

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89351; File No. SR-ICEEU-2020-011)

July 20, 2020

Self-Regulatory Organizations; ICE Clear Europe Limited (“ICE Clear Europe”); Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Amendments to Delivery Fees on UK Electricity Futures Contracts and Amendments to Clearing Fees of Certain Natural Gas Spot and Natural Gas Daily Futures Contracts.

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 July 15, 2020, 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 Act³ and Rule 19b-4(f)(2)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.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (“ICE Clear Europe”) proposes rule changes relating to (i) amendments to delivery fees on UK electricity futures contracts and (ii) amendments to clearing fees of certain natural gas spot and natural gas daily futures contracts. The

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).

proposed amendments 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

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

(a) Purpose

The purpose of the proposed rule changes is for ICE Clear Europe to (i) reduce the delivery fees associated with UK electricity futures to better reflect the actual variable cost charged by the transmission system operator through Elexon;⁶ and (ii) increase exchange and clearing fees in combination with removing the cash settlement and delivery charges for a number of natural gas spot and natural gas daily futures contracts. Attached as Exhibit 5 is an attachment containing tables listing the new fee schedules and a Circular in advance of the proposed effective date. The new fees are intended to come

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

⁶ Elexon is known as the balance and settlement code company for the UK electricity market and is responsible for processing payments between generators and suppliers after comparing the amount they said they would consume with actual volumes (<https://www.elexon.co.uk/>).

into effect on 01 August 2020 subject to regulatory approval. The proposed revisions to the fees are described in detail as follows.

The fee currently charged for the delivery of the UK electricity futures cleared by ICE Clear Europe (GBP0.00450/ MWh) is nine times higher than the actual variable costs for the delivery service provided by the transmissions system operator through Elexon (GBP0.00050/MWh). Accordingly, ICE Clear Europe is proposing to decrease the delivery fee for the following products:

Product name	Product name	Type	Trading Venue (MIC)	Clearing Venue
UBL	UK Base Electricity Future (Gregorian)	Daily Future	IFEU	ICEU
UPL	UK Peak Electricity Future (Gregorian)	Daily Future	IFEU	ICEU

Please see fee schedule and proposed change below:

Fee type	Trade type	Current fee	Proposed fee	Currency	UoM
Exchange fee	EFP/EFS/Block	0.00050	0.00050	GBP	MWh
Clearing fee	EFP/EFS/Block	0.00450	0.00450	GBP	MWh
Exchange fee	Futures	0.00150	0.00150	GBP	MWh
Clearing fee	Futures	0.00350	0.00350	GBP	MWh
Cash settlement		n/a	n/a	GBP	MWh
Deliveries		0.00450	0.00050	GBP	MWh

The proposed changes to ICE Clear Europe's exchange and clearing fees in combination with removing the cash settlement and delivery charges will apply to the following products:

Product name	Product name	Type	Trading Venue (MIC)	Clearing Venue
TFE	Dutch TTF Gas Daily Futures	Daily Future	NDEX	ICEU

NBD	UK Natural Gas Daily Future	Daily Future	IFEU	ICEU
EZH	Belgian ZTP Gas Spot	Spot	NDXS	ICEU
EZL	Belgian ZTPL Gas Spot	Spot	NDXS	ICEU
ETT	TTF Gas Spot	Spot	NDXS	ICEU
ENB	UK OCM Gas Spot	Spot	NDCM	ICEU

The proposal, which follows consultation with market participants, involves removing the cash settlement and delivery charges for these contracts and increasing the exchange and clearing fees (whilst maintaining the existing ratio between execution and clearing).

The table below sets out the current fees:

Fees	Trade type	Current Fees					
		NDEX	NDXS	NDXS	NDCM	NDCM	IFEU
			08-18	18-08	08-18	18-08	
EUR/MWh			GBPp/therm				
Exchange fee	EFP/EFS/Block	0.00038	n/a	n/a	n/a	n/a	0.00025
Clearing fee	EFP/EFS/Block	0.00337	n/a	n/a	n/a	n/a	0.00225
Exchange fee	Futures	0.00113	0.00113	0.00375	0.00100	0.00300	0.00080
Clearing fee	Futures	0.00262	0.00262	0.00750	0.00200	0.00600	0.00170
Cash settlement		n/a	n/a	n/a	n/a	n/a	0.00050
Deliveries		0.00200	n/a	n/a	n/a	n/a	0.00500

The table below sets out the proposed changes to the fees (with changes highlighted in red font for ease of review):

Fees	Trade type	Proposed Fees					
		NDEX	NDXS	NDXS	NDCM	NDCM	IFEU
			08-18	18-08	08-18	18-08	
EUR/MWh			GBPp/therm				
Exchange fee	EFP/EFS/Block	0.00125	n/a	n/a	n/a	n/a	0.00050
Clearing fee	EFP/EFS/Block	0.01125	n/a	n/a	n/a	n/a	0.00450
Exchange fee	Futures	0.00417	0.00417	0.00833	0.00167	0.00333	0.00170
Clearing fee	Futures	0.00833	0.00833	0.01667	0.00333	0.00667	0.00330

Cash settlement		n/a	n/a	n/a	n/a	n/a	n/a
Deliveries		n/a	n/a	n/a	n/a	n/a	n/a

Please note that the fees on the website are in GBP/lot (=1,000 therms), whilst the fees in the filing are equal to 1/10 of this as are expressed in GBPp (pence)/therm.

(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 Act⁷ and regulations thereunder applicable to it. ICE Clear Europe's fees are imposed at the product level on a per transaction basis (as are the applicable Exchange fees). As a result, the fees apply equally to all market participants who trade/clear the Contracts. ICE Clear Europe believes that the changes in fees provides appropriate incentives and rewards to market participants for the use of the Clearing House's clearing services for the Contracts. ICE Clear Europe believes that the current delivery fee in relation to UK electricity contracts could better reflect the actual variable cost charged by the transmission system operator through Elexon, and therefore plans to reduce the delivery fee. Following consultation with market participants, ICE Clear Europe also believes that the current fees in relation to the natural gas products should be increased, to properly compensate ICE Clear Europe for the risks, costs and expenses of clearing the Contracts. ICE Clear Europe believes that the increases in the fees are relatively modest in size. ICE Clear Europe has determined that the revised fees will provide a more appropriate balance between the

⁷ 15 U.S.C. 78q-1.

costs of clearing and expenses incurred by ICE Clear Europe. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act⁸, and further do not unfairly discriminate among such participants in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.⁹

(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. As discussed above, because fees are imposed on a per transaction basis at the product level, the changes to the fees are applied equally to all those market participants who trade and/or clear the Contracts. Although the amendments with respect to the natural gas contracts may result in higher fees for particular Clearing Members because of the higher fee on specific products, ICE Clear Europe believes that the new fees would be set at an appropriate level to better reflect the cost that the Clearing House takes on by facilitating the relevant clearing services. ICE Clear Europe does not believe that the amendments would adversely affect the ability of such Clearing Members or other market participants generally to access clearing services

⁸ 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.”

⁹ 15 U.S.C. 78q-1(b)(3)(F).

for the Contracts. Further, since the revised fees will apply to all Clearing Members that clear the products, ICE Clear Europe believes that the amendments would not otherwise 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 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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2020-011 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-2020-011. 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/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-2020-011 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).