

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-91673; File No. SR-ICEEU-2021-008)

**April 26, 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”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 19, 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 primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(4)(ii)<sup>4</sup> 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”) in connection with the

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(a).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

transition of the trading of Deliverable EU Emissions Contracts from ICE Futures Europe to ICE Endex.<sup>5</sup>

**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 Part A of its Delivery Procedures in connection with the contemplated transition of the trading of Deliverable EU Emissions Contracts from ICE Futures Europe to ICE Endex Markets B.V (“ICE Endex”).<sup>6</sup> The transition is expected to occur in June 2021.<sup>7</sup> The Deliverable EU Emissions Contracts being transitioned will be the EUA Futures and Options, EUA Daily Futures and EUAA Futures. Following the transition, the contracts will continue to be cleared by ICE Clear

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

<sup>6</sup> See ICE Futures Europe Circular 21/012 (Feb 8, 2021).

<sup>7</sup> See ICE Futures Europe Circular 21/025 (Feb. 25, 2021).

Europe. ICE Clear Europe is also removing from Part A provisions relating to CER Contracts and Auction Contracts, which are no longer traded on ICE Futures Europe.

Changes would be made throughout Part A to reference ICE Endex as the relevant exchange in lieu of ICE Futures Europe, including to refer to the relevant contracts as “ICE Endex Deliverable EU Emissions Contracts.” In connection with the removal of the CER Contracts, the Clearing House is proposing to remove the definitions of Auction, Auctioneer Seller, Certified Emission Reduction or CER, CER Contract, CER Delivery Amount, CER Transfer Request, Kyoto Protocol, Linking Directive and UNFCCC Independent Transaction Log and related concepts. The defined term “Account” would be renamed “Registry Account” (with references to CERs removed), with conforming changes made throughout Part A.

In addition, throughout Part A, references to the Crystal system would be updated to references to ECS and/or MFT, reflecting current Clearing House systems.

The defined term “Carbon Emissions Allowance” or “EUA” would be amended to remove reference to the start date of the validity period for the ICE Futures EUA Phase 4 Daily Futures Contract because the referenced date (January 1, 2021) has already passed, and would instead reference validity during the relevant period.

In paragraphs 2.2 and 8, a clarification would be made that the time of the determination of the EDSP for purposes of calculating the payment owed for delivery under certain contracts would be the end of the trading period on the Contract Date (as opposed to the last trading day of the contract month) to be consistent with relevant exchange rules.

Certain amendments would be made to the routine delivery timetable for emissions contracts in paragraph 5, including the following: the note that some events may occur up to

24 hours earlier would be removed; various clarifications would be made to the description of certain steps; the description of consequences of transfer requests made by the Seller before the deadline for submission would be deleted; the requirement that with respect to ICE Endex EUA and EUAA Futures Contracts, the Clearing House, upon receipt of allowances from the applicable sellers would randomly select the order in which it will make outbound Transfer Requests to applicable buyers would be deleted as inapplicable to those contracts; and the timetable would provide that account sales will be available via MFT.

Consistent with the removal of provisions referencing auction contracts, the ICE EUA and EUAA Auction Contracts timetable for routine and for late and failed delivery would be removed. The delivery documentation summary would also be deleted as it references an outdated monthly confirmation form that is not used.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>8</sup> 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 transition of trading of the Deliverable EU Emissions Contracts from ICE Futures Europe to ICE Endex. Such contracts will continue to be cleared by the Clearing House in the same

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<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

manner as they are currently, and will be supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements.

Accordingly, ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such contracts following the transition to ICE Endex (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, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>9</sup> (In ICE Clear Europe's view, the amendments would 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).<sup>10</sup>)

In addition, Rule 17Ad-22(e)(10)<sup>11</sup> 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 would incorporate into the Delivery Procedures the amendments necessary to facilitate the transition of trading of the Deliverable EU Emissions Contracts from ICE Futures Europe to ICE Endex. Such contracts will

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<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>11</sup> 17 C.F.R. 240.17Ad-22(e)(10).

continue to be cleared in the same manner as they are currently cleared, supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. The amendments would remove other provisions related to contracts that are not currently traded and make certain other clarifications. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).<sup>12</sup>

(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 transition of the trading of the Emission Contracts from ICE Futures Europe to ICE Endex and to provide general drafting clarifications and improvements. The terms of clearing of such contracts are not otherwise changing. 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 the new contracts for Clearing Members or their 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.

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<sup>12</sup> 17 C.F.R. 240.17Ad-22(e)(10).

(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 Act<sup>13</sup> and paragraph (f) of Rule 19b-4<sup>14</sup> 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 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

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 C.F.R. 240.19b-4(f).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2021-008 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-2021-008. 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 NE, Washington, DC 20549, on official business days between the hours of 10:00 am 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-2021-008 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>15</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).