

ICE Clear Europe Limited

Default Porting Notice

To: ICE Clear Europe Limited
60 Chiswell Street
London EC1Y 4SA
iceclearuropeoperations@theice.com

From:
Full legal name of Customer: [_____]

Full legal name of Transferee Clearing Member:
[_____]

Capitalised terms used but not defined in this Porting Notice take their meanings from those ascribed to them in the ICE Clear Europe Limited Clearing Rules, available at www.the-ice.com.

Each of the Customer and Transferee Clearing Member must ensure that it has completed this Porting Notice as fully and accurately as possible. This Porting Notice, when completed, signed and delivered by the Customer and Transferee Clearing Member, comprises a contract as well as a formal notice, application and request to the Clearing House pursuant to Part 9 of the Rules and the Standard Terms to Transfer all Contracts (and to the extent possible any Customer-CM Transactions and any available Original Margin, Initial Margin or FX Original Margin held by the Clearing House) relating to the classes of products specified in the Porting Notice relating to the Customer from a Customer Account of the Defaulter to a Customer Account of the Transferee Clearing Member.

Following receipt of this Porting Notice, the Clearing House will provide the Customer with the format of a '*Position Transfer Template*'. The Position Transfer Template will contain fields and information similar to those set out in Annex 2 to the form of Default Portability Preference, but with the addition of position data for each Account. For CDS Contracts, the Customer must decide whether to accept or reject the Position Transfer Template. For F&O Contracts, the Customer may add additional detail or corrections to the completed Position Transfer Template, which the Clearing House at its discretion may determine to either include or reject in any Transfer.

Once the Position Transfer Template (as applicable) and accepted by the Clearing House, the Transferee Clearing Member must then complete the final column thereof by specifying which of its Customer Accounts should receive each Transfer. By completing and returning the Position Transfer Template, the Customer will represent and agree that the Position Transfer Template has correctly and accurately stated the entirety of the Open Contract Positions relating to it in respect of each Account that are requested to be subject of a Transfer.

This Porting Notice further confirms the agreement and consent of the Customer and Transferee Clearing Member with respect to the transfer of all of the Contracts held in all of the Customer Accounts of the Customer with the Defaulter, together with such related Margin as the Clearing House determines (in accordance with the Rules) is capable of being transferred, to the Transferee Clearing Member, in relation to the products specified in the table below. This Porting Notice does not restrict in any way the application of those provisions of the Rules and Standard Terms which provide for consent by the Customer to be Transferred to any non-defaulting Clearing Member.

This Porting Notice shall, save to the extent that a Transfer has already taken place or been initiated in respect of Contracts pursuant to a previous Porting Notice, over-ride and supersede any Porting Notice or Default Portability Preference previously notified to the Clearing House in respect of the Customer.

The Customer and the Transferee Clearing Member each agree and understand that the Clearing House may determine not to act upon this Porting Notice, in accordance with the discretions, conditions and its powers set out in the Rules and the Standard Terms.

In order for it to have effect, the Transferee Clearing Member and Customer must both execute this Porting Notice and send it, only once it is fully complete, duly executed and duly countersigned by both parties, to the Clearing House at the email address specified above.

By signing and submitting this Porting Notice, the Customer hereby agrees with, and confirms, represents and warrants to, the Clearing House that:

- (i) the relevant Standard Terms have been duly cross-referenced as being applicable to all Customer-CM Transactions between the Customer and the Defaulter in an agreement between the Customer and the Defaulter that has been duly executed and duly authorised by both parties;
- (ii) subject to Rule 202(c), the obligations of the Customer under the relevant Standard Terms constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application and to other matters which are standardly excluded, restricted or qualified in legal opinions (regardless of whether enforcement is sought in a proceeding in equity or at law));
- (iii) any amendments, modifications, restatements or supplements in respect of the Standard Terms made by the Clearing House in accordance with the procedures set out in the Standard Terms were, are and shall hereby be deemed and agreed to be effective, such that the most current published version of the Standard Terms (and not any previous version thereof) is legally binding on the Customer;
- (iv) any attempted amendment to or disapplication of any provision of the Standard Terms as between the Customer and the Defaulter or any other Person is void and of no effect;
- (v) any other agreement between the Customer and the Defaulter or any other Person that any provision of any other document shall prevail over the Standard Terms (or any amendment made thereto by the Clearing House) is void and of no effect, with the result that the Standard Terms prevail over any contrary provision to which the Customer and the Defaulter or any other Person are bound in any other agreement or document;
- (vi) the Clearing House is a third party beneficiary of the Standard Terms and may enforce the Standard Terms;
- (vii) neither the Clearing House nor the Transferee Clearing Member has any notice (actual, constructive, of a kind referred to in sections 177(2) or 190(5) of the Companies Act 1989 or otherwise arising) of any pledge, trust, lien, security interest or other Encumbrance in favour of any other person over any collateral received by the Clearing House or to be received by the Transferee Clearing Member in respect of the Customer (except, in relation to any trust or other

similar interest that the Customer may have by virtue of a Customer-Clearing Member Agreement or arising under Applicable Laws in respect of any contractual receivable of a Clearing Member with respect to a Customer Account);

- (viii) at the request of the Transferee Clearing Member or the Clearing House, the Customer will enter into a further written confirmation of or agreement to any of the above or to any provision of the Standard Terms as applicable between it and the Defaulter;
- (ix) the Customer-CM Transactions remain open and have not been terminated as a result of the Event of Default (or any connected or contemporary circumstances, actions or notices) and no notice has been served or received by the Customer which has resulted or will result in or relates to the termination of any Customer-CM Transaction (except pursuant to any automatic early termination provision which is not restricted or disappplied by the Standard Terms);
- (x) the signatory of the Customer below is duly authorised by the Customer to make the agreements, confirmations, representations and warranties herein and to execute this Porting Notice and documentation confirming such authority is attached as Annex 3; and
- (xi) the information in Annex 1 is accurate in all respects.

The Customer agrees that, pursuant to the Rules and Standard Terms, the Clearing House has no liability or duty of care to it or any other Customer.

By signing and submitting this Porting Notice, the Customer and the Transferee Clearing Member each hereby agrees with, and confirms, represents and warrants to, the Clearing House that:

- a. the relevant Standard Terms have been duly cross-referenced as being applicable to all Customer-CM Transactions between the Customer and the Transferee Clearing Member in an agreement between the Customer and the Transferee Clearing Member that has been duly executed and duly authorised by both parties;
- b. subject to Rule 202(c), the obligations of the Customer and the Transferee Clearing Member under the relevant Standard Terms constitute the legal, valid and binding obligations of the parties, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application and to other matters which are standardly excluded, restricted or qualified in legal opinions (regardless of whether enforcement is sought in a proceeding in equity or at law));
- c. any amendments, modifications, restatements or supplements in respect of the Standard Terms made by the Clearing House in accordance with the procedures set out in the Standard Terms were, are and shall hereby be deemed and agreed to be effective, such that the most current published version of the Standard Terms (and not any previous version thereof) is legally binding on the Customer and the Transferee Clearing Member;
- d. any attempted amendment to or disapplication of any provision of the Standard Terms as between the Customer and the Transferee Clearing Member or any other Person is void and of no effect;

- e. any other agreement between the Customer and the Transferee Clearing Member or any other Person that any provision of any other document shall prevail over the Standard Terms (or any amendment made thereto by the Clearing House) is void and of no effect, with the result that the Standard Terms prevail over any contrary provision to which the Customer and the Transferee Clearing Member or any other Person are bound in any other agreement or document;
- f. the Clearing House is a third party beneficiary of the Standard Terms and may enforce the Standard Terms;
- g. at the request of the Clearing House, the Customer or Transferee Clearing Member or both of them will enter into a further written confirmation of or agreement to any of the above or to any provision of the Standard Terms as applicable between the Customer and the Transferee Clearing Member.

The Transferee Clearing Member represents and warrants: (i) that signatory of the Transferee Clearing Member below is duly authorised by the Transferee Clearing Member to make the agreements, confirmations, representations and warranties herein and to execute this Porting Notice; and (ii) the information in Annex 2 is accurate in all respects. The Transferee Clearing Member shall not be bound to accept any Transfer until it has confirmed the destination accounts for all Open Contract Positions by validly completing the Position Transfer Template in respect of the Customer's Open Contract Positions.

Without limitation or prejudice to the generality of the provisions of the Rules, in submitting this Porting Notice, each of the Customer and the Transferee Clearing Member agrees and acknowledges that neither the Clearing House nor any of its Affiliates will be liable to the Customer, the Transferee Clearing Member or any third party for: (i) acting upon any error of the Transferee Clearing Member in the information contained in this Porting Notice; or (ii) any difference between the value at which a Contract is terminated (or a replacement Contract re-established) on the one hand and any claim that the Customer or Transferee Clearing Member may have or realise in respect of any Customer Account, client money or customer asset pool or otherwise as against the Defaulter under insolvency laws or otherwise, on the other hand, including without limitation as a result of any Margin not being capable of being the subject of a Transfer to the Transferee Clearing Member or subsequently being alleged or held not to have been validly so transferred.

All Transfers of Contracts based upon a Porting Notice will take place pursuant to a termination and replacement in accordance with Rule 904, unless specified otherwise in a Circular or unless this mechanism of Transfer is unlawful in a relevant jurisdiction, in which case whichever of the other mechanisms in Rule 904 that is specified in the Circular or lawful, respectively, shall instead apply.

After any Transfer pursuant to the Porting Notice, all Transferor/Transferee forms and other forms and all valid notices served in respect of or relating to such Contracts prior to the Transfer shall consequentially be treated so as to take effect or remain valid as between the Transferee Clearing Member and the Clearing House after the point of Transfer (and as between the Transferee Clearing Member and the Customer in respect of the corresponding Customer-CM Transactions between them).

The Transferee Clearing Member and Customer will be responsible for managing all Open Contract Positions resulting from any Transfer as from the time of Transfer. Both the Customer and Transferee Clearing Member will check all the Contracts and Margin that have been subject to any Transfer as soon as practicable after receipt. Any errors shall be notified to the Clearing House by the Transferee Clearing Member or Customer in writing within one hour of the Transfer. Any errors that either (i) are not so notified; or (ii) have been so notified but are not corrected by

the Clearing House within the same Business Day of the Transfer (or such later time as may be agreed with the Clearing House in writing prior to the expiry of such period), shall in either case be the responsibility and cost of the Transferee Clearing Member and Customer to manage or deal with, whether through close-out, establishment of new Contracts or exchange of Permitted Cover, as necessary.

This Porting Notice is intended to be contractually binding on the Customer and the Transferee Clearing Member and is governed by and shall be construed in accordance with English law. This Porting Notice shall be subject to the same jurisdiction and dispute resolution provisions and processes as those which are established under the Rules.

We agree with the Clearing House as to the above terms on which this Porting Notice is submitted.

Executed by:

Authorised Signatory

[Insert full legal name of Customer]

Print name of signatory and position: [_____]

Executed by:

Authorised Signatory

[Insert full legal name of Transferee Clearing Member]

Print name of signatory and position: [_____]

Annex 1 to Porting Notice: Information to be completed by the Customer

1) Date of this Porting Notice:	
2) Customer's full legal name:	
3) Customer Legal Entity Identifier (LEI)	
4) Full registered address of Customer:	
5) Principal place of business of Customer (if different from 3):	
6) Jurisdiction of incorporation of Customer:	
7) Jurisdiction of any branch through which Customer acts in relation to cleared Contracts (if different from 5):	
8) Full legal name of current Clearing Member:	
9) Contact name of employee or director at Customer responsible for completing and dealing with any queries on this notice:	
10) Customer's contact's telephone number:	
11) Customer's contact's email address:	
12) If Customer is a Sponsored Principal only: APS bank account details for Sponsored Principal (only needed if the APS bank account of the new Sponsor that is the Transferee Clearing Member is not to be used).	

Annex 2 to Porting Notice: Information to be completed by the Transferee Clearing Member:

1) Transferee Clearing Member's full legal name: [A list of Clearing Members can be found at https://www.theice.com/clear-europe/membership]	
2) Contact name of employee of Transferee Clearing Member that Customer has dealt with in connection with this Default Portability Preference:	
3) Telephone number of Transferee Clearing Member's contact:	
4) E-mail address of Transferee Clearing Member contact:	
5) Transferee Clearing Member mnemonic.	
6) ICE Clear Europe Customer Reference number to be used: [F&O - This is the Client back office account ID as provided under Party role 24 in the Gross Customer Margin submission by the Member. CDS - Client Legal Entity Account/Desk]	

Annex 3 to Porting Notice: Documentation demonstrating execution authority of Customer's signatory.

[To be added by Customer prior to sending.]