

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-80978; File No. SR-ICEEU-2017-003)

June 20, 2017

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Amendment No. 1 and Order Approving Proposed Rule Change, as modified by Amendment No. 1 Thereto, Relating to ICE Clear Europe's End-of-Day Price Discovery Policy

I. Introduction

On March 10, 2017, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-ICEEU-2017-003) to amend ICE Clear Europe's CDS End-of-Day Price Discovery Policy ("EOD Price Discovery Policy") to implement a new price submission process for Clearing Members. The proposed rule change was published for comment in the Federal Register on March 23, 2017.³ The Commission did not receive comments regarding the proposed changes. On May 1, 2017, the Commission extended the period in which to approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to June 21, 2017.⁴ On June 9, 2017, ICE Clear

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-80269 (March 17, 2017), 82 FR 14925 (March 23, 2017) (SR-ICEEU-2017-003) ("Notice").

⁴ Securities Exchange Act Release No. 34-80566 (May 1, 2017), 82 FR 21287 (May 5, 2017).

Europe filed Amendment No. 1 to the proposal.⁵ For the reasons discussed below, the Commission is approving the proposed rule changes, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

ICE Clear Europe has proposed changes to its EOD Price Discovery Policy that are designed to implement a new price submission process. As part of its current price submission process, ICE Clear Europe requires Clearing Members to submit certain required price information to an intermediary, which ICE Clear Europe then obtains and uses as part of its price discovery process. The proposed rule changes would eliminate the use of the intermediary in the price submission process and instead require Clearing Members to submit required price information directly to ICE Clear Europe. In order to implement the direct price submission process, ICE Clear Europe proposed to amend its EOD Price Discovery Policy to (1) require Clearing Members establish direct connectivity with ICE Clear Europe and use a FIX API to provide ICE Clear Europe with the required price information, (2) add references to FIX API terminology, and (3) make revisions reflecting the replacement of existing trade date files with FIX API firm trade messages.⁶ Moreover, ICE Clear Europe proposed amending the Pricing Policy to note that ICE Clear Europe will send FIX API messages directly to Clearing Members, and to remove references to the intermediary and its “Valuation Service API” that ICE Clear

⁵ ICE Clear Europe filed Amendment No. 1 to clarify that the implementation date for the proposed rule change will be July 10, 2017, and to note that ICE Clear Europe will issue a circular confirming this timeline in advance of the July 10, 2017 implementation date. Because Amendment No. 1 is a clarifying amendment that does not alter the substance of the proposed rule change the Commission is not publishing it for comment.

⁶ Notice, 82 FR at 14925.

Europe previously used.⁷ Although ICE Clear Europe proposed additional minor changes to the timing of various steps in the pricing process, these proposed changes would not affect the actual settlement submission windows.⁸

In addition to the changes described above, ICE Clear Europe also proposed changes with respect to the format of information required to be submitted by Clearing Members for the CDX.NA.HY index. Moreover, ICE Clear Europe proposed modifications to the process for distributing end-of-day prices, which will result in ICE Clear Europe publishing separate messages setting forth end-of-day price information for single name and index CDS to Clearing Members.⁹

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹⁰ Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a registered 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.¹¹ Rule 17Ad-22(e)(17) requires, in relevant part, that a registered clearing agency establish, implement, maintain,

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ 15 U.S.C. 78s(b)(2)(C).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risk by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls, and by ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.¹²

The Commission finds that the proposed rule change, which modifies ICE Clear Europe's EOD Price Discovery Policy to implement a direct price submission process for Clearing Members, is consistent with Section 17A of the Act and Rule 17Ad-22 thereunder. The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) that the rules of a registered 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. By reducing operational risk the proposed rule changes reduce the likelihood that ICE Clear Europe will be unable to complete its end-of-day price discovery process. Completion of the end-of-day price discovery process is a necessary and essential element in ICE Clear Europe's clearance and settlement processes. The Commission believes that the proposed changes should enhance ICE Clear Europe's ability to complete the necessary pricing process effectively and thereby promote the prompt and accurate clearance and settlement of derivative agreements, contracts and transactions consistent with Section 17A(b)(3)(F).

For similar reasons, the proposed rule changes are also consistent with Rule 17Ad-22(e)(17) in that they are designed to reduce operational risk outside of ICE Clear

¹² 17 CFR 240.17Ad-22(e)(17).

Europe's control.¹³ The proposed rule changes are intended to reduce ICE Clear Europe's external operational risk by implementing an appropriate system that will allow ICE Clear Europe to exert greater control over the price submission process by requiring direct connection and communication between ICE Clear Europe and its Clearing Members instead of relying on an intermediary to collect price information needed for ICE Clear Europe's price discovery process. As a result, because ICE Clear Europe will be able to reduce its reliance on intermediaries, and thereby reduce operational risk that is outside of its control, the Commission finds that the proposed rule changes are consistent with the requirements of Rule 17Ad-22(e)(17).

IV. Conclusion

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICEEU-2017-003), as amended by Amendment No. 1 thereto, be, and hereby is, approved.¹⁴

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

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Assistant Secretary

¹³ Id.

¹⁴ 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).

¹⁵ 17 CFR 200.30-3(a)(12).