

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-93443; File No. SR-ICEEU-2021-019)

October 28, 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 October 15, 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) thereunder,<sup>4</sup> 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**

- (a) The principal purpose of the proposed amendments is for ICE Clear Europe to amend its amend Part GG of its Delivery Procedures to update certain documentation, timing and other requirements relating the delivery under ICE

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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).

Futures Abu Dhabi Murban Crude Oil Futures Contracts (“Murban Crude Oil Futures Contracts”).

**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 GG of its Delivery Procedures to clarify certain delivery specifications relating to Murban Crude Oil Futures Contracts. The proposed changes are intended to reflect, and be consistent with, the relevant contract terms under ICE Futures Abu Dhabi rules (and certain amendments being made thereto). Specifically, as described in detail below, the proposed amendments would be made to the following sections: (i) the delivery timetable in paragraph 3, (ii) the delivery vessel nomination table in paragraph 4, and (iii) the delivery documentation summary in paragraph 5. Other non-substantive typographical and similar corrections would also be made.

Delivery Timetable

The process for Delivery Range Determinations would be amended to provide a

procedure in which a Buyer may request a change to the agreed Delivery Range, subject to the approval of the Clearing House and the Terminal Operator in their discretion by a specified time in advance of the original and modified Delivery Ranges. Additionally, the changes would clarify that the Terminal Operator may agree with the Buyer to the early loading of Murban Crude Oil into the Buyer's Vessel provided that any such early loading would not take place earlier than the first Terminal Loading Day of the delivery month (in addition to the existing requirement that early loading not take place earlier than 48 hours prior to the first day of the agreed Delivery Range).

The proposed amendments would also provide that on the Document Receipt Day, if the Seller is unable to provide the Clearing House (with copy to the Buyer) by the required delivery time with certain specified documentation, it would be required to provide a Letter of Indemnity in favor of the Buyer and the Buyer would be required to make payment against the Letter of Indemnity (instead of the Letter of Indemnity being required only if the Buyer elected to make payment against it). Further detail would be added regarding the Buyer's ability to request that any such Letter of Indemnity be countersigned by the Seller's bank, including providing a deadline by which the request must be made. The request would also need to specify the reasons for such request and may not be based on frivolous or vexatious reasons. If no notification is received by the deadline, the Buyer would be deemed to have agreed to make payment to the Clearing House against the Letter of Indemnity regardless of whether it was countersigned by a bank.

Further, the proposed amendments would provide that in the event that the Buyer submits a valid request, the Seller would be required to have the Letter of Indemnity

countersigned by a bank with a credit rating equal or greater than the minimum credit rating score as advised by ICE Futures Abu Dhabi, unless the Buyer agrees to an alternative bank and notifies the Clearing House by a specified deadline.

#### Delivery Vessel Nomination Table

The delivery vessel nomination table would be updated to provide that nominations must be received on the fifth calendar day prior to the first day of the Delivery Range (instead of the sixth calendar day prior), consistent with the exchange rules.

#### Delivery Documentation Summary

With respect to the Delivery Confirmation Form, the proposed amendments would remove as unnecessary a requirement that such form include the tender(s) against which it is given. Conforming formatting updates would also be made.

With respect to the Delivery Range Nomination Form, the proposed amendments would add that the Buyer's unique reference would be required to be included in such form. Conforming formatting updates would also be made.

With respect to the Vessel Nomination Form, the proposed amendments would add that documentary instructions (for example, a bill of lading mark-up) would be required to be included in such form. Conforming formatting updates would also be made.

#### (b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>5</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement

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<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 changes to Part GG of the Delivery Procedures are designed to clarify delivery procedures relating to Murban Crude Oil Futures Contracts and ensure consistency with relevant exchange rules (including amendments thereto). The amendments to Part GG would clarify and provide further detail with the determination of delivery ranges, indemnity requirements and certain other aspects as to the timing and documentation required for delivery. The amendments do not otherwise change the terms and conditions of Murban Crude Oil Futures Contracts, and the contracts will continue to be cleared by ICE Clear Europe in the same manner as they are currently. In ICE Clear Europe’s view, the amendments are thus consistent with the prompt and accurate clearance and settlement of cleared contracts and the protection of investors and the public interest. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe’s custody or control or for which it is responsible). Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).<sup>6</sup>

In addition, Rule 17Ad-22(e)(10)<sup>7</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

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 17 CFR 240.17Ad-22(e)(10).

practices that identify, monitor and manage the risks associated with such physical deliveries.” As discussed above, the amendments would clarify certain delivery specifications for Murban Crude Oil Futures Contracts relating to the determination of delivery ranges, certain indemnity requirements, and certain other documentation and timing matters, consistent with the requirements of the exchange. The amendments would not otherwise change the manner in which the contracts are cleared or in which delivery is made, as supported by ICE Clear Europe’s existing financial resources, risk management, systems and operational arrangements. The amendments thus appropriately clarify the role and responsibilities of the Clearing House and Clearing Members with respect to physical delivery. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).<sup>8</sup>

(B) Clearing Agency’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to update and clarify the delivery specifications in Part GG of the Delivery Procedures in connection with Murban Crude Oil Futures Contracts, and will not otherwise affect the contract. ICE Clear Europe does not expect that the proposed changes will adversely affect access to clearing or the ability of Clearing Members, their customers or other market participants to continue to clear contracts. ICE Clear Europe also does not believe the amendments would materially affect the cost of clearing or otherwise impact competition among

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<sup>8</sup> 17 CFR 240.17Ad-22(e)(10).

Clearing Members or other market participants or limit market participants' choices for selecting clearing services. Accordingly, ICE Clear Europe does not believe the amendments would impose any burden on competition not necessary or 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 Act<sup>9</sup> and paragraph (f) of Rule 19b-4<sup>10</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 change is consistent with the Act. Comments may be submitted by any of the following methods:

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2021-019 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-2021-019. 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 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-2021-019 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>11</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).