

(Release No. 34-84498; File No. SR-ICEEU-2018-014)

October 29, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amendments to the Recovery Plan and Wind-Down Plan

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 16, 2018, 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 and II below, which Items have been prepared primarily 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)(6) thereunder,⁴ so that the proposal was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on 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 proposes to make certain updates to its Recovery Plan and Wind-Down Plan. The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.⁵

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)(6).

⁵ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the “Rules”).

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 make certain updates and amendments to its Recovery Plan and Wind-Down Plan. The amendments principally reflect certain changes in the Clearing House's treasury arrangements and related service providers, such as custody banks, investment agents and settlement banks, that are described in the current Recovery Plan and Wind-Down Plan.

Recovery Plan

Specifically, the discussion of Treasury Services in the Recovery Plan has been revised to reflect that ICE Clear Europe has appointed a number of concentration banks, custodians and APS banks to support the treasury function, and to reflect that the current list of such persons from time to time is made available on the Clearing House website. The amendments accordingly remove from the Recovery Plan certain references to specific banks.

Similarly, lists of key service providers have been updated to refer to the general categories of investment agents, custodians, custody agents, APS banks and central

banks, to avoid the need to mention specific institutions in these categories and accordingly facilitate keeping the plan up to date. Corresponding changes have been made in appendices to the Recovery Plan to update references to various institutions that provide treasury services to ICE Clear Europe, including an additional investment agent. In ICE Clear Europe's view, the amendments will facilitate use by the Clearing House of additional service providers, consistent with other ICE Clear Europe policies and procedures, which will help the Clearing House appropriately manage credit, operational and other risks from treasury operations.

Wind-Down Plan

Similar updates are proposed to be made to the Wind-Down Plan. The discussion concerning termination of various service agreements during wind-down has been revised to refer more generally to the appointed investment agents, custodians, custody agents and settlement banks that may be used by the Clearing House at the time (rather than referring to specific institutions). The revisions also refer to the termination provisions (including notice requirements) of the particular agreements between ICE Clear Europe and those institutions. These amendments will facilitate keeping the Wind-Down Plan up to date as treasury service providers change from time to time. The amendments also add references to the Dutch National Bank as an additional central bank used as a concentration bank.

(b) Statutory Basis

ICEU believes that the proposed amendments are consistent with the requirements of Section 17A of the Act⁶ and the regulations thereunder applicable to it, including the

⁶ 15 U.S.C. 78q-1.

standards under Rule 17Ad-22.⁷ Section 17A(b)(3)(F) of the Act⁸ 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. In addition, Rule 17Ad-22(e)(3)(ii)⁹ requires that each covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.

The amendments to the Recovery Plan and Wind-Down Plan are designed to update certain provisions relating to treasury arrangements of the Clearing House, principally to address changes in treasury service providers (such as custody banks, settlement banks and investment agents) currently referred to in the plans. The changes will also facilitate keeping the Recovery and Wind-Down Plan up to date as certain treasury service providers change from time to time, and facilitate use by the Clearing House of additional service providers to manage risks from treasury operations. The

⁷ 17 C.F.R. 240.17Ad-22.

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 17 C.F.R. 240.17Ad-22(e)(3)(ii).

amendments do not otherwise affect the substantive provisions and procedures detailed in the Recovery Plan or the Wind-Down Plan for addressing recovery or wind-down as a result of credit losses, liquidity shortfalls, losses from general business risk or other losses, including the triggers for invoking recovery or wind-down procedures. The amendments also do not affect the recovery and wind-down tools and options available to the Clearing House to address severe loss events, or the planned sequence or scope of recovery or wind-down actions that ICE Clear Europe may take in a loss scenario. As a result, in ICE Clear Europe's view, the amended Recovery Plan and Wind-Down Plan will continue to satisfy the requirements of Section 17A(b)(3)(F) of the Act¹⁰ and Rule 17Ad-22(e)(3)(ii).¹¹ In addition, ICE Clear Europe does not believe the amendments will affect the costs of recovery or wind-down, and therefore is of the view that its equity capital remains sufficient to satisfy the requirements of Rule 17Ad-22(e)(15) under the revised plans.¹²

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 C.F.R. 270.17Ad-22(e)(3)(ii).

¹² 17 C.F.R. 270.17Ad-22(e)(15). Rule 17Ad-22(e)(15) requires the covered clearing agency to hold sufficient liquid net assets funded by equity to cover potential general business losses so that the covered clearing agency can continue operations and services as a going concern if those losses materialize, including by (i) determining the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken, and (ii) holding liquid net assets funded by equity equal to the greater of either (x) six months of the covered clearing agency's current operating expenses, or (y) the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the recovery and wind-down plans established under Rule 17Ad-22(e)(3)(ii).

(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 update certain provisions relating to service providers for Clearing House treasury operations, and do not otherwise change the substantive provisions of the Recovery Plan or the Wind-Down Plan. The amendments do not change the rights or obligations of the Clearing House or Clearing Members under the Rules and Procedures. As a result, ICE Clear Europe does not believe the amendments will impact competition among Clearing Members or other market participants, affect the cost of clearing or affect the ability of market participants to access clearing generally.

(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 comments received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

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 (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2018-014 on the subject line.

Paper Comments:

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

¹³ 15 U.S.C. 78s19(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ICE Clear Europe has satisfied this requirement.

All submissions should refer to File Number SR-ICEEU-2018-014. This file number should be included on the subject line if e-mail 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 (<http://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 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 Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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/notices/Notices.shtml?regulatoryFilings>. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-ICEEU-2018-014 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

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Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).