

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94101; File No. SR-ICEEU-2022-001)

January 31, 2022

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the clearing fees for ICE Futures Europe FTSE 100 Index Futures and Options, FTSE 100 Dividend Index Futures and the clearing fee caps for FTSE 100 Index Options

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 January 19, 2022, 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 Act³ and Rule 19b-4(f)(2) thereunder,⁴ 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

The principal purpose of the proposed amendments is for ICE Clear Europe to amend the clearing fees for ICE Futures Europe FTSE 100 Index Futures and Options, FTSE 100 Dividend Index Futures and the clearing fee caps for FTSE 100 Index Options.

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 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 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

The purpose of the proposed rule changes is for ICE Clear Europe to amend the clearing fees for FTSE 100 Index Futures and Options and the FTSE 100 Dividend Index Futures (the “Contracts”) and to amend the clearing fee caps that are currently applied to FTSE 100 Index Options block trades.

Following review, and in consultation with ICE Futures Europe (the exchange on which the Contracts are traded), ICE Clear Europe proposes to increase the clearing fees for the FTSE 100 Index derivatives to support the additional development of the Contracts, noting that the last time the fees were reviewed was in January 2019 for the FTSE 100 Index Futures and the FTSE 100 Dividend Index Futures, and in October 2019

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

for the FTSE 100 Index Options. The decision to amend fees has been made in conjunction with ICE Futures Europe, and accordingly the fee tables below and in Exhibit 5 also include for information purposes the proposed exchange fee changes. The proposed new fees are intended to come into effect on 1 February 2022, subject to regulatory approval, and ICE Clear Europe intends to publish a Circular to inform market participants of the changes to the fee schedule in advance of such proposed effective date. The proposed revisions to the fees are described in further detail below.

FTSE 100 Futures and Options proposed transaction fees

The Clearing House is proposing the increases noted below to the FTSE 100 Index Futures and Option clearing transaction fees associated with Screen, Block/Basis and Block with Delayed Publication. In addition, the Clearing House proposes to increase the fee caps that are currently applied to FTSE 100 Index Options block trades. Below is a table showing the current clearing fees and a table showing the proposed amended clearing fees.

Contract Levies for FTSE 100 Index Futures and Options:

Current Fees:

CONTRACT LEVIES	FEE (£)		
	EXCHANGE	CLEARING	TOTAL
Outrights/Basis	0.09	0.21	0.30
Block	0.04	0.26	0.30
Block with Delayed Publication	0.05	0.30	0.35
Cash Settlement fee (Futures) ⁶	0.00	0.30	0.30
Exercise/Assignment fee (Options)	0.00	0.30	0.30
Block fee cap (Options)	220	1,980	2,200
Block fee cap with Delayed Publication (Options)	300	2,700	3,000
Exercise/Assignment fee cap (Options)	0.00	2,200	2,200

Proposed Fees:

CONTRACT LEVIES	FEE (£)		
	EXCHANGE	CLEARING	TOTAL
Outrights/Basis	0.11	0.24	0.35
Block	0.06	0.29	0.35
Block with Delayed Publication	0.07	0.33	0.40
Cash Settlement fee (Futures) ⁷	0.00	0.35	0.35
Exercise/Assignment fee (Options)	0.00	0.35	0.35
Block fee cap (Options)	320	2,080	2,400
Block fee cap with Delayed Publication (Options)	400	2,800	3,200
Exercise/Assignment fee cap (Options)	0.00	2,400	2,400

⁶ Including FTSE 100 Index Futures Trade at Index Close (FTSE TIC).

⁷ Including FTSE 100 Index Futures Trade at Index Close (FTSE TIC).

FTSE 100 Dividend Futures proposed transaction fees

The Clearing House is proposing the increases noted below to the FTSE 100 Dividend Futures clearing transaction fees associated with Screen, Block/Basis and Block with Delayed Publication and with cash settlement. Below is a table showing the current clearing fees and a table showing the proposed amended clearing fees.

Contract Levies for FTSE 100 Dividend Index Futures:

Current Fees:

CONTRACT LEVIES	FEE (£)		
	EXCHANGE	CLEARING	TOTAL
Outrights/Basis	0.09	0.21	0.30
Block	0.04	0.26	0.30
Block with Delayed Publication	0.05	0.35	0.40
Cash Settlement fee	0.00	0.30	0.30

Proposed Fees:

CONTRACT LEVIES	FEE (£)		
	EXCHANGE	CLEARING	TOTAL
Outrights/Basis	0.11	0.24	0.35
Block	0.06	0.29	0.35
Block with Delayed Publication	0.07	0.33	0.40
Cash Settlement fee	0.00	0.35	0.35

(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 Act⁸ and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act⁹ requires that “[t]he rules

⁸ 15 U.S.C. 78q-1.

⁹ 15 U.S.C. 78q-1(b)(3)(D).

of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants”. ICE Clear Europe believes that its clearing fees, as proposed to be amended, would be reasonable and appropriate for the relevant Contracts. 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, as proposed to be modified, would apply to all market participants who trade and clear the Contracts. ICE Clear Europe has determined that the increased fees would be commensurate with the size of the contract and would provide an appropriate balance between the costs of clearing for market participants and the expenses incurred by ICE Clear Europe in offering clearing of the relevant contracts, taking into account the investments ICE Clear Europe has made in clearing such products. Exhibit 3 includes a quantitative analysis of the impact of the proposed fee changes. 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 Act.¹⁰

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act¹¹ which requires, among other things, that “[t]he rules of a clearing agency [...] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency”. As noted above, the fees, as proposed to be amended, would apply on a per transaction and would apply to

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

all Clearing Members. As a result, the amendments would not result in any unfair discrimination among Clearing Members in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.¹²

(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 purpose of the Act. Although ICE Clear Europe is increasing certain clearing fees, as set forth herein, it believes such changes are appropriate to reflect the costs and expenses incurred by the Clearing House in clearing the relevant Contracts. Further, 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 Clearing Members who trade and/or clear the Contracts. 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 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. As a result, ICE Clear Europe does not believe the amendments would have any impact or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

¹² 15 U.S.C. 78q-1(b)(3)(F).

(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 Act¹³ and paragraph (f)(2) of Rule 19b-4¹⁴ 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:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(2).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2022-001 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-2022-001. 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, 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-2022-001 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.¹⁵

J. Matthew DeLesDernier
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).