

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78604; File No. SR-ICEEU-2016-009)

August 17, 2016

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Settlement of UK Spot Natural Gas Contracts and European Emissions Contracts

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 August 3, 2016, ICE Clear Europe Limited (“ICE Clear Europe” or “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)(ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the changes is to amend certain provisions of the ICE Clear Europe Delivery Procedures relating to the settlement of UK spot natural gas contracts and European emissions contracts that are cleared by ICE Clear Europe.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

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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)(ii).

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule changes. 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. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule changes is to modify the ICE Clear Europe Delivery Procedures relating to the settlement of UK natural gas spot contracts and European emissions contracts. The natural gas spot contracts, specifically the ICE Endex UK OCM Natural Gas Spot Contracts ("UK OCM Natural Gas Spot Contracts"), are traded on the ICE Endex market and cleared by ICE Clear Europe. The European emissions futures contracts ("European Emissions Contracts") are traded on the ICE Futures Europe market and cleared by ICE Clear Europe. ICE Clear Europe does not otherwise propose to amend its clearing rules or procedures in connection with these changes.

ICE Clear Europe submits revisions to Parts A and E of the Delivery Procedures. The text of the proposed Delivery Procedure amendments is attached in Exhibit 5, with additions underlined and deletions in strikethrough text.

In Part A of the Delivery Procedures, which applies to the European Emissions Contracts, a new paragraph 4 has been added to specify the requirements on buyers and sellers under the relevant contracts to provide delivery margin (and subsequent paragraphs have been renumbered). The delivery timetable in paragraph 5 and

documentation requirements in paragraph 9 have been amended to remove references to the ICE Registry Account Notification Form, which is no longer required. The amendments to the delivery timetable in paragraph 5 also clarify the timing of requirements to provide delivery margin and the timing for the buyer to pay the full contract value to the Clearing House and for the Clearing House to remit the full contract value to the applicable seller. The delivery timetable has been further revised to change the deadlines for submission of certain delivery-related forms to the Clearing House.

In Part E of the Delivery Procedures, which applies to the UK OCM Natural Gas Spot Contracts, in paragraph 1 the definition of Delivery Month has been further clarified and a new definition of Invoice Period has been added, which is used to determine the revised timing of various settlement requirements. These changes are consistent with the approach used for other natural gas contracts cleared by ICE Clear Europe. In paragraph 6, several amendments have been made to settlement timetables, including to shorten certain periods for payment and release of relevant security or delivery margin. Under the revised Delivery Procedures, payment for completed deliveries will be made on the second clearing day following the relevant delivery day, and buyer's margin will also be released on such day. Timing for delivery of relevant invoice details has been tied to the new Invoice Period definition. In connection with the revised (and shorter) settlement cycle, the amendments also eliminate the concept of contingent credits made for prior deliveries. Revised paragraph 7 clarifies the treatment of failed deliveries, including the ability of the Clearing House to require additional delivery margin from the buyer and seller, and the timing of ultimate payment in respect of a prior month's failed deliveries.

Certain reporting responsibilities and deadlines in paragraph 8 are also clarified in light of the adoption of the Invoice Period concept.

## 2. Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A of the Act<sup>5</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22,<sup>6</sup> and in particular are consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICE Clear Europe, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>7</sup> Specifically, the amendments are designed to enhance the procedures for settlement of the UK OCM Natural Gas Spot Contracts and European Emissions Contracts. Among other changes, with respect to the UK OCM Natural Gas Contracts, the amendments will shorten the settlement cycle and facilitate prompt payment for completed deliveries. This will, in turn, reduce settlement risk. The amendments will make other clarifications to the timing of settlement and provision of related delivery margin, as well as update related documentation requirements. ICE Clear Europe is not otherwise changing its financial resources, risk management, systems and operational arrangements that support clearing of these contracts (and address physical delivery under these contracts). In ICE Clear Europe's view, these changes will enhance its settlement procedures generally, and

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<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 17 C.F.R. § 240.17Ad-22.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

thus promote the prompt and accurate settlement of UK OCM Natural Gas Spot Contracts and European Emissions Contracts, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>8</sup>

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed procedure changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. As discussed herein, the amendments would make certain clarifications and enhancements to the settlement procedures for the UK OCM Natural Gas Spot Contracts and European Emissions Contracts. These changes will apply equally to all clearing members (and other market participants) trading or clearing these products. ICE Clear Europe does not believe that these changes would adversely affect access to clearing for clearing members or their customers or other market participants, or materially and adversely affect the cost of clearing for market participants. Similarly, ICE Clear Europe does not believe the proposed change would otherwise adversely affect competition among clearing members or for clearing services generally. To the extent that the changes in the settlement cycle may impose certain additional costs on market participants, ICE Clear Europe believes that such costs are warranted in light of the benefits to market participants, and the overall clearing framework, of a shorter settlement cycle. Accordingly, ICE Clear Europe is of the view that any impact on competition is appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

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<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(4)(ii)<sup>10</sup> thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. 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)(4)(ii).

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-2016-009 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-2016-009. 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 p.m. 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#rule-filings>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2016-009 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>

Brent J. Fields  
Secretary

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