

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82687; File No. SR-ICEEU-2018-003)

February 12, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the ICE Clear Europe Rules For the Transition of Trading in Certain F&O Contracts

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 7, 2018, ICE Clear Europe Limited (“ICE Clear Europe”) 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 changes pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(4)(ii) thereunder,⁴ so that the proposal 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

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)(4)(ii).

ICE Clear Europe proposes revising the ICE Clear Europe Rules (the “Clearing House Rules”)⁵ to add new rules to accommodate the transition of trading in certain F&O Contracts from one Market to another.

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

ICE Futures Europe has announced that certain F&O Contracts currently listed on that exchange and cleared at ICE Clear Europe will be removed from trading and that equivalent contracts will commence trading on the ICE Futures U.S., Inc. (“ICE Futures US”) exchange.⁶ Clearing of the transitioning contracts will remain at ICE Clear Europe. The purpose of the proposed amendments is to accommodate this transition under the Clearing House Rules.

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

⁶ ICE Futures Europe Circular 18/002 (Jan. 10, 2018); ICE Futures Europe Circular 18/009 (Jan. 23, 2018).

Specifically, ICE Clear Europe is adopting a new Part 23 of the Rules, which will apply to the announced transition as well as any future similar transitions. Part 23 will apply where the Clearing House identifies by Circular one or more F&O Contracts for which trading is to be transitioned from one Market to another (“Transitioning Contracts”) as of a designated time (the “Transition Time”). Rule 2302 adds related definitions, including the concepts of “Exiting Market” (from which the contracts are being moved) and “Receiving Market” (to which the contracts are being moved). (In connection with the announced transition between ICE Futures Europe and ICE Futures US, ICE Futures Europe would be the Exiting Market and ICE Futures US would be the Receiving Market.)

New Rule 2303 provides that as of the relevant Transition Time, trading of the Transitioning Contract will transfer from the Exiting Market to the Receiving Market. New Rule 2304(a) provides that the Transitioning Contracts will be automatically redesignated such that they become Contracts under the Market Rules of the Receiving Market and are no longer Contracts under the Market Rules of the Exiting Market. Under the Rule, the redesignated Contracts remain in full force and effect as between the relevant Clearing Member and the Clearing House.

New Rule 2304(b) further addresses the situation where the Receiving Market is a U.S. designated contract market and the Exiting Market is not. In that case, in order to comply with relevant segregation requirements under Section 4d of the U.S. Commodity Exchange Act, Transitioning Contracts registered in the Non-DCM/Swap Customer Account of an FCM/BD Clearing Member will be automatically transferred to the DCM Customer Account of such FCM/BD Clearing Member; and FCM/BD Customer

Collateral in respect of such open Transitioning Contracts will be held in the Clearing House DCM Segregated Account as FCM/BD U.S. Futures Customer Collateral under the Rules.

In connection with the announced transition between ICE Futures Europe and ICE Futures US, ICE Clear Europe will issue a Circular indicating the specific contracts that are to be Transitioning Contracts and the Transition Time for purposes of Part 23 of the Rules. ICE Clear Europe has attached as Exhibit 5 hereto the list of Transitioning Contracts. The Transition Time is expected to be on or about February 18, 2018.

(b) Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act⁷ and the regulations thereunder applicable to it, and in particular are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.⁸ ICE Clear Europe is implementing the amendments in order to facilitate the transition of the Transitioning Contracts from one Market to another in a manner designed to minimize any impact on Clearing Members and their customers. The Transitioning Contracts will continue to be eligible for clearing at ICE Clear Europe, and the terms and conditions of such contracts are not changing in any material respect. The Transitioning Contracts will

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78q-1(b)(3)(F).

be cleared by ICE Clear Europe in substantially the same manner as before the transition (other than with respect to the class of customer account, as discussed herein). With respect to the safeguarding of securities and funds in the custody or control of ICE Clear Europe, the Transitioning Contracts will become traded on ICE Futures US, a designated contract market under the Commodity Exchange Act, and as such will become subject to the segregation requirements under that act. Accordingly, the amendments provide that customer positions in Transitioning Contracts will, following the transition, be held in the DCM Customer Account and the associated margin will be held in the Clearing House DCM Segregated Account as FCM/BD U.S. Futures Customer Collateral. For the foregoing reasons, ICE Clear Europe believes that the amendments are consistent with the requirements of Section 17A(b)(3)(F) and the regulations of the Commission thereunder.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments solely are designed to facilitate the transition of the Transitioning Contracts from one Market to another, as requested by such markets. As a result, ICE Clear Europe does not believe the amendments would adversely affect Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in F&O Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose 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 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and paragraph (f) of Rule 19b-4¹⁰ 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-2018-003 on the subject line.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 C.F.R. 240.19b-4(f).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-ICEEU-2018-003. 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, N.E., Washington, D.C. 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. 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-2018-003 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.¹¹

Eduardo Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).