SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-98407; File No. SR-ICEEU-2023-023)

September 15, 2023

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Amendments the Futures and Options Risk Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on August 31, 2023, ICE Clear Europe Limited ("ICE Clear Europe" or the "Clearing House") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b-4(f)(4)(ii) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. On September 14, 2023, ICE Clear Europe filed Amendment No. 1 which amends and restates in its entirety the Form 19b-4 Information and Exhibit 1A.[5] The Commission is publishing this notice to solicit

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

3 15 U.S.C. 78s(b)(3)(A).

4 17 CFR 240.19b-4(f)(4)(ii).

5 Amendment No. 1 updates the 19b-4 Information and the Exhibit 1A to more fully describe changes outlined in the Exhibit 5. ICEEU represents that it did not make any changes to its Exhibit 5.

comments on the proposed rule change, as modified by Amendment No. 1 (hereafter "the proposed rule change") from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited ("ICE Clear Europe" or the "Clearing House") proposes to amend the Futures and Options Risk Procedures (the "F&O Risk Procedures" or "Procedures")[6] to make certain updates and clarifications relating to risk management for the F&O product category, including to reference the Clearing House's Model Risk Policy and update the Document Governance and Exception Handling provisions.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to amend its Futures and Options Risk Procedures to make various updates and clarifications, including to add a section describing the

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[6] Capitalized terms used but not defined herein have the meanings specified in the F&O Risk Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

existing F&O Guaranty Fund, make reference to the recently revised Model Risk Policy,[7] and update the Document Governance and Exception Handling language. Various non-substantive drafting changes and improvements would also be made throughout the document. The amendments generally do not represent a change in the Clearing House's practices, but rather are intended to improve and clarify the documentation of existing risk management practices.

In the purpose section of the document, the amendments would clarify that details of models described in the Procedures (in addition to processes) are included in the relevant model methodology and procedure documentation. The amendments would further provide that any changes to the risk parameters would be subject to the governance set out in the Model Risk Policy. The amendments would also make non-substantive clarifications to the description of the role of ICE Clear Europe as a central counterparty.

The revised Procedures would simplify the description of Clearing Member groups and clarify that Clearing Members in the same Member Group may be based in various jurisdictions rather than specifically referencing a Clearing Member in Europe and another part of the world. The amendments would also make clear that in order to perform exposure analysis at appropriate levels of aggregation, the Clearing House associates its Clearing Members in Member Groups. Additional language regarding how Member Groups are identified and the internal groups responsible for the membership onboarding process would be removed as unnecessary.

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[7] *See*, The Model Risk Policy as described in Exchange Act Release No. 34-98138, SR ICEEU-2023-019 (August 15, 2023), 88 Fed Reg. 56901 (Aug. 21, 2023).

The amendments would also simplify and clarify the discussion of the various types of proprietary and client margin accounts made available to its Clearing Members (which are established pursuant to the published Rules and Clearing Procedures and are not being changed by virtue of these amendments). The amendments would state more simply that the Core IM is calculated on either a "Gross" or "Net" basis dependent upon the type of margin account. (As an exception, the chart detailing the margin accounts would change the Core IM Method for the Individual Client (ISOC) accounts (I) and (J) from Net to N/A, as the net/gross distinction is not applicable for such accounts). Various conforming changes would be made to the summary of the accounts, including to reflect that the house account (H) is margined on a net basis, as was already reflected in the chart. Additional clarifications would be made that accounts are margined on a net *or* gross basis (rather than a net *and* gross basis). The amendments would also explain more concisely that information as to Money Rules and FCM/BD customer applicability is included in the table to distinguish account types. A footnote would also be added to provide an ICEU EMIR Disclosure Statement that supplies further details on the margin account types.

The amendments further clarify the distinction between the net and gross calculations of initial margin in light of CFTC and Bank of England/EU requirements. The amendments note that EU rules treat the one-day MPOR gross margin calculation under CFTC rules as equivalent to the two-day MPOR net margin calculation. The amendments also make non-substantive drafting clarifications to the discussion of net and gross margin methods. The amendments also add a statement that house and proprietary affiliate positions of a clearing member are calculated using a minimum two-day MPOR.

The amendments reflect existing practice and would not change the manner of calculation of initial margin for any accounts. The amendments would remove as unnecessary language referencing ICE Clear Europe setting up multiple customer accounts to cater for ESMA and CFTC requirements.

The amendments would clarify that ICE Clear Europe performs position keeping of all positions belonging to each account of both clearing members and non-clearing members (defined as members of ICE exchanges that are not clearing members). The changes would also clarify that for gross margined accounts, the Clearing House will rely on a gross client margin file provided by the clearing member for purposes of position management and calculation of gross initial margin. The changes also address reconciliation of the gross client margin file against actual positions in the relevant account and margining of any inconsistencies. These amendments do not represent a change in current practice by the Clearing House.

The amendments would specify that the Clearing Risk Department is the owner of the Procedures document and remove references to the F&O Market Risk team.

The discussion of initial margin would be revised for greater simplicity and clarity and are not intended to change the substance of the calculation of initial margin, which is set forth in the existing applicable model documentation for the ICE Risk Model. The amendments would clarify that initial margin consists of Core IM and Additional IM to mitigate the risk it is exposed to on all Futures and Options positions. The amendments would also clarify that the Procedures provide detail to each of the IM components (removing unnecessary references to frequency, limits and thresholds, exceptions and escalation).

The amendments would clarify that the ICE Risk Model uses margin rates in computing Core IM and these margin rates would be the responsibility of the Clearing Risk Department. A reference to a specific version of the IRM Margin Rate Calibration Model Documentation would be deleted as unnecessary and computation of the model margin rates, as opposed to calibrated margin rate, would be inserted above the table detailing the computation. The table of standard settings for the computation of model margin rates (referred to as the "Autopilot rates") would be simplified, removing rows labeled "System/Process", "Test/Frequency", and "Exceptions" as unnecessary, and removing references to specific Energy and Financial & Softs sectors. Likewise, the Margin Period of Risk would be summarized as 1 day or 2 days depending on the product, consistent with the discussion above. The summary of the lookback period would be revised from at least 100 days to VaR that is at least as conservative as that based on a 250-day lookback. The Anti-Procyclicality would be amended to be at least 25 percent stressed volatility (rather than exactly 25%). The row on Risk Parameters would be replaced with a summary of the output of the risk model, which is the ICE Risk Model margin rates including those previously specified.

The amendments would clarify the process for review and promotion of production margin rates. The amendments are intended to correctly reflect the existing practice that the review of the production margin rate is performed versus trigger criteria daily (as opposed to quarterly). As a result of the daily review, references to ad hoc updates in addition to quarterly reviews would be deleted as they are no longer required. This would include the deletion of the governance procedures related to review of the exceptions driving ad hoc review and related effectiveness without notice. The

amendments would address that that production margin rates are set to the Autopilot model rates at a specific point in time after each review through a process called promotion. It would further state that the production rates are the margin rates used in the calculation of Clearing Member's Core IM requirements. The steps to review and the promotion of the proposed production margin rates would include mention of their promotion. The steps would also be simplified to state that first the update to the production margin rates would be proposed and reviewed by the Clearing Risk Department, then the Clearing Risk Department would seek approval for the margin update. Then once approved, the Clearing Risk Department would promote the margin rates into the Risk System, followed by informing the Clearing Members and wider market of the new margin rates by means of the Clearing House's website. The amendments would add that typically one business day's notice would be given to the market from the date of the circular, and the Clearing Risk Department would then upload the approved margin rates to the ICE Clear Europe website upon publication of the circular. A table summarizing the review and promotion process would be deleted as duplicative and unnecessary.

A cross-reference to documentation relating to ICE Risk Model parameters would be updated to include a general reference to the ICE Risk Model documentation instead of an outdated version. Details on certain parameters relating to EWMA volatility and APC stress volatility would be removed as they are addressed in the ICE Risk Model documentation. The amendments would add another new sub-section on the ICE Risk Model Daily Requirements that would outline the process for computing Core IM as part of the End of Day process. This would include computation of the ICE Risk Model daily

margin requirements and EMIR Add-on for each Clearing Member margin account. The amendments would also delete outdated references to the IRM V1.0 Model Documentation, related risk array files and inputs, and the ECS system. The related table with the summary of products eligible under each margin account would change the I and J Accounts to N/A as opposed to Net margining type. The footnote would explain that for these accounts the sub-clients within the client account are individually (rather than net) margined. Any material change in Core IM would be escalated to Operations, instead of the previous plus or minus 5 percent (or more depending on known margin change) escalation threshold. This section would also reference a summary of the IRM Margin Rate Promotion and Core IM processes that would be added in the Appendix to the Procedures. These changes are consistent with existing margin practice but are intended to document the current process more clearly.

In terms of additional IM, the amendments would specify that such amounts are to collateralize risks not captured by the Core IM amount. Clarifications would be made to the descriptions of various types of additional IM, as discussed herein. For example, amendments would clarify that the additional risk from concentrated positions would be covered through a Concentration Charge add-on, and that the additional margin is called on a t+1 basis to be met the following day. The requirement would clarify the notice process for additional IM through the MFT system, remove an outdated reference to EoD reporting and remove unnecessary distinctions between concentration charges for different product segments. The summary table of the Concentration Charge process would be deleted, and relevant terms moved to the added Appendix. In the Parameter Calibration section, the amendments would remove the existing discussion and add

instead that the details of the Concentration Charge model or risk parameters would be described in the relevant Concentration Charge model documentation.

In the Stress Margin section, the amendments would add a general description of the stress loss charge as ensuring that sufficient pre-funded resources to ensure regulatory compliance are held at all times. The amendments would also clarify that any Stress Loss Charge top-up requirements would be called via an intraday call on a t+1 basis so that, for example, positions as of the end of day on Monday could incur additional margin called on Tuesday for receipt on Tuesday. The amendments would clarify that the total Stress Loss Charge would be posted in the end of day additional margin requirement so that any surplus or deficit is part of the end of day margining. The summary of the Stress Loss Charge process would be deleted, and relevant terms moved to the added Appendix. Additional details of the Stress Loss Charge model and risk parameters would be removed, and a cross-reference added to the Futures and Options Guaranty Fund model documentation (which addresses such parameters). An incorrect cross-reference to the F&O Stress Testing Policy would be removed.

In the Shortfall Margin section, the amendments would specify that Shortfall Margin would be called to cover uncollateralized stress loss (as calculated at the margin account level). The amendments would also state that Shortfall Margin would be called on a t+1 basis to be met on the following day, so that, for example, positions on Monday EOD can incur additional margin called on Tuesday for receipt on Wednesday morning. The amendments would delete unnecessary provisions relating to the posting of the requirement against a specific ledger type in daily reports and EOD reporting through

ECS. The summary of the Shortfall Margin process would be removed, and relevant details moved to the Appendix.

In the Specific Wrong-Way Risk section, the amendments would explain that the Wrong Way Risk additional margin requirements are called on a t+1 basis to be met the following day, so that, for example, positions as of Monday EOD can incur additional margin called on Tuesday for receipt on Wednesday morning. As with other categories of additional IM, the amendments would delete unnecessary provisions relating to the posting of the requirement against a specific ledger type in daily reports and EOD reporting of the additional amount through ECS. A table summarizing the Wrong Way Risk process would be removed and relevant details moved to the Appendix.

In the EMIR Add-on section, the amendments would clarify various aspects of this add-on, which is collected for house and affiliate accounts for products for which Core IM is otherwise calculated using a 1-day MPOR. The add-on covers the amount, if any, by which Core IM would exceed that amount if calculated on a 2-day MPOR basis, in order to ensure that house and affiliate positions are margined using a minimum 2-day MPOR as required under EMIR. The amendments would further clarify that the EMIR Add-on is called at the same time as Core IM requirements, so that, for example, House and Affiliate account positions as of Monday EOD can incur EMIR add-on called on Monday night for receipt on Tuesday morning. A table summarizing the EMIR add-on process would be removed and relevant provisions moved to the Appendix. The amendments would delete language concerning the review and subsequent parameter recalibration as unnecessary as it is covered in the relevant model documentation.

In the Delivery Margins section, the amendments would revise the Procedures to state explicitly that the delivery margin is designed to cover potential price moves at a 99th percentile level for the product in delivery. The amendments would further state that the Delivery Margin is typically set to the front month scanning margin rate for the product and held by the CCP until buyer security is paid by the buyer. The description of the calculation of Buyer Security would be clarified to be the notional value of bought positions that are deliverable within the following 2 business days. Similarly, the description of the calculation of Seller Security would be modified to be an additional requirement posted by the seller, calculated to cover any applicable costs and charges, should they be unable to deliver the agreed product. The definition of Contingent Variation Margin would be clarified to be the difference between the Exchange Delivery Settlement Price and a representative market price for the remaining portion of the given underlying that is yet to be delivered (analogous to Variation Margin). Tables summarizing the Delivery Margin, Buyer/Seller Security and the Contingent Variation Margin would be removed with relevant details moved to the Appendix.

In the Net Liquidating Value ("NLV") section, certain non-substantive drafting improvements would be made. In addition, the description of the top up for NLV credit/debit would be revised to state that it be called for at the end of the day (call time t) and not the following day. A table summarizing the NLV would be removed with relevant details moved to the Appendix.

In the Intraday and Overnight Buffer section, the amendment would add a statement of the use of mandatory buffer, which is called when trading out of intraday margining hours is observed that increases Core IM requirements above thresholds. For

these positions traded outside the hours covered by the intraday margin process, the IM requirements are calculated using IRM. In cases where the resultant increase to an account's IM exceeds the limit set, an overnight buffer equal to the largest exceedance is requested and held for the following 30 days. The amendments would add that this process would be introduced to achieve compliance with relevant requirements of EMIR[8] and would only be applicable to 1-day gross client omnibus margined accounts. The amendments would further clarify that voluntary buffer could be posted to reduce the Clearing Members' operational burden of managing intraday margin calls. A table summarizing the intraday and overnight buffer process would be removed and relevant details moved to the Appendix.

In the Ad-Hoc Buffer section, the amendments would clarify that Clearing Members may be requested to post additional buffers for any risks not covered by the requirements detailed in the Procedures. The amendments would specify that the requirements would be set by the Clearing Risk Department. A table summarizing the ad hoc buffer process would be removed and relevant details moved to the Appendix.

In the discussion of intraday margining, the amendments would provide a clearer statement of the basis for such margining: that although the Clearing House collateralizes risk through IM and Variation Margin as part of the overnight process, the Clearing House may be exposed to uncollateralized exposures, or Intraday Shortfalls, due to adverse market price movements causing a change in the value of members positions, new trading activities resulting in an increased IM requirement on Clearing Members'

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[8] Article 26 of EMIR RTS Regulation (EU) No 153/2013 (ESMA/2016/429).

accounts and the value of securities held as collateral being reduced. The amendments would clarify that the Clearing Risk Department could calculate any additional IM that it may require on a near real-time basis intraday.

In respect to Intraday Risk Monitoring the amendments would specify that the Clearing Risk Department monitors changes in Core IM in addition to Variation Margin on an ongoing basis. The Intraday Margin requirement of an account would be the sum of the Intraday IM and Intraday Variation Margin of the account.

The section on Core Intraday IM Calculation would be updated and moved to Section 4.2. The amendments would accordingly delete previous language under Section 4.3 that was titled "Intraday Core IM Calculation". The revised section would state that the Core Intraday IM would be calculated and, when above thresholds, called on a near-real time basis intraday. For gross margined accounts, the amendments would reflect that because gross positions are only received at end of day, the Clearing House will not have near-real-time data for purposes of intraday margining. As a result, the Clearing House uses the previous end of day gross margin plus the change in net 2-day margin for the account between the start of day and the current point in time to determine intraday Gross IM. The amendments would detail the step by step process in the calculation and the formula that would be employed (these steps would replace an existing summary of steps to update references and terminology used in the amended Procedures). The amendment would note that ICE Clear Europe utilizes 2D MPOR for calculating Intraday Net IM and Start of Day Net IM, and that only the Intraday Net IM changes throughout the day (neither the End of Day Gross IM nor Start of Day Net IM change throughout the day). The amendments would specify that for net margined accounts, the current real time net

position is used to calculate Core Intraday IM in the same way as End of Day IM for those accounts.

In reference to Intraday Shortfall, the amendments would clarify that the calculation for the current collateral on account would include both collateral used to meet end of the day IM requirements and additional collateral available to cover intraday calls. The amendments would remove a statement that at a minimum, prices are refreshed hourly (as the Clearing House expects prices to be refreshed more frequently) but retain the general principle that the Clearing Risk Department monitors the prices utilized to value securities deposited as collateral throughout the day. The amendments would make various non-substantive drafting clarifications to the intraday limits. In addition, for Clearing Member Limit 2, the amendments would specify that the total value of collateral on deposit would be that of the loss-making accounts and collateral in the House account. The amendments would add that for Clearing Limit 1 (in addition to Clearing Limit 2), the Clearing House would permit use of excess collateral present on the House account to offset Intraday Shortfalls arising on all other accounts in deficit. The amendments also make clear that the Clearing house can at its discretion alter, rather than only reduce, the limits applicable to individual accounts as this more accurately reflects the current practice of the Clearing House.

For Intraday Margin Call Triggers, the amendments would remove a duplicative statement of the minimum shortfall for an intraday call. The amendments would also clarify that ICE Clear Europe may call for additional collateral at any time to mitigate any (not just material) risk, consistent with the existing Rules and current practice.

The Intraday Margin Call Procedure would be revised to state that the 30-minute warning of a trigger breach is at the Clearing House's discretion. The amendments would also remove, as a means of limiting intraday risk and satisfying a margin call, improving the profit and loss of the account (as that is likely impractical in the relevant timeframe). The amendments would also remove a concept that the Clearing Risk Department would make recommendations to clearing members to avoid receiving intraday calls; rather, the goal would be to provide warnings prior to 19:30 London time so that all intraday calls are issued prior to 20:00 London time. The amendments would state that more than one intraday call may be made during the same day as required (without necessarily being based on market conditions). Certain references to the use of the APS system in connection with providing cash or collateral would be deleted in this section and throughout the Procedures as unnecessary (and would not reflect a change in current practice). A diagram presenting the procedure for an Intraday Margin Call would be deleted as unnecessary.

In the Overnight Window Monitoring section, the amendments would clarify the specific gross margined and ISOC accounts to which overnight monitoring applies. The amendments would also state that the Clearing Risk Department (rather than a senior Clearing Risk Department person), would issue a margin call or require the Clearing Member to take other risk reducing action, when appropriate. (ICE Clear Europe believes it is appropriate for the responsibility to be on the department rather than a senior individual.) An escalation process where a Member cannot be contacted or does not reduce positions would be deleted along with notification of regulators, as this information is contained in separate Clearing House default management procedures.

In the Intraday Buffer section, the amendments would clarify that if a Clearing Member wishes to reduce the operational burden of frequent intraday calls or Overnight Buffer, then the Clearing Member may choose to lodge excess collateral as Intraday Buffer. The amendments would also clarify that where a Clearing Member notifies ICE Clear Europe that it no longer wants to lodge Intraday Buffer, the buffer will be available to be returned after the next overnight margin run. The amendments remove unnecessary specifications of the means of providing such a notice. The amendments would also delete as unnecessary a statement that the Clearing Member would be able to choose to fund the requirement with the type of collateral of their choosing.

In the Overnight Buffer section, the amendments would specify the particular gross margining and ISOC accounts to which it applies. The amendments would also correct that the amount will be called as part of the End of Day process (rather than intraday).

In the Returning of Margin Call Collateral section, the amendments would provide that margin posted intraday in respect of an intraday margin call may, in extraordinary circumstances at the discretion of the Treasury Department and Clearing Risk Department, be returned in cases where the Clearing Member has unrealized gains (i.e., positive intraday variation margin). The amendments would also correct a reference to the End of Day process (as opposed to the End of Day margining process).

The amendments would replace the existing discussion of the F&O Guaranty Fund with a new section describing generally the sizing of the F&O Guaranty Fund, as established pursuant to the published Rules and Finance Procedures and the existing F&O Guaranty Fund model documentation. The amendments would describe the required size

of the F&O Guaranty Fund, as being adequate to cover the first and second largest, non mutually exclusive, uncollateralized losses from Member Groups resulting from agreed stress testing scenarios. The size also has to be sufficient to enable the Clearing House to withstand a Clearing Member default to which the Clearing House has the largest stress testing exposure, or the second and third largest if the sum of those are greater. The size has to be sufficient to cover the larger of the sum of the individually calculated segments for Energy and Financials & Softs ("F&S") member portfolios or the largest contemporaneous scenario. If the Energy and F&S segment fund is smaller than the largest contemporaneous losses scenario, then an additional guaranty fund apportionment amount would be calculated and would be allocated to both Energy and F&S Fund segments in accordance with the Clearing Rules. In establishing the size of the F&O Guaranty Fund the ICE Initial Contribution is not included and must be met by Clearing Member contributions only.

The amendments would add that review of the size of the F&O Guaranty Fund would occur at least every two months and would be based on historical stress testing results and other factors ICE considers relevant. The added section would describe the steps taken in the periodic review process, and the role of relevant ICE Clear Europe committees. Ad hoc assessments could be triggered by the Clearing House in addition to the periodic review. Extraordinary reviews may also be necessary based on stress testing results.

The amendments would state that Clearing Members will normally have five UK business days (from the date of the notice) to lodge sufficient funds with the Clearing House if the overall level of the F&O Guaranty Fund or a specific Clearing Member's

allocation must increase, consistent with the requirements of the Rules and Finance Procedures. Under extreme circumstances, the Clearing House can accelerate the call of the F&O Guaranty Fund requirements to a one day's notice or otherwise reasonably change the notice period. A failure to meet these payments would be considered a breach of Clearing House Clearing Rules. Clearing Members would also have the ability to withdraw excess funds that result from a decrease in their fund contributions following a review of the level of the F&O Guaranty Fund.

The amendments would add that ICE Clear Europe's recommendations on the level of the F&O Guaranty Fund would be based on several factors including the level of the largest member's uncollateralized losses historically and how it compares against the associated segment fund level or the total F&O Guaranty Fund, the level of the second and third largest members uncollateralized losses historically and how it compares against the associated segment fund level or the total F&O Guaranty Fund, the amount and number of stress loss charges called across memberships and any other relevant factors ICE Clear Europe deems appropriate. The size of the F&O Guaranty Fund would also be subject to a floor in accordance with regulations, as described in further detail in the existing Futures and Options Guaranty Fund model documentation.

The amendments would detail that a particular Clearing Member's contribution to each of the Fund segments should reflect its relative share of clearing activity and relative share of uncollateralized loss. The amendments described the two factor model used in allocating the F&O Guaranty Fund, based on IM and Uncollateralized Stress Loss, as provided in the existing Futures and Options Guaranty Fund model documentation. The amendments would also state that additional rules that may apply to the F&O Guaranty

Fund are specified in the Clearing Rules and a summary of the F&O Guaranty Fund sizing and contribution processes would be found in the Appendix.

Various revisions would be made in the section on Model Performance to improve clarity. The amendments would clarify the drafting of a general statement regarding the calculation of core initial margin to reflect that the calculation is used to derive core initial margin at the member account level. The amendments are intended to clarify the top day margin coverage calculation performed by the Clearing House to assess whether the Core IM covers market price movements over the relevant MPOR at the 99th percentile level. The assessment is made at both the margin account level (the "macro" or "portfolio" level) and product level (the "micro" level). An outdated reference to the previous IRM v.1.0 model documentation would also be deleted. In the revised discussion of margin Coverage, scope and definitions, references to certain EMIR requirements would be removed (as the relevant definitions incorporating regulatory requirements are part of the Procedures). At the macro level, the amendments would clarify that the margin coverage is calculated by comparing Clearing Member account's Core IM requirement to the clean P&L. (Provisions addressing frequency of back-testing are removed in this section as the topic is addressed elsewhere in the Procedures.) Another reference to the CRD database and the results being stored in the database would be deleted as unnecessary detail for the Procedures. Non-substantive clarifications would be made to the calculation of Margin Coverage.

In the section for Back Test Statistics the amendments would clarify that back testing involves consideration of a number of historical observations. The amendments would delete language stating that statistics based on less than 200 days cannot be

considered statistically significant and note that statistical back-testing is usually performed considering at least 250 business days. Although the Clearing Risk Department would retain the discretion to use other back-testing statistics in addition to the Basel Traffic Light System, the amendments would remove unnecessary references to specific examples of such statistics. A detailed escalation process based on the results of the statistics handled by the Risk Manager would also be deleted. As revised, the Clearing Risk Department would determine the appropriate action to address any breaches.

The amendments would specify that for macro level margin coverage, breaches would be monitored daily (but an unclear reference to such breaches being "controlled" daily would be removed). A breach would be reported, investigated and signed off by the Clearing Risk Department, not a specific risk manager as previously stated. The examples of appropriate action would be modified for concision to include reviewing the margin model and/or increasing the relevant production margin rates based on the Autopilot model.

The amendments would specify that for the micro level, coverage of F&O margins rates would be reported daily. Any breaches driving a breach at margin account level would be investigated and reviewed by the Clearing Risk Department, in efforts to provide information on the drivers of the breach and assess whether the breach was driven by erroneous prices. The amendments would clarify that actions required as a result of a breach would no longer be escalated to the risk manager but would be at the discretion of the Clearing Risk Department. Such mitigation actions could include reviewing and updating the relevant margin rates. Prior language relating to specific

monitoring of outright and spread F&O parameters has been removed as unnecessary in light of the more general provisions of the revised draft.

The amendments would specify that back testing results that fall in the red or yellow zones under the Basel Traffic Light system would be reviewed and investigated by the Clearing Risk Department. Specifically for the micro level, the amendments would recognize that the large amount of margin parameters would make it difficult to review and action all back test statistic results. The amendments would make clarifying adjustments to the list of priorities when reviewing a statistical back test. The products driving red or yellow back test statistics would be identified and their back test performance would be reviewed. Micro back test statistics in the standard Basel redzone not driving macro back test breach results would be reviewed and the mitigation action would be considered at the discretion of the Clearing Risk Department. Micro back test statistics in the standard Basel yellow zone not driving macro back test breach results would be considered part of the regular margin update proposals.

The amendments would also make changes in the Monitoring and Reporting section. For Margin Coverage at the macro level, the amendments would state that the Clearing Risk Department would report the top day macro breaches daily (deleting the lengthier manual process previously included) and the breach statistics would be presented monthly at the Model Oversight Committee and bi-monthly at the F&O Product Risk Committee. Accordingly, changes such as deleting references to manual reports being generated would be deleted from the macro back testing section. The process would also be more streamlined with the committee pack sent to the F&O Product Risk Committee, that is sent bi-monthly, including the macro back-test statistics.

Similar amendments would be made to the Margin Coverage section for the micro level. The amendments would broadly state that the Clearing Risk Department would report the top day micro breaches daily (deleting the lengthier process previously included). The Clearing Risk Department would on a monthly basis generate reporting displaying the statistics of a large selection of products across all parameter types. The detailed micro back testing results would be reported and reviewed monthly by the Clearing Risk Department. The Clearing Risk Department would produce a monthly summary of micro back testing results for material products and margin rates for the Model Oversight Committee. Micro back-testing results would be reviewed on a bimonthly basis at the F&O Product Risk Committee for material products. Certain definitions of materiality for these reviews in the existing Procedures would be removed, as ICE Clear Europe believes a more flexible approach to materiality is appropriate. The amendments would state that any proposed model or parameter remediation actions due to product back testing results would be governed by the Model Risk Policy (specific language regarding the flagging of these remediation actions to senior management and various committees would be deleted as relevant notifications are addressed in the Model Risk Policy). A section and table summarizing the Margin Coverage and Backtest Statistics would be deleted as unnecessary.

The amendments would make changes to the Sensitivity Testing section to add that the daily tests would undergo a monthly review at the material product or account level. They would also add that the Model parameters are described in detail in the relevant ICE Risk Model documentation.

A section on Stress Testing Methodology would be shortened to discuss Stress Testing more generally, in light of the fact that stress testing is addressed in detail in other Clearing House policies and procedures. The amendments would add that the objective of stress testing is to ensure that the F&O Guaranty Fund is adequate to cover the uncollateralized losses arising from the two largest Clearing Member Groups. In addition, the results are used in Stress Margin, Shortfall Margin, and Guaranty Fund sizing and allocation. The amendments would state that the stress tests are performed under extreme but plausible market price moves. The amendments reference the two types of stress scenarios applied by the Clearing House—historical scenarios and theoretical scenarios. The Clearing House conducts daily stress testing on the Clearing Member portfolios, and results are reviewed by the Clearing Risk Department and escalated as necessary.

The amendments would make revisions to the section on data quality checks and exclusions for dynamic data. A sentence on revisions to EDSPs would be moved to the new section on Revisions and Remediations discussed below. In the historical prices discussion, a sentence stating that use of external data would usually be based on a materiality assessment where a product's IM reaches a significant portion of the overall Clearing House IM would be deleted. ICE Clear Europe does not believe it is necessary to specify this particular scenario given its general authority to use external data to run ad hoc analysis.

The amendments would add a new section on Revisions and Remediations in relation to Data Management.

The Remediations section would address what was previously referred to as exclusions and corrections and would outline other factors that could imply that

remediation may be necessary. These would include corrections to market prices as a result of corporate actions. Certain other examples (including a footnote related to large moves from M&A announcements) would be removed as unnecessary given the more general authority to engage in remediation of data. Data that is remediated would have to be approved by the Clearing Risk Department (rather than a senior Clearing Risk Department person). In addition, the remediations with related justifications would be reviewed monthly by the Model Monitoring Group.

The amendments would make changes to the Procedure's document governance, breach management and exception handling, to make it generally consistent with other ICE Clear Europe policies. The document owner identified by the Clearing House would be responsible for ensuring that the Procedures remains up-to-date and reviewed in accordance with the Clearing House's governance processes. The document owner would also be responsible for reporting any material breaches or deviations to the Head of Department, Chief Risk Officer and Head of Regulation and Compliance in order to determine if further escalation is required. Exceptions to the Procedures would also be approved in accordance with the governance processes for approvals of changes to the Procedures. The amendments would state explicitly that changes to the Procedures would also have to be approved in accordance with the Clearing House's governance process and would take effect following completion of required internal and regulatory approvals.

The amendments would also add the aforementioned Appendix summarizing the processes detailed in other parts of the Procedures.

A number of other drafting clarifications and conforming changes such as updating names of relevant persons, committees and departments, replacing and

conforming defined terms, and deleting outdated references would also be made throughout the document. Various provisions would also be renumbered or relabeled throughout the Procedures.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the F&O Risk Procedures are consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 (the "Act")[9] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act[10] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

The proposed changes are intended to update the Procedures to make them consistent with other Clearing House policies and to describe current Clearing House practices around margin and guaranty fund determination more accurately. The updates would reflect recent amendments to the Clearing House's Model Risk Policy, which governs key aspects of risk management with respect to models, including margin models. The amendments would also clarify various aspects of the calculation of Core IM and Additional IM (and the components thereof), as well as the process for monitoring intraday changes in conditions and making intraday margin calls when

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9 15 U.S.C. 78q-1.

10 15 U.S.C. 78q-1(b)(3)(F).

additional margin is required. In general, these amendments will not result in a change of the margin methodology but are intended to more clearly describe and document the methodology. Additionally, a new section would be added to describe, for completeness, key aspects of the sizing of the F&O Guaranty Fund (which is more fully defined in other Clearing House documentation). The clarifications to the Procedures will thus further overall risk management at the Clearing House with respect to the Futures and Options product category, which would in turn promote the stability of the Clearing House and the prompt and accurate clearance and settlement of cleared contracts. The enhanced Procedures are therefore also generally consistent with the protection of investors and the public interest in the safe operation of the Clearing House. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible.) Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[11]

The amendments to the Procedures are also consistent with relevant provisions of Rule 17Ad-22.[12] Specifically, Rule 17Ad-22(e)(4)(i) provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable […] [e]ffectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement process, including by […] [m]aintaining sufficient financial resources to cover its credit exposure to each participant fully with a high

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11 15 U.S.C. 78q-1(b)(3)(F).

12 17 CFR 240.17 Ad-22.

degree of confidence"[13]. As discussed, the amendments would make certain clarifications to the descriptions of the Clearing House's margin methodology and Guaranty Fund sizing process (including the process for reviewing and adjusting the size of the F&O Guaranty Fund from time to time and the basis for allocating the F&O Guaranty Fund across clearing members). The amendments are not intended to result in changes in those practices or in margin or guaranty fund levels. As such, the amendments are consistent with maintaining sufficient financial resources to cover the Clearing House's credit exposures, within the meaning of Rule 17Ad-22(e)(4)(i).[14]

Rule 17Ad-22(e)(6)(i) and (ii) provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable […] [c]over, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at minimum […] [c]onsiders, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market"[15] and "[m]arks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances"[16]. As set forth above, the amendments to the Procedures would make clarifying changes to the descriptions of practices for collection of both Core IM and Additional IM (and the

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13 17 CFR 240.17 Ad-22(e)(4)(i).

14 17 CFR 240.17 Ad-22(e)(4)(i).

15 17 CFR 240.17 Ad-22(e)(6)(i).

16 17 CFR 240.17 Ad-22(e)(6)(ii).

relevant components thereof). For instance, the amendment clarifies the procedures for determining and promoting production margin rates based on the autopilot rates resulting from standard application of the ICE Risk Model. The amendments would also clarify the process for calculating Additional IM, as well as monitoring intraday change and making intraday margin calls as a result of those calculations. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(6)(i) and (ii).[17]

Rule 17Ad-22(e)(6)(vi)(A) and (B) requires that a clearing agency cover its credit exposures to its participants by establishing a risk-based margin system that is monitored by management and regularly reviewed by "(A) [c]onducting backtests of its margin model at least once each day using standard predetermined parameters and assumptions"[18] and "(B) [c]onducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of the covered clearing agency's margin resources"[19]. As previously stated, the amendments would make various clarifications and drafting improvements to the description of the review process for back testing at both the micro and macro level for margin coverage. The changes also clarify the periodic review process by the Clearing Risk Department, relevant committees and other relevant

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17 17 CFR 240.17 Ad-22(e)(6)(i) and (ii).

18 17 CFR 240.17 Ad-22(e)(6)(vi)(A).

19 17 CFR 240.17 Ad-22(e)(6)(vi)(B).

personnel. In ICE Clear Europe's view, these amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(6)(vi)(A) and (B).[20]

Rule 17Ad-22(e)(3)(i) provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable […] identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency"[21]. The amendments to the Procedures are intended to assist the Clearing House in accurately monitoring and evaluating its credit risk and collecting appropriate margin from its Clearing Members accordingly. Moreover, the amendments would specify the process in reviewing, testing and resizing of the F&O Guaranty Fund. As a result, the Clearing House would be better able to manage the risk of losses that may arise from default by F&O Clearing Members. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(3)(i).[22]

Rule 17Ad-22(e)(2) provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable […] [p]rovide for governance arrangements that are [c]lear and transparent"[23] and "[s]pecify clear and direct lines of responsibility"[24]. As discussed, the Procedures would clearly state certain responsibilities of the Clearing Risk Department and Model Oversight Committee, among others, in relation to oversight of the Clearing

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20 17 CFR 240.17 Ad-22(e)(6)(vi)(A) and (B).

21 17 CFR 240.17 Ad-22(e)(3)(i).

22 17 CFR 240.17 Ad-22(e)(3)(i).

23 17 CFR 240.17 Ad-22(e)(2)(i).

24 17 CFR 240.17 Ad-22(e)(2)(v).

House's practices regarding margin for F&O products and the F&O Guaranty Fund. In line with the Clearing House's other policies and procedures, the Procedures would also describe the responsibilities of the document owner and appropriate escalation and notification requirements for responding to exceptions and deviations from the Procedures. In ICE Clear Europe's view, the amendments to the Procedures are therefore consistent with the requirements of Rule 17Ad-22(e)(2).[25]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to update and clarify the F&O Risk Procedures and will apply to all F&O Clearing Members. The proposed amendments are not expected to materially change the margin methodology or the resulting margin levels or requirements for F&O Clearing Members. Similarly, the amendments are not expected to materially change the F&O Guaranty Fund requirements. Accordingly, ICE Clear Europe does not believe the amendments would affect the costs of clearing, the ability to market participants to access clearing, or the market for clearing services generally. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

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[25] 17 CFR 240.17 Ad-22(e)(2).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[26] and paragraph (f) of Rule 19b-4[27] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (https://www.sec.gov/rules/sro.shtml) or
- Send an email to rule-comments@sec.gov. Please include file number SR-ICEEU-2023-023 on the subject line.

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[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b-4(f).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-ICEEU-2023-023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (https://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at https://www.theice.com/clear-europe/regulation.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-ICEEU-2023-023 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Deputy Secretary.

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[28] 17 CFR 200.30-3(a)(12).