

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-91091; File No. SR-ICEEU-2021-003)

February 9, 2021

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 February 2, 2021, 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)(ii)⁴ thereunder, such that the proposed rule 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

The principal purpose of the proposed amendments is for ICE Clear Europe to amend its Delivery Procedures (the “Delivery Procedures”) to add a new Section 11 and a new Part GG to address delivery relating to the ICE Futures Abu Dhabi Murban Crude

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)(ii).

Oil Futures Contracts (the “ICE Murban Crude Oil Futures Contracts” or the “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 Section 11 and a new Part GG to address delivery relating to the ICE Murban Crude Oil Futures Contracts. The Contracts will be traded on ICE Futures Abu Dhabi and cleared by ICE Clear Europe.

New Part GG would set out the delivery specifications and procedures for deliveries of Murban crude oil under the ICE Murban Crude Oil Futures Contract. The amended Delivery Procedures would specify the delivery mode (with reference to applicable requirements of the relevant delivery terminal in Fujairah, UAE) and delivery loading volume tolerances). Consistent with the exchange rules for the Contracts, delivery would

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

take place on one or more consecutive Terminal Loading Days within the Delivery Range (which range must fall within the Delivery Period). The new Part GG would also address requirements as to delivery free of encumbrances, and determination of delivery quantity and price by reference to exchange rules for the Contract. The amendments would also establish certain timing requirements for exchange of futures for physical and swap transactions under exchange rules.

New Part GG would provide a detailed delivery timetable, from the last trading day of the Contract through final settlement, including procedures, deadlines and requirements for nominations or substitutions of delivery range and delivery day, loading programme, delivery confirmations, delivery margin, invoicing, receipt confirmations, and other matters. The procedures would also address invoice calculation with respect to the Contract and delivery loading volume tolerances. New Part GG would also specify the delivery documentation required of Buyers and Sellers.

New Section 11 of the Delivery Procedures would provide for an alternative delivery procedure for the Contracts if the Buyer and Seller agree to undertake delivery outside the ICE Futures Abu Dhabi Rules (similar to the alternative delivery procedure for other cleared F&O Contracts).

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act⁶ 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,

⁶ 15 U.S.C. 78q-1(b)(3)(F).

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 crude oil futures contract being launched for trading by the ICE Futures Abu Dhabi exchange and that will be cleared by ICE Clear Europe. The amendments would set out the obligations and roles of the Clearing House and the relevant parties for delivery under the Contracts, supplementing the existing provisions of the Rules. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such Contracts (and to address physical delivery under such Contracts) and to manage the risks associated with such Contracts. As a result, in ICE Clear Europe's view, the amendments would be consistent with the prompt and accurate clearance and settlement of the Contracts 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.⁷ (In ICE Clear Europe's view, the amendments would not adversely 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).⁸)

In addition, Rule 17Ad-22(e)(10)⁹ requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 17 C.F.R. 240.17Ad-22(e)(10).

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 of Murban crude oil under the Contracts would set out the obligations and roles of Clearing Members and the Clearing House. The amendments would also specify the mode of delivery and adopt relevant procedures, deadlines and documentation requirements for such deliveries, which would facilitate identifying, monitoring and managing risks associated with delivery. As such, in ICE Clear Europe's view, the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).¹⁰

(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 Contracts for trading on the ICE Futures Abu Dhabi market. ICE Clear Europe believes that the Contracts would provide additional opportunities for interested market participants to engage in trading activity in the Murban crude oil 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 customers, or otherwise adversely affect competition in clearing services. Accordingly,

¹⁰ 17 C.F.R. 240.17Ad-22(e)(10).

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 rule change.

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-2021-003 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-2021-003. 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 NE, Washington, DC 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/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-2021-003 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

J. Mathew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).