

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-86937; File No. SR-ICEEU-2019-018

September 11, 2019

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendments No. 1 and No. 2, To Adopt Revised Clearing Fees

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 August 30, 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 primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(2)⁴ thereunder, so that the proposed rule change was effective upon filing with the Commission. On September 10, 2019, ICE Clear Europe filed Partial Amendment No. 1 and Partial Amendment No. 2 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as

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)(2).

⁵ ICE Clear Europe filed Partial Amendment No. 1 to provide certain additional clarifications and related background documentation on the proposed rule change, and ICE Clear Europe filed Partial Amendment No. 2 to append a redlined version of the proposed fees schedule for the IFEU Products as Exhibit 5 to the proposed rule change. Partial Amendment No. 1 and Partial Amendment No. 2 did not make any changes to the substance of the filing or the text of the proposed rule change.

modified by Partial Amendment No. 1 and Partial Amendment No. 2 (hereafter referred to as “the proposed rule change”), from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise clearing fees applicable to certain ICE Futures Europe Limited (“IFEU”) equities and UK energy products (“IFEU Products”). The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.⁶

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. 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

The purpose of the proposed rule change is for ICE Clear Europe to modify certain clearing fees relating to certain IFEU Products⁷ as set out below:

- IFEU Equities

⁶ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

⁷ ICE Futures Europe is also changing certain exchange fees with respect to the IFEU Products at the same time.

- FTSE 100 Options: the clearing fee will increase from GBP 0.20 to GBP 0.21 per lot, the exercise/assignment fee is also increasing from GBP 0.20 to GBP 0.30, and the fee cap on the exercise and assignment fee (published and unpublished) is increasing from GBP 1,500 to GBP 2,200.
- FTSE 100 Options (block only): the clearing fee will increase from GBP 0.25 to GBP 0.26 per lot and the delayed published clearing fee will increase from GBP 0.29 to GBP 0.30 per lot. The clearing fee cap for published transactions will increase from GBP 1,350 to GBP 1,980 and the clearing fee cap for unpublished transactions will increase from GBP 1,620 to GBP 2,700. The exercise/assignment fee is also increasing from GBP 0.20 to GBP 0.30 and the fee cap on the exercise and assignment fee (published and unpublished) is increasing from GBP 1,500 to GBP 2,200.
- FTSE 250 Futures and Options (block only): the clearing fee will increase from GBP 0.12 to GBP 0.18 per lot and the delayed published clearing fee will increase from GBP 0.13 to GBP 0.27 per lot.
- FTSE 250 Futures and Options: the clearing fee will increase from GBP 0.09 to GBP 0.14 per lot and an exercise/assignment fee of GBP 0.20 per lot is introduced.
- IFEU UK Electricity Futures: the clearing fee will increase from GBP 0.00157 to GBP 0.0035 per lot.
- IFEU UK Electricity Futures (exchange for physical / exchange for swap / block): the clearing fee will increase from GBP 0.00202 to GBP 0.0045 per lot.

Attached [sic] as Exhibit 5 are the circulars listing the new fees relating to the IFEU Products and a redlined version of the proposed fees schedule for the IFEU Products. The relevant fee schedules relating to the IFEU Products will be updated and are available at: <https://www.theice.com/fees>. The new fees are expected to come into effect on October 1, 2019, for the IFEU Equities Futures and Options products, and on September 2, 2019, for the IFEU UK Electricity Futures products.

(b) Statutory Basis

ICE Clear Europe has determined that the proposed fee changes set forth above are reasonable and appropriate. In particular, ICE Clear Europe believes that the fees have been set at an appropriate level given the costs and expenses to ICE Clear Europe in offering clearing of such IFEU Products, taking into account the investments ICE Clear Europe has made in clearing the markets for these products. The fees will apply to all F&O Clearing Members. ICE Clear Europe believes that imposing such charges thus provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, within the meaning of Section 17A(b)(3)(D) of the Act.⁸ ICE Clear Europe therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁹ and regulations thereunder applicable to it.

⁸ 15 U.S.C. 78q-1(b)(3)(D). Under this provision, “[a] clearing agency shall not be registered unless the Commission determines that — (D) The rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.”

⁹ 15 U.S.C. 78q-1.

(B) Self-Regulatory Organization'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 purpose of the Act. Although the changes may result in certain additional costs to Clearing Members, ICE Clear Europe believes that the revised fees have been set at an appropriate level given the costs and expenses to ICE Clear Europe in offering clearing of the IFEU Products. ICE Clear Europe does not believe that the amendments would adversely affect the ability of such Clearing Members or other market participants generally to engage in cleared transactions or to access clearing. Since the revised fees will apply to all F&O Clearing Members, ICE Clear Europe further believes that the fees will not otherwise adversely affect competition among Clearing Members, adversely affect the market for clearing services or limit market participants' choices for obtaining clearing services.

(C) Self-Regulatory Organization'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 upon filing pursuant to Section 19(b)(3)(A)¹⁰ of the Act and Rule 19b-4(f)(2)¹¹ thereunder because it establishes a fee or other charge imposed by ICE Clear Europe on its Clearing Members. Specifically, the

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

proposed rule changes will establish fees to be paid by Clearing Members to ICE Clear Europe in connection with the clearing of certain IFEU Products. 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-2019-018 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-2019-018. 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 pm. 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-2019-018 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.¹²

Jill M. Peterson
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).