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Multilateral Arrangement for Regulatory, Supervisory and Oversight Co-operation on ICE Clear Europe

Amended Terms of Reference for Framework Arrangement dated < >

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A. Background and Rationale for Framework Arrangement

1. ICE Clear Europe Limited ('ICE Clear Europe') is a Recognised Clearing House under sections 285 and 290 of the Financial Services and Markets Act 2000 (FSMA) and is authorised as a central counterparty in accordance with Regulation (EU) No. 648/2012 ("EMIR"). ICE Clear Europe has also been recognised as an operator of a payment system under section 184 of the Banking Act 2009. ICE Clear Europe provides clearing services for exchange traded and OTC energy derivative instruments as well as OTC credit default swap ('CDS') instruments.
2. The Bank of England¹ is responsible for the supervision of providers of clearing services operating in the United Kingdom (UK), and is ICE Clear Europe's competent authority under EMIR. The Bank of England is also responsible for oversight of recognised payment systems operating in the UK through its regulation of payment systems under the Banking Act 2009.
3. ICE Clear Europe is also registered as a Derivatives Clearing Organisation by the U.S. Commodity Futures Trading Commission and is registered as a clearing agency for the purpose of clearing security-based swaps by the US Securities and Exchange Commission.
4. In view of the values cleared through ICE Clear Europe and the range of countries of incorporation of ICE Clear Europe's clearing membership and the currencies of denomination and settlement of ICE Clear Europe's products, a number of financial regulatory, supervisory or oversight authorities in jurisdictions not otherwise included in EMIR college arrangements for ICE Clear Europe have expressed interest in the establishment of a framework for international regulatory co-operation with regard to ICE Clear Europe.
5. The establishment of such a framework for co-operation is in line with Responsibility E of the CPMI-IOSCO Principles for Financial Market Infrastructures ("Responsibility E"), which requires central banks, market regulators and other relevant authorities to co-operate in order to promote the safety and efficiency of financial market infrastructures ("FMIs"), to support each other in fulfilling their respective regulatory, supervisory, or oversight mandates, to facilitate the comprehensive regulation, supervision, and oversight and to provide a mechanism whereby the responsibilities of multiple authorities can be fulfilled efficiently and effectively taking into consideration the statutory responsibilities of the authorities, the systemic importance of the FMI for the respective jurisdictions, the FMI's comprehensive risk profile and the FMI's participants. It is also in line with the Financial Stability Board's (FSB's) four safeguards for a resilient and efficient global framework for central clearing.
6. The Bank of England has accepted responsibility for facilitating the development of terms of reference to govern the creation and operation of a framework for regulatory co-operation ("the Framework Arrangement" or "Arrangement") to enhance international

¹ For the purposes of this document, the "Bank of England" should be read as the Bank of England or any successor organisation responsible for the supervision of ICE Clear Europe.

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regulatory² co-operation between the authorities participating in the Arrangement (“the Participating Authorities”) with regard to ICE Clear Europe. This Framework Arrangement was established on 1 October 2012 in respect of ICE Clear Europe’s OTC Credit Default Swap Clearing Service specifically.

7. In 2016 the Participating Authorities agreed to amend the terms of the Framework Arrangement in order to expand the range of clearing services which fall within its scope and to increase flexibility in respect of membership criteria, among other things. This document sets out the amended and restated Terms of Reference (“Terms”). This framework is in addition to, and without prejudice to the terms of arrangement of, the college of supervisors established pursuant to EMIR in respect of ICE Clear Europe (the “EMIR College”).

B. Objectives of Framework Arrangement

8. The Bank of England and other authorities with a regulatory interest in ICE Clear Europe wish to create a Framework Arrangement to enhance, through discussion, consultation and disclosure of information between authorities, the regulation of ICE Clear Europe. The authorities will seek to promote and facilitate the effective and consistent application of international standards, including the CPMI-IOSCO Principles for Financial Market Infrastructure, facilitate the implementation of Responsibility E and the implementation of the safeguard for international cooperative oversight which has been identified by the FSB as one of the four safeguards for a global framework to establish a safe environment for the clearing of OTC derivatives.
9. In particular, the Participating Authorities, including the Bank of England, seek to promote a consistent regulatory approach that:
 - a) leverages the expertise and experiences of the Bank of England from their day-to-day supervision and oversight of ICE Clear Europe, and the perspectives, expertise and experience of the other Participating Authorities to foster comprehensive regulation, supervision and oversight of ICE Clear Europe under these Terms;
 - b) enhances oversight efficiency by minimising the burden on ICE Clear Europe and the duplication of effort by Participating Authorities in line with their respective responsibilities;
 - c) fosters consistent and transparent communication among the Participating Authorities and with ICE Clear Europe;
 - d) fosters transparency among the Participating Authorities regarding the development and implementation of applicable policies; and

² For the purposes of this document, references to “authorities” or “financial regulatory authorities” should be read as including authorities with regulatory, supervisory or oversight responsibilities. Similarly references to “regulation” or “regulatory” should be read as including regulatory, supervisory and oversight activities.

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- e) supports fully informed judgments when Participating Authorities make their independent assessments and decisions regarding ICE Clear Europe, while recognising that individual assessments and decisions by a Participating Authority could have implications for other Participating Authorities.
10. These Terms will govern the Framework Arrangement and set out the necessary bases for the interaction between the Bank of England and non-UK authorities regarding ICE Clear Europe.
11. These Terms will also provide a governance process for the Framework Arrangement, including:
- a) the structure of the Framework Arrangement;
 - b) the criteria for participation in the Framework Arrangement;
 - c) the scope of activities of the Framework Arrangement;
 - d) information security arrangements;
 - e) the process for managing any changes to the Framework Arrangement;
 - f) the process for participating authorities (the Participating Authorities) to adopt these Terms; and
 - g) the organisation and practical matters of operation of the Framework Arrangement.

C. Scope of Framework Arrangement and Status of Terms of Reference

12. The scope of the Framework Arrangement covers all clearing services provided by ICE Clear Europe and ICE Clear Europe's governance, controls, structure, arrangements and processes implemented or provided by ICE Clear Europe to facilitate, enable and risk manage the provision of clearing services.
13. These Terms, and the operation of the Framework Arrangement arising from their adoption, do not affect any other arrangements between two or more Participating Authorities or any arrangements between a Participating Authority and any other third party or parties, including any bilateral or multilateral arrangements between the Bank of England and another authority or authorities that may be put in place with regard to the supervision and oversight of ICE Clear Europe as mandated by relevant legislation, regulatory development or otherwise, either at the time of signature of these terms or at a future date. Nothing in these Terms will prescribe, mandate or limit the ability of the authorities with statutory responsibility for the supervision or oversight of ICE Clear Europe to develop and operate other arrangements for regulatory co-operation with regard to ICE Clear Europe. For the avoidance of doubt, such bilateral or multilateral arrangements will operate independently of and in parallel to the Framework Arrangement governed by these Terms.
14. It will be a required precondition for participation in the Framework Arrangement that the authority acknowledge and support the establishment of this Arrangement and that its participation in it is consistent with these Terms.

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15. These Terms, and any participation in the Framework Arrangement resulting from an authority's adoption of these Terms, do not modify or supersede any laws, rulemaking or regulatory requirements in force in, applying to or due to apply to the UK or any other jurisdiction. These Terms are not intended to constrain the discretion of the Bank of England or any other authority in any way in the discharge of its functions nor prejudice the individual responsibilities or autonomy of any authority with regards to ICE Clear Europe.
16. These Terms do not create any binding legal obligations.
17. These Terms will be treated as coming into effect as at the date stipulated by the Bank of England on the final page of this document. A new authority wishing to join this Framework Arrangement shall observe these Terms as from the date on which they sign a letter acknowledging acceptance of these Terms in accordance with paragraph 40.

D. Organising Authority

18. The Bank of England will take primary responsibility to facilitate the operation and further development of the Framework Arrangement.

E. Participation of Authorities in the Framework Arrangement

19. An authority participating in the Framework Arrangement is referred to in these Terms as a Participating Authority. In order to act as a Participating Authority, an authority must satisfy the criteria for participation in the Framework Arrangement at the point of adoption and on an ongoing basis. The Bank of England will assess an authority's eligibility against the qualification criteria.
20. Should changing conditions result in a Participating Authority no longer meeting the criteria for participation in this Framework Arrangement the Participating Authority shall discuss with the Bank of England a timeline for it to cease participation in this Framework Arrangement.
21. Each Participating Authority must provide the Bank of England with contact details for two members of staff to act as its representatives for the purpose of this Framework Arrangement. The nominated representatives of a Participating Authority should be sufficiently senior to be able to express the position of the Participating Authority but should also have an appreciation of the detailed points regarding the operation and regulation of ICE Clear Europe. One representative will be nominated as the primary representative, the other as the secondary representative. These representatives will participate in the Framework Arrangement and will act as the contact point for the provision of information, information requests and crisis information sharing under the Framework Arrangement and for any administrative purposes related to the operation of these Terms.
22. The Bank of England will use these designated contacts for the sending of all information under this Framework Arrangement. Such contact details must be communicated to the Bank of England in writing, and should include:
 - a) the name of the contact person;

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- b) the telephone number of the contact person;
 - c) an email address for the contact person; and
 - d) a mailing address for the contact person.
23. An authority may amend the details of its representatives by notifying the Bank of England by email.

F. Participation requirements for the Framework Arrangement

24. The Framework Arrangement will comprise authorities that wish to engage in regulatory co-operation with regard to ICE Clear Europe and which are:
- i) central banks of issuance of currencies for which ICE Clear Europe settlements are systemically important against the PFMI; or
 - ii) central banks providing standing account facilities to ICE Clear Europe; or
 - iii) authorities that have statutory responsibility, under national or supra-national law, for the supervision or oversight of ICE Clear Europe, clearing services operated by ICE Clear Europe, ICE Clear Europe's significant clearing members and/or other FMIs with which ICE Clear Europe has a significant relationship or interdependency.
25. All authorities which form part of the EMIR College will be entitled to attend meetings of the Participating Authorities and will be provided with any information shared between Participating Authorities under this Framework Arrangement. Members of the EMIR College shall be subject to the obligations of professional secrecy set out in Article 83 of EMIR received by them in this context.
26. In line with Responsibility E, the Bank will consider requests from authorities with a relevant interest in ICE Clear Europe, as specified in paragraph 24. The Bank will inform all Participating Authorities if any new Authority joins the Framework Arrangement. The Bank of England will carry out periodic reviews of the membership of the Framework Arrangement and of these Terms.

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G. Activities of the Framework Arrangement

27. Co-operation in the Framework Arrangement will encompass the reciprocal exchange of regulatory information, regulatory perspectives and opinions related to ICE Clear Europe between the Participating Authorities. A Participating Authority shall consider discussing with the other Participating Authorities any forthcoming regulatory interaction with ICE Clear Europe if it considers that this may be of interest and relevance to the other Participating Authorities.
28. Except where regular intervals are specified below, information will be shared on a quarterly basis with summary reports given in in-person meetings or as otherwise discussed by Participating Authorities. Information sharing and related discussions between Participating Authorities regarding member defaults and market emergencies will take place as soon as is practical taking into consideration operational arrangements and any need for a Participating Authority to gain approval for the disclosure of information.
29. Co-operation in the Framework Arrangement will include mutual discussion of Participating Authorities' views and regulatory assessments of ICE Clear Europe, primarily through discussion of regulatory assessments and material risk issues raised by ICE Clear Europe's business and risk management practices and/or proposed changes to these practices.
 - (a) All Participating Authorities, including the Bank of England, maintain the right to prepare their own independent analyses and assessments of ICE Clear Europe. The Bank of England will regularly assess ICE Clear Europe against the CPMI-IOSCO Principles for Financial Market Infrastructures and in this regard consider the views of the Participating Authorities. If a Participating Authority conducts its own assessment of ICE Clear Europe, it will consider the views of the Bank of England before finalising its analysis and conclusions. Any Participating Authority which conducts an assessment of ICE Clear Europe will consult the other Participating Authorities, where practicable. Consultations conducted under this Paragraph may be either bilateral between the two relevant Participating Authorities or multilateral, involving other Participating Authorities, as appropriate.
 - (b) A Participating Authority, including the Bank of England, which conducts an assessment of ICE Clear Europe against the CPMI-IOSCO Principles for Financial Market Infrastructure will, when assessing procedures for any currency for which ICE Clear Europe's payment and settlement arrangements and its related liquidity risk-management procedures are systemically important, consult the relevant central bank of issue and will consider the views expressed by the central bank before finalising its analysis.
 - (c) An assessment of ICE Clear Europe conducted by a Participating Authority (including results and related reports) will not be disclosed to the public unless the Participating Authorities agree otherwise. Where disclosure is required by statutory responsibilities, charters, or publically stated policy,

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the Participating Authority required to disclose the assessment (the ‘Disclosing Authority’) will share its assessments with the other Participating Authorities before the assessment is made publicly available, and will provide an opportunity for other Participating Authorities to raise any concerns. The Disclosing Authority will not attribute or imply any views, participation, or approval of another Participating Authority in assessments publicly disclosed without the consent of such party.

30. If the Participating Authorities identify areas in which ICE Clear Europe could strengthen its compliance with the CPMI-IOSCO Principles for Financial Market Infrastructure, then the Participating Authorities may seek to induce positive change at ICE Clear Europe through either discussions with ICE Clear Europe representatives or through the Bank of England. This would include the comprehensive and timely reaction by the Bank of England to any such concerns.
31. A Participating Authority should provide the other Participating Authorities with details of the authorisation or licenses, issued by that Participating Authority to ICE Clear Europe, in its respective jurisdiction and the requirements that attach to such regulatory status. A Participating Authority should also notify the other Participating Authorities as soon as practical of changes to regulatory, supervisory or oversight requirements in its jurisdiction, which it considers may have material implications for the oversight of ICE Clear Europe in other jurisdictions.
32. It is envisaged that regulatory cooperation in the Framework Arrangement will include the following areas, unless such information is already made available to the Participating Authorities through alternative channels:
 - a) Monthly data reports covering all relevant services of ICE Clear Europe, to be distributed by the Bank of England by email, containing data on margin, collateral and other key indicators, the content and format of which will be developed by the Bank of England in consultation with the other Participating Authorities and reviewed periodically;
 - b) information on any events of member default that have occurred, including details of use of ICE Clear Europe’s default protections and default management processes that have occurred and which impact the operation or resilience of ICE Clear Europe and the total level of financial resources remaining at ICE Clear Europe for default management purposes;
 - c) discussion of regulatory assessments against international standards, such as the CPMI-IOSCO Principles for Financial Market Infrastructure or, where each Participating Authority deems it appropriate, other standards or requirements that a Participating Authority implements, or self-assessments of ICE Clear Europe against international standards, when such assessments have been made;
 - d) where each Participating Authority deems it appropriate, Participating Authorities’ regulatory opinions and priorities;

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- e) in accordance with Annex 1, information in the event of a business continuity event, member default, force majeure, market emergency or other non-business as usual event and which impact the operation or resilience of ICE Clear Europe;
 - f) details of any material changes to the ownership, regulatory status, senior management, product or service offering, risk management or control processes or operational methodology implemented or proposed by ICE Clear Europe;
 - g) where a Participating Authority deems it appropriate, notice of any action (including enforcement) proposed or undertaken by that Participating Authority with regard to ICE Clear Europe.
 - h) information about discussions and developments in the ICE Clear Europe Crisis Management Group, if and when it is formed.
- 33 . The Bank of England may also distribute such other information as it judges appropriate, which may include information with regards to the governance, controls, arrangements and processes that ICE Clear Europe maintains should such information be required by a Participating Authority to inform that authority's regulatory assessment of ICE Clear Europe or its assessment of ICE Clear Europe's systemic importance in the Participating Authority's jurisdiction.
- 34 . The Bank of England will facilitate the notification, without undue delay, by ICE Clear Europe to Participating Authorities of proposed new business or material changes related to ICE Clear Europe's services so that Participating Authorities may identify any questions or concerns. The home supervisory authority would consider these questions and concerns and arrange appropriate follow up to address these. For the avoidance of doubt, this notification provision does not override or replace any requirements on ICE Clear Europe to meet any regulatory requirements placed on them by any Participating Authority that has statutory oversight of ICE Clear Europe outside of this arrangement.
- 35 . An in-person meeting of Participating Authorities will be held on at least an annual basis, although Participating Authorities will endeavour to meet on a semi-annual basis. The Bank of England will organise and Chair this meeting, but it may be hosted by another authority, subject to the mutual decision of that authority and the Bank of England. Meetings of Participating Authorities will be subject to an agenda, to be set by the Bank of England in consultation with the other Participating Authorities and distributed no later than one week before the meeting. The Bank of England will endeavour to provide written documentation to support discussion at the meeting no later than one week before the meeting. The Bank of England will produce a formal minute of a meeting of Participating Authorities and provide the Participating Authorities with the opportunity for comment before this minute is finalised. The minutes are for the benefit of the Participating Authorities and will not be made publically available. Additional in-person meetings may be held subject to the support of the Participating Authorities. Each Participating Authority, other than the Bank of England, will be represented at in-person meetings of Participating Authorities by only one member of its staff, unless the Bank of England, acting at its discretion, permits one or more Participating Authorities to be represented by more than one member of staff. Generally this member of staff will be the person designated by the Participating Authority as its primary representative, but the Participating Authority may be represented by an alternative person at the discretion of the Participating Authority in

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question. To facilitate the effectiveness of the in-person meetings, the Bank of England may be represented by more than one member of staff. The Bank of England may, on notification to Participating Authorities, invite authorities qualifying under paragraph 24 which are not yet signatories to this Framework Agreement to participate in meetings and discussions as observers, subject to relevant confidentiality agreements being in place.

36. In light of the absence of a cap on the number of authorities that may participate in this Framework Arrangement, the Bank of England reserves the right to limit in-person attendance at meetings to a sub-set of authorities where it considers that it would be impossible or impracticable to accommodate representatives from each Participating Authority. In such cases, precedence will be given to central banks of issuance of the most material currencies, authorities with responsibility for supervision or oversight of ICE Clear Europe's most material clearing members, and authorities with statutory responsibility for the supervision or oversight of ICE Clear Europe or clearing services offered by ICE Clear Europe. All authorities will receive papers and minutes of meetings and will be able to participate in meetings via conference call.
37. The Bank of England may direct a conference call to be held between the Participating Authorities, either on its own initiative or following a request by any Participating Authority. Where practical, notice of ten business days will be given before such a conference call is held, and such conference calls will be subject to an agenda and will be formally minuted, following the arrangements for in-person meetings of the Participating Authorities.
38. Should the Bank of England assess it to be appropriate and practical, representatives from ICE Clear Europe may be invited to attend in-person meetings and conference calls to directly provide updates, information and answer questions.
39. A Participating Authority may request information additional to that covered under paragraph 32 from the Bank of England or from any other Participating Authority (the 'requested authority'). The Bank of England may also request information from any Participating Authority. Such requests for the provision of information or other assistance will be made in writing where possible, but in urgent cases may be made verbally and confirmed in writing within five business days. To facilitate assistance, the Participating Authority making a request (the 'requesting authority') to the Bank of England should specify in its request:
 - (a) the information or other assistance sought;
 - (b) a general description of the matter which is the subject of the request;
 - (c) the purpose for which the information or other assistance is sought;
 - (d) if the requesting authority is seeking confirmation of the accuracy of information provided by the requested authority and the nature of the confirmation sought;
 - (e) if the requesting authority is seeking further information in relation to information provided by the requested authority and should specify the nature of the further information sought;
 - (f) where onward disclosure of information provided to the requesting authority is likely to be necessary, the identity of the person to whom disclosure may be made and the reasons for such disclosure; and
 - (g) the desired time period for a reply.

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Other Participating Authorities that have processes that need to be followed with regard to requests for confidential information that they receive should inform the Participating Authorities of such processes.

H. Process for adoption of Terms of Reference

- 40 . In order to be eligible to act as a Participating Authority, an authority must acknowledge in writing to the Bank of England that it supports the establishment of this Arrangement and that its participation in the Arrangement will be consistent with these Terms. Such acknowledgement should be in the form set out in Annex 2 to these Terms. This form should be signed by an authorised signatory who has the relevant authority in accordance with the authority's internal corporate governance or board approvals. Such acknowledgement must be made no later than five business days before the authority in question commences its participation in this Framework Arrangement. Before an authority in question commences its participation in this Framework Arrangement, the Bank of England will confirm to all authorities that are already Participating Authorities that the authority in question has acknowledged in writing its acceptance of these Terms.
- 41 . Each Participating Authority must ensure that it is able to continue to observe these terms on an ongoing basis. Should a Participating Authority become aware that the acknowledgement it has made to the Bank of England in the form provided in Annex 2 ceases to be valid or will cease to be valid in the foreseeable future, the Participating Authority must inform the Bank of England of this as soon as is practical. On the receipt of such notice the Bank of England may choose to suspend or prohibit the authority in question from continuing to participate in the Framework Arrangement.
- 42 . A Participating Authority may cease its participation at any time on the provision of written notice to the Bank of England that it has ceased participation in the Framework Arrangement and therefore ceased to observe these Terms. Any such termination of participation of the Framework Arrangement will release the authority ceasing participation from observance with these Terms, with the exception of the provisions of these Terms regarding confidentiality and use of information.
- 43 . The Bank of England may, for good cause and at its discretion, suspend a Participating Authority's participation in the Framework Arrangement at any time and without notice if the Bank of England, acting reasonably, assesses that the authority in question has not materially observed these Terms. The Bank of England will endeavor to avoid taking such action by providing notice of its intention to suspend the participation of the authority before the suspension takes effect and by discussing any actual or possible issues of non-observance of these Terms with the Participating Authority in question.

I. Confidentiality and Uses of Information

- 44 . In these Terms, "Confidential Information" means any non-public information relating to the business or other affairs of any person or firm (including supervisory judgments or opinions of a Participating Authority) that is received by a Participating Authority through its participation in the Framework Arrangement.

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45. A legal gateway³ must exist between the Bank of England and each authority participating in this Framework Arrangement to enable the Bank of England to exchange Confidential Information with each authority, pursuant to FSMA. A Participating Authority other than the Bank of England may require specific and additional arrangements to be in place between it and the Participating Authorities to control and manage any provision of Confidential Information it may share under this Framework Arrangement and the potential use of such Confidential Information by the Participating Authorities that receive it⁴.
46. All Confidential Information will be treated as confidential by the receiving Participating Authority to the extent permitted by applicable law (including by ensuring that all persons dealing with, or having access to such information are bound by obligations of professional secrecy) and, subject to the provisions on disclosure below, will be used by, within, and among the Participating Authorities only within the context of this Framework Arrangement and in connection with their regulatory, supervisory, or oversight responsibilities under, and subject to, applicable laws or charters. Confidential Information received by a Participating Authority from any other Participating Authority, including the Bank of England, will not be disclosed other than in connection with those responsibilities or pursuant to legal obligations, and subject to the provisions set out below.
47. Except as provided in paragraphs 48, 49, 50 and 51 below, before a Participating Authority ('Participating Authority A') discloses any Confidential Information received from another Participating Authority ('Participating Authority B'), Participating Authority A will request and obtain prior consent from Participating Authority B which shall not be unreasonably withheld. Each Participating Authority will endeavor to respond to a request to disclose information within twenty calendar days.
48. Notwithstanding paragraph 47, a Participating Authority ('Participating Authority A') that receives Confidential Information from another Participating Authority ('Participating Authority B') may, without obtaining the consent of Participating Authority B, discuss such information with a third Participating Authority or an EMIR College member, provided that the authority with whom the Confidential Information is discussed has already received the same information in accordance with the Terms of this Framework Arrangement.
49. In the event that a Participating Authority ('Participating Authority A') is required by statute or legal process to disclose Confidential Information provided by another Participating Authority ('Participating Authority B'), Participating Authority A will, to the extent permitted by law, inform Participating Authority B about such possible compelled

³ A 'legal gateway' is a provision in legislation which allows a person, such as the Bank of England, to disclose information to another person. For example, the FSMA Disclosure of Confidential Information Regulations 2001 lists persons to whom disclosure of confidential information (as defined in s.348 FSMA 2000) can be made and the purpose for which the disclosure can be made. The Bank of England can only disclose confidential information where a legal gateway permits. Under parts of the Regulations a MoU must exist between the Bank of England and authorities in order to fully establish the legal gateway.

⁴ The Bank of England is not aware of any additional gateways required between the Bank and Participating Authorities to allow the Participating Authorities to share confidential information with the Bank; sufficient gateways (in addition to this Framework Arrangement) are already in place. A list of these authorities is attached as Annex 3 to this arrangement.

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disclosure and seek Participating Authority B's prior consent. If Participating Authority B does not consent to such disclosure, Participating Authority A will assert all appropriate legal exemptions or privileges from disclosure that may be available. If despite such efforts, disclosure of the Confidential Information is ultimately compelled, Participating Authority A will, to the extent permitted by law, inform Participating Authority B in advance of such disclosure.

50. Subject to Paragraph 54, a Participating Authority ('Participating Authority A') may disclose Confidential Information provided by another Participating Authority ('Participating Authority B') to its national, state or provincial public sector financial authorities⁵, subject to Participating Authority A, to the extent permitted by the law applicable to Participating Authority A, informing Participating Authority B about such disclosure and Participating Authority A obtaining the public sector financial authority's agreement to keep such Confidential Information confidential and not further disclose it except in accordance with paragraph 46 of these Terms.
51. The central banks representing the Eurosystem may disclose Confidential Information provided by another Participating Authority to the other central bank members of the Eurosystem, subject to the central banks representing the Eurosystem obtaining the receiving national central banks' agreement to keep such Confidential Information confidential and not further disclose it except in accordance with paragraph 46 of these Terms.
52. No privileges, immunities, or confidentiality associated with Confidential Information provided by a Participating Authority are intended to be waived as a result of sharing such information pursuant to these Terms.
53. Notwithstanding these Terms, a Participating Authority may inform financial institutions of, or otherwise make public, risks or deficiencies it has identified at ICE Clear Europe where doing so is in connection with its responsibilities or pursuant to legal obligations, even when the knowledge of such risks or deficiencies is partly or in whole based on Confidential Information, so long as no Confidential Information provided by any other Participating Authority is disclosed, except in accordance with these Terms.
54. If a Participating Authority disclosing information seeks to impose further restrictions on disclosure or use of such information beyond those noted in these Terms it must set these out expressly when disclosing Confidential Information. Participating Authorities receiving Confidential Information subject to any such further restrictions shall agree to observe, to the extent permitted by applicable statute or legal process, the restrictions on disclosure or use of such information required by the Participating Authority that has provided the data.
55. For the avoidance of doubt, these Terms place no obligation or expectation on a Participating Authority to share Confidential Information.

⁵ "National , state or provincial public sector financial authorities" is defined as public sector financial authorities meaning central banks, securities and market regulators and prudential supervisors of financial market participants

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56. The existence of this Arrangement may be publicly disclosed. A Party may publicly disclose an outline of the provisions of this Arrangement or all or portions of this Arrangement itself, except for Annex 3 and the signing pages of other Parties than the one publically disclosing the Arrangement or parts of it, if required to do so by law, or if such public disclosure is in the proper exercise of its functions, powers or obligations. If a Party discloses any part of this Arrangement, it will inform the Bank of England, which will inform the other Parties.

J. Changes to Terms of Reference

57. These Terms can be amended by obtaining the mutual and unanimous consent of the Participating Authorities, as expressed by each Participating Authorities' nominated representative in writing. Such amendments may be in response to the publication of new or amended international standards or guidance with regard to international regulatory co-operation.
58. Any Participating Authority, including the Bank of England, may cease their participation in this Framework Arrangement at any time at its discretion. Such a withdrawal from this Framework Arrangement may be effective immediately, but as a matter of practice the Participating Authority that intends to withdraw will endeavor to give the other Participating Authorities notice of not less than one month prior to its withdrawal. The Participating Authority that intends to withdraw should provide the Bank of England with advance notice of its intention to withdraw and should inform the remaining Participant Authorities of its reasons for withdrawing from the arrangement. Withdrawal from the Framework Arrangement releases the withdrawing authority from any commitments entered into under these Terms, with the exception of the confidentiality provisions which shall continue to apply to any Confidential Information provided prior to termination.
59. Operation of these terms will be suspended, with immediate effect, upon the Bank of England, as Chair of this Framework Arrangement, ceasing to participate in this Framework Arrangement. Following such suspension, the confidentiality provisions shall continue to apply to any Confidential Information provided prior to suspension.
60. Termination of these Terms will be effective immediately upon ICE Clear Europe ceasing to provide clearing services. Following such termination, the confidentiality provisions shall continue to apply to any Confidential Information provided prior to termination.

With effect from <date>

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Annex 1:

Member default and market emergency⁶

1. In the event of a market emergency or member default directly linked to ICE Clear Europe, the Bank of England (or where relevant any other Participating Authority) will share with Participating Authorities the following information, where possible and as soon as practical:
 - a) Details of the emergency;
 - b) Actions likely to be taken by the Bank of England (or by any other Participating Authority, should the Bank of England be aware of any such possible action and the Participating Authority in question consents to the sharing of this information by the Bank of England);
 - c) Actions being taken by ICE Clear Europe, including under its default rules;
 - d) If applicable, details of any default protections exercised; and,
 - e) Any other available information that would be of particular interest and relevance to other Participating Authorities.

Communication

1. The Bank of England (or, where relevant, any other Participating Authority) will, where necessary, facilitate a conference call, taking into account:
 - a) whether other authorities should be invited to the call; and
 - b) whether it would be appropriate to contact other crisis communication networks beyond this Framework Arrangement.
2. The Bank of England (or, where relevant, any other Participating Authority) will use the contact details referred to in paragraph 22 of these Terms. These representatives are responsible for notifying relevant individuals in their authorities where necessary and subject to confidentiality restraints.

Confidentiality

3. Subject to the provisions of these Terms regarding confidentiality and use of information, the Bank of England will decide on whether it may be appropriate to distribute information provided by the Bank of England on the market emergency outside the primary and secondary representatives of the Participating Representatives and, if so, in what form and scope.

⁶ Notwithstanding any other arrangement and where there is (a serious threat of) a major disruption to the functioning of the CCP or there is significant evidence to indicate that there is a high risk of a default of a major participant in the CCP or such a default has occurred.

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Annex 2:

[Pro-forma letter acknowledging acceptance of these Terms

To be printed on the letter headed paper of the signatory organization]

To:

The Director, Financial Market Infrastructure Directorate MG5-SE
Bank of England
20 Moorgate
London
EC2R 6DA
United Kingdom

Date

Dear Sirs,

Terms of Reference Governing the Operation of the Framework Arrangement for the Multilateral Regulatory, Supervisory and Oversight Co-operation Arrangement for ICE Clear Europe (“the Terms”)

[Full name of signatory authority] consents to establish and participate in this Arrangement in a manner consistent with the Terms contained in the document dated [...] to which this letter is appended with effect from the date of signature of this letter until further notice.

I am an authorised signatory on behalf of [Full name of signatory authority] and have the relevant authority (delegated or otherwise) to complete this form for and on behalf of [Full name of signatory authority]

Yours faithfully,

Signature _____

Print name _____

Position title _____

Date _____