



December 7, 2020

Via Electronic Submission

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St, N.W.
Washington, DC 20581

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Comments on Portfolio Margining of Uncleared Swaps and Non-Cleared Security-Based Swaps (RIN 3038-AE67 and File Number S7-15-20)

Dear Mr. Kirkpatrick and Mr. Fields:

Intercontinental Exchange, Inc., on behalf of itself and its subsidiaries (collectively, “ICE”) appreciates the opportunity to comment on the request for comment from the Commodity Futures Trading Commission (the “CFTC”) and Securities and Exchange Commission (the “SEC”, and together with the CFTC, the “Commissions”), titled “Portfolio Margining of Uncleared Swaps and Non-Cleared Security-Based Swaps” (the “Portfolio Margining Request” or the “Request”).¹

ICE currently operates four derivatives clearing organizations (“DCOs”) registered with the CFTC: ICE Clear Credit LLC,² ICE Clear Europe Limited,³ ICE Clear US, Inc.⁴ and ICE NGX Canada Inc.⁵ ICE Clear Credit and ICE Clear Europe Limited are also registered as securities clearing agencies under the Securities Exchange Act of 1934 (the “Exchange Act”). ICE has a successful history of clearing exchange traded and OTC derivatives across a spectrum of asset

¹ 85 FR 70536 (November 5, 2020) (RIN 3038-AF07 and File Number S7-15-20).

² ICE Clear Credit has been designated as a systemically important derivatives clearing organization pursuant to Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).

³ ICE Clear Europe is also an authorized as a central counterparty under the European Market Infrastructure Regulation (EMIR) and a recognised clearing house under English law.

⁴ ICE Clear US has elected to be a subpart C DCO pursuant to Commission Rule 39.31.

⁵ ICE NGX Canada Inc. is also registered with the Commission as a foreign board of trade and is a recognized exchange and clearing agency under the laws of Alberta, Canada.



classes including energy, agriculture and financial products. ICE Clear Credit, a Credit Default Swap (“CDS”) clearing house, is designated as systemically important under Title VIII of the Dodd-Frank Act. As an operator of clearing houses and derivatives exchanges, ICE is interested in the issues raised by the Portfolio Margining Request and appreciates the opportunity to comment on the Request.

ICE commends the Commissions for their consideration on the topic of portfolio margining and welcomes the Commissions’ Request, which demonstrates further coordination on swaps markets regulation. ICE believes a vital and efficient CDS market for both swaps and security-based swaps is essential to market participants and their ability to safely and efficiently hedge and manage risk. Essential to the continued efficiency of the CDS market is portfolio margining of related positions in a single account. ICE agrees with the Commissions that portfolio margining of uncleared swaps and related positions may offer benefits to customers and the markets, including promoting more prudent risk management and potentially greater collateral efficiencies in margin calculations. ICE also supports aligning initial margin and other costs more closely with overall risks presented by a customer’s portfolio.

Portfolio margining is an important feature of cleared derivatives. Pursuant to Orders of the CFTC and SEC, portfolio margining of cleared swaps and security-based swaps in the same account has been successfully implemented in the CDS market.⁶ The use of portfolio margining recognizes different products may be economically similar and can be viewed collectively as a single portfolio for risk estimations. Portfolio margining also supports risk management by focusing on the complete financial risk in a portfolio of different, yet related products, and enhances efficiencies by offering reduced margin requirements that reflect the appropriate reduction in risk.

Accordingly, ICE supports the extension of portfolio margining for uncleared swaps and security-based swaps. ICE strongly recommends, however, that the extension of portfolio margining to uncleared swaps be consistent with the approaches used in the cleared swaps market. In this regard, portfolio margining for uncleared swaps should be based on appropriate risk relationships among products. Importantly, portfolio margining of uncleared swaps should not interfere with the Dodd-Frank Act and CFTC and SEC regulations designed to incentivize the use of clearing. Specifically, given the extensive history of clearing and the relative stability of cleared markets, ICE suggests the Commissions be mindful to not incentivize market participants to transition from central clearing to uncleared markets due to more advantageous margin treatment. In this way, while extending the benefits of portfolio margining to uncleared swaps, the Commissions can continue to support clearing and cleared markets.

Moreover, as a matter of policy, the operational efficiencies and risk reducing benefits of central clearing have long been recognized by users of exchange-traded

⁶ See Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Portfolio Margining of Swaps and Security-based Swaps, Exchange Act Release No. 34-68433, 77 FR 75211 (Dec. 19, 2012).



derivatives and the efficacy of the clearing model, even during the most challenging financial situations, made it the natural foundation of financial reform. Clearing has consistently proven to be a fundamentally safe and sound process for managing global systemic risk. The disciplined and transparent risk management practices, associated with regulated cleared contracts, serve to reduce systemic risk. In ICE's view, the extension of portfolio margining to uncleared swaps and security-based swaps should be designed to be commensurate with the robustness of the cleared markets risk management practices and not undermine the benefits of central clearing where additional levels of financial resources are available.

Conclusion

ICE appreciates the opportunity to comment on the Request. ICE is a strong proponent of open and competitive markets with appropriate regulatory oversight. As an operator of global futures and derivatives markets, ICE understands the importance of ensuring the utmost confidence in these markets and takes seriously its obligations to mitigate systemic risk. ICE shares the Commissions' goals of providing the risk management and efficiency benefits of portfolio margining to uncleared derivatives while maintaining appropriate incentives for the use of clearing, and respectfully requests that the Commissions and their staffs consider these comments in light of those goals.

Respectfully submitted,

Chris Edmonds
Chris Edmonds (Dec 7, 2020 13:07 CST)

Chris Edmonds
Global Head of Clearing and Risk
Intercontinental Exchange, Inc.

- cc: Honorable Chairman Heath P. Tarbert
Honorable Commissioner Brian D. Quintenz
Honorable Commissioner Rostin Behnam
Honorable Commissioner Dawn DeBerry Stump
Honorable Commissioner Dan M. Berkovitz
Honorable Chairman Jay Clayton
Honorable Commissioner Hester M. Peirce
Honorable Commissioner Elad L. Roisman
Honorable Commissioner Allison H. Lee
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