

SECURITIES AND EXCHANGE COMMISSION
Release No. 34-87880; File No. SR-ICEEU-2019-029

January 2, 2020

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes relating to Clearing Member Charges and Rates of Return on Cash and Collateral in Relation to Margin Deposits and Guaranty Fund Contributions for all Clearing Member House and Customer Accounts

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 December 20, 2019, 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 primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(2)⁴ thereunder, so that the proposed rule change 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. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise Clearing Member Charges and Rates of Return on cash and collateral in relation to margin deposits and Guaranty Fund contributions for all Clearing Member House and Customer Accounts.

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)(2).

The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.⁵

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

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) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

The purpose of the proposed rule changes are for ICE Clear Europe to: (i) reduce the Rate of Return paid to Clearing Members on cash balances; and (ii) increase the charges levied on Clearing Members in relation to collateral in respect of margin deposits and Guaranty Fund contributions.

Attached [sic] as Exhibit 5 are the tables listing the new Clearing Member Charges and Rates of Return that will be included in a Circular in advance of the effective date. The new Clearing Member Charges and Rates of Return are expected to come into effect on January 1, 2020. The proposed revisions to the Clearing Member Charges and Rates of Return are set forth in Exhibit 5 hereto, and described in detail as follows.

⁵ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

Currently, ICEU pays a rate of return on cash deposited by Clearing Members in respect of margin deposits and Guaranty Fund contributions referred to as the ICE Deposit Rate (“IDR”). IDR is calculated daily and applied to cash balances held at the close of business on the previous business day in respect of three currencies, US Dollar, Euro and Pound Sterling. It is calculated as follows: the net income earned on cash deposits (positive or negative) less a charge of 12.5 basis points (out of which the Clearing House shall cover external investment management expenses). ICEU proposes to increase this charge to 15 basis points.

ICEU also proposes to increase the Clearing House charges for Collateral and Triparty Collateral as per Exhibit 5.

	Cash	Collateral	Triparty Collateral
Margin Deposits			
House and Affiliate Accounts (“H”, “F” and “R”)	Clearing House pays IDR	Clearing House charges <u>8.33</u> [7.5] basis points	Clearing House charges <u>8.33</u> [7.5] basis points
Segregated Customer Accounts (“C”, “E”, “K”, “S”, “T”, “W” and “Z”)	Clearing House pays IDR	Clearing House charges <u>8.33</u> [7.5] basis points	Clearing House charges <u>8.33</u> [7.5] basis points
Standard Omnibus Indirect Customer Accounts (“O”, “P”, “X” and “Y”)	Clearing House pays IDR	Clearing House charges <u>8.33</u> [7.5] basis points	Clearing House charges <u>8.33</u> [7.5] basis points
Gross Omnibus Indirect Customer Accounts (“A” and “B”)	Clearing House pays IDR minus 15 bps	Clearing House charges <u>10.33</u> [9.5] basis points	Clearing House charges <u>10.33</u> [9.5] basis points
Individually Segregated Operationally Co-mingled (“ISOC”) Account (“I” and “J” Account)	Clearing House pays IDR minus 15 bps	Clearing House charges <u>10.33</u> [9.5] basis points	Clearing House charges <u>10.33</u> [9.5] basis points
Individually Segregated Sponsored Account (“Sponsored Principal”)	Clearing House pays IDR minus 20 bps	Clearing House charges <u>13.33</u> [12.5] basis points	Clearing House charges <u>13.33</u> [12.5] basis points
Guaranty Fund			
All Clearing Members	Clearing House pays IDR	Clearing House charges <u>8.33</u> [7.5] basis points	N/A

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act⁶ and regulations thereunder applicable to it. More specifically ICE Clear Europe has determined that imposing such Charges and Rates of Return uniformly across all market participants 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.⁷ As such, the proposed changes are appropriately filed pursuant to Section 19(b)(3)(A)⁸ of the Act and paragraph (f)(2) of Rule 19b-4⁹ thereunder.

(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 because the changes to the Clearing Member Charges and Rates of Return will apply uniformly across all market participants. 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.

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78q-1(b)(3)(D). Under this provision, “[a] clearing agency shall not be registered unless the Commission determines that — (D) The rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.”

⁸ 15 U.S.C 78s(b)(3)(A)

⁹ 17 CFR 240.19b-4(f)(2)

(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, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁰ of the Act and paragraph (f) of Rule 19b-4¹¹ 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, security-based swap submission or advance notice 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2019-029 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-2019-029. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice 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-2019-029 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.¹²

J. Matthew DeLesDernier
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).