

## **(III) MEMBERSHIP PROCEDURES**

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## **1. APPLICATION PROCESS**

- 1.1 The membership application process is set out in detail in Rule 201. An application for clearing membership must be made by completing an application form and delivering a partially executed Clearing Membership Agreement ("CMA"). An application for a Clearing Member to become a Sponsor must be made by completing an application form and delivering a partially executed Sponsor Agreement ("SA"). An application to become a Sponsored Principal must be made by completing an application form and delivering a partially executed Sponsored Principal Clearing Agreement ("SPCA"). For UK companies, because the CMA, SA or SPCA is a deed, signatures of two directors or one director and the company secretary are required. Evidence of authority of signatories will be required by the Clearing House. For non-UK companies, local requirements are applicable. The Clearing House will liaise with an applicant to ensure that the application form and supporting documentation is complete. The Clearing House is not currently charging an application fee.
- 1.2 On receipt of a completed application form, the Clearing House will undertake a due diligence and a review process. As part of its application, an applicant must have provided the information requested on the application form to the Clearing House.
- 1.3 Applications will formally be considered by the Board or the Executive Risk Committee.
- 1.4 The Clearing House may also grant approval to an applicant conditional upon satisfying certain requirements, provided that the applicant has expressed its intention to meet such requirements and provided evidence of its ability to do so.
- 1.5 Clearing Members who wish to have an additional Membership Category or become a Sponsor must go through a separate membership process, under which any additional criteria applicable to the new Membership Category or to Sponsors will be assessed in the same manner and pursuant to the same procedures as for new membership applicants.
- 1.6 For additional membership, capital and notification requirements specific to CDS Clearing Members, please refer to the CDS Procedures. For additional membership, capital and notification requirements specific to FX Clearing Members, please refer to the FX Procedures.
- 1.7 Clearing Members trading on particular Markets must also meet the requirements of the relevant Markets.
- 1.8 These Membership Procedures apply to CDS Clearing Members, F&O Clearing Members and FX Clearing Members.
- 1.9 These Membership Procedures are 'Procedures' as defined in the ICE Clear Europe rules (the "**Rules**") and are subject to the Rules, including, without limitation, Rule 102. These Membership Procedures, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with English law and any Dispute under these Membership Procedures will be subject to arbitration under Rule 117.

## **2. RESIGNATION PROCESS**

- 2.1 The membership termination process is set out in detail in Rule 209.

## **3. CAPITAL REQUIREMENTS**

- 3.1 All Clearing Members are subject to a minimum Capital requirement of USD10 million. CDS Clearing Members are subject to additional minimum Capital requirements as set out in the CDS Procedures. FX Clearing Members are subject to additional minimum Capital requirements as set out in the FX Procedures. Requirements may be satisfied in USDs or in other currency equivalents. Changes to the minimum capital requirements will be notified by Circular.

- 3.2 Additional Capital requirements may be imposed on particular Clearing Members pursuant to Rules 206 and 602 and on Sponsored Principals pursuant to Part 19 of the Rules.
- 3.3 As set out in the Rules, “Capital” with respect to a Non-FCM/BD Clearing Member includes “own funds”, as such term is defined in the Capital Requirements Regulation (Regulation (EU) No 575/2013) and applicable on a stand-alone (non-consolidated) basis and subject to the limits and deductions set out therein and, in relation to matters reserved for member states, as implemented in the United Kingdom, whether or not the relevant Clearing Member is subject to the Capital Requirements Regulation or the Capital Requirements Directive (Directive 2013/36/EU) or the supervision of the FCA or PRA. For FCM/BD Clearing Members, “Capital” means its “adjusted net capital” as defined in CFTC Rule 1.17. Capital, as a general matter, includes fully-paid ordinary and preference share capital, retained reserves and, for some purposes and subject to limits, subordinated debt that is perpetual or repayable with more than one year outstanding. “**Tier 1 Capital**”, as defined in the Capital Requirements Regulation, is a subset of Capital excluding subordinated debt, among others.
- 3.4 A Clearing Member or Sponsored Principal with any doubt in relation to whether a particular balance sheet item counts as Capital or Tier 1 Capital should refer to the relevant definitions in the Capital Requirements Regulation or CFTC Rules and raise any queries with the Clearing House.
- 3.5 The Clearing House has discretion to accept other balance sheet items or financial comfort as acceptable Capital. Clearing Members or Sponsored Principals who wish to re-structure their Capital in any of the below ways should contact the Clearing House’s membership department. Any non-standard acceptable Capital requirement is subject to assessment by the Clearing House’s risk department. The following are potential methods Clearing Members or Sponsored Principals may use to re-structure their Capital:
- (a) **Subordinated Loans:** Where a Clearing Member or Sponsored Principal uses subordinated loans not falling within the definition of “own funds” under the Capital Requirements Regulation to meet its minimum Capital requirement, or in order to cover more than 25% of its Capital requirement, the Clearing House will require a written undertaking from the Clearing Member or Sponsored Principal and the Lender that the loan(s) will not be repaid without the prior consent of the Clearing House;
  - (b) **Controller Guarantee:** The Clearing House may, at its discretion, accept a Controller Guarantee from a Controller of the Clearing Member or Sponsored Principal which Controller would, if it were a Clearing Member or Sponsored Principal, meet applicable Capital requirements without the Clearing House exercising any of its discretions. The form of Controller Guarantee must be in the form specified by the Clearing House; and
  - (c) **Additional Cash or Collateral:** The Clearing House may, at its discretion, require a Clearing Member to post additional cash or collateral in addition to the normal margin requirements.

#### 4. MATTERS REQUIRING NOTIFICATION BY CLEARING MEMBERS

- 4.1 In the table below, details are provided of notifications that should be made to the Clearing House. Notifications should be made at or before the time specified, in accordance with the Rules and these Procedures and including the required contents or on the required form. If no form is referred to in the Table below, notification should be made to the Clearing House in writing.
- 4.2 In the Notification column in the table below, “R” refers to the Rules. The items marked \* require formal written notification under Rule 113(c). Other matters do not require follow-up notification in writing unless requested by the Clearing House. Matters notified or actioned electronically through the Clearing House's systems do not require formal notifications to be made to the Clearing House unless specified below. Various of the notification requirements set out below also apply to Sponsored Principals by virtue of Part 19 of the Rules.

	Notification	Periodicity of Submission	Requirements and form
<b>A</b>	<b>Financial and Regulatory Notifications</b>		
1.	Annual audited financial statements including: profit and loss account, balance sheet and auditors report – R205(a)(i)	Within 90 days of the end of the Clearing Member's or relevant Controller's fiscal year	In original format. Sent to the attention of the Clearing House's membership department. If any such material is other than a routine periodic return, statement or report required under Applicable Laws, a written statement is required setting out, to the extent known, the reasons why the Clearing Member or Controller is filing it must also be filed with the Clearing House.
2.	Quarterly financial statement or other equivalent statement as agreed with the Clearing House including: management profit and loss accounts and balance sheet – R205(a)(ii)	Within 45 days of the end of each quarter or within 45 days of the end of the Clearing Member's reporting period, as applicable	Drawn up in accordance with Applicable Laws and Accounting Standards or otherwise following the requirements of the Clearing House.
3.	Copy of financial returns, reports, statements and notices provided to Regulatory Authority – R205(a)(iii)	As soon as provided to Regulatory Authority	If any materials provided are not routine periodic financial returns, statements or reports, then the Clearing Member or relevant Controller must produce a written statement setting out the reasons for filing it.
<b>Note: for FCA or PRA regulated Clearing Members, financial returns will be obtained direct from the FCA or PRA - Rule 205(b)</b>			
<b>B</b>	<b>Risk-related Disclosures</b>		
1.	Failure to meet any obligation to transfer or pay any margin requirements of a Clearing Organisation* – R204(a)(vi)	Immediately in this section in all cases	Full particulars by email to <a href="mailto:iceeuropemembership@theice.com">iceeuropemembership@theice.com</a> , followed by a telephone call via the Clearing House's helpdesk at 020 7065 7600 and confirmation in writing.
2.	Failure to comply with any applicable financial requirements of any Governmental Authority, Regulatory Authority, Exchange, Clearing Organisation or Delivery Facility* – R204(a)(vii)		
3.	Insolvency* (affecting a Clearing Member or any of its Controllers or Affiliates) –		A copy must also be sent in writing to the Bank of England pursuant to Part 12 of the Rules.

	Notification	Periodicity of Submission	Requirements and form
	R204(a)(viii) & R1207		
4.	Financial or commercial difficulty* – R204(a)(x)		
5.	Force Majeure Event (occurrence and cessation) – R112(b)(i) & R112(b)(vi) & Business Continuity Procedures		
6.	Ceasing to have sufficient Capital* – R204(a)(iii) & R206		
7.	Reduction of Capital by more than 10% from latest financial statement or any reduction of Capital prior to any payment, loan, distribution or redemption of Capital* – R204(a)(iv) & R204(a)(v)		
8.	Any “early warning” or similar matter required to be notified to a Regulatory Authority – R204(a)(xi)		
	Note: for FCA or PRA regulated Clearing Member notifications under R 204(a)(xiii) of any matter, circumstance or change of occurrence of previously furnished statements or information supplied in connection with the Clearing Member's application shall only be required if a notification is also required to the FCA or PRA under the Principles for Business in the FCA or PRA Rules - R 204(b)(ii).		
<b>C</b>	<b>Changes to Contact and Company Details</b>		
1.	Change of Legal Name*	Within three Business Days of the change	Any changes to company details should be notified to the membership department by email to: <a href="mailto:Iceclear europe@theice.com">Iceclear europe@theice.com</a> and/or mailing it to the Clearing House registered address.
2.	Change of Address (registered address, mailing/operations address or address for service in England)*		Include copy of document from relevant Governmental Authority, where applicable.
3.	Change of contact details for Clearing Member (telephone number, fax number or website)		Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.

	Notification	Periodicity of Submission	Requirements and form	
4.	Change of contact details for key personnel or change of key personnel including the board of directors of a Clearing Member	As soon as possible. Allow two Business Days for changes to become effective		
5.	Change to emergency contact details			
6.	Change to e-mail address for the delivery of Circulars	As soon as practical and as often as necessary. Allow two Business Days for changes to become effective		
7.	Change to details for downloading monthly volumes from the Clearing House's website	Promptly and without delay. Allow two Business Days for changes to become effective		
8.	Change of Approved Financial Institution for Nominated Customer Bank Accounts or Nominated Proprietary Bank Accounts*	At least five Business Days' advance notice		
9.	Change to clearing activity or list of markets that the Clearing Member clears	Immediately		
10.	Change of Account number or other details*	At least five Business Days' advance notice		
11.	Changes to "Eligible Persons" (e.g. exchange members that a Clearing Member clears for) including suspension of a clearing arrangement with an Eligible Person	At least one week's advance written notice prior to the Business Day on which a Clearing Member proposes to begin or cease providing such clearing services to an Eligible Person.  The timing stated in this Table applies in addition to, and separately from, any other relevant timings for		Any changes to Eligible Persons should be notified to the membership department by completing the relevant "Supplementary Eligible Persons Form" or "Termination Letter", as appropriate, and emailing it to: <a href="mailto:iceeuropemembership@theice.com">iceeuropemembership@theice.com</a> and/or mailing it to the Clearing House registered address.

	Notification	Periodicity of Submission	Requirements and form
		notifications requirements for Eligible Persons specified in any Clearing Membership Agreement.	
<b>D</b>	<b>Changes to Corporate Details</b>		
1.	Change of legal status or registered number*	14 days in advance, where possible. At a test, within three Business Days of change	<p>Any changes to company details should be notified to the membership department by email to: <a href="mailto:iceeuropemembership@theice.com">iceeuropemembership@theice.com</a> and/or mailing it to the Clearing House registered address.</p> <p>Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.</p>
2.	Changes to constitutive documents* (e.g. Memorandum and Articles of Association)	Immediately	
3.	Change to regulatory or authorised status, or applicable licences* (e.g. name of the lead regulator, contact name at regulator, status, regulator's identification code/number)	Immediately	
4.	Change to the VAT or other tax status or VAT number*	Immediately	
5.	Change to the nature of the Clearing Member's business including any Insolvency of the Clearing Member or its shareholders or any death of a substantial shareholder*	Immediately	
6.	Change to authorised signatories	As soon and as often as practicable Allow two Business Days for change to become effective	
7.	Change to power of attorney, appointment of any agent or	Original terms will bind the Clearing Member until not	

	Notification	Periodicity of Submission	Requirements and form	
	Representative or other authorisation including the board of directors of a Clearing Member* - R202(a)(xv)	less than five business days after written notice of the change has been received.		
8.	Proposed changes of control* – R204(a)(i)	As soon as possible		
9.	Changes of Control, substantial (10%) shareholders or group organisational structure* – R204(a)(i)	In advance of the change. Where detailed advanced notice is impossible, where possible, the Clearing House should be contacted in advance and informed of the nature of the impending change		
10.	Change to internal organisational chart			
11.	Change to corporate authority or powers to enter into and perform the obligations of a Clearing Member including changes to the board of directors of a Clearing Member	Immediately		
12.	Changes to memberships of futures and/or options exchanges or clearing houses*			
13.	Changes to any Delivery Facility status (e.g. status as a User under the Network Code)*			
Note: for FCA or PRA regulated Clearing Member notifications under R 204(a)(i) of any proposed change in control, notification shall only be required if a notification is also required to the FCA or PRA under the FCA or PRA Rules. In such cases, the relevant Clearing Member should provide the Clearing House contemporaneously with a copy of all submissions sent to the FCA or PRA in respect of that change of control – R 204(b)(i)				
<b>E</b>	<b>Ad Hoc Legal Notifications</b>			
1.	Breach of Clearing House rules – R204(a)(xii)	As soon as identified		Any changes should be notified to the membership department by email to: <a href="mailto:Iceclear europe@theice.com">Iceclear europe@theice.com</a> and <a href="mailto:iceeuromembership@theice.com">iceeuromembership@theice.com</a> and/or mailing it to the Clearing House registered address.  Where the change is time sensitive, this should be backed up by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.
2.	Termination of Clearing Membership Agreement or of membership as a Clearing Member* –	Taking effect no less than 30 Business Days after the date of the Termination Notice Time or		



	Notification	Periodicity of Submission	Requirements and form
	R209(c)(i)	pursuant to R917(c).	
3.	Rejection upon application or expulsion from any futures and or options, securities or commodities exchange or clearing house	As soon as identified and detailing the full particulars of the breach	
4.	Disciplinary matters or events in any Markets cleared by the Clearing Member*		
5.	Any loss, liability, damage, injury, delay, cost or expense incurred under the terms of the Contract in relation to tender, delivery or physical settlement.* – R111(c)(xiii)(D)	Within seven Business Days of either the day on which documents must be taken up and paid for by the Buyer or the Buyer must take delivery of the Deliverable or Investment, whichever is the earlier	
6.	Any positions carried by another Clearing Member (Position Holder)* – R407	The Business Day following the Business Day on which a position was carried by the Position Holder	
7.	Breach of Position Limit – R204(a)(ii) & R602(a)(i)	Immediately	
8.	Event of Default or any financial or commercial difficulty giving rise to the risk of an Event of Default* – R204(a)(ix) & R204(a)(x)	Immediately	
9.	Breach of Applicable Law* R204(a)(xii)	Without delay	
10.	Termination by an FCM/BD Clearing Member or close out of an Open Contract Position in any class of Customer Account as a result of an Event of Default or similar event with respect to	Through ICE Systems	

	Notification	Periodicity of Submission	Requirements and form
	that FCM/BD Customer – R1604(b)		
11.	Any possible action, suit or proceeding against the Clearing House* – R111(d)	As soon as reasonably practicable	
12.	Anything relating to the Clearing Member of which the Clearing House would reasonably expect notice, including any matter, circumstance, change or occurrence which would cause a statement previously furnished pursuant to Rule 204 or any information supplied in connection with the Clearing Member's application for membership or otherwise to be inaccurate, incomplete or superseded* – R204(a)(xiii)	Without delay	
<b>G</b>	<b>Clearing Procedures</b>		
1.	Any event, system-related issue or anything else that would prevent the Clearing Member from operating timely and accurately on the Markets cleared. Clearing Procedures paragraph 1.3.	Immediately	Clearing Members should contact the Clearing House by email at <a href="mailto:Iceclear@theice.com">Iceclear@theice.com</a> or by a telephone call via the Clearing House's helpdesk at: 020 7065 7600.
2.	Notification of system errors or processing errors in relation to ICE Systems. Clearing Procedures paragraph 2.2(g) & (h).		Clearing Members should contact the Clearing House's operations department.
<b>H</b>	<b>[Intentionally Omitted]</b>		
<b>I</b>	<b>Complaint Resolution Procedures</b>		
1.	Any complaint must be notified to the	Within 12 months from the date on	A Complaint should be made in writing, signed on behalf of the Complainant, marked "Complaints

	Notification	Periodicity of Submission	Requirements and form
	Clearing House. Complaint Resolution Procedures paragraphs 2 & 3.	which the Complainant becomes aware of the circumstances giving rise to the Complaint unless the Complainant can show reasonable grounds for delay	Resolution Procedure” and sent to the Complaints Handling Officer at the Clearing House or by e-mail to <a href="mailto:icecleareurope@theice.com">icecleareurope@theice.com</a>
2.	Complainant must notify the Clearing House in writing whether it accepts the proposals or requires that the Complaint be referred to the Commissioner. Complaint Resolution Procedures paragraph 6.	Within fifteen Business Days of receipt of notice of the outcome of the Clearing House Investigation	
<b>J</b>	<b>Business Continuity Procedures</b>		
1.	Clearing Member is affected by a Business Continuity Event. Business Continuity Procedures paragraphs 2.1 & 2.2.	Immediately	ICE must be contacted either by the Help Desk on +44 (0) 20 7065 7600 or <a href="mailto:iceuops@theice.com">iceuops@theice.com</a> .  The Clearing Member must provide the following information: (a) the name of Clearing Member; (b) the name and contact details of person at the Clearing Member who is authorised to take action and decisions on its behalf; (c) details of nature of the problem; (d) expected time when the problem is expected to be over or mitigated; and (e) any assistance or forbearance requested of the Clearing House.
2.	Member ceases to be affected by a Business Continuity Event. Business Continuity Procedures paragraph 2.3.		