

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84375; File No. SR-ICEEU-2018-012)

October 5, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Intraday Margining

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 September 24, 2018, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I and II below, which Items have been prepared by ICE Clear Europe. On October 4, 2018, ICE Clear Europe filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

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

ICE Clear Europe proposes to amend its Finance Procedures and certain related policies to expand the hours covered by its intraday margining process and make certain related changes to the intraday margining process and process for deposit of cash balances.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 added an additional confidential exhibit to the filing.

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 III 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 intraday risk management processes for certain F&O client and house accounts to extend the intraday margining hours (which currently run from 9:00am – 6:00pm) to 7:30am – 8:00pm (with a payment deadline of 9:00pm), London time, to cover the active portions of the trading day in relevant F&O contracts.⁴

ICE Clear Europe is adopting these amendments to facilitate compliance with margin requirements under European Union regulations and related implementing legislation and technical standards applicable to it as an authorized central counterparty under the European Market Infrastructure Regulation (EMIR).⁵

⁴ Capitalized terms used herein but not otherwise defined have the meaning set forth in the ICE Clear Europe Clearing Rules, which are available at https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Clearing_Rules.pdf.

⁵ The amendments principally address requirements under Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to

These amendments will principally affect F&O energy contracts cleared by ICE Clear Europe. Specifically, the extended margining hours and updated materiality threshold changes will apply to all gross margined client accounts (i.e., those client accounts margined on a “gross” basis using a minimum one business day margin period of risk (“MPOR”))⁶ and F&O house accounts.

ICE Clear Europe is also amending certain policies relating to the deposit of uninvested cash margin with banks in light of potential increases in cash balances arising from the above changes in intraday margining, consistent with requirements under EMIR. (These amendments to the investment policies may apply to all product categories.)

Finance Procedures

As part of these changes, ICE Clear Europe is proposing to amend Parts 5 and 6 of the Finance Procedures to address intraday margining procedures and certain other matters. Paragraph 5.5 is amended to clarify the circumstances in which the Clearing House would invoke a contingency method for transfer of margin, which would occur if an Approved Financial Institution or the Clearing House itself experiences a failure in its ability to send or receive SWIFT messages. Paragraph 6.1(i) is amended to provide that

regulatory technical standards on requirements for central counterparties, as amended by Commission Delegated Regulation (EU) 2016/822 of 21 April 2016 as regards the time horizons for the liquidation period to be considered for the different classes of financial instruments (as so amended, “RTS 153/2013”). Specifically, Article 26(1)(c) of RTS 153/2013 requires ICE Clear Europe, among other matters, to be in a position to issue and collect margin calls on at least an hourly basis during the active trading day for futures products that are gross-margined using a one business day margin period of risk.

⁶ Contracts using a one-day MPOR are generally F&O energy contracts. Other F&O Contracts using a 2 (or more) business day MPOR, and CDS Contracts (using a 5 business day MPOR) are not subject to the hourly intraday margin requirement under Article 26(1)(c) of RTS 153/2013.

intraday margin calls for F&O Contracts can be made between 7:30 and 20:00 London time. (The existing period for intraday margin calls for other (i.e., CDS) Contracts remains unchanged at from 9:00 to 19:00 London time.) Where a contingency method applies under paragraph 5.5, intraday margin calls can be made up to 21:00 London time. The amendments also clarify that all intraday margin calls within these hours must be met within 60 minutes of notification by the Clearing House. Margin calls made outside of these hours must be met by the later of (x) within 60 minutes after notification, if any settlement system used by the Clearing House for the relevant currency is open at the time, or (y) within 60 minutes after the time at which such settlement system becomes open for business following the notification of the margin call by the Clearing House.

Corresponding changes are also made to the table following Part 5 of the Finance Procedures. A row has been inserted stating the timing for intraday margin instructions, as discussed above. Corresponding changes are also being made to the existing rows relating to routine end-of-day instructions, routine end-of-day instructions for financials & softs contracts that settle in JPY only and the revised 21:00 London time cut-off time for intraday instructions in the event of a contingency.

Cash Investment Policies

Because of the possibility that it will hold additional cash balances as a result of the extended margining hours discussed above (since it may be difficult to invest such balances if received later in the day), ICE Clear Europe is proposing to amend the Investment Management Policy and adopt a new set of Unsecured Credit Limits Procedures. Certain other updates and clarifications are being made to the Investment Management Policy as well.

In general, the changes to the Investment Management Policy will permit the Clearing House to hold additional uninvested balances, by eliminating the current fixed dollar limits and replacing them with the new Unsecured Credit Limits Procedures, which provide more flexible allocation guidelines based on the capital of the deposit bank and other factors. The amendments remain consistent with the requirements under EMIR that the Clearing House maintain at least 95% of its cash in qualifying investments on average during each calendar month, such that deposits in banks will be limited to the remaining 5% on average.⁷

The Investment Management Policy has also been revised to distinguish more clearly between central bank deposits and commercial bank deposits, both of which are authorized for deposit of cash. For commercial bank deposits, the \$50 million per counterparty bank limit has been removed and replaced with the Unsecured Credit Limits Procedures, as discussed below. The 5% limit on investments in bank obligations in a 30-day period has been revised to refer to an average level over a calendar month, consistent with the EMIR limitations.

Certain clarifications (unrelated to the extended margin hours) are being made to the limits on investments in sovereign obligations and central bank deposits. For sovereign obligations, for EUR denominated investments, no more than 15% of the total EUR balance of the investment portfolio must be invested in sovereign obligations of a single issuer; and no more than 20% of the total balance of the investment portfolio per currency may be invested in a single issue of a sovereign issuer. Pursuant to the proposed amendments, there is no limitation on maturity for central bank obligations and central

⁷ Article 45, RTS 153/2013.

bank deposits. The amended policy lists the Dutch National Bank, Bank of England and Federal Reserve as acceptable central banks for this purpose.

The proposed amendments also update the policy review section to remove certain details, clarify the procedures for escalation of defined risk management thresholds triggers and provide that the policy will be reviewed in accordance with internal governance processes and regulatory requirements. ICE Clear Europe does not anticipate that these amendments will substantively change its process for policy review at this time, but the amendments will facilitate consolidation and harmonization of internal governance processes across various Clearing House policies.

ICE Clear Europe is further proposing various clarifications and updates throughout the Investment Management Policy including to the description of the board risk policy and related management thresholds and the objectives of the counterparty rating system. References to the Clearing Risk and Finance departments have been updated throughout the document.

The Clearing House is adopting the new Unsecured Credit Limits Procedures, which establish a limit methodology for determining the amount of cash that may be placed in an unsecured deposit with a particular bank. The procedures establish basic requirements for any deposit bank as to regulation and credit rating (with the possibility of an exception where determined appropriate by the executive risk committee). For each qualifying institution, a limit will be established at 3% of the entity's capital minus other exposures vis-a-vis ICE Clear Europe or if the entity relies on a parent guaranty, 80% of the amount guaranteed thereunder. (The 3% limit is based on the Clearing House's credit judgment as to the appropriate level of unsecured risk to take from a bank counterparty.)

The limit is subject to a minimum level of USD 50 million (or a lesser level determined by the Clearing House) and a maximum level of USD 200 million. “Other exposures” for this purpose include uncollateralized stress losses or exposures arising from other financial services provided by ICE Clear Europe to the institution.⁸ The methodology also provides for ongoing monitoring of deposit banks for purposes of updating limits as necessary, and addresses governance and exception handling.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act⁹ and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22.¹⁰ In particular, Section 17A(b)(3)(F) of the Act¹¹ 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 amendments will facilitate the management of intraday risk faced by the Clearing House for certain F&O Contracts, by extending the daily hours in which the Clearing House may call for intraday margin. These changes will in turn promote the prompt and

⁸ ICE Clear Europe contemplates a specific exception for Euroclear Bank SA/NV, in light of the particular function of that entity as a central securities depository and the accompanying limitations on its business that would allow a limit of USD 200 million notwithstanding that 3% of its capital would be a lower figure.

⁹ 15 U.S.C. 78q-1.

¹⁰ 17 C.F.R. 240.17Ad-22.

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

accurate clearance and settlement of transactions through the Clearing House. The changes will also enhance the Clearing House's procedures for investment of cash received by it, in recognition that it may receive higher cash balances as a result of additional intraday calls for margining. The enhanced procedures provide new guidelines for allocating deposits across different banks based on their capitalization and other factors. In ICE Clear Europe's view, these changes will enhance the safeguarding of funds in the custody of the Clearing House or over which it has control. ICE Clear Europe also notes that the amendments are intended to facilitate compliance with certain specific requirements under EMIR, and thereby are consistent with the public interest as it applies to the operation of the Clearing House as an authorized central counterparty under European Union regulations.

Further, the amendments are consistent with requirements of Rule 17Ad-22¹² regarding margin and credit risk management. Rule 17Ad-22(b)(1) and (2)¹³ in particular require that ICE Clear Europe measure its credit exposure at least once per day and use margin requirements to limit its exposures to participants under normal market

¹² 17 C.F.R. 240.17Ad-22.

¹³ 17 C.F.R. 240.17Ad-22(b)(1) and (2). The rule states that: [a] registered clearing agency that performs central counterparty services shall establish, implement, maintain and enforce written policies and procedures reasonably designed to:

(1) Measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.

(2) Use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.”

conditions. Consistent with these requirements, the proposed amendments require the Clearing House to measure its intraday credit exposures during additional hours and to collect margin if appropriate, reducing its credit risk to Clearing Members. The proposed amendments are also consistent with Rule 17Ad-22(e)(4)(i)¹⁴, as the additional ability to conduct intraday margining will help the Clearing House maintain sufficient financial resources to cover its credit exposures to Clearing Members. The enhancements to the margin system are further consistent with the requirements to maintain margin levels to cover potential losses from participants pursuant to Rule 17Ad-22(e)(6)(i) – (iii).¹⁵

ICE Clear Europe’s amendments to the Investment Management Policy and adoption of the Unsecured Credit Limit Procedures to tailor deposit limits to the particular characteristics of deposit banks is consistent with Rule 17Ad-22(e)(9)¹⁶, as it

¹⁴ 17 C.F.R. 240.17Ad-22(e)(4)(i). The rule states that: “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (4) Effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by: (i) Maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence;”

¹⁵ 17 C.F.R. 240.17Ad-22(e)(6)(i) – (iii). The rule states that: “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (6) Cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum: (i) Considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market; (ii) Marks 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; (iii) Calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default;”

¹⁶ 17 C.F.R. 240.17Ad-22(e)(9). The rule states that: “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and

will mitigate the credit and liquidity risk arising from conducting its money settlements in commercial bank money.

(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 facilitate compliance with European Union requirements applicable to intraday margin requirements and to extend the hours covered by its intraday risk management process. The amendments will affect all F&O Clearing Members that trade contracts in the relevant categories.

Although the amendments could impose certain additional costs on Clearing Members, as a result of additional intraday margin calls, which may have financing and liquidity implications for F&O Clearing Members, these result from the requirements imposed by EU regulations, and in any case reflect the risks presented by the trading activities of the F&O Clearing Members. Furthermore, any such increased margin requirements will result in risk management benefits for the Clearing House, through improved ability to address risks throughout the trading day, consistent with the goals of the relevant EU regulations and also in furtherance of the risk management requirements of the Act. In light of these considerations, ICE Clear Europe does not believe the amendments will adversely affect competition among clearing members, the market for clearing services generally or access to clearing in cleared products by clearing members or other market

procedures reasonably designed to, as applicable: (9) Conduct its money settlements in central bank money, where available and determined to be practical by the board of directors of the covered clearing agency, and minimize and manage credit and liquidity risk arising from conducting its money settlements in commercial bank money if central bank money is not used by the covered clearing agency.”

participants. ICE Clear Europe believes that any impact on competition is appropriate in furtherance of the purposes of the Act.

(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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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-2018-012 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549.

All submissions should refer to File Number SR-ICEEU-2018-012. 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, security-based swap submission or advance 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, N.E., Washington, D.C. 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/clear-europe/regulation>. 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-2018-012 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹⁷ For the reasons given below, the Commission finds

¹⁷ 15 U.S.C. 78s(b)(2)(C).

that the proposal is consistent with Section 17A(b)(3)(F) of the Act¹⁸ and Rules 17Ad-22(e)(6)(ii) and 17Ad-22(e)(16) thereunder.¹⁹

(A) Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and, in general, to protect investors and the public interest.

(a) Finance Procedures

As discussed above, the proposed rule change, as modified by Amendment No. 1, would amend ICE Clear Europe's Finance Procedures to extend the period for intraday margin calls for F&O Contracts to cover the active portions of the trading day for such F&O contracts (i.e., from 7:30 and 20:00 London time) and to require clearing participants to satisfy margin calls during these hours within 60 minutes of notification by ICE Clear Europe.²⁰ The Commission believes that this aspect of the proposed rule change should expand ICE Clear Europe's ability to call additional intraday margin, as necessary, by extending the window during which ICE Clear Europe may call such margin. In addition, as discussed above, the proposed rule change would provide that, for

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

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

²⁰ The Commission understands that, pursuant to EMIR requirements, ICE Clear Europe must be in a position to issue and collect margin calls on at least an hourly basis during the active trading day for futures products that are gross-margined using a one business day margin period of risk. See supra note 5.

margin calls outside of these hours, clearing participants would be required to meet margin calls by the later of (x) within 60 minutes after notification, if any settlement system used by ICE Clear Europe for the relevant currency is open at the time, or (y) within 60 minutes after the time at which such settlement system becomes open for business following the notification of the margin call. The Commission believes that these provisions should help ensure that ICE Clear Europe collects intraday margin on a timely basis by setting standard specified time periods in which clearing participants must meet margin calls. Thus, the Commission believes that these aspects of the proposed rule change should enable ICE Clear Europe to collect additional intraday margin as necessary to cover the risks related to the relevant F&O contracts.

The Commission believes that the ability of ICE Clear Europe to collect intraday margin and have such margin available to support ICE Clear Europe's ability to manage financial risk exposure that may arise in the course of its ongoing clearance and settlement activities should, in turn, help promote the prompt and accurate clearance and settlement of securities transactions, derivative agreements, contracts, and transactions. Similarly, the proposed rule change should enhance ICE Clear Europe's ability to help assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible because intraday margin collections will increase the overall amount of financial resources ICE Clear Europe maintains to address potential loss exposures that could arise from a Clearing Member default or other stressed market conditions. Finally, for both of these reasons, the Commission believes the proposed rule change, as modified by Amendment No. 1, is consistent with protecting investors and the public interest.

(b) Investment Management Policy

The proposed rule change, as modified by Amendment No. 1, would also amend the Investment Management Policy to address potential additional cash balances that could accrue as a result of the additional margin collected during the extended margining hours discussed above. Specifically, these changes include: (i) with respect to sovereign obligations, providing that for EUR denominated investments, no more than 15% of the total EUR balance of the investment portfolio must be invested in sovereign obligations of a single issuer, and no more than 20% of the total balance of the investment portfolio per currency may be invested in a single issue of a sovereign issuer; (ii) with respect to central bank deposits, removing the limitation on maturity for central bank obligations and central bank deposits and identifying the Dutch National Bank, Bank of England, and Federal Reserve as acceptable central banks for that purpose; and (iii) with respect to commercial bank deposits, removing the \$50 million per counterparty bank limit, replacing it with the Unsecured Credit Limits Procedures, including the regulation and credit rating requirements for deposit banks and the revised limits for each qualifying institution, and revising the 5% limit on investments in bank obligations in a 30-day period to refer to an average level over a calendar month.

With respect to the changes regarding investments in sovereign obligations, the Commission believes that these changes provide reasonable limitations on ICE Clear Europe's investment portfolio that should help ensure that it is not overly concentrated in securities of a single sovereign issuer or in a single issue of a sovereign issuer. With respect to the changes regarding central bank deposits, the Commission believes that the proposed rule change should facilitate ICE Clear Europe's use of central bank deposits,

which should, in turn, have minimal credit, market, and liquidity risks. With respect to the changes regarding commercial bank deposits, the Commission believes the Unsecured Credit Limits Procedures as they relate to the qualifications and ongoing monitoring of deposit banks should help ICE Clear Europe ensure that the banks in which it holds deposits are creditworthy and subject to adequate regulatory oversight. The Commission further believes that the revised limitation methodology in the Unsecured Credit Limits Procedures should help ICE Clear Europe to ensure that its deposits do not present an outsize risk to any particular deposit bank.

Taken together, the Commission believes that these changes to the Investment Management Policy should help assure the safeguarding of securities and funds in ICE Clear Europe's custody and control, including any additional cash collected as intraday margin resulting from the changes described above,²¹ which, in turn, helps promote the prompt and accurate clearance and settlement of securities transactions by ICE Clear Europe. Likewise, the safeguarding of securities and funds in ICE Clear Europe's control would further the protection of investors and the public interest by ensuring that ICE Clear Europe has appropriate funds available to clear and settle transactions. Therefore, the Commission finds that the proposed rule change, as modified by Amendment No. 1, would promote the prompt and accurate clearance and settlement of securities

²¹ ICE Clear Europe also proposed to amend the Investment Management Policy governance processes, update the description of the board risk policy and related risk management thresholds, and update references to the Clearing Risk and Finance departments. The Commission believes these changes would help ensure that the Investment Management Policy is maintained and that any issues resulting in a breach of a risk management threshold are appropriately addressed. The Commission believes that this would help maintain the efficacy of the Investment Management Policy which, as discussed, the Commission believes is necessary to help safeguard ICE Clear Europe's investments, including its investment of cash associated with margin requirements.

transactions, assure the safeguarding of securities and funds in ICE Clear Europe's custody and control, and, in general, protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.²²

(B) Consistency with Rule 17Ad-22(e)(6)(ii)

Rule 17Ad-22(e)(6)(ii) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that marks 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.²³

As discussed above, the Commission believes that the amendments to the Finance Procedures would allow ICE Clear Europe to request additional intraday margin, as necessary, by extending the window during which ICE Clear Europe may call such margin. Moreover, the Commission believes that the amendments to the Finance Procedures regarding when participants must satisfy margin calls should help ensure that ICE Clear Europe collects intraday margin on a timely basis. The Commission believes that both of these aspects of the proposed rule change should therefore help ensure that ICE Clear Europe's risk-based margin system includes the authority and operational capacity to make intraday margin calls.

²² 15 U.S.C. 78q-1(b)(3)(F).

²³ 17 CFR 240.17Ad-22(e)(6)(ii).

Therefore, for the above reasons the Commission finds that these aspects of the proposed rule change, as modified by Amendment No. 1, are consistent with Rule 17Ad-22(e)(6)(ii).²⁴

(C) Consistency with Rule 17Ad-22(e)(16)

Rule 17Ad-22(e)(16) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to safeguard its own and its participants' assets, minimize the risk of loss and delay in access to these assets, and invest such assets in instruments with minimal credit, market, and liquidity risks.²⁵

As discussed above, the proposed rule change would amend ICE Clear Europe's Investment Management Policy. For the reasons discussed above in connection with Section 17A(b)(3)(F), the Commission believes that these aspects of the proposed rule change would help ensure that ICE Clear Europe safeguards its own and its participants' assets — specifically, ICE Clear Europe's deposits of cash, which would include cash posted by clearing participants to satisfy their margin and Guaranty Fund requirements — and minimize the risk of loss or delay of such assets. For the same reasons, the Commission believes that the changes to the Investment Management Policy would help ensure that ICE Clear Europe invests such assets in instruments with minimal credit, market, and liquidity risks.

Therefore, for the above reasons the Commission finds that these aspects of the proposed rule change, as modified by Amendment No. 1, are consistent with Rule 17Ad-

²⁴ Id.

²⁵ 17 CFR 240.17Ad-22(e)(16).

22(e)(16).²⁶

V. Basis for Accelerated Approval

In its filing, ICE Clear Europe requested that the Commission grant accelerated approval of the proposed rule change pursuant to Section 19(b)(2)(C)(iii) of the Exchange Act.²⁷ Under Section 19(b)(2)(C)(iii) of the Act,²⁸ the Commission may grant accelerated approval of a proposed rule change if the Commission finds good cause for doing so. ICE Clear Europe believes that accelerated approval is warranted because the proposed rule change, as modified by Amendment No. 1, is required to comply with requirements under the European Market Infrastructure Regulation that ICE Clear Europe have the ability to call for intraday margin for relevant F&O contracts, and ICE Clear Europe is seeking to comply with those requirements as soon as possible.²⁹

The Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act,³⁰ for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, prior to the 30th day after the date of publication of notice in the Federal Register, because the proposed rule change is required as soon as possible in order to facilitate ICE Clear Europe's efforts to comply with the aforementioned requirements.³¹ Additionally, the Commission notes that the proposed changes do not

²⁶ Id.

²⁷ 15 U.S.C. 78s(b)(2)(C)(iii).

²⁸ 15 U.S.C. 78s(b)(2)(C)(iii).

²⁹ See supra note 5.

³⁰ 15 U.S.C. 78s(b)(2)(C)(iii).

³¹ See id.

impede compliance with relevant U.S. law, including Section 17A(b)(3)(F) of the Act.³²

VI. 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(b)(3)(F) of the Act³³ and Rules 17Ad-22(e)(6)(ii) and 17Ad-22(e)(16) thereunder.³⁴

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act³⁵ that the proposed rule change (SR-ICEEU-2018-012), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.³⁶

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Eduardo A. Aleman
Assistant Secretary

³² 15 U.S.C. 78q-1(b)(3)(F).

³³ Id.

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

³⁵ 15 U.S.C. 78s(b)(2).

³⁶ 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).

³⁷ 17 CFR 200.30-3(a)(12).