



# ICE NGX Jurisdictions

28 March 2019

*Legal Disclaimer:*

*ICE NGX Contracting Parties and prospective ICE NGX Contracting Parties are reminded that they are at all times responsible for ensuring that they are acting in compliance with applicable law and/or regulatory requirements and should therefore seek their own legal and tax advice when considering engaging in order or transaction activity on ICE NGX markets.*

<b>1. North America .....</b>	<b>1</b>
1.1. Canada.....	1
1.1.1. Province of Alberta.....	1
1.1.2. Province of Ontario .....	1
1.1.3. Province of Manitoba .....	2
1.1.4. Province of Quebec .....	2
1.1.5. Province of Saskatchewan.....	2
1.1.6. Province of British Columbia .....	2
1.2. United States of America .....	3
1.2.1. Commodity Futures Trading Commission .....	3
1.2.2. Electric Reliability Council of Texas .....	3
<b>2. Europe.....</b>	<b>4</b>
2.1. European Securities and Markets Authorities .....	4
2.2. Bank of England .....	4



# ICE NGX Jurisdictions

## 1. North America

### 1.1. Canada

#### 1.1.1. Province of Alberta

The Alberta Securities Commission (“ASC”) is ICE NGX’s primary regulator in Canada. ICE NGX is recognized by the ASC under the Securities Act (Alberta) (“ASA”) as an exchange and as a clearing agency for natural gas, electricity, crude oil and related contracts by orders that became effective on December 6, 2018. The current orders replaced ICE NGX’s previous orders.

On July 28, 2014, through a Canadian Securities Administrators notice issued jointly by the ASC, the Bank of Canada and certain other provincial securities regulators, it was declared that ICE NGX can be considered a qualifying central counterparty (“QCCP”) under the standard on the capital treatment of certain bank exposures to central counterparties developed by the Basel Committee on Banking Supervision.

#### 1.1.2. Province of Ontario

ICE NGX was exempted from the requirements of an exchange by the Ontario Securities Commission under the Securities Act (Ontario) (“OSA”) and the Commodities Futures Act (“Ontario CFA”) by an order dated March 31, 2009, and subsequently varied on February 11, 2011 and July 27, 2012. The OSC ordered that (i) ICE NGX be exempt from registration as a commodity futures exchange under section 15 of the Ontario CFA; (ii) trades in contracts on ICE NGX (“Contracts”) by ICE NGX participants in Ontario (“Ontario Participants”) be exempt from the registration requirement under section 22 of the Ontario CFA; (iii) trades in Contracts by Ontario Participants be exempt from the requirements under section 33 of the Ontario CFA; and (iv) ICE NGX be exempt from recognition as an exchange under section 21 of the OSA.

### **1.1.3. Province of Manitoba**

Pursuant to an order dated April 22, 2009, ICE NGX has received the following relief from the Manitoba Securities Commission: (i) an exemption from the need for recognition as an extra-provincial commodity futures exchange under Section 36(1) of the Commodity Futures Act (Manitoba) (the “Manitoba CFA”) for the purpose of the trading restrictions contained in Section 40 of the Manitoba CFA; (ii) an exemption from the need for approval of the form of contract under Section 38(1) of the Manitoba CFA for the purpose of the trading restrictions contained in Section 40; and (iii) an exemption for current and future Contracting Parties from the registration requirement contained in Section 24(1) of the Manitoba CFA.

### **1.1.4. Province of Quebec**

ICE NGX has received orders from the Autorité des Marchés Financiers (“AMF”) dated November 29, 2002, July 27, 2004 and April 29, 2009 authorizing it to carry on exchange and clearing house activities and exempting it from (i) the obligation to register as a dealer for its Contracting Parties; (ii) the obligation to register for any natural person who acts on behalf of its Contracting Parties; and (iii) the obligation to qualify for the creation or marketing of derivatives offered to the public.

### **1.1.5. Province of Saskatchewan**

Pursuant to a decision dated May 16, 2014 of the Financial and Consumer Affairs Authority of Saskatchewan: (i) current and future ICE NGX participants in Saskatchewan (“Saskatchewan Participants”) trading in contracts on ICE NGX are exempt from registration; (ii) current and future Saskatchewan Participants are exempt from the trading restrictions contained in subsection 40(1) of The Securities Act, 1988 (Saskatchewan); and (iii) ICE NGX is exempt from the requirement to be recognized as an exchange and from the requirement to be recognized as a clearing agency. Prior to the current order, ICE NGX operated in Saskatchewan pursuant to exemptive relief provided through a Mutual Reliance Relief System order dated December 1, 2004.

### **1.1.6. Province of British Columbia**

Pursuant to an order dated September 18, 2001, the British Columbia Securities Commission ordered that trades in exchange contracts and swap contracts by contracting parties through the system operated by ICE NGX are exempt from the registration requirement in section 34(1) of the Securities Act (British Columbia) (“BCSA”); and ICE NGX is exempt from the prohibition in section 59(1) of the BCSA against trading exchange contracts on unrecognized exchanges outside British Columbia.

## **1.2. United States of America**

### **1.2.1. Commodity Futures Trading Commission**

ICE NGX is regulated by the Commodity Futures Trading Commission (“CFTC”) in the United States as a Foreign Board of Trade (“FBOT”) and Derivatives Clearing Organization (“DCO”).

ICE NGX is authorized to operate as an exchange through its Foreign Board of Trade (“FBOT”) order, which was issued May 2, 2013. ICE NGX’s FBOT order permits identified members and other participants located in the United States to enter trades directly into ICE NGX’s order entry and trade matching system subject to the following conditions: (i) ICE NGX must comply with the U.S. Commodity Exchange Act (“CEA”) and the regulations thereunder applicable to ICE NGX as a FBOT; (ii) ICE NGX must comply with the applicable conditions of registration specified in CFTC regulation 48.8 and any additional conditions that the CFTC may impose; and (iii) ICE NGX must fulfill the representations made in support of its application for registration.

ICE NGX is permitted to operate as a clearinghouse through its Derivatives Clearing Organization (“DCO”) order, which was granted on December 12, 2008 and subsequently amended on March 20, 2013. ICE NGX’s DCO order allows for the clearing of: (i) physically delivered or financially settled contracts (futures or swaps) based on energy products that could qualify as exempt commodities as defined in the CEA, traded on or subject to the rules of a registered FBOT; and (ii) physically delivered or financially settled swaps as defined in the CEA, based on energy products that could qualify as exempt commodities as defined in the CEA, and which are traded bilaterally or on or subject to the rules of a Designated Contract Market or registered Swap Execution Facility. Clearing spot and forward contracts is not subject to the CEA and therefore not prohibited by the order. The order generally requires ICE NGX’s compliance with the CEA and regulations and also sets out (i) the accounting methodology required for daily settlement procedures, (ii) the self-regulatory functions required of ICE NGX; (iii) certain reporting requirements upon changes to applicable law; and (iv) a requirement to maintain an agent for service in the United States.

### **1.2.2. Electric Reliability Council of Texas**

ICE NGX also provides clearing for Electric Reliability Council of Texas (“ERCOT”) physical electricity futures products, which commenced in August 2013. ICE NGX is registered as a power marketer by the Public Utility Commission of Texas (“PUCT”) and its function as a registered power marketer is not subject to Federal Energy Regulatory Commission (“FERC”) jurisdiction.

## 2. Europe

### 2.1. European Securities and Markets Authorities

Effective January 28, 2016, ICE NGX received third country central clearing counterparty (“CCP”) recognition from the European Securities and Markets Authorities (“ESMA”). Recognition as a third country CCP under European Market Infrastructure (“EMIR”) allows CCPs from outside the European Union (“EU”) to provide central clearing services to clearing members or trading venues established in the EU. Pursuant to EU capital requirements regulations, recognition under EMIR also provides for QCCP status in the EU.

### 2.2. Bank of England

Effective January 31, 2019 ICE NGX was entered on the interim list of third-country CCPs that will offer clearing services and activities in the UK under the Temporary Recognition Regime of the Central Counterparties (Amendment, etc., and Transition Provision) (EU Exit) Regulations 2018 if the UK leaves the EU with no implementation period.