

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94281; File No. SR-ICEEU-2022-005)

February 18, 2022

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Rate of Return on Euro and Pound Sterling Cash Margin and Guaranty Fund Deposits

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 15, 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 rate of return paid by the Clearing House on Euro (“EUR”) and Pound Sterling

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).

(“GBP”) cash margin and Guaranty Fund deposits. 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

(a) The purpose of the proposed rule changes is for ICE Clear Europe to [sic] its rate of return paid on EUR and GBP cash margin and Guaranty Fund deposits applicable to all Clearing Members for house and customer accounts. ICE Clear Europe pays a rate of return on cash deposited by Clearing Members in respect of margin and Guaranty Fund requirements referred to as the ICE Deposit Rate (the “IDR”). The IDR is calculated daily and applied to cash balances held at the close of business on the previous business day in respect of US Dollar (“USD”), EUR and GBP deposits. The IDR is calculated as the net income earned on cash deposits in the relevant currency (positive or negative) less a charge or spread. Currently, the spread for all currencies is 15 bps.

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

(b) ICE Clear Europe is proposing to increase the spread for EUR balances from 15 bps to 25 bps and reduce the spread for GBP balances from 15 bps to 12 bps. The spread for USD balances would remain unchanged at 15 bps. ICE Clear Europe has determined that in light of financial market conditions, including repo rates available in the market, the current spread levels have provided an incentive for Clearing Members to provide EUR balances as compared to GBP balances, including by using EUR balances to cover margin obligations denominated in GBP. Such a practice by Clearing Members could result in reduced available liquidity for the Clearing House in GBP. To avoid such potential concerns, ICE Clear Europe believes it is appropriate to reduce the IDR on EUR balances (through a higher spread) while comparatively increasing the IDR on GBP balances (through a lower spread). ICE Clear Europe believes the change would better align the relative costs and benefits of using EUR and GBP to cover margin and Guaranty Fund obligations and thereby improve Clearing House liquidity management.

(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 Act⁶ and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act⁷ requires that “[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants”. ICE Clear Europe believes that the IDR, as proposed to be amended, would be reasonable and appropriate in light of market

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78q-1(b)(3)(D).

conditions, including available repo rates, for the relevant currencies. The proposed modifications would apply to all Clearing Members and other market participants who hold cash balances in EUR and GBP. Further, ICE Clear Europe has determined that the revised spreads would enhance GBP liquidity by providing a greater incentive for Clearing Members to provide GBP balance to satisfy GBP margin and Guaranty Fund obligations as compared to EUR balances. 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.⁸

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act⁹ 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 GBP and EUR spreads, as proposed to be amended, would apply on a currency level and would apply to all Clearing Members. The amendments would not otherwise change the ability of Clearing Members to post GBP and EUR in satisfaction of their obligations. 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.¹⁰

⁸ 15 U.S.C. 78q-1(b)(3)(D).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

(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 revising certain spreads applied to the IDR, as set forth herein, it believes such changes are appropriate to align incentives for providing EUR and GBP deposits with general market conditions and to avoid potential reductions in GBP liquidity. Further, as discussed above, the changes to the spreads would be applied equally to all Clearing Members who deposit cash balances in EUR and GBP. 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. Further, 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.

(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)(2) 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:

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-2022-005 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.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-ICEEU-2022-005. 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 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-2022-005 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. Matthew DeLesDernier
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).