



December 15, 2023

Via Electronic Submission

Washington Department of Ecology
3100 Port of Benton Boulevard
Richland, Washington 99354

Re: Request for Comment: Washington Cap and Invest Program Proposed Linkage to the California Cap-and-Trade-Program

To Whom It May Concern:

Intercontinental Exchange Inc., on behalf of itself and its subsidiaries (collectively "ICE"), appreciates the opportunity to respond to the Washington Department of Ecology request for comment on the proposed linkage of the Washington State cap and invest program ("Cap and Invest Program") with the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms ("California Cap-and-Trade Program") and the Quebec cap-and-trade system for greenhouse gas emission allowances ("C&T System") (the "RFC").¹

ICE operates regulated marketplaces for the listing, trading, and clearing of a broad array of derivatives contracts such as commodities, interest rates and foreign exchange. We operate multiple trading venues, including 13 regulated exchanges and six clearing houses, which are strategically positioned in major market centers around the world, including the U.S., U.K., European Union, Canada, Asia Pacific and the Middle East. ICE lists a broad suite of environmental products that are used by market participants to hedge their risk. Specifically, ICE lists Washington Carbon Allowance ("WCA") futures contracts² at ICE Futures U.S. ("IFUS") and clears WCA contracts at ICE Clear Europe ("ICEU"). IFUS is regulated by the CFTC as a designated contract market ("DCM") under the Commodity Exchange Act ("CEA"). ICEU is regulated by the CFTC as a derivatives clearing organization ("DCO") under the CEA. ICE provides liquid, transparent and regulated trading venues where compliance entities can procure allowances. ICE has listed WCA contracts since May 2023, and market participants have traded contracts representing over 14 million tons of CO₂.

As operators of derivative markets that list and clear environmental contracts, ICE has a keen interest in the Washington cap-and-invest program and associated regulations. ICE therefore appreciates the opportunity to comment on the RFC.

Recommendations

The Washington Department of Ecology should allow central counterparties to facilitate intermediated delivery of allowances.

¹ On November 2, 2023, the Washington Director of Ecology announced a preliminary decision to pursue linkage with California and Quebec. As part of this announcement, the Washington State Department of Ecology requested public input as part of this process. [Cap-and-Invest Bill \(commentinput.com\)](#)

² CCAs are physically delivered greenhouse gas emissions allowances issued by the California Air Resources Board or a linked program under California Assembly Bill 32 "California Global Warming Solutions Act of 2006" and its associated regulations, rules and amendments, all together known as the "California Cap and Trade Program".



The Cap and Invest Program does not allow DCOs to facilitate intermediated delivery of WCAs. Compliance entities must transfer WCAs bi-laterally between the buyer and seller. In contrast, the Regulation for the California Cap-and-Trade Program,³ recognizes DCOs unique role in the carbon markets and allows a DCO, such as ICEU, to facilitate the delivery of California carbon offsets (“CCA”) and carbon offset futures contracts through the Compliance Instrument Tracking System Service (CITSS) registry.⁴ By intermediating delivery, DCOs are better able to protect the interests of buyers and sellers by confirming performance of each party before the transfer of the allowance or payment. An intermediated delivery structure also adds stability to the cap-and-trade market by guaranteeing anonymity and the fulfilment of contractual obligations.

Given the current structure under the California Cap and Trade Program and the intent for Washington to link with this program, ICE strongly suggests the Washington Department of Ecology align with the California Cap and Trade Program and allow a DCO to facilitate intermediated delivery of allowances.

Linkage to the California Cap-and-Trade-Program

ICE supports the linkage of the Cap and Invest Program to the California Cap and Trade Program so long as the Cap and Invest Program allows a DCO, such as ICEU, to facilitate the delivery of WCAs by adopting the provisions under the California Cap and Trade Program that establish an exchange holding account structure and clearing service provider holding limit exemption.

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ICE appreciates the opportunity to comment on the RFC and respectfully requests that the Washington Department of Ecology consider its comments.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth K. King".

Elizabeth K. King
Chief Regulatory Officer
Intercontinental Exchange, Inc.

³ Title 17, California Code of Regulations (CCR), sections 95801-96022. Note: the California Cap-and-Trade Program also includes a limited exemption to this holding limit.

⁴ Section 95814(a)(1)(C) of the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (“California Cap-and-Trade Program”), an entity which provides clearing services to facilitate transactions between entities registered with the cap-and-trade program and who is a DCO registered with the CFTC, qualifies as a Voluntarily Associated Entity. In addition, Section 95831(a)(5)(A) and (B) provides a separate account type for exchange clearing holding accounts which allows entities to transfer compliance instruments to exchange clearing holding accounts for the purpose of transferring control to the clearing service provider. Further, Section 95920(b)(2) provides an exemption from the holding limit for allowances contained in exchange holding accounts.