

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-80071; File No. SR-ICEEU-2017-001)

February 21, 2017

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Certain Charges and Rates of Return Applicable to Margin and Guaranty Fund Deposits

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 February 7, 2017, 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. ICE Clear Europe filed the proposed rule changes pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> so that the proposal was effective upon filing with the Commission. 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 proposed rule change is for ICE Clear Europe to modify certain specified charges and rates of return applicable to margin and guaranty fund deposits made by Clearing Members.

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

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

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

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

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

1. Purpose

The purpose of the proposed rule change is for ICE Clear Europe to modify certain specified charges and rates of return applicable to margin and guaranty fund deposits made by Clearing Members. (ICE Clear Europe imposes a charge on Clearing Members for margin and guaranty fund deposits in the form of securities, and pays a return to Clearing Members on margin and guaranty fund deposits in the form of cash.) The amendments will increase the charge on deposits in the form of securities by 2.5 basis points across all account types, and reduce the rate of return on deposits in the form of cash by 2.5 basis points, as a result of an increase in the charge against the ICE Deposit Rate from 5 basis points to 7.5 basis points.<sup>5</sup> Attached as Exhibit 5 is a Circular to Clearing Members specifying the revised charges and rates of return for margin and

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<sup>5</sup> Pursuant to a telephone conversation between staff in the Office of Clearance and Settlement of the Division of Trading and Markets and outside counsel for ICE Clear Europe, and subsequent email confirmation, this sentence has been amended by staff from the Office of Clearance and Settlement to delete language describing the increase in charges on deposits as being “in general” and to clarify that the reduction in the rate of return results from an increase in the charge against the ICE Deposit Rate to 7.5 basis points.

guaranty fund deposits. (The Circular also restates certain application and annual fees, which have not been changed.) The proposed changes allow ICE Clear Europe to continue to cover its increased costs in relation to its treasury management activities and ensure that the rates of return offered remain competitive with other market infrastructures.

## 2. Statutory Basis

ICE Clear Europe has determined that the charges and rates of return set forth in the circular are reasonable and appropriate for margin and guaranty fund deposits. In particular, ICE Clear Europe believes that the fees and rates of return have been set at an appropriate level given the costs and expenses to ICE Clear Europe in accepting, maintaining, holding and investing, as appropriate, such deposits. The charges and rates of return will apply to all Clearing Members. ICE Clear Europe believes that imposing such charges and rates of return thus provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, within the meaning of Section 17A(b)(3)(D) of the Act.<sup>6</sup> ICE Clear Europe therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and regulations thereunder applicable to it.

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

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. Although the changes may result in certain additional costs to Clearing Members, ICE Clear Europe believes that the revised fees and rates of return

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

have been set at an appropriate level given the costs and expenses to ICE Clear Europe in accepting, maintaining, holding and investing, as appropriate, margin and guaranty fund deposits. ICE Clear Europe does not believe that the amendments would adversely affect the ability of such Clearing Members or other market participants generally to engage in cleared transactions or to access clearing. Since the revised charges and rates of return will apply to all Clearing Members, ICE Clear Europe further believes that the fees will not otherwise adversely affect competition among Clearing Members, adversely affect the market for clearing services, or limit market participants' choices for obtaining clearing services.

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)(2)<sup>8</sup> thereunder because the proposed rule change establishes a fee or other charge imposed by ICE Clear Europe on its Clearing Members, within the meaning of Rule 19b-4(f)(2). 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

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

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2017-001 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-2017-001. 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/clear-europe/regulation#rule-filings>.

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-2017-001 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>

Eduardo A. Aleman  
Assistant Secretary

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