

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83072; File No. SR-ICEEU-2018-006)

April 19, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to amendments to the ICE Clear Europe CDS End-of-Day Pricing Policy

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 April 5, 2018, 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

ICE Clear Europe proposes revisions to its CDS End-of-Day Price Discovery Policy (“Price Discovery Policy”) related to the bid-offer width (“BOW”) methodology for credit default swap (“CDS”) contracts.

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

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

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

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 proposes revising its Price Discovery Policy to enhance the methodology used to determine bid-offer widths ("BOWs") for CDS Contracts to incorporate a new variability band methodology, and to make certain other updates and clarifications.

Each business day, ICE Clear Europe determines end-of-day ("EOD") levels for CDS Contracts through its Price Discovery Policy, based on EOD submissions from its CDS Clearing Members. ICE Clear Europe uses these levels for mark-to-market and risk management purposes. As part of this price discovery process, ICE Clear Europe determines BOWs for each eligible CDS Contract. The BOW is intended to estimate the bid-offer width for the two-way market available for each clearing-eligible instrument at the specified determination time on each business day. The BOWs are then used in ICE Clear Europe's price discovery process as inputs in the determination of EOD levels and firm trades, and other risk management matters.

The current methodology for determining BOWs is based on observed intraday quotes and an assessment of the current level of market variability. Based on this information, ICE Clear Europe determines a consensus BOW for each relevant instrument. The amendments remove from the Price Discovery Policy an alternative approach for calculating consensus BOWs using exponentially weighting moving

averages that was planned but never implemented. The amendments restate the current methodology in use (which is based on specified averages of BOW time series).

The amendments also adopt a new variability band approach for widening BOWs in certain market conditions. Under volatile or fast-moving market conditions, BOWs may temporarily be wider than observed in intraday quotes. Currently, ICE Clear Europe's clearing risk department monitors market conditions and may apply manual adjustments to BOWs as appropriate to take into account such conditions. ICE Clear Europe proposes to capture such market conditions in a more comprehensive and automated way through a methodology that computes a variability level and a variability band for each of the main risk factors based on a time series of intraday quote mid-levels for the most actively traded instrument ("MATI") of the considered risk factor. The BOW will be automatically adjusted based on the variability band, as discussed herein.

For index instruments, under the revised approach, ICE Clear Europe will compute a variability level for each of the main index risk factors. For each instrument, ICE Clear Europe's systems establish a time series of intraday quote mid-levels for the MATI. If the last mid-level in the time series is below the prior day's EOD level by more than one pre-defined BOW for regime 3, the variability level is the difference between the prior day's EOD level and the minimum mid-level in the time series, divided by the pre-defined BOW. For intraday mid-levels falling within one pre-defined regime 3 BOW from the prior day's EOD level, the variability level is set to 1.0 if the range of mid-levels in the time series is less than or equal to the pre-defined regime 3 BOW, and set to 1.2 if the range of mid-levels in the time series is greater than the pre-defined regime 3 BOW.

Under the revised policy, ICE Clear Europe will establish variability bands (from zero to three) that correspond to specific ranges of variability level (with band zero having the lowest range of variability level). ICE Clear Europe will then group index risk factors into specific market-proxy groups, CDX (covering the North American investment grade and high yield index risk factors) and iTraxx (covering the iTraxx main, cross over, senior financial, sub financials and high volatility index risk factors). For each market proxy group, ICE Clear Europe will determine a market proxy variability band by using the largest variability band computed for the index risk factors within that proxy group.

For index instruments, ICE Clear Europe will continue to maintain three different predefined BOWs, each of which corresponds to one of three specific market regimes (regime 1, regime 2 and regime 3, with the BOW for regime 1 being the smallest and regime 3 the largest). As under the current approach, ICE Clear Europe first selects the market regime for each index risk sub-factor based on its MATI. Under the revised approach, ICE Clear Europe will then adjust the regime for each index risk sub-factor's MATI depending on the applicable market proxy variability band for the instrument. The adjustment (referred to as an index variability increment) can be none, one regime (moving from Regime 1 to Regime 2 or from Regime 2 to Regime 3), or two regimes (moving from Regime 1 to Regime 3 or from Regime 2 to Regime 3). Higher market proxy variability bands result in a larger adjustment. The clearing risk department has the discretion to adjust market regimes as it determines best reflects current market conditions.

For single-name instruments, the revised policy applies a new scaling factor, referred to as an SN variability factor, to the consensus EOD BOWs for single name instruments calculated under the existing methodology. The SN variability factor will be determined based on a market proxy variability band. ICE Clear Europe will assign each single name risk factor to a specific market proxy group (CDX for standard North American corporates, iTraxx for standard European corporates and standard Western European sovereigns). The scaling factor will range from 1 to 1.5, depending on the market proxy variability band (with higher bands having a higher variability factor). The clearing risk department also has discretion to override the scaling actor with any factor it deems appropriate to best reflect market conditions.

In connection with these changes, ICE Clear Europe is removing from the policy an alternative approach to variability adjustments that was planned but had not been implemented.

The amendments also contain various typographical corrections, updates to cross-references and similar clarifications.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act<sup>4</sup> in particular requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and

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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).

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, and the protection of investors and the public interest.

The proposed amendments are designed to enhance the Clearing House's Price Discovery Policy, which is a key aspect of the risk management and daily settlement procedures of the Clearing House for CDS Contracts. The proposed amendments in particular will provide a more comprehensive and automated approach for adjusting BOWs used in the EOD price discovery process for both index and single-name CDS Contracts to reflect market conditions, particularly during periods of high market variability. ICE Clear Europe believes that the amendments will thus promote prompt and accurate clearing and settlement, within the meaning of Section 17A(b)(3)(F). For similar reasons, ICE Clear Europe believes that the amendments are also consistent with the risk-based margining requirements of Commission Rule 17Ad-22(e)(6),<sup>5</sup> including the requirement to use reliable sources of timely price data and procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.

(B) Clearing Agency'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. The proposed changes to the Price Discovery Policy, and in particular the revised BOW variability methodology for Single Name and Index instruments, will apply uniformly across all CDS Clearing Members and market participants. ICE Clear Europe does not believe the amendments will adversely affect

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<sup>5</sup> 17 C.F.R. 240.17Ad-22(e)(6).

competition among CDS Clearing Members, the cost of clearing, or the ability of market participants to clear CDS Contracts generally. Similarly, the Clearing House does not believe the amendments will reduce access to clearing of CDS Contracts or limit market participants' choices for clearing CDS Contracts. Therefore, ICE Clear Europe does not believe the proposed rule changes impose 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 comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change

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 the proposed rule change or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

#### 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-2018-006 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. 20549-1090.

All submissions should refer to File Number SR-ICEEU-2018-006. 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 Section, 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/notices/Notices.shtml?regulatoryFilings>.

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-2018-006 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>6</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).