-type: none"> • ICE Futures Europe marker prices | <p>(excluding any tradable marker e.g. the Brent Afternoon Marker)</p> |

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| <ul style="list-style-type: none"> • OTC Options | <p>When an OTC option can expire into ICE Futures Europe contract at the strike price at expiry or other agreed trigger point.</p> |
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| <ul style="list-style-type: none"> • ICE Brent/NYMEX WTI arbitrage | <p>Where the ICE leg of an arbitrage trade can be converted into ICE Brent Futures where it has been traded as a contingent arbitrage trade as opposed to legging across the two Exchanges.</p> |
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For the purposes of this Guidance and the Exchange Regulations, the Exchange considers these and similar instruments to be legitimate OTC transactions, the crucial factor being that they are not tradable on the Exchange and therefore are eligible to be registered on the Exchange using the EFP/EFS facility.

As OTC transactions, the trading of such instruments is outside the jurisdiction of the Exchange Regulations until they are brought onto the Exchange. For the avoidance of doubt the negotiation of the purchase or sale of such instruments will not be considered by the Exchange as a breach of Exchange Rule G.4 which prohibits prior arrangement.

Obviously Members and clients will need to ensure that, in bringing the contracts on-Exchange, they comply with all applicable Exchange Regulations. In addition, Members and clients should also satisfy themselves that the relevant requirements of the Financial Services Authority's Code of Market Conduct are satisfied.

3. Factors to be considered when bringing an OTC position on-Exchange

The limiting factors on acceptance of EFP/EFS registration are:

- In the case of EFP transactions, the underlying OTC contract must be properly documented and available for production to the ICE Futures Europe compliance department on demand in order to validate its legitimacy. In this context proper documentation is a legally binding bilateral contract between market participants - who may be Members or not. The contract should be either an industry standard contract or one whose terms are of an equivalent standard identifying the OTC product being traded, the price or prices involved and the mechanism by which the contracts may be converted into ICE Futures Europe contracts.
- In the case of EFS transactions for instruments such as ICE Swap Futures Contracts, ICE Futures Europe markers and/or cross exchange arbitrage transactions such as ICE Brent/NYMEX WTI, this requirement may be satisfied by providing order documentation such as, but not limited to: order slips

(either trader or broker), confirmation notes, copies of electronic confirmations (email, Instant Message) or copies of a trader's blotter;

- The facility is not designed or intended to facilitate the transfer of funds between parties and/or locations whether for money laundering, resolution of errors or any other purpose other than as a consequence of normal commercial activity. If the Exchange is not satisfied that there is a legitimate commercial rationale for the EFP/EFS, registration will be refused;
- For all Oil Futures Contracts there must be evidence of a bona fide pre-existing physical or swap agreement that is not directly dependent on the transaction being registered as an ICE Futures Europe EFS. This cannot be a 'contingent' EFS – the OTC swap leg must not be retrospectively cancelled out by a further linked swap that comes into effect if the trade is accepted by the Exchange as an EFS. 'Transitory' EFSs – where the original OTC swap leg is offset/cancelled by a back-to-back swap and then replaced by a futures position as part of the same strategy – are permitted. Each swap leg must be able to stand alone if executed singly, and must bear genuine economic risk.
- For ICE Swap Futures Contract; Utility Contracts (electricity, coal and natural gas), Emission, and Oil Options Contracts, evidence of any swap or option transaction is acceptable, including where the swap or option has been bilaterally negotiated with the express purpose of acceptance for clearing by the Exchange. This includes simple agreements to transact the option deal and clear it via submission to the Exchange. Markets such as the ICE Swap Futures Contracts; Utility and Emission Contracts and Oil Options Contracts are areas in which most trading occurs in OTC venues via brokers; in the case of options often as part of complex strategies. The Exchange regards the ability to bring these contracts onto the Exchange as beneficial to the market as a whole.
- If the price at which the EFP/EFS is to be registered is at current market price or within the high/low range of the day, it will be automatically accepted for registration by the Exchange. If the registration price does not meet the aforementioned criteria the Exchange must be satisfied that the transaction is a legitimate use of the facility before registration can take place, and will require approval from the compliance department.
- The compliance department may ask for further documentation or request sight of evidence in support of the registration as outlined in Rule F.5(e) (whether by sight of contract notes or otherwise) to confirm the legitimacy of the underlying transaction. Members will appreciate that the processing of such trades will be significantly quicker on most occasions if such documentation is available at the time of requesting the registration. In any event the Exchange will retrospectively monitor a random sample of accepted EFP/EFSs to ensure that there was a legitimate underlying transaction behind the EFP/EFS.
- Members should ensure that ICE Clear Europe holds sufficient cover to offset any negative variation margin which results from the posting of an EFP or EFS. ICE Clear Europe may also require that sufficient cover is held on account to meet any consequential change to initial margin. **Failure to do so may result in a refusal by ICE Clear Europe to register the trade in accordance with ICE Clear Europe General Regulation 9 (c).** To ensure that this requirement is fulfilled, relevant Exchange staff will examine all EFPs and EFSs as they are presented for registration and if necessary registration may be delayed until both the Exchange and ICE Clear Europe are satisfied that funds in the relevant Member's ICE Clear Europe account are adequate.

4. Procedures for the reporting of EFP and EFS trades to the Exchange

a) Reporting time limits

EFP/EFS trades for all eligible Futures and Options Contracts, except Electricity and Natural Gas Contracts, may be reported to the Exchange at any time during trading hours and for 30 minutes or, in the case of Electricity and Natural Gas Contracts, one hour after the close of the relevant individual Contract (or the close of the ICE Post Trade and Clearing Systems ("the ICE Systems") whatever is the earlier).

On an expiry day, for all ICE Futures Contracts except ICE Emission Contracts - Futures, EFP/EFSs in respect of the expiring contract date/month must be reported within one hour after the expiry of the contract date/month. In the case of ICE Emission Contracts - Futures, EFP/EFSs must be reported within 30 minutes after the expiry of the relevant contract month/date.

On the expiry day for all ICE Options Contracts, EFSs may be reported up to the end of the designated settlement period of the underlying Futures Contract. Further details are set out in Rule F.5 and Trading Procedure 16.

b) Reporting to the Exchange

Once an EFP or EFS has been organised the Members must report the EFP or EFS details to the Exchange in accordance with ICE Futures Europe Trading Procedure 16.

EFPs or EFSs may be reported to the Exchange by the entry of the EFP or EFS details to the ICE Block facility (or by any other means determined by the Exchange from time to time).

- (i) Members may post an EFP or EFS by entering into ICEBlock both the buy and sell sides of the trade as a cross trade.
- (ii) Where the EFP or EFS is agreed between two separate Members ("Non-crossed Trade") one of the Members party to a Non-crossed Trade inputs into ICEBlock its own side of the deal (i.e. either the buy or sell side of the trade) alleging the counterparty Member to the deal. The counterparty Member to the deal is required to accept the alleged Non-crossed Trade in ICEBlock. Once the Non-crossed Trade has been accepted by the counterparty it flows through to the ICE Systems in the normal manner.

In order to facilitate the swift matching of Non-crossed Trades the submitting Member must complete mandatory Order Reference and Contact Number fields to assist any queries prior to acceptance by the counterparty Member.

Unless otherwise agreed by the relevant Members, Non-crossed Trades shall be entered by the buying Member in respect of Non-crossed Trades in single contract months. All legs pertaining to multi-legged strategy trades should be entered into ICEBlock by the Buyer of the front month.

ICEBlock assigns each new trade a unique deal ID and provides an audit of all actions undertaken on ICEBlock for that particular day.

Only Exchange Members are able to register EFP or EFS trades on ICEBlock, affiliate or group companies may be eligible to trade on behalf of an Exchange Member but only with the specific written permission of that Member which has been received by the Exchange.

All Exchange Members are eligible to register EFP or EFS trades using ICEBlock but must first apply to the Exchange for access.

The Exchange may check the validity of the EFP or EFS details submitted by the parties to the EFP or EFS. If the Exchange (following consultation, where necessary, with ICE Clear Europe and subject to their right to refuse registration) is not satisfied that all such details are valid, it will void the EFP or EFS. Any decision by the Exchange not to register an EFP or EFS is final. Registration of a transaction does not preclude the Exchange from instigating disciplinary procedures in the event that the transaction is subsequently found to have been made other than in compliance with the Regulations.

The EFP or EFS volume will be broadcast to the Market via the ICE Platform.

An EFP is registered with a trade type of 'E' for all contracts other than the Emission and Utility Contracts where the trade type is "O". An EFS, including registration of swap futures, is registered with a trade type

of 'S'.

Further details in relation to the ICE Block facility may be obtained from ICE Futures Europe Market Supervision on +44 (0) 207 382 8200.

Any questions arising from this Guidance should be addressed to:

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