

SECURITIES AND EXCHANGE COMMISSION

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March 18, 2019

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Amendments to the CDS Risk Management Model Description document.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder², notice is hereby given that on March 13, 2019, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. 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

ICE Clear Europe proposes to make certain amendments to its CDS Risk Model Description document to incorporate risk model enhancements related to the single name credit default swap (“CDS”) liquidity charge methodology.³

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used but not defined herein have the meanings specified in the Rules

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 these statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The ICE Clear Europe CDS risk model includes explicit provision to account for the additional liquidation cost due to the exposure to Bid/Offer Width (“BOW”) as, in the event of Clearing Member default, the Clearing House might incur in additional costs to unwind the positions. Specifically, a bid/offer risk requirement, named liquidity charge, is introduced. Such liquidity charges are computed separately for single names and indices.

ICE Clear Europe proposes a revised approach to computing single name CDS liquidity charges. Specifically, ICE Clear Europe proposes to introduce minimum instrument liquidity requirements independent of instrument maturities. ICE Clear Europe’s current spread-based liquidity charge approach features instrument liquidity requirements that decay with time to maturity for fixed credit spread levels. The proposed approach introduces minimum liquidity requirements for individual instruments, independent of time to maturity for the considered instruments, and thus establishes minimum liquidity charges that do not decay over time as contract maturity is approached. The proposed calculation for single name CDS liquidity charges at the instrument level incorporates a price-based bid-offer width floor component to provide stability and anti-procyclicality requirements, as well as a dynamic spread-based BOW

component to reflect the additional risk associated with distressed market conditions. The values of such price-based BOW and spread-based BOW are fixed factors, which are subject to at least monthly reviews and updates by ICE Clear Europe Risk Management Department with consultation with the Risk Working Group.

ICE Clear Europe also proposes enhancements to the liquidity charge calculation at the single name level. The current liquidity charge approach at the single name level accounts for the liquidation cost across the curve. All positions are aggregated and priced at each maturity interval separately as a synthetic forward CDS instrument. This current approach introduces potential sub-additivity at the single name level, as it may result in a higher liquidity charge than the sum of the single name instrument requirements.

Under the proposed calculation, liquidity charges at single name level will be computed by first calculating the liquidity requirements for each individual instrument position in the portfolio, and then summing all instrument liquidity requirements for positions with the same directionality, i.e. bought or sold protection. The liquidity charge requirements at the single name level will be the greatest liquidity requirement associated with either the sum of all bought protection position liquidity requirements, or the sum of all sold protection position liquidity requirements. Under this proposed approach, the portfolios' liquidity charge cannot exceed the sum of the individual instrument's requirements. There are no changes to the liquidity charge calculation at the portfolio level.

ICE Clear Europe expects these enhancements will ensure more stable liquidity requirements for instruments across the curve. Further, the enhancements simplify ICE Clear Europe's liquidity charge methodology, which promotes ease of understanding. As stated above,

the current single name level liquidity requirements are based on forward CDS spread levels and are, in general, more difficult to calculate as forward spread levels are not observable across the term structure (“curve”). ICE Clear Europe, as part of its end-of-day price discovery process, provides end-of-day pricing data for instruments in which clients have open positions, which will, under the proposed approach, allow for easier replication for clients who wish to estimate liquidity charges for hypothetical and current positions.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act⁴ and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22.⁵ Section 17A(b)(3)(F) of the Act⁶ requires, among other things, that the rules of a 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, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed changes enhance ICE Clear Europe’s risk methodology by better capturing the proper liquidation cost for portfolios. The changes are expected to promote the stability and conservative bias of margin requirements, which would enhance the financial resources available to ICE Clear Europe and ensure ICE Clear Europe maintains the appropriate level of risk management resources to cover losses in the case of a default. As such, the proposed changes enhance ICE Clear Europe’s ability to manage risk and therefore facilitate its ability to

⁴ 15 U.S.C. 78q-1.

⁵ 17 C.F.R. 240.17Ad-22.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

promptly and accurately clear and settle its cleared CDS contracts and contribute to the safeguarding of securities and funds in ICE Clear Europe's custody or control, within the meaning of Section 17A(b)(3)(F) of the Act⁷.

In addition, the proposed revisions are consistent with the relevant requirements of Rule 17Ad-22⁸. Rule 17Ad-22(b)(2)⁹ requires ICE Clear Europe to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions. The proposed changes will improve ICE Clear Europe's ability to calculate margin requirements and establish margin requirements commensurate with the risk and characteristics presented by each portfolio, thereby improving ICE Clear Europe's ability to limit its credit exposures to participants under normal market conditions, consistent with the requirements of Rule 17Ad-22(b)(2)¹⁰.

Rule 17Ad-22(b)(3)¹¹ requires ICE Clear Europe to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions. Rule 17Ad-22(e)(4)¹² requires a covered clearing, in relevant part, to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement

⁷ Id.

⁸ 17 C.F.R. 240.17Ad-22.

⁹ 17 C.F.R. §240.17Ad-22(b)(2).

¹⁰ Id.

¹¹ 17 C.F.R. §240.17Ad-22(b)(3).

¹² 17 C.F.R. §240.17Ad-22(e)(4).

processes, by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. The changes to the single name liquidity charge will enhance the financial resources available to ICE Clear Europe by enhancing its margin computation such that ICE Clear Europe is better able to capture portfolio risk and generate more stable and conservative margin requirements. As such, ICE Clear Europe will continue to ensure that it maintains sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence and to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad- 22(b)(3)¹³ and (e)(4)¹⁴.

Rule 17Ad-22(e)(6)(i)¹⁵ requires a covered clearing agency that provides central counterparty services to, in relevant part, cover its credit exposures to its participants by established a risk-based margin system that, at a minimum, considers and produces margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market. Further, Rule 17Ad-22(e)(6)(v)¹⁶ requires a covered clearing agency that provides central counterparty services to, in relevant part, to cover its credit exposures to its participants by established a risk-based margin system that, at a minimum uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products. As previously noted the changes to the single name CDS liquidity charge calculation are designed to better capture the proper liquidation cost for portfolios, which allows

¹³ 17 C.F.R. §240.17Ad-22(b)(3).

¹⁴ 17 C.F.R. §240.17Ad-22(e)(4).

¹⁵ 17 C.F.R. §240.17Ad-22(e)(6)(i).

¹⁶ 17 C.F.R. §240.17Ad-22(e)(6)(v).

ICE Clear Europe to appropriately capture the overall risk of portfolios and ensure that ICE Clear Europe establishes margin requirements that are commensurate with the risks and characteristics of each portfolio, consistent with Rule 17Ad-22(e)(6)(i) and (v)¹⁷.

(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 purposes of the Act. The revised approach may result in increased single name liquidity charge requirements for CDS Clearing Members, and so may increase the cost of clearing for those Clearing Members. However, ICE Clear Europe believes that any such additional cost is appropriate to take into account the risk posed to the Clearing House by such Clearing Members, consistent with the provisions of the Act and Commission regulations relating to financial resource and margin requirements and methodologies as discussed above. The risk model enhancements related to the single name CDS liquidity charge methodology apply uniformly to all CDS Clearing Members, and such Clearing Members will be able to manage their positions to limit potential single name liquidity charges if they so choose. ICE Clear Europe does not believe that the revised methodology will otherwise impact competition among Clearing Members or other market participants, or affect the ability of market participants to access clearing generally. Therefore, ICE Clear Europe does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change from Members, Participants or Others

¹⁷ 17 C.F.R. §240.17Ad-22(e)(6)(i), (v).

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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-2019-006 on the subject line.

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-2019-006. 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>.

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-2019-006 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.¹⁸

Eduardo A. Aleman
Deputy Secretary

¹⁸ 17 CFR 200.30-3(a)(12).