

## SECTION B - MEMBERSHIP

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<sup>2</sup> Amended 8 June 2005, 29 March 2006, 17 October 2008, 29 January 2014, 4 June 2014, 3 September 2014

<sup>3</sup> Amended 22 April 2005, 29 March 2006, 27 April 2006, 17 October 2008, Launch of ICE Clear 2008, 29 January 2014, 4 June 2014, 3 September 2014, 07 October 2015

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<sup>16</sup> Amended 22 April 2005, 29 March 2006, 29 May 2007, 3 January 2018

<sup>17</sup> Amended Launch of ICE Clear 2008, 29 January 2014, 4 June 2014, 3 September 2014

<sup>18</sup> Amended 15 April 2005, 22 April 2005, 29 March 2006, 17 October 2008, 29 January 2014, 3 September 2014

<sup>19</sup> Amended 27 April 2006

<sup>20</sup> Inserted 29 May 2007

<sup>21</sup> Inserted 3 September 2014

**B.1 GENERAL PROVISIONS<sup>22</sup>**

- B.1.1 A person may be a Member by virtue of being admitted to membership under a category referred to in this Section B. Section B will govern a Member's permissions in relation to the ICE Platform. A separate application will be necessary if a person seeks to acquire a new category of membership.
- B.1.2 Every Member shall pay such annual subscription as the Directors may from time to time determine in respect of its category of membership and any trading/clearing permission(s) or privilege(s). The subscription shall be due each year on such date as the Directors may from time to time determine. A failure to pay the subscription by the due date may be punished by the Directors or the Authorisation, Rules and Conduct Committee by any sanction listed in Rule E.4.11 subject to the rights of reconsideration and appeal set out in Rule B.8.
- B.1.3 The annual subscription, and every other fee, charge, levy or impost charged to Members under the Regulations or otherwise, shall be exclusive of any value added tax which may be or become payable thereon.
- B.1.4
- (a) A Member shall at all times satisfy the criteria from time to time set out in or under the Regulations for admission to a category of membership, save as may otherwise be provided in or under the Regulations. A Member and any person subject to the Regulations (including any Responsible Individual) shall be bound by the Memorandum, the Articles and the Regulations and any arrangement, provision or direction made, authorised or given thereunder and shall comply with all applicable laws at all times.
  - (b) Any failure by a Member or any such other person (including any Responsible Individual) to observe or comply with the Articles, Regulations or any such arrangement, provision or direction, or applicable laws may lead to steps, including without limit disciplinary proceedings, being taken by the Exchange in respect of the Member or such other person under the Regulations.
  - (c) References in the Regulations to a Member being prohibited from engaging in a course of action shall, in the case of activities in respect of the ICE Platform, infer a like prohibition upon any person accessing the ICE Platform by or on behalf of the Member (including any Responsible Individual).
- B.1.5 Every person admitted to membership of the Exchange shall sign a member statement as part of its application to a category of membership under Rule B.4, for the time being prescribed by the Directors, agreeing to be bound by the Memorandum, the Articles and the Regulations in so far as they relate to its category of membership and to accept as binding any decision made by the Directors under the Articles or the Regulations or by the Exchange in general meeting, subject to such rights of review or appeal as may be contained in the Regulations.
- B.1.6 A dispute concerning the status, rights or obligations of a Member or any other person under the Memorandum, the Articles or the Regulations, or any question in such connection which is not provided for therein, shall be referred to the Directors whose decision shall be final, subject to such rights of review and appeal as may be contained in the Regulations.
- B.1.7 Provided that a Member satisfies all outstanding obligations to the Exchange, that Member may resign from membership of the Exchange by one month's notice in writing to the Membership Department. Provided that:
- (a) if the Member has been declared a defaulter under Rule D.4 before the expiry of its notice of resignation (whether the declaration is made before or after its giving of such notice) its membership shall continue until the completion of default proceedings (within the meaning of the default rules); and
  - (b) notwithstanding the expiry of its notice of resignation a former Member shall remain subject to the jurisdiction of the Exchange for one year after such expiry, or such other period as is required for the determination of any proceedings including any appeal, as if continuing to be a Member, in respect of:
    - (i) things done or omitted by the Member before the expiry of its notice of resignation, and
    - (ii) steps taken by the Exchange or other person or body under Sections D (Default), E (Disciplinary), H (Arbitration) and I.18 (Delivery Committee) of the Regulations in respect of things so done or omitted.

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<sup>22</sup> Amended 8 April 2005, 22 April 2005, 29 March 2006, 4 June 2014, 18 September 2014, 07 October 2015

- B.1.8 In the event of the death of an individual Member the Directors may permit his personal representatives to retain his membership and, if applicable, any relevant Trading Privilege for a period of up to six months following the date of his death in order to complete arrangements for the orderly closing out of open positions of the Member, provided that such personal representatives may not exercise any trading rights or permissions relating to the membership and must, where necessary to close out open positions of the Member, use the services of another Member for trading purposes.

## B.2 CATEGORIES OF MEMBERSHIP<sup>23</sup>

- B.2.1 Subject to Rule B.2.1A below any person seeking access to trading on the ICE Platform as a Member must elect and apply for one of the following categories of membership:

- (a) General Participant- to transact own business and business for clients (whether such clients are other Members or non-Members);
- (b) Trade Participant - to transact own business or affiliate business only;
- (c) Individual Participant - to transact own business and business for other Individual Participants (provided such business is only allocated to the relevant Individual Participant requesting the execution).
- (d) General Participant ICE Block - to transact own business and business for clients (whether such clients are other Members or non-Members) and report through ICE Block;
- (e) Trade Participant ICE Block - to transact own business or affiliate business only and report through ICE Block; and
- (f) Individual Participant ICE Block – to transact business for clients (where the Individual Participant has the permission from its client's Clearing Member(s) to execute business on the client's behalf).

"Own business" for the purposes of this Rule B.2.1 means business for its own account or for the account of a subsidiary, wholly-owned subsidiary or holding company of the relevant Member. For the purposes of this Section B of the Regulations the terms "subsidiary", "wholly-owned subsidiary" and "holding company" shall have the meanings applied to them by section 736 of the Companies Act 1985 as such section is supplemented by section 736A of the Companies Act 1989. "Own business" will not include transactions concluded for the benefit of a client of a third party.

- B.2.1A Any person seeking access to ICE Block as an ICE Block Member must make an appropriate election confirming its intention to act as an ICE Block Member in its application for Exchange membership.

- B.2.2 Each category of membership confers the permissions set out in Rule B.6. Only certain categories of membership are eligible to be Clearing Counterparties for the purposes of the Regulations, on the basis set out in Rule B.10 below.

## B.3 MEMBERSHIP CRITERIA<sup>24</sup>

- B.3.1 An applicant for access to trading on the ICE Platform as a Member must, at the time of its application and at all times thereafter:

- (a) be able to demonstrate, to the satisfaction of the Exchange, that the applicant is fit and proper to be a Member;
- (b) be able to demonstrate, to the satisfaction of the Exchange, that the applicant has sufficient systems and controls in place to ensure that all the Member's Representatives who may act on its behalf or in its name in the conduct of business on the ICE Platform are fit and proper, suitable, adequately trained and properly supervised to perform such functions;
- (c) maintain a properly established office (in a location which is acceptable to the Directors as they may determine in their absolute discretion) for the conduct of its business on the ICE Platform;
- (d) satisfy the minimum financial standing requirements for the time being stipulated by the Directors in relation to the relevant category of membership, supporting its claim to do so by copies of its last three years of audited accounts (or in the case of an ICE Block Member, a copy of its last audited

<sup>23</sup> Amended 8 June 2005, 29 March 2006, 17 October 2008, 29 January 2014, 3 September 2014

<sup>24</sup> Amended 22 April 2005, 29 March 2006, 27 April 2006, Launch of ICE Clear 2008, 17 October 2008, 4 June 2014, 3 September 2014, 07 October 2015

- accounts) and by a copy of its latest audited accounts from time to time as they become available, or such other evidence as the Directors may require;
- (e) be party to an Electronic User Agreement, which is in full force and effect, in the form prescribed by the Directors from time to time for use by the Member of the ICE Platform at the address(es) notified to the Exchange;
  - (f) be able to access the Trading Server via a front end application which meets the Exchange's conformance criteria;
  - (g) if it is to transact business (i) in respect of its own account, be a Clearing Counterparty; (ii) in respect of the account of a client which is not a Sponsored Principal, be a Clearing Member; (iii) in respect of the account of a client which is a Sponsored Principal, be a Sponsor or ensure appropriate arrangements are in place between it and the relevant Sponsor; or (iv) if it is not a Clearing Counterparty in the case of (i) or a Clearing Member in the case of (ii), be a party to or satisfy the Directors that it will become a party to a clearing agreement with a Clearing Member, in either case in respect of all types of Contract covered by its trading and/or clearing permissions or privilege under Rule B.6 from time to time, in each case as permitted by the Regulations;
  - (h) hold all necessary licences, authorisations and consents, or benefit from available exemptions, so as to allow it to carry on business as a Member on the ICE Platform, including the ICE Block Facility, in accordance with all applicable laws and regulations; and
  - (i) be able to demonstrate, to the satisfaction of the Exchange, that the applicant is permitted under applicable laws and regulations, these Regulations and any notices posted on the Market, to engage in transactions in relevant Contracts, in particular, in respect of restrictions or requirements imposed by the Exchange in respect of activities in specific jurisdictions.

**B.3.2** In addition to meeting the general criteria above:

- (a) an applicant to be an Individual Participant (other than an Individual Participant ICE Block Member) must, at the time of its application and at all times thereafter:
  - (i) where the applicant is a company with share capital, confirm that nine-tenths of its issued share capital is beneficially held by a single individual or, where the applicant is a company without share capital, nine-tenths of the votes exercisable at its general meetings are exercisable by a single individual or, in any other case, that the applicant is an individual; and
  - (ii) confirm that the single individual identified in Rule B.3.2(a)(i) above is/will be the Responsible Individual representing the applicant;
- (b) an applicant to be a General Participant or Trade Participant must, at the time of its application and at all times thereafter, be a body corporate;
- (c) an applicant to be a General Participant, Trade Participant or an Individual Participant must satisfy any other specific criteria or other requirements stipulated by the Directors from time to time in relation to the particular category of membership applicable to it, supplying such documents in support thereof as they may require;
- (d) an applicant for any category of membership, or an existing Member, which seeks a permission to trade and/or clear Oil Contracts, Utility Contracts, Emission Contracts or Financials and Softs Contracts must obtain an Oil and Utility Trading Privilege, Emissions Trading Privilege or Financials and Softs Trading Privilege, respectively, prior to carrying on such activities.
- (e) where access is granted by a Member to clients and the client orders are placed and/or trades are executed under an ITM assigned to a Responsible Individual registered to a Member, the Exchange will, and will be entitled to, rely on representations and warranties, deemed automatically to arise pursuant to these Regulations from a Member, that the Member acknowledges its obligation in Rules B.1.4(a) and/or B.1.4(b) and that compliance with applicable laws includes compliance with applicable laws relating to customer due diligence in respect of its Customer.
- (f) each Member that provides any trading services to third parties or which acts for any third party hereby consents to the Exchange, the Clearing House and the operator of any transaction reporting facility (to which the Exchange transfers data related to the Member's trades) each relying upon the Member's customer due diligence in relation to its clients and all other "beneficial owners" (within the meaning of article 3(6) of the Money Laundering Directive) in respect of any client orders,

trades, and/or Contracts. Relevant supporting documentation demonstrating such customer due diligence shall be provided by any Member to the Exchange upon request.

### **B.3A ADDITIONAL MEMBERSHIP CRITERIA FOR DIRECT ELECTRONIC ACCESS PROVIDERS<sup>25</sup>**

B.3A.1 The Exchange may permit Members to provide Direct Electronic Access subject to these Regulations.

B.3A.2 A Member may provide its clients with Direct Electronic Access only if the Member is:

- (a) an Investment Firm;
- (b) a Credit Institution;
- (c) a UK firm to which MiFID II does not apply pursuant to an exemption under Articles 2(1)(a), (e), (i), or (j) of MiFID II and which is authorised under the Financial Services and Markets Act 2000 to provide Investment Services and Activities for the purposes of MiFID II;
- (d) a Third Country Firm registered with ESMA under Article 46 of MiFIR or has the right under Article 47 of MiFIR to provide Direct Electronic Access;
- (e) a Third Country Firm providing Direct Electronic Access pursuant to the overseas persons exclusion under Article 72 of the Financial Services and Markets Act (Regulated Activities) Order 2001 for the purposes of Article 54(1) of MiFIR; or
- (f) a Third Country Firm which does not come within paragraph (d) or (e) but which is permitted to provide Direct Electronic Access in accordance with the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 or otherwise under English or UK laws.

B.3A.3 DEA Providers must have in place effective systems and controls before they provide their clients with access to the Exchange. Such systems and controls must ensure that:

- (a) the suitability of the DEA clients using the service can be properly reviewed and assessed;
- (b) DEA clients using the service are prevented from exceeding appropriate pre-set trading and credit thresholds;
- (c) trading by DEA clients is properly monitored; and
- (d) appropriate risk controls prevent trading by DEA clients which:
  - (i) may create risks to the DEA Provider itself;
  - (ii) may create, or contribute to, a disorderly market; or
  - (iii) may breach the Market Abuse Regulation or these Regulations.

B.3A.4 DEA Providers must, at the time of receiving the Exchange's approval to act as such and at all times thereafter:

- (a) be responsible for ensuring that DEA clients comply with the requirements of MiFID II and these Regulations, including by:
  - (i) establishing policies and procedures to ensure that the trading of its DEA clients complies with these Regulations; and
  - (ii) monitoring transactions in order to identify any infringements of MiFID II and these Regulations, disorderly trading conditions or conduct that may involve market abuse;
- (b) apply pre- and post-trade controls on the order flow of each of their DEA clients and have in place real-time monitoring and market surveillance control to detect market manipulation, which controls and monitoring meet the following criteria:
  - (i) the controls shall be separate and distinct from the controls and monitoring applied by DEA clients;
  - (ii) the orders of DEA clients shall always pass through such controls and monitoring;
  - (iii) notwithstanding the fact that the DEA Provider may use its own pre-trade and post-trade controls, controls provided by a third party or controls offered by the Exchange and real time monitoring, the DEA Provider shall remain responsible for the effectiveness of such controls

<sup>25</sup> Inserted 3 January 2018

- and monitoring in all circumstances and be solely entitled to set or modify the parameters or limits of such controls and monitoring;
- (iv) the performance of the controls shall be monitored by the DEA Provider on an on-going basis; and
  - (v) the limits of the pre-trade controls on order submission shall be based on the credit and risk limits which the DEA Provider applies to the trading activity of its DEA clients, and the risk limits shall be based on the initial due diligence and periodic review of the DEA client by the DEA Provider; and
- (c) in relation to providing Sponsored Access, ensure that the parameters and limits of the controls applied to DEA clients using Sponsored Access are as stringent as those imposed on DEA clients using Direct Market Access, and that DEA Providers providing Sponsored Access are at all times exclusively entitled to set or modify the parameters that apply to the controls over the order flow of their Sponsored Access clients.
- B.3A.5** DEA Providers must perform due diligence on prospective DEA clients to ensure that they meet the requirements under these Regulations or otherwise set by the Exchange or under any applicable law, before giving such clients access to the Exchange. This due diligence must cover relevant matters including, but not limited to, the following:
- (a) the governance and ownership structure of the prospective DEA client;
  - (b) the types of strategies to be undertaken by the prospective DEA client;
  - (c) the operational set-up, systems, pre-trade and post-trade controls and real-time monitoring of the prospective DEA client, provided that where the DEA Provider allows clients to use third-party trading software for accessing the Exchange, it must ensure that the software includes pre-trade controls that are equivalent to the pre-trade controls as required under any applicable law (including, but not limited to, MiFID II) and these Regulations;
  - (d) the responsibilities within the prospective DEA client for dealing with actions and errors;
  - (e) the historical trading pattern and behaviour of the prospective DEA client;
  - (f) the level of expected trading and order volume of the prospective DEA client;
  - (g) the ability of the prospective DEA client to meet its financial obligations to the DEA Provider; and
  - (h) the disciplinary history of the prospective DEA client, where available.
- B.3A.6** Where a DEA Provider allows a DEA client to sub-delegate the access it receives to its own clients, the DEA Provider must ensure that, before granting that DEA client access, the DEA client has a due diligence framework in place that is at least equivalent to the due diligence framework set out in Rule B.3A.5.
- B.3A.7** DEA Providers must perform a risk-based reassessment of the adequacy of their DEA clients' systems and controls on an annual basis, in particular taking into account changes to the scale, nature or complexity of their trading activities or strategies, changes to their staffing, ownership structure, trading or bank account, regulatory status, financial position and whether a DEA client has expressed an intention to sub-delegate the access it receives from the DEA Provider.
- B.3A.8** DEA Providers must have in place a binding written agreement between themselves and their DEA clients which:
- (a) details the rights and obligations of both parties arising from the provision of their services;
  - (b) states that the DEA Provider is responsible for ensuring the client complies with the requirements of MiFID II and these Regulations; and
  - (c) when the DEA client is itself providing access to its clients, requires its DEA client to agree to all the terms set forth in Rules B.3A.3 to B.3A.13 with respect to all of such DEA client's clients.
- B.3A.9** A DEA Provider must ensure that its trading systems enable it to:
- (a) monitor any orders submitted by a DEA client using the trading code of the DEA Provider;
  - (b) automatically block or cancel orders from:
    - (i) individuals which operate trading systems that submit orders related to Algorithmic Trading and which lack authorisation to send orders through DEA;

- (ii) a DEA client for Financial Instruments that the DEA client does not have permission to trade, using an internal flagging system to identify and block single DEA clients or a group of DEA clients; and
  - (iii) a DEA client that breaches the DEA Provider's risk management thresholds, applying controls to exposures of individual DEA clients, Financial Instruments or groups of DEA clients;
  - (c) stop order flow transmitted by its DEA clients;
  - (d) suspend or withdraw DEA services to any DEA client where the DEA Provider is not satisfied that continued access would be consistent with its rules and procedures for fair and orderly trading and market integrity; and
  - (e) carry out, whenever necessary, a review of the internal risk control systems of a DEA client.
- B.3A.10 DEA Providers must have in place procedures to evaluate, manage and mitigate market disruption and firm-wide risk, and must be able to identify the persons to be notified in the event of an error resulting in violations of the risk profile or potential breaches of these Regulations.
- B.3A.11 DEA Providers must at all times be able to identify its different DEA clients and the trading desks and traders of those DEA clients, who submit orders through the DEA Provider's systems, by assigning unique identification codes to them.
- B.3A.12 Where a DEA Provider allows a DEA client to sub-delegate the DEA access it receives to its own clients, the DEA Provider must be able to identify the different order flows from the clients. For these purposes, it will not be necessary for the DEA Provider to know the identity of these clients.
- B.3A.13 DEA Providers must record data relating to the orders submitted by their DEA clients, including modifications and cancellations, the alerts generated by their monitoring systems and the modifications made to their filtering process.
- B.3A.14 The parameters and limits of the controls applied by DEA Providers to DEA clients using Sponsored Access shall be as stringent as those imposed by them on DEA clients using Direct Market Access.
- B.3A.15 In accordance with the Suspension and Expulsion provisions under Rule B.7, the Exchange may:
- (a) suspend or withdraw the provision of Direct Electronic Access or Sponsored Access by DEA Providers or their clients who are in breach of MiFID II, MiFIR, these Regulations or any other applicable law; and
  - (b) stop orders or trading by a DEA client separately from other orders or trading by the DEA Provider.
- B.3A.16 The Exchange may set additional standards regarding risk controls and thresholds on trading through Direct Electronic Access.
- B.3B ADDITIONAL MEMBERSHIP CRITERIA FOR MEMBERS THAT ARE INVESTMENT FIRMS ENGAGING IN ALGORITHMIC TRADING<sup>26</sup>**

In addition to meeting the general criteria in Rule B.3, a Member that is an Investment Firm engaging or intending to engage in Algorithmic Trading must demonstrate to the satisfaction of the Exchange that it has sufficient systems and controls in place in accordance with the requirements set out in Rule A.11A.

**B.3C ADDITIONAL MEMBERSHIP CRITERIA FOR MEMBERS THAT ARE CLEARING MEMBERS<sup>27</sup>**

In addition to meeting the general criteria in Rule B.3, a Member that is a Clearing Member must:

- (a) comply with the membership criteria of the Clearing House; and
- (b) ensure that any systems used by the Member to support the provision of its clearing services to its clients are subject to appropriate due diligence assessments, controls and monitoring.

**B.3D ADDITIONAL MEMBERSHIP CRITERIA FOR MEMBERS THAT ARE INVESTMENT FIRMS AND ALSO CLEARING MEMBERS<sup>28</sup>**

<sup>26</sup> Inserted 3 January 2018

<sup>27</sup> Inserted 3 January 2018

- B.3D.1 In addition to meeting the general criteria in Rule B.3, a Member that is an Investment Firm and also a Clearing Member must:
- (a) have in place effective systems and controls to ensure that:
    - (i) clearing services are only applied to persons who are suitable and meet clear criteria; and
    - (ii) appropriate requirements are imposed on those persons to reduce risks to the Member and to the market;
  - (b) enter into binding written agreements with such persons regarding the essential rights and obligations arising from the provision of that service in accordance with MiFID II and the Clearing House Rules;
  - (c) set out and communicate to its clearing clients appropriate trading and position limits to mitigate and manage its own counterparty, liquidity, operational and other risks;
  - (d) monitor its clearing clients' positions against the limits referred to in paragraph (c) as close to real-time as possible and have appropriate pre-trade and post-trade procedures for managing the risk of breaches of the position limits, by way of appropriate margining practice and other appropriate means;
  - (e) publish the conditions under which it offers its clearing services; and
  - (f) inform its prospective and existing clearing clients of:
    - (i) the level of protection and of the costs associated with the different levels of segregation it provides; and
    - (ii) the main legal effects of the respective levels of segregation offered, including information on the insolvency law applicable in the relevant jurisdiction.
- B.3D.2 For the purposes of Rule B.3D.1(a) above, a Member shall, as a minimum:
- (a) make initial assessments of prospective clearing clients against the following criteria, taking into account the nature, scale and complexity of the prospective client's business:
    - (i) credit strength, including any guarantees given;
    - (ii) internal risk control systems;
    - (iii) intended trading strategy;
    - (iv) payment systems and arrangements that enable the prospective clearing client to ensure a timely transfer of assets or cash as margin, as required by the Member in relation to the clearing services it provides;
    - (v) systems settings and access to information that helps the prospective clearing client to respect any maximum trading limit agreed with the Member;
    - (vi) any collateral provided to the Member by the prospective clearing client;
    - (vii) operational resources, including technological interfaces and connectivity; and
    - (viii) any involvement of the prospective clearing client in a breach of the rules ensuring the integrity of the financial markets, including involvement in market abuse, financial crime or money laundering activities; and
  - (b) annually review the on-going performance of its clearing clients against the criteria listed in paragraph (a) above.

## B.4 APPLICATION FOR MEMBERSHIP<sup>29</sup>

- B.4.1 An applicant for membership under any of the above categories (other than an entity applying to be an ICE Block Member), shall complete such form of application as the Exchange may prescribe, specifying: (1) which category of membership it is seeking; (2) whether it wishes to: (a) trade and/or clear Oil Contracts by virtue of holding an Oil and Utility Trading Privilege; (b) trade and/or clear Utility Contracts by virtue of

<sup>28</sup> Inserted 3 January 2018

<sup>29</sup> Amended 22 April 2005, 29 March 2006, 17 July 2006, 17 October 2008, Launch of ICE Clear 2008, 7 June 2012, 15 October 2012, 29 January 2014, 4 June 2014, 3 September 2014, 18 September 2014, 3 June 2016



holding an Oil and Utility Trading Privilege; (c) trade and/or clear Emission Contracts by virtue of holding an Emissions Trading Privilege; (d) trade and/or clear Financials and Softs Contracts by virtue of holding a Financials and Softs Trading Privilege; (3) whether it is to be a Clearing Member, non-Clearing Member or a Sponsored Principal, and if a Sponsored Principal or non-Clearing Member, details of its Sponsor or Clearing Member, respectively; and (4) if it is a Clearing Member, details of the Members it will clear for. In the case of an entity applying to be an ICE Block Member, the applicant shall complete such form of application as the Exchange may prescribe, electing whether it wishes to enter (i) Block Trades and EFMs on ICE Block and/or (ii) EFPs and EFSs on ICE Block; (iii) Basis Trades or Soft Commodity EFRPs on ICE Block, (iv) Asset Allocations on ICE Block and/or (v) the ICE Platform for the purpose of entering Cross Trades, and specifying the Contracts for which it wishes to have access.

- B.4.2 Any application must be submitted to the Membership Department and shall then be referred to the Directors for determination. An applicant must satisfy the Directors that it meets the criteria for the time being for the category of membership being sought (further particulars of which may, at any time, be obtained from the Membership Department, including particulars of any other criteria or requirements stipulated by the Directors under Rule B.3.2 and any guidance or requirements as to how certain criteria may be satisfied). Admission to membership of the Exchange shall not confer any right or obligation of membership in or right to attend or vote at meetings of, or any right to any share in, or any liability in respect of, the Exchange or any affiliate of the Exchange.
- B.4.3 The Directors shall have absolute discretion, subject to the applicant's rights in respect of reconsideration and appeal under the Regulations, whether to approve the application. If they refuse the application, the Directors shall give the applicant a written statement of their reasons.
- B.4.4 A successful applicant shall be notified in writing by the Membership Department of the approval of its application. The applicant shall be admitted to the category of membership applied for and details of the contracts it may trade (or in the case of an ICE Block Member, the Contracts for which it may have access to ICE Block) will be confirmed, and where appropriate, it will be further confirmed that the applicant has been granted the relevant Trading Privilege. The membership shall become effective at the point in time notified by the Membership Department to the applicant. Membership and Trading Privileges shall not be transferable.
- B.4.5 A Member may, at any time, apply to vary its category of membership and/or its clearing status. Such an application shall be made in the manner prescribed by the Directors from time to time and shall be processed by reference to the criteria set out in this Section B.
- B.4.6 Subject to B.4.7 a Member may, at any time, apply to vary the Contracts it wishes to trade and/or clear, and in the case of an ICE Block Member, may vary its election to access ICE Block for Block Trades and EFMs, EFPs, EFSs, Basis Trades, Asset Allocations and/or Soft Commodity EFRPs (as applicable) and/or the ICE Platform for the purpose of entering Cross Trades or the Contracts for which it may have access. Such an application shall be made in the manner prescribed by the Exchange from time to time.
- B.4.7 A Member (other than a Member who is an ICE Block Member) may, at any time, apply to hold an Emissions Trading Privilege or cancel an existing one. Such an application/cancellation shall be made in the manner prescribed by the Exchange from time to time.

## **B.5 ONGOING NOTIFICATION REQUIREMENTS<sup>30</sup>**

- B.5.1 Every Member shall notify the Exchange forthwith in writing of:
- (a) any change or anticipated change in circumstances applicable to the Member, of which the Member is aware, which will, or is likely to, result in the Member being unable to continue to satisfy any one or more of the membership criteria applicable to it;
  - (b) any alteration in other business information which the Member may be required to furnish to the Exchange;
  - (c) such information as the Exchange may stipulate from time to time with respect to trading on, or access to the ICE Platform, including without limitation, location of screens used, details and location of user interfaces employed and order-routing arrangements put, or to be put, in place by or on behalf of the Member; and
  - (d) any other information specified by the Directors from time to time.

<sup>30</sup> Amended 22 April 2005, 29 March 2006, 17 October 2008, 15 October 2012, 4 June 2014, 18 September 2014, 3 June 2016

- B.5.1A Every Member shall seek the consent of the Exchange in relation to:
- (a) (in the case of a firm or a company) any proposed change in the nature of business or legal status of the Member, any proposed change in legal or beneficial ownership of the equity or partnership capital of the Member or any other circumstance that to the directors' or partners' belief would or might have the effect of changing the control of the Member;
  - (b) any proposed change in the identity of the Responsible Individuals registered on behalf of the Member and any proposed change in the location from which any such Responsible Individual will access the ICE Platform (where the new location is in a different jurisdiction from that previously notified to the Exchange);
  - (c) any other material change in the way in which the Member accesses and uses the ICE Platform.
- B.5.2 In the case of a change in a partnership, the continuing and new partners shall sign and deliver to the Exchange a form of undertaking under which they jointly and severally agree to be bound as a Member of the relevant category by the Memorandum, the Articles and the Regulations.
- B.5.3 If the Directors decline to approve any change notified under Rule B.5.1 above which requires their consent, the Member shall be informed accordingly, and if the change nonetheless becomes effective, the Member's permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions) (or in the case of an ICE Block Member, the Member's permission to enter Block Trades and EFMs, EFPs, EFSs, Basis Trades, Asset Allocations and/or Soft Commodity EFRPs (as applicable) on ICE Block and/or Cross Trades on the ICE Platform), may be suspended by the Directors until the Directors are willing, by agreement with the Member on such terms as they think fit, to lift the suspension.
- B.5.4 In addition to the requirements of Rule B.5.1, every Member shall promptly (and thereafter upon demand or with such regularity as may be prescribed) notify the Exchange's compliance officer in writing of such information and of any changes thereto in respect of such of the Member's directors, partners, Responsible Individuals, Member's Representatives, staff and other persons as the Directors or the Authorisation, Rules and Conduct Committee may from time to time prescribe. Without limitation, such information may include details of all types of investment with which such person deals or has dealt, all previous employers, the reason for changing employment (including details of any allegation, investigation or suspicion prompting the person's resignation), all exchanges (whether or not in the United Kingdom) upon which the person is or has in the past been permitted to trade, whether such permission has at any time been withdrawn and if so the reason therefor, any disciplinary proceedings of any exchange or other regulatory authority commenced against the person and the outcome thereof.
- B.5.5 If the Directors consider that there has been a failure to notify the Exchange fully in accordance with this Rule B.5 or if a Member has failed to obtain the Exchange's consent to the change in its circumstances or arrangements as required by the Regulations, the Member's permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable), or in the case of an ICE Block Member, the Member's permission to enter Block Trades and EFM, EFPs, EFSs, Basis Trades, Asset Allocations and/or Soft Commodity EFRPs (as applicable) on ICE Block and/or Cross Trades on the ICE Platform (or any one or more of such permissions) may be suspended for such time as the Directors see fit. Suspension under this paragraph shall not prejudice the power of the Directors or the Authorisation, Rules and Conduct Committee to commence disciplinary proceedings in respect of the failure.

## B.6 SCOPE OF PARTICIPANT ACTIVITIES<sup>31</sup>

- B.6.1 A General Participant, other than an ICE Block Member shall, in accordance with the elections it has communicated to the Exchange in respect of the Contracts it wishes to trade and/or clear as required under Rules B.4.1 or B.4.6, be permitted to:
- (a) trade :
    - (i) Oil and/or Utility Contracts available for trading on the ICE Platform, provided that the General Participant is the holder of an Oil and Utility Trading Privilege;
    - (ii) Emission Contracts available for trading on the ICE Platform, provided that the General Participant is the holder of an Emissions Trading Privilege; and/or

<sup>31</sup> Amended 22 April 2005, 8 April 2005, 29 March 2006, 17 July 2006, Launch of ICE Clear 2008, 7 June 2012, 15 October 2012, 29 January 2014, 4 June 2014, 3 September 2014, 3 June 2016

- (iii) Financials and Softs Contracts available for trading on the ICE Platform, provided that the General Participant is the holder of a Financials and Softs Trading Privilege,
  - as appropriate, for own business and in connection with client business in conformity with the Regulations;
- (b) register any number of Responsible Individuals;
- (c) in the case of a General Participant who is also a Clearing Counterparty, become counterparty to the Clearing House in accordance with the Clearing House Rules in respect of:
  - (i) Oil and/or Utility Contracts made by the General Participant on the ICE Platform, provided that the General Participant is the holder of an Oil and Utility Trading Privilege;
  - (ii) Emission Contracts made by the General Participant on the ICE Platform, provided that the General Participant is the holder of an Emissions Trading Privilege;
  - (iii) Financials and Softs Contracts made by the General Participant on the ICE Platform, provided that the General Participant is the holder of a Financials and Softs Trading Privilege; and/or
  - (iv) by agreement, any Contract made on the ICE Platform by another Member provided that if the Contract is an Oil and/or Utility Contract, Emission Contract or a Financials and Softs Contract, the General Participant is a holder of an Oil and Utility Trading Privilege, Emissions Trading Privilege or Financials and Softs Trading Privilege, respectively; and
- (d) accept allocations of Contracts made on the ICE Platform by other General Participants provided that if the Contract is an Oil and/or Utility Contract, Emission Contract or a Financials and Softs Contract, the General Participant is a holder of an Oil and Utility Trading Privilege, Emissions Trading Privilege or Financials and Softs Trading Privilege, respectively; and
- (e) in the case of a General Participant who is also a Clearing Member, apply to the Clearing House to act as a Sponsor in accordance with the Clearing House Rules in respect of its clients which are Sponsored Principals for the relevant Contracts set out in Rule B.6.1(c).

B.6.1A [Deleted 29 January 2014]

B.6.2 A Trade Participant, other than an ICE Block Member shall, in accordance with the elections it has communicated to the Exchange in respect of the Contracts it wishes to trade and/or clear as required under Rules B.4.1 or B.4.6, be permitted to:

- (a) trade:
  - (i) those Oil and/or Utility Contracts available for trading on the ICE Platform, provided that the Trade Participant is the holder of an Oil and Utility Trading Privilege;
  - (ii) those Emission Contracts available for trading on the ICE Platform, provided that the Trade Participant is the holder of an Emissions Trading Privilege; and/or
  - (iii) those Financials and Softs Contracts available for trading on the ICE Platform, providing that the Trade Participant is the holder of a Financials and Softs Contract Privilege,
    - as appropriate, for own business in conformity with the Regulations;
- (b) register any number of Responsible Individuals;
- (c) in the case of a Trade Participant who is also a Clearing Counterparty, become counterparty to (or arrange for another person to become counterparty to) the Clearing House in accordance with the Clearing House Rules in respect of:
  - (i) Oil and/or Utility Contracts made by the Trade Participant on the ICE Platform, provided that the Trade Participant is the holder of an Oil and Utility Trading Privilege;
  - (ii) Emission Contracts made by the Trade Participant on the ICE Platform, provided that the Trade Participant is the holder of an Emissions Trading Privilege; and/or
  - (iii) Financials and Softs Contracts made by the Trade Participant on the ICE Platform, provided that the Trade Participant is the holder of a Financials and Softs Trading Privilege; and
- (d) accept allocations of Contracts made on the ICE Platform by a General Participant provided that such Contracts are own business of the Trade Participant and provided that if the Contract is an Oil

and/or Utility Contract, Emission Contract or a Financials and Softs Contract, the Trade Participant is a holder of an Oil and Utility Trading Privilege, Emissions Trading Privilege or Financials and Softs Trading Privilege, respectively.

B.6.3 An Individual Participant, other than an ICE Block Member shall, in accordance with the elections it has communicated to the Exchange in respect of the Contracts it wishes to trade as required under Rules B.4.1 or B.4.6 be permitted to:

- (a) trade:
  - (i) all Oil and/or Utility Contracts available for trading on the ICE Platform, provided that the Individual Participant (and the Clearing Member through whom it clears) is the holder of an Oil and Utility Trading Privilege;
  - (ii) Emission Contracts available for trading on the ICE Platform, provided that the Individual Participant (and the Clearing Member through whom it clears) is the holder of an Emissions Trading Privilege; and/or
  - (iii) Financials and Softs Contracts available for trading on the ICE Platform, provided that the Individual Participant (and the Clearing Member through whom it clears) is the holder of a Financials and Softs Trading Privilege,
 

as appropriate, for own business and in connection with give-up business for other Individual Participants in conformity with the Regulations; and
- (b) accept allocations of Contracts made on the ICE Platform by General or Individual Participants provided that such Contracts are own business of the Individual Participant and further provided that if the Contract is an Oil and/or Utility Contract, Emission Contract or a Financials and Softs Contract, the Individual Participant accepting the allocation trade is a holder of an Oil and Utility Trading Privilege, Emissions Trading Privilege or Financials and Softs Trading Privilege, respectively; and
- (c) register one Responsible Individual, which must be the individual identified in Rule B.3.2(a)(i).

B.6.4 The Trading Procedures shall apply to all Members who trade on the ICE Platform (and to any Responsible Individual).

B.6.5 A General, Trade or Individual Participant which is an ICE Block Member shall, in accordance with the elections it has communicated to the Exchange in respect of the Contracts it wishes to enter into ICE Block for own business purposes or on behalf of Members (trading and/or clearing in accordance with Rules B.4.1 or B.4.6), only be permitted to access ICE Block to enter Block Trades and EFM, EFP, EFS, Basis Trades, Asset Allocations and/or Soft Commodity EFRPs, and/or the ICE Platform for the purpose of entering Cross Trades for such communicated Contracts, as appropriate.

## **B.6A EMISSIONS TRADING PRIVILEGE<sup>32</sup>**

B.6A.1 Pursuant to Rules B.4.1 or B.4.7 a General, Trade or Individual Participant may, at the time of application of membership or at any time thereafter, apply to hold an Emissions Trading Privilege and, once obtained, may at any time cancel it. Such an application/cancellation shall be made in the manner prescribed by the Exchange from time to time.

B.6A.2 The holder of an Emissions Trading Privilege is permitted to:

- (a) trade the Emission Contracts where the holder is a party to an Electronic User Agreement;
- (b) clear the Emission Contracts where the holder is a Clearing Counterparty;
- (c) where the holder is a member of the Clearing House, clear Emission Contracts for a non Clearing Member with whom it has a clearing agreement provided that non Clearing Member is also the holder of an Emissions Trading Privilege.

B.6A.3 No person shall engage in the activities set out in Rule B.6A.2 unless he holds an Emissions Trading Privilege.

B.6A.4 An Emissions Trading Privilege is not transferable and a Member may not hold more than one Emissions Trading Privilege.

<sup>32</sup> Inserted 22 April 2005, 29 March 2006, Launch of ICE Clear 2008, 29 January 2014, 4 June 2014, 3 September 2014

B.6A.5 An application fee and an annual fee shall be payable pursuant to Rule B.1.2.

### **B.6B OIL AND UTILITY TRADING PRIVILEGE<sup>33</sup>**

B.6B.1 Pursuant to Rules B.4.1 or B.4.7 a General, Trade or Individual Participant may, at the time of application of membership or at any time thereafter, apply to hold an Oil and Utility Trading Privilege and, once obtained, may at any time cancel it. Such an application/cancellation shall be made in the manner prescribed by the Exchange from time to time.

B.6B.2 The holder of an Oil and Utility Trading Privilege is permitted to:

- (a) trade the Oil Contracts and Utility Contracts where the holder is a party to an Electronic User Agreement;
- (b) clear the Oil Contracts and Utility Contracts where the holder is Clearing Counterparty; and
- (c) where the holder is a member of the Clearing House, clear Oil Contracts and Utility Contracts for a non Clearing Member with whom it has a clearing agreement provided that non Clearing Member is also the holder of an Oil and Utility Trading Privilege.

B.6B.3 No person shall engage in the activities set out in Rule B.6B.2 unless he holds an Oil and Utility Trading Privilege.

B.6B.4 An Oil and Utility Trading Privilege is not transferable and a Member may not hold more than one Oil and Utility Trading Privilege.

B.6B.5 An additional application fee and an annual fee may be payable pursuant to Rule B.1.2.

### **B.6C FINANCIALS AND SOFTS TRADING PRIVILEGE<sup>34</sup>**

B.6C.1 Pursuant to Rules B.4.1 or B.4.7 a General, Trade or Individual Participant may, at the time of application of membership or at any time thereafter, apply to hold a Financials and Softs Trading Privilege and, once obtained, may at any time cancel it. Such an application/cancellation shall be made in the manner prescribed by the Exchange from time to time.

B.6C.2 The holder of a Financials and Softs Trading Privilege permitted to:

- (a) trade the Financials and Softs Contract where the holder is a party to an Electronic User Agreement;
- (b) clear the Financials and Softs Contract where the holder is a Clearing Counterparty; and
- (c) where the holder is a member of the Clearing House, clear Financials and Softs Contracts for a non Clearing Member with whom it has a clearing agreement provided that non Clearing Member is also the holder of a Financials and Softs Trading Privilege.

B.6C.3 No person shall engage in the activities set out in Rule B.6C.2 unless he holds a Financials and Softs Trading Privilege.

B.6C.4 A Financials and Softs Trading Privilege is not transferable and a Member may not hold more than one Financials and Softs Trading Privilege.

B.6C.5 An additional application fee and an annual fee may be payable pursuant to Rule B.1.2.

### **B.6D LIQUIDITY PROVIDER PROGRAMS<sup>35</sup>**

#### **Participants in Liquidity Provider Programs and Liquidity Providers**

B.6D.1 Participants in Liquidity Provider Programs may be required to meet participation criteria, conditions and/or obligations set by the Exchange as applicable to participants in a particular Liquidity Provider Program, as the same may be amended or added to from time to time, in order to be able to continue to participate in a particular Liquidity Provider Program.

<sup>33</sup> Inserted 4 June 2014, amended 3 September 2014

<sup>34</sup> Inserted 4 June 2014, amended 3 September 2014

<sup>35</sup> Inserted 18 September 2014, amended 3 January 2018

- B.6D.2 Any person applying to be a Liquidity Provider may be required to satisfy specific criteria in relation to liquidity providing arrangements and Liquidity Provider Commitments in relation to the trading of the Designated Products, as notified to the applicant by the Exchange.
- B.6D.3 Liquidity Providers shall carry out all of their Liquidity Provider Commitments, except that Liquidity Providers shall not be obliged to carry out a Liquidity Provider Commitment in the event that the ICE Futures Market Supervision Department confirms or the Liquidity Provider reasonably determines and promptly notifies in writing to the Exchange, that the conditions which pertain in relation to the trading of a Designated Product for that Liquidity Provider Program on the ICE Platform are abnormal.
- B.6D.4 In the event of the circumstances referred to in Rule B.6D.3 arising with regard to the Liquidity Provider, the Liquidity Provider may, acting reasonably, either:
- (a) widen the bid/offer spread applicable to the relevant Liquidity Provider Commitment (and promptly notify the Exchange accordingly); or
  - (b) withdraw from carrying out its Liquidity Provider Commitment with respect to the relevant Liquidity Provider Program so long as the abnormal trading circumstances are verified as such by the ICE Futures Market Supervision Department, such verification occurring on the request of the Liquidity Provider.

### **Liquidity Provider Programs**

- B.6D.5 The Exchange may make the availability of a Liquidity Provider Program contingent on certain cleared volume levels or other criteria relevant to the benefit of the market.
- B.6D.6 Transactions entered into by the Liquidity Provider pursuant to a Liquidity Provider Program will be appropriately identified as such in accordance with arrangements for identifying Transactions agreed upon by the Exchange and the Liquidity Providers. In the event that the Liquidity Provider has not complied with reasonable Liquidity Provider Program criteria or requests to assist Transaction identification for the purposes of the Liquidity Provider Program, the Exchange reserves the right to disqualify resulting unidentified Transactions.
- B.6D.7 The Exchange may withdraw any of its Liquidity Provider Programs at any time. The Exchange shall be entitled to terminate any Liquidity Provider's participation in a Liquidity Provider Program on notice at its sole discretion. A Liquidity Provider may terminate its participation in a Liquidity Provider Program upon one month's written notice.
- B.6D.8 The benefits receivable under Liquidity Provider Programs shall comprise rebates of transaction costs payable by the Liquidity Provider to the Exchange and/or the Clearing House as a result of trading in a Designated Product, and/or other benefits as determined by the Exchange (collectively, "Liquidity Provider Benefits"). The Liquidity Provider shall not:
- (a) cause any detriment to clients of the Liquidity Provider Program participants; or
  - (b) affect or distort the proper market in a Designated Product.

No Liquidity Provider Program shall affect the margin applicable to any contract cleared by the Clearing House.

The Liquidity Provider shall not enter into any transaction on the Exchange or with the Clearing House or another Liquidity Provider Program participant, other than for proper trading purposes (which may include, but are not limited to, hedging, investment, speculation, price determination, arbitrage and filling client orders from any client for whom the Liquidity Provider acts).

### **Confidentiality and Publicity**

- B.6D.9 The Exchange may publish details of any Liquidity Provider Program and name its participants from time to time. The Liquidity Provider shall not disclose the terms of any Liquidity Provider agreement, provided that the Liquidity Provider may disclose details of the terms of any Liquidity Provider agreement to a regulatory authority or in accordance with applicable law or Rule B.6D.10. In the case of the Exchange, such confidential information shall be treated in accordance with Rule A.4.
- B.6D.10 The Liquidity Provider shall, to the extent required by applicable law, inform its clients of its participation in each Liquidity Provider Program and such details of the Liquidity Provider Program as are advisable to be disclosed. The Liquidity Provider (and not the Exchange) shall be responsible for any other disclosure

required to be made to clients of the Liquidity Provider, in relation to the Liquidity Provider Program or any other risks or conflicts of interest that may arise from time to time pursuant thereto.

### **Fees**

- B.6D.11 The Exchange shall, at its sole discretion, determine Liquidity Provider Benefits, including the Transaction Fee Amount and the Termination Fee Amount payable to Liquidity Providers.
- B.6D.12 Subject to Rule B.6D.13, Liquidity Provider Benefits in respect of Transactions in a particular calendar month shall be paid to the Liquidity Provider within 30 days of the end of the calendar month in which the relevant Transaction Fees are received by the Exchange, provided that, in the relevant calendar month, the Liquidity Provider complies with the relevant Liquidity Provider Commitments.
- B.6D.13 If the Liquidity Provider ceases to participate in a Liquidity Provider Program under Rule B.6D.7, then provided that the Liquidity Provider has complied with the relevant Liquidity Provider Commitments:
- (a) a Termination Fee Amount shall be payable to the Liquidity Provider on the Business Days in the relevant calendar month prior to the date on which the termination is effective; and
  - (b) any Liquidity Provider Benefit which does not comprise a rebate of transaction costs, and which therefore is excluded from the Termination Fee Amount, shall be subject to payment on a pro-rata basis.

### **Payment**

- B.6D.14 Where a Liquidity Provider Program relates to a service for which only Exchange fees are applicable, the payer of the fee discount or incentive fee under the Liquidity Provider Program is the Exchange and the payee is the Liquidity Provider, regardless of whether such person is or is not an Exchange Member. Where a Liquidity Provider Program relates to a service for which both trading and clearing fees are applicable, the payer under the Liquidity Provider Program is the Clearing House as to the total amount of the trading and clearing fee discounts or incentives multiplied by the percentage that clearing fees represent of the sum of clearing and trading fees. The Exchange will be the payer of the remainder of the fee discount or incentive fee.
- B.6D.15 The Exchange may arrange for the Clearing House to make any payment in respect of the Liquidity Provider Program on the payer's behalf. The Liquidity Provider may direct that payments be made directly to its account or to the account of a relevant Member or Clearing Member, as appropriate. Any payment in accordance with such instructions shall constitute due and final payment by the Exchange to the account of the Liquidity Provider. The Liquidity Provider may direct changes to such payment arrangements from time to time by providing written notice to the Exchange.
- B.6D.16 In the absence of any payment instructions, the Exchange shall be entitled (but shall not be required) to make payment in respect of any payment under a Liquidity Provider Program by crediting amounts to the proprietary account or customer account of the relevant Member or Clearing Member and in doing so shall have discharged its obligations in relation to the relevant Liquidity Provider Program payment.

### **General**

- B.6D.17 Terms, conditions, fee discounts and incentive fees may be varied, amended, modified, extended or supplemented by the Exchange at its sole discretion, from time to time, by notice to a Liquidity Provider or by circular.

## **B.6E MiFID II MARKET MAKING SCHEMES<sup>36</sup>**

### **MiFID II Market Making Scheme**

- B.6E.1 Rules B.6D.1 to B.6D.5, B.6D.7 to B.6D.8, B.6D.12 and B.6D.13 to B.6D.17 shall apply equally to MiFID II Market Making Schemes as they apply to Liquidity Provider Programs, to the extent permissible under applicable laws.
- B.6E.2 Details of MiFID II Market Making Schemes in relation to MiFID II Designated Products will be made available on the website of the Exchange.

### **MiFID II Market Making Agreements**

<sup>36</sup> Inserted 3 January 2018

- B.6E.3 Members and any other persons that are Investment Firms shall not be entitled to adopt a trading strategy that falls under Article 1 of Commission Delegated Regulation (EU) 2017/578 with regard to regulatory technical standards specifying the requirements on market making agreements and schemes unless they first enter into a MiFID II Market Making Agreement with the Exchange covering such strategy and comply with its terms.
- B.6E.4 Each MiFID II Market Maker shall:
- (a) provide liquidity in relation to the relevant MiFID II Designated Product on a regular and predictable basis to the Exchange as set out in Article 17(3)(a) of MiFID II; and
  - (b) have in place effective systems and controls to ensure that it fulfils its obligations under the MiFID II Market Making Agreement it enters into pursuant to Rule B.6E.3.

### Identification

- B.6E.5 Transactions entered into by a MiFID II Market Maker pursuant to a MiFID II Market Making Scheme will be appropriately identified as such in accordance with arrangements for identifying Transactions agreed upon by the Exchange and the MiFID II Market Makers.

### Pricing

- B.6E.6 In respect of a MiFID II Market Making Scheme, the same incentives will be made available to all MiFID II Market Makers who perform equally in terms of presence, size and spread.
- B.6E.7 The Exchange may limit the access to the incentives included in a MiFID II Market Making Scheme to MiFID II Market Makers which have met pre-determined thresholds.

### Confidentiality and Publicity

- B.6E.8 MiFID II Market Makers shall not disclose the terms of any MiFID II Market Making Agreement, except to a regulatory authority or in accordance with applicable laws or Rule B.6E.10. In the case of the Exchange, such confidential information shall be treated in accordance with Rule A.4.
- B.6E.9 Notwithstanding Rule B.6E.8, the Exchange may publish details of the names of MiFID II Market Makers that have signed MiFID II Market Making Agreements under each of its MiFID II Market Making Schemes and the MiFID II Designated Products covered by those MiFID II Market Making Agreements, in accordance with applicable laws and may publicise information concerning the MiFID II Market Making Schemes.
- B.6E.10 Each MiFID II Market Maker shall (to the extent required by applicable law) inform its clients of its participation in the Exchange's MiFID II Market Making Scheme, shall direct its clients to the details of such MiFID II Market Making Scheme as published on the Exchange's website pursuant to Rule B.6E.9 and shall disclose to the clients any other details of the MiFID II Market Making Scheme as are required or advisable to be disclosed. The MiFID II Market Maker (and not the Exchange) shall be responsible for any disclosure required to be made to clients of the MiFID II Market Maker, in relation to the MiFID II Market Making Scheme and for any other risks and conflicts of interest that may arise from time to time as a result of participation.

## B.7 SUSPENSION AND EXPULSION<sup>37</sup>

- B.7.1 The Directors may, upon the recommendation of a Disciplinary Panel under Rule E.4.11, in the exercise of any other power conferred on the Directors by the Regulations or at the request of that Member, that Member's clearing member, the Clearing House or any regulatory authority:
- (a) expel a Member from membership of the Exchange (or any part of the Market) or, in the case of other persons subject to the Regulations, permanently remove their right to access the ICE Platform; or
  - (b) in the case of a Member, suspend or withdraw any or all of the membership permissions of the Member including its permission to trade on the ICE Platform (or any part of it), to accept allocation of any Contracts made on the ICE Platform by another Member, to clear Contracts made on the ICE Platform and to provide Direct Electronic Access or Sponsored Access (as applicable) (or any one or more of such permissions) for such term as the Directors may determine.

<sup>37</sup> Amended 22 April 2005, 29 March 2006, 29 May 2007, 3 January 2018



The Directors may give the person subject to the Regulations a brief account of reasons for their action, and shall promptly do so at his request.

B.7.2 If a Member fails to satisfy the requirements of Rule B.3 or fails to comply with the terms of the Electronic User Agreement, the Directors may suspend any or all membership permissions of that Member including its permission to trade on the Market (or any part of it), to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions) for such term as the Directors may determine. Without prejudice to the generality of the foregoing the Directors may permit a Member to continue to exercise any or all of its permissions to clear Contracts for such period and on such terms (including but not limited to any agreement to be bound by the Regulations) as the Directors may in their discretion think fit.

B.7.3 If a Member shall:

- (a) suspend payment of its debts;
- (b) call a meeting of its creditors;
- (c) (in the case of an individual or all the members of a partnership) have a bankruptcy, administration or winding-up petition presented against him or all of them;
- (d) (in the case of a firm or company) have an administrative receiver or administrator appointed of all or any of its assets or go into liquidation (except a voluntary liquidation for the purposes of amalgamation or reconstruction);
- (e) fail to comply with relevant Applicable Requirements under Rule B.12.1;
- (f) be declared a defaulter under the default rules; or
- (g) an analogous event occurs in respect of the Member under the laws of any other jurisdiction;

then its membership permissions (including trading permissions and its permission to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable)) shall be suspended (without any prior decision of the Directors being required but subject to any contrary determination under the default rules) or at the discretion of the Directors shall be terminated from the date of such occurrence, save that where the Member is declared a defaulter under the default rules, its membership shall continue until the completion of default proceedings (within the meaning of such rules). The suspension shall continue until the Member has settled with all its creditors to the satisfaction of the Directors, or complied with Applicable Requirements, as the case may be.

B.7.4 A Member whose permissions are suspended shall remain liable in respect of all its obligations of membership including, without limitation, its obligation to pay an annual subscription or any other fees, levies or charges in respect of the relevant category of membership and its obligations in respect of any steps taken with regard to him under the default rules. A Member whose trading permissions have been suspended under Rule B.7.3 shall not, during the period of such suspension, be entitled to clear new Contracts, subject to any contrary determination under the default rules.

B.7.5 Subject to any applicable provision of the default rules, the expulsion of a Member or the suspension of any or all of its permissions shall not affect the right of any party to pursue either a matter or dispute which has been referred to the Delivery Committee under Rule I.18 or to arbitration under the Arbitration Rules in respect of any Contract entered into by the Member.

B.7.6 Upon the expulsion of a Member taking effect it shall forfeit all rights and privileges of membership of the Exchange including its trading permissions.

B.7.7 Where, upon the suspension of a Member's rights of membership (including its permission to trade on the Market, to accept allocation of any Contracts made on the Market by another Member and to clear Contracts (as applicable) (or any one or more of such permissions)) under Rule B.7.3, the Member is not declared a defaulter under and within the meaning of the default rules, any other Member holding open positions on the Market on its behalf shall be entitled to close the same without prior notice. Where, upon the suspension of a Member's permissions under Rule B.7.3, the Member is declared a defaulter under and within the meaning of the default rules, any other Member holding on its behalf an open position on the Market which is not discharged under the default rules may, upon the completion of default proceedings (within the meaning of the default rules) in respect of the suspended Member, close such open position without prior notice.

B.7.8 Upon the expulsion of a Member or the suspension of its trading permissions and/or its permission to accept the allocation of any Contracts made on the Market by another Member and/or (if applicable) its entitlement to clear Contracts taking effect, the Secretary shall give notice of the expulsion or suspension to all Members and to the Clearing House.

## **B.8 RECONSIDERATION AND APPEAL<sup>38</sup>**

B.8.1 If the Directors refuse an application for membership or refuse to approve a change in business particulars notified to the Exchange under Rule B.5.1, impose sanctions on a Member under Rule B.1.2, make a decision under Rule B.1.6 in respect of status, rights or obligations of a Member or suspend a Member's permission to trade for more than seven days or expel a Member, (otherwise than pursuant to a recommendation made by a Disciplinary Panel under Rule E.4.11) the applicant or Member may, within fourteen days of receiving notice of such decision, request the Directors in writing to reconsider the matter. The applicant or Member may make such representations and supply such information as it may consider relevant and may, if it desires, attend a meeting of the Directors for that purpose. No request or representation may be made under this Rule in respect of any determination made or step taken under the default rules.

B.8.2 The Directors shall within 28 days of receiving the applicant or Member's written request for reconsideration consider any representations and information placed before them and shall confirm, amend or revoke the decision in respect of which the request has been received. The Secretary shall forthwith notify the applicant or Member of the outcome.

B.8.3 Within fourteen days of receiving such notice from the Secretary the applicant or Member may serve notice on the Exchange of its intention to appeal against the Directors' determination. With such notice it shall lodge with the Exchange the sum of £2,000 towards the costs of the appeal, which sum shall be returned to the applicant or Member if its appeal is successful.

B.8.4 The appeal will be to an Appeals Panel appointed in accordance with the provisions of Rule E.4.14.

B.8.5 The Appeals Panel may adopt such procedure as it deems appropriate in hearing the appeal but shall give both the appellant and the Directors reasonable opportunity to make representations to it. The Appeals Panel may as it thinks fit either confine the appeal to a review of the Directors' determination or hear the matter afresh. It shall have power to order costs to be paid by either party.

B.8.6 The Appeals Panel shall notify its award, with reasons, to the Directors and to the appellant. The Directors shall within 28 days serve notice on the appellant confirming, amending or revoking their decision accordingly.

## **B.9 CONCLUSION OF CONTRACTS ON THE ICE PLATFORM<sup>39</sup>**

B.9.1 Contracts shall arise only at the times and subject to the conditions set out in the Clearing House Rules and Rule F.1.

B.9.2 [Deleted, Launch of ICE Clear 2008]

B.9.3 [Deleted 3 September 2014]

B.9.4 [Deleted, Launch of ICE Clear 2008]

B.9.5 [Deleted, Launch of ICE Clear 2008]

B.9.6 [Deleted, Launch of ICE Clear 2008]

## **B.10 CLEARING ACTIVITIES<sup>40</sup>**

B.10.1 Only certain categories of membership are eligible to be Clearing Counterparties for the purposes of the Regulations in relation to the ICE Platform, on the basis set out below:

- (a) Individual Participants may not be Clearing Members, and must therefore have in place a clearing agreement with a General Participant;

<sup>38</sup> Amended 29 March 2006

<sup>39</sup> Amended 29 March 2006, Launch of ICE Clear 2008, 29 January 2014, 4 June 2014, 3 September 2014

<sup>40</sup> Amended 15 April 2005, 22 April 2005, 29 March 2006, 17 October 2008, Launch of ICE Clear 2008, 3 September 2014

- (b) Trade Participants may elect to be: (i) Clearing Members for the purpose of clearing own business (subject to them having the relevant permissions from the Clearing House); (ii) Sponsored Principals for the purpose of clearing own business (subject to them having a clearing agreement with a General Participant that is a Sponsor and having the relevant permissions from the Clearing House); or (iii) non-clearing Members, in which case they must have in place a clearing agreement with a General Participant acting as a Clearing Member as permitted under Rule B.6.2(a) and Rule B.6.2(d);
- (c) General Participants (other than those General Participants who are ICE Block Members) may elect to be (i) Clearing Members for the purpose of clearing own business and/or client business (subject to them having the relevant permissions from the Clearing House); (ii) Sponsored Principals for the purpose of clearing own business (subject to them having a clearing agreement with a General Participant that is a Sponsor and having the relevant permissions from the Clearing House); or (iii) non-clearing Members, in which case they must have in place a clearing agreement with a General Participant that is a Clearing Member as permitted under Rule B.6.1(a) and Rule B.6.1(d);
- (d) A client of a General Participant that is not itself a General Participant or Trade Participant may elect to be a non-Member Sponsored Principal for the purpose of clearing own business (subject to them having a clearing agreement with a General Participant that is a Sponsor and having the relevant permissions from the Clearing House);
- (e) For the avoidance of doubt, in order for a General Participant to be able to provide clearing services (pursuant to a clearing agreement) whether as a Clearing Member or a Sponsor to another Member who is the holder of an Emissions Trading Privilege, the General Participant must also be the holder of an Emissions Trading Privilege.
- (f) ICE Block Members may not be Clearing Members. Trade Participant ICE Block Members entering own business, must have in place a clearing agreement with a General Participant.

B.10.2 [Deleted 15 April 2005]

B.10.3 A Member shall forthwith notify the Exchange upon becoming or ceasing to be a Clearing Counterparty or Sponsor, or upon any of its clients becoming or ceasing to be a Sponsored Principal or changing its Clearing Member or Sponsor.

B.10.4 Without prejudice to Rule D.6.2, a Member shall notify the Secretary forthwith upon any change in particulars which it has notified under Rule B.10.3, and shall give brief reasons for the change.

B.10.5 For the avoidance of doubt, a non-Member Sponsored Principal may be the client of one Member that is a General Participant for the purposes of accessing and trading on the ICE Platform, and also be the client of another Member that is a General Participant acting as its Sponsor for the purpose of clearing the resulting Contract.

## **B.11 NOMINATION AND REGISTRATION OF RESPONSIBLE INDIVIDUALS<sup>41</sup>**

B.11.1 A Member shall not enter orders into or make trades on the ICE Platform except through a Responsible Individual registered with the Exchange pursuant to the Trading Procedures. At least one individual shall be registered by a Member as a Responsible Individual pursuant to Trading Procedure 14.

B.11.2 A Member must ensure it has sufficient number of Responsible Individuals for the nature and scale of business being conducted.

B.11.3 [Removed 27 April 2006]

B.11.4 [Removed 27 April 2006]

B.11.5 [Removed 27 April 2006]

### **Exchange jurisdiction following suspension of registration of Responsible Individual**

B.11.6 A Responsible Individual whose registration is suspended by the Exchange under the Regulations, shall remain subject to the Regulations and to the jurisdiction of the Exchange under the Regulations in respect of acts and omissions of the individual while he was registered as a Responsible Individual, and in respect of any investigation or disciplinary proceedings relating thereto, whether commenced before or after his

<sup>41</sup> Amended 29 March 2006, 27 April 2006

suspension, (including the payment of any fine or application of any other sanction imposed) as if he were still registered, for the longer of:

- (a) the period of 12 months from the date on which the registration was suspended; or
- (b) the period during which disciplinary proceedings continue against him, being proceedings started by the Exchange no later than 12 months after the date on which his registration was suspended, subject to any extension of the period under Rule B.11.8 below.

B.11.7 Disciplinary proceedings commenced following suspension of a Responsible Individual's registration may be commenced by giving notice of an investigation to that individual no later than 12 months after the date on which his registration was suspended.

B.11.8 In the event that a Disciplinary Panel concludes that there are, or may be, additional matters which should be investigated and in respect of which disciplinary proceedings may be taken, the period referred to in Rule B.11.7 shall be extended until such time as such additional disciplinary proceedings are completed (including the payment of any fine or application of any other sanction imposed).

#### **Exchange jurisdiction following de-registration of Responsible Individual**

B.11.9 A Member may terminate the registration of a Responsible Individual by giving to the Exchange notice in writing of intention to de-register the Responsible Individual with effect from the date specified in the notice.

B.11.10 A Responsible Individual who is de-registered shall remain subject to the Regulations and to the jurisdiction of the Exchange in respect of acts and omissions of the individual while he was registered as a Responsible Individual, and in respect of any investigation or disciplinary proceedings relating thereto (including the payment of any fine or application of any other sanction imposed) as if were still registered, for the longer of:

- (a) the period of 12 months from the date on which the de-registration became effective; or
- (b) the period during which disciplinary proceedings continue against him, being proceedings started by the Exchange no later than 12 months after the date on which his de-registration became effective, subject to any extension of the period under Rule B.11.12 below.

B.11.11 Disciplinary proceedings commenced following a Responsible Individual's de-registration may be commenced by giving notice of an investigation to that individual no later than 12 months after the date on which the de-registration became effective.

B.11.12 In the event that a Disciplinary Panel concludes that there are, or may be, additional matters which should be investigated and in respect of which disciplinary proceedings may be taken, the period referred to in Rule B.11.11 shall be extended until such time as such additional disciplinary proceedings are completed (including the payment of any fine or application of any other sanction imposed).

## **B.12 APPLICABLE LAW<sup>42</sup>**

B.12.1 Members who undertake transactions in Contracts on behalf of U.S. clients, or permit U.S. clients to order route in accordance with the Trading Procedures, are required to comply with the reporting requirements under section 6045 of the United States Internal Revenue Code and the regulations thereunder as such requirements might be applicable to such Members ("the Applicable Requirements"). Any failure by a Member to comply with the Applicable Requirements with respect to transactions on the Exchange shall result in the suspension of such Member's membership permissions, in accordance with the terms of Rule B.7, until compliance with the relevant Applicable Requirements is complete.

B.12.2 The Applicable Requirements referenced in Rule B.12.1 shall be those applicable as at 1 April 2007 ("the Relevant Date"). In the event that the Applicable Requirements are changed subsequent to the Relevant Date, the Exchange will remake Rule B.12.1 so as to take effect on the date the changes to the Applicable Requirements take effect.

## **B.13 NON-MEMBER SPONSORED PRINCIPALS<sup>43</sup>**

B.13.1 Each non-Member Sponsored Principal shall be subject to these Regulations in its capacity as a Sponsored Principal with respect to any pre-trade, delivery, trade, transaction reporting, record keeping, dispute

<sup>42</sup> Inserted 29 May 2007

<sup>43</sup> Inserted 3 September 2014

resolution and other applicable obligations set out in these Regulations, and the Exchange shall have the right to enforce these Regulations against any such Sponsored Principal, in addition to the relevant Member acting as Sponsor or otherwise providing access to the ICE Platform. Non-Member Sponsored Principals submit to the applicability of these Regulations pursuant to agreements with the Exchange and the Clearing House.

