

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-90402; File No. SR-ICEEU-2020-014)

November 12, 2020

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Delivery Procedures.

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 November 6, 2020, ICE Clear Europe Limited (“ICE Clear Europe” or the “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 primarily prepared 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, such that the proposed rule change 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

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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).

The principal purpose of the proposed amendments is for ICE Clear Europe to amend its Delivery Procedures (the “Delivery Procedures”) in connection with the commencement of clearing for certain European emissions futures contracts and to clarify certain defined terms.<sup>5</sup>

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 Clear Europe is proposing to amend Part A of its Delivery Procedures.

The Clearing House is proposing to amend the definitions of the terms “Carbon Emissions Allowance” or “EUA” to provide that such terms include allowances that are valid for determining compliance with emission limitations commitments during the period starting from 1 January 2021, with respect to the ICE Futures EUA Phase 4 Daily Futures Contract (the “EUA Phase 4 Contract”) only, which is a new contract expected to be listed for trading by ICE Futures Europe. Other amendments to those definitions would remove unnecessary words for conciseness.

Other amendments to Part A would simplify the drafting to state that Part A applies to all ICE Deliverable EU Emissions Contracts which go to physical delivery on the expiry date (“ICE

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<sup>5</sup> Capitalized terms used but not defined herein have the meaning specified in the ICE Clear Europe Clearing Rules (the “Rules”).

Deliverable EU Emissions Contracts”), rather than reference such contracts individually. In Part A of the Delivery Procedures, the new defined term “ICE Deliverable EU Emissions Contracts” would be introduced in lieu of naming the following separate contracts: ICE Futures EUA Futures Contract, ICE Futures EUA Daily Futures Contract, ICE Futures EUA Auction Contract, ICE Futures EUAA Futures Contract, ICE Futures EUAA Auction Contract, ICE Futures CER Futures Contract and ICE Futures CER Futures Daily Contract. These changes would be general drafting clarifications and improvements for improved readability and conciseness, and would not affect the substance of the Delivery Procedures.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>6</sup> 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 amendments are designed to incorporate the new EUA Phase 4 Contracts into the existing Delivery Procedures, in a manner that is similar to other EU emissions contracts and supported by ICE Clear Europe’s existing financial resources, risk management, systems and operational arrangements. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such contract (and to address physical delivery under such contract) and to manage the risks associated with such contract. As a result, in ICE Clear Europe’s view, the amendments would be consistent with the prompt and

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

accurate clearance and settlement of the EUA Phase 4 Contract (as well as the existing cleared contracts), and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>7</sup> (In ICE Clear Europe's view, the amendments would not affect the safeguarding of funds or securities in the custody or control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).<sup>8</sup>)

In addition, Rule 17Ad-22(e)(10)<sup>9</sup> requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries. As discussed above, the amendments would incorporate into the existing Delivery Procedures the new EUA Phase 4 Contract, in a manner similar to other EU emissions contracts and supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. The amendments would also simplify and clarify the application of the existing Delivery Procedures to the other ICE Futures Europe EU emissions contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).<sup>10</sup>

(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

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

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

<sup>9</sup> 17 C.F.R. 240.17Ad-22(e)(10).

<sup>10</sup> 17 C.F.R. 240.17Ad-22(e)(10).

the Act. The changes are being proposed in order to update the Delivery Procedures in connection with the incorporation into the existing Delivery Procedures of the new EUA Phase 4 Contract and to provide general drafting clarifications and improvements for improved readability and conciseness. ICE Clear Europe believes that the new EUA Phase 4 Contracts would provide opportunities for interested market participants to engage in trading activity in this market. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new 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 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 amendments.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and paragraph (f) of Rule 19b-4<sup>12</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 C.F.R. 240.19b-4(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2020-014 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-2020-014. 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/notices/Notices.shtml?regulatoryFilings>.

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-2020-014 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>13</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).