

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85587; File No. SR-ICEEU-2019-007)

April 10, 2019

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Delivery Procedures.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 26, 2019, 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 by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4)⁴ thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

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 add delivery terms relating to the ICE Endex Central European Gas Hub AG (“CEGH”) Austrian VTP Natural Gas Futures Contracts.⁵

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 amend its Delivery Procedures to add a new Part EE regarding delivery procedures relating to a new natural gas futures contract, the ICE Endex CEGH Austrian VTP Natural Gas Futures Contract (the “Contract”), that would be traded on ICE Endex and cleared by ICE Clear Europe.

Proposed Part EE would set out the delivery specifications and procedures for deliveries under the Contract. Delivery would be effected by the transfer of rights to natural

⁵ Capitalized terms used but not defined herein have the meaning specified in the ICE Clear Europe Clearing Rules (the “Rules”).

gas at the Virtual Trading Point (“VTP”)⁶ from a Transferor (nominated by the Seller and which may be the Seller) to the Clearing House and from the Clearing House (via its nomination agent) to a Transferee (nominated by the Buyer and which may be the Buyer) through the input of Trade Nominations into the CEGH electronic system. Under Part EE, Clearing Members would authorize the Clearing House to make Trade Nominations on their behalf. The amendments would also establish certain timing requirements for exchange of futures for physical and swap transactions under exchange rules.

Proposed Part EE would address certain the responsibilities of the Clearing House and relevant parties for delivery under the Contracts, supplementing the existing provisions of the Rules. Specifically, the Clearing House would not be responsible for the performance of CEGH. Further, neither the Buyer nor the Seller, nor their Transferees or Transferors, would have any claim against the Clearing House for any loss incurred as a result of the condition or operation of the Transmission Network unless provided in the ICE Endex Rules.

Proposed Part EE would address delivery contract security for the Buyer and Seller, invoicing with respect to the Contract and certain details of the delivery process, including processes relating to a failed delivery. Delivery under Contracts would be based on open contract positions at the cessation of trading and EFPs and EFSs posted up to one hour following the cessation of trading on the last trading day for which delivery is specified. The procedures would include a detailed timeframe for relevant notices of intent to deliver or receive, nominations of Transferors and Transferees, delivery confirmations, invoicing,

⁶ This is the virtual trading point as defined in the Austrian Natural Gas Act 2011, in respect of a Contract, being a notional point in the Austrian Eastern Market Area at which natural gas can be traded after injection and before offtake.

provision of security and release of security following completion of delivery and other matters.

Proposed Part EE would also describe certain reports produced by the Clearing House that are made available to Buyers and Sellers and their timing.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act⁷ 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 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 amendments are designed to facilitate the clearing of a new physically settled natural gas futures contract that is being launched for trading by the ICE Endex exchange. The amendments would set out the obligations and roles of Clearing Members and the Clearing House. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such contract (and to address physical delivery under such contract) and to manage the risks associated with such contract. As a result, in ICE Clear Europe's view, the amendments would be consistent with the prompt and accurate clearance and settlement of the Contract as set out in the proposed Delivery Procedures amendments, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.⁸ (In ICE Clear Europe's view, the amendments would

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

not affect the safeguarding of funds or securities in the custody or control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).⁹)

In addition, Rule 17Ad-22(e)(10)¹⁰ requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries. As discussed above, the amendments to the Delivery Procedures relating to the delivery and settlement under the Contract and ICE Endex exchange contract terms would set out the obligations and roles of Clearing Members, the Clearing House and CEGH. The amendments would also adopt relevant procedures for such deliveries, which would facilitate identifying, monitoring and managing risks associated with delivery.

(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 purposes of the Act. The changes are being proposed in order to update the Delivery Procedures in connection with the listing of the Contract for trading on the ICE Endex market. ICE Clear Europe believes that such contracts would provide opportunities for interested market participants to engage in trading activity in the Austrian VTP Natural Gas market. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in Contracts for Clearing Members or their

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 17 C.F.R. 240.17Ad-22(e)(10).

customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose 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 amendments.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f) of Rule 19b-4¹² thereunder. 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:

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 C.F.R. 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. Please include File Number SR-ICEEU-2019-007 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-2019-007. 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, N.E., 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-2019-007 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.¹³

Eduardo A. Aleman
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).