

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73075; File No. SR-ICEEU-2014-12)

September 11, 2014

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Granting Approval of Proposed Rule Change to Liquidity Policies Relating to EMIR

I. Introduction

On July 25, 2014, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-ICEEU-2014-12 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the Federal Register on August 11, 2014.³ The Commission received no comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe is proposing this change to revise and formalize certain ICE Clear Europe liquidity policies and procedures, and to facilitate compliance with requirements under the European Market Infrastructure Regulation (including regulations thereunder, “EMIR”)⁴ that will apply to ICE Clear Europe as an authorized central counterparty.

ICE Clear Europe proposes to revise its existing Liquidity Risk Management Framework (“LRMF”) and to adopt a separate Liquidity Plan that formalizes certain procedures and internal

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-72761 (August 5, 2014), 79 FR 46894 (August 11, 2014) (SR-ICEEU-2014-12).

⁴ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

processes relating to liquidity objectives and monitoring, testing and decision-making relating to sufficiency of liquidity resources. In ICE Clear Europe's view, the creation of the Liquidity Plan does not materially change existing procedures and processes but is intended to formalize them, in order to be consistent with requirements under EMIR.

ICE Clear Europe states that the Liquidity Plan has been drafted in accordance with Article 32 of the Regulatory Technical Standards implementing EMIR.⁵ ICE Clear Europe represents that, consistent with Article 32, the stated objectives of the Liquidity Plan are to: (i) identify sources of liquidity risk; (ii) manage and monitor liquidity needs across a range of stressed market scenarios; (iii) maintain sufficient and distinct financial resources to cover liquidity needs; (iv) assess and value the liquid assets available to the clearing house and its liquidity needs; (v) assess timescales over which liquid financial resources should be available; (vi) manage a liquidity shortfall event; (vi) replace financial resources used in a liquidity shortfall event; and (vii) assess potential liquidity needs stemming from Clearing Members ability to swap cash for non-cash collateral. ICE Clear Europe also states that the Liquidity Plan reflects requirements and guidance of the Bank of England.

ICE Clear Europe states that the Liquidity Plan contains details about its liquidity monitoring, stress testing, reporting and management procedures. ICE Clear Europe represents that, with respect to monitoring, it uses various systems and processes to ascertain the status of settlements at the start of the day, intra-day and at the end of day, as well as the status of related investment activity during the day. ICE Clear Europe contends that any deviation from established tolerance levels will be escalated in accordance with the Liquidity Plan. ICE Clear

⁵ Commission Delegated Regulation (EU) No. 153/2013 of 9 December 2012 Supplementing Regulation (EU) No. 648/2012 of the European Parliament and of the Council with regard to Regulatory Technical Standards on Requirements for Central Counterparties (the "Regulatory Technical Standards").

Europe also states that the Liquidity Plan uses certain “Key Risk & Performance Indicators” to ensure compliance with the investment policies in light of ICE Clear Europe’s credit and liquidity requirements, based on a number of investment categories and tenor categories.

ICE Clear Europe states that its Liquidity Plan identifies various sources of liquidity risks, including exposure to settlement banks, custodian banks, liquidity providers, investment counterparties, payment systems, clearing members and other service providers, and provides for regular stress testing based on those risks. According to ICE Clear Europe, the Liquidity Plan also addresses liquidity risk tolerances and appetite limits established by its Board in connection with stress testing. ICE Clear Europe also states that stress testing is conducted using a range of scenarios, including both historical scenarios and forward-looking scenarios involving extreme but plausible market events and conditions and that both types of scenarios simulate extreme but plausible losses arising from the default of the clearing members with the two largest liquidity exposures, consistent with EMIR requirements. ICE Clear Europe also claims that the scenarios address the required level of liquidity resources in a range of other conditions in the relevant currencies used by ICE Clear Europe, including defaults of investment counterparties, settlement banks, Nostro agents, intraday liquidity providers and other service providers, market infrastructure failures and other systemic events (and combinations thereof). According to ICE Clear Europe, historical scenarios are run on a single day, and a historical trend is kept, while forward-looking scenarios project these cash flows over the coming eight-day period.

According to ICE Clear Europe, its Liquidity Plan also specifies procedures for liquidity management in cases of potential liquidity stress. ICE Clear Europe states that it has defined a series of liquidity events and stress situations, ordered by severity, which trigger a notification to the relevant level of management and, if further escalation is required, the Board. ICE Clear

Europe also states that the Liquidity Plan outlines actions that may be taken in each situation to address the liquidity event or stress.

ICE Clear Europe contends that the Liquidity Plan provides for daily, weekly and monthly reporting requirements to relevant levels of clearing house management, Board risk committee, the Board and regulators, as appropriate. In addition, ICE Clear Europe states that the Liquidity Plan establishes a protocol for breaches and liquidity events, which includes reporting and escalation based on the severity of the event, mitigating actions and replenishment of liquidity and that the Liquidity Plan also provides for periodic testing of liquidity resources to ensure that they are “highly reliable” within the meaning of Article 44 of EMIR.

ICE Clear Europe states that, as part of the specified governance process, the Liquidity Plan will be reviewed by management and must be approved by the Board annually following consultation with the Board risk committee, and that deviations and interim changes similarly require Board approval following consultation with the Board risk committee.

According to ICE Clear Europe, it has also revised its LRMF to reflect the adoption of the new, separate Liquidity Plan (and the two documents together are intended to reflect the clearing house’s approach to liquidity management). ICE Clear Europe states that various sections of the LRMF have been modified to improve clarity and readability. ICE Clear Europe further states that, as revised, the LRMF specifies the objectives of liquidity management, and references relevant policies, including investment policies, collateral management and haircut policies, stress testing policies and operational risk management policies. ICE Clear Europe also states that the LRMF also addresses the policies for establishing liquidity risk tolerances and appetites, the range of relevant stress scenarios (which are derived from the CPSS-IOSCO Principles for Financial Market Infrastructures and Regulatory Technical Standards Article 32.4),

reverse stress testing requirements in accordance with Regulatory Technical Standards Article 49, and the resources the clearing house will treat as available for liquidity management purposes. ICE Clear Europe also contends that the LRMF specifies further procedures concerning liquidity shortfalls and replenishment, complementing the provisions set forth in the Liquidity Plan and specifies procedures for internal review and governance over the liquidity policies, as well as procedures for exceptions and breaches of risk tolerance or risk appetite levels.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁶ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act⁷ requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest

The Commission finds that the proposed rule change is consistent with Section 17A of the Act⁸ and the rules thereunder applicable to ICE Clear Europe. The revised policies address the liquidity resources and procedures for testing the adequacy of those resources in a range of scenarios, including scenarios involving extreme but plausible market conditions. Furthermore,

⁶ 15 U.S.C. 78s(b)(2)(C).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1.

the revised policies would provide further clarity as to the steps ICE Clear Europe may take when confronted with a potential liquidity shortfall or similar event. The proposed revisions are thereby reasonably designed to enhance the ability of the clearing house to assess potential liquidity events that may impact its ability to conduct settlements for cleared transactions and its ability to avoid or manage such events and continue clearing house operations. As such, the Commission believes that the changes will promote the prompt and accurate settlement of securities and derivatives transactions, and therefore are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Europe, in particular, to Section 17(A)(b)(3)(F).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁹ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (File No. SR-ICEEU-2014-12) be, and hereby is, approved.¹¹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Kevin M. O'Neill
Deputy Secretary

⁹ 15 U.S.C. 78q-1.

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹² 17 CFR 200.30-3(a)(12).