

SECURITIES AND EXCHANGE COMMISSION
(Release No. 74026; File No. SR-ICEEU-2014-22)

January 9, 2015

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to ICE Clear Europe Board Risk Committee

I. Introduction

On November 10, 2014, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-ICEEU-2014-22 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the Federal Register on November 25, 2014.³ The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe is proposing this change to establish a risk committee (the “Board Risk Committee”), as described in the ICE Clear Europe Board Risk Committee Composition and Terms of Reference (“Terms of Reference”), which will advise the ICE Clear Europe Board (the “Board”) on certain clearing house-wide risk management matters. The establishment of the Board Risk Committee is required under Article 28 of the European Market Infrastructure

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-73645 (Nov. 18, 2014), 79 FR 70251 (Nov. 25, 2014) (SR-ICEEU-2014-22).

Regulation (“EMIR”),⁴ which will apply to ICE Clear Europe as an authorized central counterparty.

Pursuant to the Terms of Reference, the role of the Board Risk Committee, which will meet at least quarterly and report directly to the Board, will be to advise the Board so the Board can ensure that ICE Clear Europe (i) implements and maintains agreed risk management procedures, processes, and controls, (ii) provides appropriate access to its clearing services, and (iii) appropriately considers the interests of non-clearing members, including with respect to account segregation and collateral protection. ICE Clear Europe states that the Board Risk Committee’s activities will relate to all product categories cleared at ICE Clear Europe, and that they are in addition to ICE Clear Europe’s existing product-specific risk committees (F&O, CDS and FX).

Pursuant to its Terms of Reference, the Board Risk Committee’s responsibilities will include receiving and reviewing all recommendations from each of the product-specific risk committees, reviewing business risk mitigation procedures and controls at least annually, and overseeing all risks facing ICE Clear Europe, including counterparty credit risk and non-counterparty credit risks, such as operational and liquidity risks. In addition, the Terms of Reference provide that the Board Risk Committee will advise the Board regarding any arrangements that may materially impact the risk management of ICE Clear Europe, such as a significant change in its criteria for accepting clearing members, clearing in new markets, or outsourcing of certain functions.

In accordance with its Terms of Reference, the Board Risk Committee will be provided with results and analysis of back-testing, sensitivity testing, stress testing, and reverse stress

⁴ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

testing for any review of margin models, methodologies, and/or the liquidity risk management framework. The Board Risk Committee's Terms of Reference also provide that the Board Risk Committee will consider other issues that may be referred to it by the Board and/or executive, including the exercise of discretion regarding recovery arrangements under the Rules. Further, the Terms of Reference provide that the Board Risk Committee may obtain external legal or other independent advice and secure the attendance of third parties with relevant experience and expertise. The Terms of Reference, however, clarify that the Board Risk Committee's advice is not required for the daily operations of ICE Clear Europe.

The Terms of Reference provide that the Board Risk Committee will be composed of at least two, and up to four, Clearing Member representatives and at least two, and up to four, customer representatives, in each case appointed by the Board Risk Committee Chairman following consideration by the ICE Clear Europe Nominations Committee. Pursuant to the Board Risk Committee composition requirements as described in the Terms of Reference, the Board Risk Committee Chairman will be an independent non-executive director of ICE Clear Europe appointed by the Board and will be a full voting member of the committee. In addition, the Terms of Reference provide that any member of the Board Risk Committee may be removed by the Board without cause, and that the Board Risk Committee composition will be reviewed annually to determine whether the committee has appropriate representation of Clearing Members, customers and independent non-executive directors, and appropriate representation of expertise and experience in relevant risk disciplines, including market, credit and operational risk. Based on this review, the Chairman may, pursuant to the Terms of Reference, request the resignation of one or more committee members and/or appoint one or more committee members to achieve such appropriate representation.

Pursuant to the Terms of Reference, ICE Clear Europe's Chief Risk Officer, President, and other appropriate staff members will attend Board Risk Committee meetings in a non-voting capacity. Additionally, the Terms of Reference provide that the chairs of any groups or committees involved in developing risk policies and a representative from each of the markets cleared by ICE Clear Europe will have a right to attend, but not vote, at Board Risk Committee meetings, and that the Board Risk Committee may invite external independent experts to attend meetings in a non-voting capacity. The Terms of Reference requires that a quorum will be a minimum of four members, one of whom must be a customer representative and one of whom must be a Clearing Member representative, and that the Board Risk Committee Chairman will count toward the quorum. The Terms of Reference stipulates that each Board Risk Committee member will have one vote and Board Risk Committee decisions will be made by a simple majority, provided that if the committee is evenly divided, the Chairman may cast a deciding vote (in addition to the Chairman's normal vote as a committee member).

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁵ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act⁶ requires, among other things, that the rules of a clearing agency are designed, in general, to protect investors and the public interest. In addition, Rule 17Ad-22(d)(8) requires registered clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest

⁵ 15 U.S.C. 78s(b)(2)(C).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

requirements in Section 17A of the Act applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of the clearing agency's risk management procedures.⁷

The Commission finds that the proposed rule change is consistent with Section 17A of the Act⁸ and the rules thereunder applicable to ICE Clear Europe. As described above, the Board Risk Committee's Terms of Reference provide specific information regarding, among other things, the Board Risk Committee's objectives, responsibilities, composition, and governance, as well as its relationship with the Board and other ICE Clear Europe committees. Specifically, the Terms of Reference state that the Board Risk Committee's role is to advise the Board with respect to various firm-wide risk management matters, while helping the Board to ensure that ICE Clear Europe (i) implements and maintains agreed risk management procedures, processes and controls, (ii) provides appropriate access to its clearing services, and (iii) appropriately considers the interests of non-clearing member users of cleared products, including with respect to account segregation and collateral protection. In this role, the Terms of Reference provide that the Board Risk Committee will, among other things, advise the Board regarding any arrangements that may materially impact ICE Clear Europe's risk management (such as a significant change in its criteria for accepting clearing members, clearing in new markets, or outsourcing of certain functions).

Moreover, the Terms of Reference provide that the Board Risk Committee will oversee all risks facing ICE Clear Europe (including counterparty credit risk, operational risk, and liquidity risk). ICE Clear Europe states that the Board Risk Committee's activities will relate to all categories of products cleared at ICE Clear Europe, and will be in addition to the activities of

⁷ 17 CFR 240.17Ad-22(d)(8).

⁸ 15 U.S.C. 78q-1.

its existing product-specific risk committees (i.e., the F&O, CDS and FX risk committees). The Terms of Reference also require the Board Risk Committee to report directly to the Board and receive and review all recommendations from each of the product-specific risk committees. The Commission believes that these arrangements are reasonably designed to protect investors and the public interest and to promote the effectiveness of ICE Clear Europe's risk management procedures. In addition, the Commission believes that the composition of the Board Risk Committee, as described in the Terms of Reference, is reasonably designed to represent the interests of owners, clearing participants, and customers, and, therefore, support owner and participant objectives.

Accordingly, the Commission believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,⁹ and the requirements of Rule 17Ad-22(d)(8)¹⁰ applicable to registered clearing agencies.

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 17 CFR 240.17Ad-22(d)(8).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹¹ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-ICEEU-2014-22) be, and hereby is, approved.¹³

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Brent J. Fields
Secretary

¹¹ 15 U.S.C. 78q-1.

¹² 15 U.S.C. 78s(b)(2).

¹³ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁴ 17 CFR 200.30-3(a)(12).