

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72405; File No. SR-ICEEU-2014-08)

June 17, 2014

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearance of New Energy Futures and Options Contracts

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 June 5, 2014, ICE Clear Europe Limited (“ICE Clear Europe”) 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. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the change is to modify certain aspects of the ICE Clear Europe Delivery Procedures in connection with the launch by the ICE Endex market of three energy futures and options contracts that will be cleared by ICE Clear Europe: the German Power Base Load Futures Contract, German Power Peak Load Futures Contract, and German Power Base Load Option Contract (the “German Power Contracts”).

II. Self-Regulatory Organization’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

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

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

Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule amendments is to modify certain aspects of the ICE Clear Europe Delivery Procedures in connection with the launch by the ICE Endex market of the German Power Contracts that will be cleared by ICE Clear Europe. ICE Clear Europe does not otherwise propose to amend its clearing rules or procedures in connection with the German Power Contracts.

The amendments adopt a new Part J of the Delivery Procedures applicable to the German Power Contracts in the case of physical delivery under a futures contract. The amendments provide, among other matters, specifications for delivery of power under a German Power Contract through scheduling with the relevant transmission system operator ("TSO"), including relevant definitions and a detailed delivery timetable for the contracts. The amendments also address invoicing and payment for delivery and certain limitations on liability of the Clearing House for performance or non-performance by the relevant TSO. The amendments provide for calculation by the clearing house of buyer's and seller's security to cover delivery obligations and related liabilities, costs or charges, as well as procedures to address failed deliveries. The revised procedures also outline various documentation requirements for the relevant parties.

In addition, changes are made to paragraph 5.1 of the Delivery Procedures to include the German Power Contracts as well as certain other natural gas and power futures as contracts for which parties may nominate transferors and transferees to make and take delivery. Part H of the Delivery Procedures has also been removed as the relevant contract moved from trading on the

ICE Futures exchange to the ICE Endex exchange and is now covered by Part G of the Delivery Procedures.

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22,<sup>4</sup> and are consistent with the prompt and accurate clearance of 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 ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>5</sup> The German Power Contracts have similar characteristics to other ICE Endex and ICE Futures Europe energy contracts currently cleared by ICE Clear Europe, and ICE Clear Europe believes that its existing financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such products (and address physical delivery under such contracts).

Specifically, ICE Clear Europe believes that it will be able to manage the risks associated with acceptance of the German Power Contracts for clearing and physical delivery in such contracts. The German Power Contracts present a similar risk profile to other ICE Endex contracts currently cleared by ICE Clear Europe, and ICE Clear Europe believes that its existing risk management and margin framework is sufficient for purposes of risk management of the German Power Contracts and related deliveries.

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

<sup>4</sup> 17 CFR 240.17Ad-22.

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

Similarly, ICE Clear Europe has established appropriate standards for determining the eligibility of contracts submitted to the clearinghouse for clearing, and ICE Clear Europe believes that its existing systems are appropriately scalable to handle the German Power Contracts, which are generally similar from an operational perspective to the other ICE Endex power contracts currently cleared by ICE Clear Europe.

For the reasons noted above, ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A of the Act<sup>6</sup> and regulations thereunder applicable to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the Act. ICE Clear Europe is adopting the amendments to the Delivery Procedures in connection with the listing of new contracts for trading on the ICE Endex market. ICE Clear Europe believes that such contracts will provide additional opportunities for interested market participants to engage in trading activity relating to the German power market. ICE Clear Europe does not believe the adoption of related Delivery Procedures amendments would adversely affect access to clearing for clearing members or their customers, or otherwise adversely affect competition in clearing services.

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<sup>6</sup> 15 U.S.C. 78q-1.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>7</sup> of the Act and Rule 19b-4(f)<sup>8</sup> thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. 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:

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f).

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-2014-08 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-2014-08. 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, 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2014-08 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>9</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).