

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-93236; File No. SR-ICEEU-2021-018)

October 1, 2021

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 20, 2021, 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 prepared primarily by ICE Clear Europe. 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

The principal purpose of the proposed amendments is for ICE Clear Europe to modify its Collateral and Haircut Procedures (the “Collateral and Haircut Procedures” or “Procedures”) to (i) include explicitly the formula used for calculating Permitted Cover value, and (ii) provide further details on the Clearing House’s procedures for monitoring data related to collateral valuations, including the responsibilities of its different teams.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 revise the Collateral and Haircut Procedures to state explicitly the formula used by the Clearing House for calculating the value of Permitted Cover provided by Clearing Members in respect of margin and guaranty fund requirements. The formula would provide that cover value is equal to  $\text{Nominal} * \text{Price} / 100 * (1 - \text{Haircut}) + \text{Nominal} * \text{Accrued}$ , where price is clean and accrued is expressed in %. Further to this description of the Permitted Cover value calculation, the changes would also state that as a matter of standard practice at the Clearing House, Treasuries would be given no cover value 2 business days prior to maturity and a cash call would be issued if a Member's account is in deficit. Additionally, the amendments would state that accrued interest would lose value one day prior to the coupon pay date. These changes reflect existing practice at ICE Clear Europe with respect to the valuation of Permitted Cover and are intended only to document that practice more clearly.

The amendments would also update the Clearing House’s processes for monitoring data related to collateral pricing and would describe the roles of various teams tasked with such monitoring. Specifically, the amendments would reflect that the System Operations team checks end of day collateral pricing. The amendments would state that the Credit team has the controls to monitor End of Day market data that the System Operations team uses to value collateral against thresholds to ensure that the data is not “stale”. Additionally, the amendment would provide that the Treasury team reconciles and confirms the daily bilateral collateral positions (nominal amounts). These amendments would not reflect a change in current practice, but are intended to clarify relevant documentation.

Finally, the description of the scope of the Collateral and Haircut Procedures would be revised to remove an incorrect statement that the Procedures do not address intraday and end of day valuation of collateral.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Collateral and Haircut Procedures are consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act<sup>4</sup> 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

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<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 to the Procedures are designed to clarify the documentation of certain existing practices of the Clearing House around valuation of Permitted Cover. Specifically, the amendments would update and clarify the processes, controls and escalations with respect to collateral valuation data monitoring as well as outline the responsibilities of the Clearing House's teams in relation to such monitoring. They would also state the formula used by the Clearing House for calculating Permitted Cover value. The amendments would thus facilitate the operation of the Clearing House's margin framework and overall risk management procedures, and thereby promote the stability of the Clearing House and the prompt and accurate clearance and settlement of cleared contracts. The amendments are for these reasons 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).<sup>5</sup>

The amendments to the Collateral and Haircut Procedures are also consistent with relevant provisions of Rule 17Ad-22. Rule 17Ad-22(e)(5) requires the clearing agency to “set and enforce appropriately conservative haircuts and concentration limits if [it]

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<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

requires collateral to manage its or its participants' credit exposure.”<sup>6</sup> Rule 17Ad-22(e)(6)(iv)<sup>7</sup> requires clearing agencies to maintain a risk-based margin model that, among other things, “uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable” The amendments would clarify the documentation of the Clearing House’s procedures for valuing collateral and monitoring relevant valuation and pricing data. As such, the amendments are consistent with the requirements of Rule 17Ad-22.

Rule 17Ad-22(e)(2)<sup>8</sup> requires clearing agencies to establish reasonably designed policies and procedures to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The amendments to the Collateral and Haircut Procedures would clarify the responsibilities of the Clearing House’s teams in relation to collateral valuation data monitoring. In ICE Clear Europe’s view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(2).<sup>9</sup>

(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

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<sup>6</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>7</sup> 17 CFR 240.17Ad-22(e)(6)(iv).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(2).

<sup>9</sup> 17 CFR 240.17Ad-22(e)(2).

of the purposes of the Act. The amendments are being adopted to update the Clearing House's Collateral and Haircut Procedures, which describe the Clearing House's internal processes for collateral and haircut risk management as presented in the ICE Clear Europe's Collateral and Haircut Policy. The amendments are intended to more clearly document certain valuation practices and are not intended to change Clearing House practices. 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.

(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 and adoption.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2021-018 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.

All submissions should refer to File Number SR-ICEEU-2021-018. 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 Room, 100 F Street NE, Washington, D.C. 20549, on official business days between the hours of 10:00 a.m.

and 3:00 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>.

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-2021-018 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.<sup>10</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).