

SECURITIES AND EXCHANGE COMMISSION
Release No. 34-82659; File No. SR-ICEEU-2017-011

February 8, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Policy

I. Introduction

On November 2, 2017, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to modify the ICE Clear Europe Collateral and Haircut Policy to incorporate certain changes to the calculation of absolute collateral limits for bonds provided as Permitted Cover by Clearing Members and make certain clarifications and updates and add certain general provisions.³ The proposed rule change was published for comment in the Federal Register on November 17, 2017.⁴ The Commission did not receive comments regarding the proposed rule change. On December 27, 2017, the Commission designated a longer period for Commission action on the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used in this order but not defined herein have the same meanings specified in the ICE Clear Europe Clearing Rules.

⁴ Securities Exchange Act Release No. 82063 (Nov. 13, 2017), 82 FR 54423 (Nov. 17, 2017) (SR-ICEEU-2017-011) (“Notice”).

change.⁵ For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would amend ICE Clear Europe's Collateral and Haircut Policy to set the absolute collateral limits for bonds provided as Permitted Cover by Clearing Members so as to more accurately capture the trading liquidity of each bond. The proposal would also take into account ICE Clear Europe's committed repo facilities to permit Clearing Members to maintain collateral in excess of normal absolute limits.⁶ In addition, the proposed rule change would revise the haircut calculation. Finally, the proposed rule change would update the Collateral and Haircut Policy to add certain general provisions designed to enhance ICE Clear Europe's governance. These changes are further described below.

With respect to setting absolute collateral limits for bonds provided as Permitted Cover by Clearing Members, ICE Clear Europe proposed to set limits for each bond issuer and collateral type at 10% of the average daily volume over the past three months, rounded to the nearest million.⁷ The proposed rule change would also change the underlying data used in the calculation of the absolute limit from a repo survey of market participants to actual secondary market trading volume data provided by ICE Data

⁵ Securities Exchange Act Release No. 82405 (Dec. 27, 2017), 83 FR 181 (Jan. 2, 2018).

⁶ As used herein, the term "absolute limit" refers to the maximum amount of bonds from an individual issuer that ICE Clear Europe will accept from a Member Group. See Notice, 82 FR at 54424.

⁷ Id.

Services, except where official trading volume data is available from a primary source, such as a governmental agency or central bank.⁸

To complement the changes to the absolute collateral limits described above, ICE Clear Europe proposed changes to its haircut methodology. In particular, the proposed rule change would amend the haircut methodology to include a two-sided VaR estimation based on the largest absolute returns.⁹ The proposed rule change would also amend the Collateral and Haircut Policy to note scenarios in which the ICE Clear Europe Clearing Risk Department may consider other factors in setting haircuts, such as the effects caused by changes in the different underlying bonds used to build bond price time-series or the impact of unexpected currency events on the calculation of cross-currency FX haircuts.¹⁰

In addition, the proposed rule change would also amend the Collateral and Haircut Policy to account for ICE Clear Europe's committed repo facilities. For example, in certain circumstances, ICE Clear Europe permits a Clearing Member to maintain a collateral bond position that otherwise exceeds the applicable absolute collateral limits if ICE Clear Europe is able to determine that it would be able to use its committed repo facility to convert the excess collateral securities into cash. In addition, to permit the use of repo facilities in this way, the proposed rule change also clarifies that the repo facilities are available at any time there is an intra-day liquidity need and not just in case of Clearing Member default.¹¹

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

Finally, the proposed rule change would amend the Collateral and Haircut Policy to update references to internal ICE Clear Europe personnel, departments and committees and to explain the process for validation and oversight of the models used to support the Collateral and Haircut Policy.

III. Discussion and Commission Findings

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.¹² For the reasons given below, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act¹³ and Rules 17Ad-22(e)(2) and (5) thereunder.¹⁴

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 a registered clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.¹⁵ The proposed rule change will enhance ICE Clear Europe's ability to control the credit, liquidity, and market risks stemming from the collateral it accepts by establishing a maximum amount of bonds

¹² 15 U.S.C. 78s(b)(2)(C).

¹³ 15 U.S.C. 78q-1(b)(3)(F).

¹⁴ 17 CFR 240.17Ad-22(e)(2), (5).

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

from an individual issuer that ICE Clear Europe will accept from a Member Group as collateral. These new maximum amounts will be derived from actual secondary market trading volume data, and therefore should be more reliable than the prior absolute limits, which as noted above, were based on a repo survey of market participants as a proxy for trading liquidity. Therefore, these limits should be more accurate, and consequently, enhance ICE Clear Europe's ability to liquidate the bond collateral in a timely manner. Further, the proposed rule change also proposes to incorporate a two-sided VaR estimation based on the largest absolute returns for purposes of setting haircuts. Taken together these two changes should enhance ICE Clear Europe's ability to manage the credit, liquidity, and market risks it faces from posted collateral, and therefore enhance ICE Clear Europe's ability to safeguard securities and funds which are in its custody or control or for which it is responsible. Therefore, the Commission finds that the proposed rule change is designed 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, protects investors and the public interest, and is therefore consistent with Section 17A(b)(3)(F) of the Act.¹⁶

¹⁶ Id.

B. Consistency with Rule 17Ad-22(e)(5)

The Commission further finds that the proposed rule change is consistent with Rule 17Ad-22(e)(5). Rule 17Ad-22(e)(5) requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually.¹⁷

The proposed rule change will enhance ICE Clear Europe's ability to control the liquidity and market risks stemming from the posting of collateral by establishing a maximum amount of bonds from an individual issuer that ICE Clear Europe will accept from a Member Group as collateral. The proposed rule change will improve the accuracy of the Collateral and Haircut Policy by taking into account the trading liquidity of the bond using secondary market trading volume data provided by ICE Data Services. Moreover, by updating the Collateral and Haircut Policy to incorporate a two-sided VaR estimation based on the largest absolute returns, the proposed rule change will capture a broader range of price volatility information, thereby enhancing ICE Clear Europe's ability to liquidate the bond collateral in a timely manner without losses beyond the given haircuts. The Commission finds that these aspects of the proposed rule change are intended to limit the assets ICE Clear Europe accepts as collateral to those with low

¹⁷ 17 CFR 240.17Ad-22(e)(5).

credit, liquidity, and market risks, and to set and enforce appropriately conservative haircuts. Therefore, the proposed rule change is consistent with Rule 17Ad-22(e)(5).¹⁸

C. Consistency with Rule 17Ad-22(e)(2)

Rule 17Ad-22(e)(2) requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants.¹⁹ The proposed rule change will update references to internal ICE Clear Europe personnel, departments and committees and will explain the process for validation and oversight of the models used to support the Collateral and Haircut Policy. Therefore, the Commission finds that the proposed rule change is consistent with the requirement in Rule 17Ad-22(e)(2) concerning governance arrangements that are clear and transparent and that support the public interest requirements of Section 17A of the Act applicable to clearing agencies and the objectives of participants.²⁰

IV. 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 of the Act²¹ and Rules 17Ad-22(e)(2) and (5) thereunder.

¹⁸ Id.

¹⁹ 17 CFR 240.17Ad-22(e)(2)(i) and (iii).

²⁰ Id.

²¹ 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act²² that the proposed rule change (SR-ICEEU-2017-011) be, and hereby is, approved.²³

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

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Assistant Secretary

²² 15 U.S.C. 78s(b)(2).

²³ 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).

²⁴ 17 CFR 200.30-3(a)(12).