



July 1, 2016

**Via Electronic Submission**

Christopher Kirkpatrick  
Secretary of the Commission  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20581

**RE: *Comments on Notice of Proposed Order to Exempt the Federal Reserve Banks from Sections 4d and 22 of the Commodity Exchange Act***

Dear Mr. Kirkpatrick:

ICE Clear Credit LLC (“**ICC**”) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) in response to the Commission’s notice of proposed order (the “**Proposal**”) to exempt the Federal Reserve Banks from Sections 4d and 22 of the Commodity Exchange Act (the “**CEA**”). As background, ICC is a wholly owned subsidiary of Intercontinental Exchange, Inc. which operates regulated derivatives exchanges and clearing houses in the United States, Europe, Canada and Singapore. ICC is a CFTC registered derivatives clearing organizations (“**DCO**”) that has been designated as systemically important (“**SIDCO**”) by the Financial Stability Oversight Counsel. As the operator of a SIDCO, ICC has a practical perspective of the implications of the Proposal and ICC respectfully offers the following comments.

ICC strongly supports the Commission’s efforts to facilitate SIDCOs’ use of Federal Reserve Banks as depositories for segregated customer funds. As required by DCO Core Principles set forth in the CEA<sup>1</sup>, DCOs must ensure that deposited member and customer funds are held in a manner which minimizes risk of loss or delay in access. We agree with the Commission’s assessment that holding SIDCO segregated customer accounts at a Federal Reserve Bank would both augment a SIDCO’s liquidity arrangements and enhance the protection of customer funds. Depositing segregated customer assets at a Federal Reserve Bank decreases a SIDCO’s credit, liquidity and operational risk as compared to depositing such assets at commercial banks or securitizing such assets pursuant to reverse repurchase transactions.<sup>2</sup>

---

<sup>1</sup> Section 5b(c)(2) of the CEA.

<sup>2</sup> With respect to U.S. Dollar cash posted by customers of ICC’s clearing members, currently such cash is either securitized in U.S. Treasury/Agency securities generally through overnight reverse repurchase (“repo”) transactions or held in deposit accounts at commercial banks.



Use of Federal Reserve Banks as a depository for segregated customer funds is consistent with the CFTC’s enhanced risk management regulations applicable to SIDCOs,<sup>3</sup> which require a SIDCO’s liquidity arrangements to be highly reliable in stressed market conditions. In addition, access to Federal Reserve Banks is consistent with the Principles for Financial Market Infrastructures (“**PFMIs**”) published by the Committee on Payments and Market Infrastructures and the Board of the International Organization of Securities Commissions<sup>4</sup> which provides that central counterparties with access to central bank accounts should use these services to enhance its management of liquidity risk<sup>5</sup> and minimize credit risk.<sup>6</sup>

Furthermore, use of a Federal Reserve Bank as a depository helps to reduce systemic risk by reducing interconnectedness in the financial system. Such interconnectedness can occur when a member of a SIDCO (or an affiliate of a member of a SIDCO) also acts as a custodial bank, settlement bank or a repo/reverse repo counterparty to the SIDCO. In ICC’s view, a decrease in such interconnectedness would positively impact SIDCO resilience during a market disruption and promote safety and soundness in the cleared derivatives markets by decreasing contagion risk.

One of the main objectives of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“**Dodd-Frank Act**”) is to promote financial stability for SIDCOs. In furtherance of this objective, Section 806(a) of the Dodd-Frank Act permits the Board of Governors of the Federal Reserve System to authorize the Federal Reserve Banks to establish and maintain a deposit account for SIDCOs.<sup>7</sup> Pursuant to such authority, ICC established a depository account with the Chicago Federal Reserve Bank to hold substantially all of the proprietary U.S. Dollar cash posted by ICC’s clearing members. The relief sought in the Proposal would allow for the full implementation of Section 806(a) of the Dodd-Frank Act by allowing segregated customer assets also to be deposited at a Federal Reserve Bank.

ICC agrees with the Commission’s analysis which states that it is appropriate to exempt Federal Reserve Banks from Sections 4d and 22 of the CEA, as Federal Reserve Banks serve a unique role in the U.S. banking and payment system as compared to commercial banks. ICC supports this exemption and agrees that the existing limitations on how Federal Reserve Banks hold assets provide adequate protections to account holders, and that such protections are consistent with the customer protection objectives of the CEA.

---

<sup>3</sup> Enhanced Risk Management Standards for Systemically Important Derivatives Clearing Organizations, 78 FR 49663 (Aug. 15, 2013); Derivatives Clearing Organizations and International Standards, 78 FR 72476 (Dec. 2, 2013).

<sup>4</sup> PFMIs (April 2012) available at <http://www.bis.org/cpmi/publ/d101a.pdf>.

<sup>5</sup> See PFMIs at Principle 7, Key Consideration 8 & Explanatory Note 3.7.14.

<sup>6</sup> See PFMIs at Principle 9.

<sup>7</sup> See also Financial Market Utilities (Regulation HH), 78 FR 14024 (March 4, 2013).



ICC appreciates the opportunity to comment on the Proposal. ICC strongly supports the Proposal and believes the contemplated exemption is consistent with the public interest as it would enhance the protection and liquidity of segregated customer assets by allowing such assets posted at a SIDCO to be held at a Federal Reserve Bank. As a result, ICC urges the CFTC to expeditiously finalize the Proposal. Should the Commission require additional information regarding ICC's comments, please do not hesitate to contact the undersigned at [eric.nield@theice.com](mailto:eric.nield@theice.com) or 312-836-6742.

Sincerely,

A handwritten signature in black ink that reads "Eric J. Nield".

Eric J. Nield  
ICE Clear Credit LLC  
General Counsel

cc: Stan Ivanov, ICE Clear Credit LLC, President