



## **GUIDANCE**

# **ICE Futures Europe EFP, EFS, Soft Commodity EFRP and Basis Trade Policy**

July 2016

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## **ICE Futures Europe Guidance on the Exchange for Physical (“EFP”), Exchange for Swap (“EFS”), Soft Commodity Exchange for Related Positions (“EFRP”) and Basis 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, Soft Commodity EFRP and Basis trading facilities and the factors to be considered when bringing bilateral positions on-Exchange. It further includes the timings and method of reporting the EFP, EFS, Soft Commodity EFRP and Basis Trade to the Exchange.

Each Member should ensure that it has appropriate systems and controls in place to ensure that EFPs, EFSs, Soft Commodity EFRPs and Basis Trades 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 Financial Conduct Authority (“FCA”) or other regulatory authorities.

### **1. Summary overview of EFP, EFS, Soft Commodity EFRP and Basis trading facilities**

- The EFP facility allows Members to register as EFP trades, Futures trades linked to physical and forward transactions in energy products.
- The EFS facility allows Members to register, as EFS trades, Futures trades linked to swap transactions. The ICE Brent Futures leg of an ICE Brent Futures/NYMEX WTI trade may be registered using the EFS facility.
- The Basis Trading facility can be used to register, as Basis trades, Futures trades which have been organized as part of a trade involving a combination of an approved Basis Trade instrument against an appropriate number of offsetting Futures Contracts in accordance with Rule F.5.C.
- The Soft Commodity EFRP facility permits Members to register futures trades or options trades which are part of an EFP (formerly known as Against Actual “AA” trades), EFS or Exchange of Options for Options (“EOO”). In each case, the soft commodity futures or options contract leg must be linked with an associated leg in the relevant physical soft commodity, or swap or option thereon.
- EFP, EFS, Soft Commodity EFRP and Basis Trades must be reported to the Exchange as set out in points 4(a) and 4(b) of this Guidance.
- On the day of the expiry of a contract month/date, EFP, EFS and Soft Commodity EFRP 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.
- The Basis Trading facility can be used in respect of a delivery month for a Futures Contract on any Trading Day as set out in point 4(a) below.
- For details about acceptable prices for EFP, EFS, Soft Commodity EFRPs and Basis Trades refer to point 3 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, cash 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, Soft Commodity EFRP and Basis Trading facilities

The key uses of the EFP, EFS, Soft Commodity EFRP and Basis Trading 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 or as an alternative example where the seller of cocoa becomes the buyer of Cocoa Futures and the buyer of cocoa becomes the seller of Cocoa Futures).
2. To enable holders of bilateral swap or option positions to replace them with the equivalent in ICE Futures Europe contracts.
3. To facilitate hedging: by enabling the organisation of simultaneous transactions in a financial asset or instrument and an appropriate number of offsetting futures contracts (e.g. a Short Sterling Future traded against a standard plain vanilla OTC swap).

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

These include, inter alia:

<ul style="list-style-type: none"> <li>• BWAVE -Brent Weighted Average Price</li> <li>• GWAVE -Gas oil Weighted Average Price</li> <li>• MOPs -Mean of Platts price</li> </ul>	<p>When an bilateral swap or physical transaction is based on the ICE BWAVE, the ICE GWAVE, ICE Futures Europe marker or MOPs and the bilateral 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"> <li>• ICE Futures Europe marker prices</li> </ul>	<p>(excluding any tradable marker e.g. the Brent Afternoon Marker)</p>
<ul style="list-style-type: none"> <li>• OTC Options</li> </ul>	<p>When a bilaterally agreed option can expire into ICE Futures Europe contract at the strike price at expiry or other agreed trigger point.</p>
<ul style="list-style-type: none"> <li>• ICE Brent/NYMEX WTI arbitrage</li> </ul>	<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>

For the purposes of this Guidance and the Exchange Regulations, the Exchange considers these and similar instruments to be legitimate bilateral 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 bilaterally agreed 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 and Trading Procedure 8.3.1 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 Market Abuse Regulation (EU) No 596/2014 are satisfied.

### **3. Factors to be considered when bringing bilaterally agreed positions on-Exchange**

The limiting factors on acceptance of EFP, EFS, Soft Commodity EFRPs and Basis Trades for registration are:

- The facilities are 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, Soft Commodity EFRP and Basis Trade registration will be refused.
- In the case of EFP and Soft Commodity EFP transactions, the underlying physical 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 underlying 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 contracts listed in Section TTT of the ICE Futures Europe Regulations (formerly known 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.
- 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 underlying 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 underlying 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 contracts listed in Section TTT of the ICE Futures Europe Regulations, 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 contracts listed in Section TTT of the ICE Futures Europe Regulations, Utility and Emission Contracts and Oil Options Contracts are areas in which most trading occurs on venues where brokers arrange bilateral agreements; 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.
- For Basis Trades, the approved basis trade instrument would either be a cash bond, OTC swap, forward rate agreement ("FRA") or a basket of stocks or such other instrument as designated by the Exchange.
- For Basis Trades and Soft Commodity EFRPs, the Exchange has outlined, in Trading Procedure 16A

and 16B respectively, permitted approaches for the construction of hedge ratios which are deemed acceptable. Where a hedge ratio differs from such methods, the Member who is reporting the trade is required to seek approval from the Exchange and justify the method employed in advance of such submission.

- For Soft Commodity EFRPs satisfactory documentary evidence containing the information specified in Trading Procedure 16B, must be retained. For Soft Commodity EFPs there must be either evidence of the underlying physical contract or of the price-fixation confirmation together with a directly related contract demonstrating the price differential or ratio used. For Soft Commodity EFSs and EOOs, the relevant ISDA Agreement or relevant confirmation must be retained. Documentation relating to the physical leg of the Soft Commodity EFRP must be retained by the Member or if the Member is not directly responsible for its execution, the Member must have in place appropriate arrangements in order to promptly provide the Exchange with the required information.
- If the price at which the EFP/EFS is to be registered is not at current market price or within the high/low range of the day, the Exchange compliance department may request further information to ensure that the transaction is a legitimate use of the facility.
- In relation to Soft Commodity EFPs and EFSs, the futures price must be within the price range established to date in respect of the delivery month in the relevant Exchange Contract. In relation to Soft Commodity EOOs, the price of the IFEU option must be within the implied volatility range established to date in respect of the expiry month.
- The price of the futures leg(s) of a Basis Trade must be within the high/low traded price that occurred on the ICE platform in the preceding 30 minutes. In the event that no trade has occurred in the relevant delivery month in the preceding thirty minutes, the price of the futures leg(s) must be within a price range determined by the Exchange. In all cases, the price of the futures leg must represent a fair market value.
- In exceptional circumstances, the Exchange may, at its absolute discretion, authorise a Basis Trade where the price of the futures leg(s) is outside the parameters set out above. Prior to authorising such Basis Trade, the Exchange will require additional information from the Basis Trade executing Member, in relation to the organisation of the Basis Trade.
- 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) and F.5.C(c) (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, EFS, Soft Commodity EFRP and Basis Trades to ensure that there was a legitimate underlying transaction.
- Members should ensure that ICE Clear Europe holds sufficient cover to offset any negative variation margin which results from the posting of an EFP, EFS, Soft Commodity EFRP and Basis Trades . 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 EFP, EFS, Soft Commodity EFRP and Basis Trades 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, EFS, Soft Commodity EFRP and Basis Trades to the Exchange

##### a) Reporting time limits

*For EFP/EFS trades:*

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/EFS trades 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.

*For Basis Trades and Soft Commodity EFRPs:*

Basis Trades and Soft Commodity EFRPs may be organised only during the trading hours of the Futures Contract or Options Contract concerned.

The Basis Trade / Soft Commodity EFRP details must be reported to the Exchange through the ICE Block facility as soon as practicable. In any event, details of the Basis Trade / Soft Commodity EFRP must be reported to the Exchange by the Basis Trade / Soft Commodity EFRP executing member and accepted within fifteen minutes of the time at which the Basis Trade / Soft Commodity EFRP was agreed. Members must not delay submission of a Basis Trade.

The Basis Trading facility can be used in respect of a delivery month for a Futures Contract on any Trading Day.

**b) Reporting to the Exchange**

Once an EFP, EFS, Soft Commodity EFRP or Basis Trade has been organised the Member(s) must report the details to the Exchange in accordance with ICE Futures Europe Trading Procedure 16.

EFPs, EFSs, Soft Commodity EFRPs or Basis Trades may be reported to the Exchange by the entry of the 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, EFS, Soft Commodity EFRP or Basis Trade by entering into ICE Block both the buy and sell sides of the trade as a cross trade.
- (ii) Where the EFP, EFS, Soft Commodity EFRP or Basis Trade is agreed between two separate Members (“Non-crossed Trade”) one of the Members party to a Non-crossed Trade inputs into ICE Block 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 ICE Block. 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 ICE Block by the Buyer of the front month.

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

Only Exchange Members are able to register EFP, EFS, Soft Commodity EFRP or Basis Trades on ICE Block, 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, EFS, Soft Commodity EFRP or Basis Trades using ICE Block but must first apply to the Exchange for access.

The Exchange may check the validity of the EFP, EFS, Soft Commodity EFRP or Basis Trade details submitted by the parties to the trades. 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, EFS, Soft Commodity EFRP or Basis Trade. Any decision by the Exchange not to register an EFP, EFS, Soft Commodity EFRP and/or Basis Trade 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, EFS, Soft Commodity EFRP volume will be broadcast to the Market via the ICE Platform. For Basis Trades both volume and price will be broadcast.

For the trade type codes that will be used for registration see the table below:

Transaction Type	Trade Type Code
EFPs	E
EFPs (for Emission and Utility Contracts)	O
EFSS	S
Soft Commodity EOOs	Q
Basis Trades	4

Further details in relation to the ICE Block Trade 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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