

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94404; File No. SR-ICEEU-2022-006)

March 11, 2022

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”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 7, 2022, 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 prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4)(ii) thereunder,⁴ 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

The principal purpose of the proposed amendments is for ICE Clear Europe to amend Part H of its Delivery Procedures (“Delivery Procedures” or “Procedures”) to

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).

cover ICE Endex German THE Natural Gas Daily Futures Contracts (the “Contracts”), natural gas futures contracts that will be traded on ICE Endex and cleared by ICE Clear Europe. The proposed updates would also make certain conforming changes elsewhere in the Delivery Procedures.

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 H of the Delivery Procedures, which currently addresses delivery under ICE Endex German THE Natural Gas Futures Contracts (the “Monthly Contract”), to also include the Contracts, which are a daily futures contract with respect to the same underlying commodity. The amendments would also make certain conforming changes elsewhere in the Delivery Procedures. The amended Delivery Procedures would provide the delivery specifications and processes related to delivery under the Contracts. Other minor drafting clarifications and updates would also be made.

The amendments would provide that for the Contracts, the price at which the contract is delivered is the Exchange Delivery Settlement Price (EDSP) for the Business Day immediately prior to the calendar day on which the Delivery Day for the Contracts commences in accordance with ICE Endex Rules.

The amendments would state the cessation of trading for the Contracts; specifically, the Contracts cease trading at 18:00 hours on the Business Day which is one Business Day prior to the Delivery Day, in accordance with ICE Endex Rules.

With respect to Exchange for Physicals (EFPs) and Exchange for Swaps (EFSs), the amendments would provide that, for the Contracts, EFPs and EFSs may be posted up to thirty minutes following the cessation of trading.

In the delivery timetable for routine deliveries of the current Monthly Contract, a minor correction would be made regarding timing specifications related to the nomination of a Transferor or Transferee. The related MPFE report to be made available to Clearing Members would be made available after (and not by) 12:30 CET.

A new delivery timetable would be added for routine deliveries under the Contracts and failed delivery under the Contracts. The routine delivery timetable would set out, among other matters, deadlines for submissions of delivery intentions and nominations and other notifications, provision of buyer's and seller's security, confirmation of delivery and payment. The timetable relating to failed deliveries would address, among other matters, additional margin requirements and invoicing of payments for failed deliveries.

In the delivery documentation summary timetable for the current Monthly Contract, a minor correction would be made regarding timing of the confirmation report.

When available, a copy of such report must be provided by Buyers and Sellers to the relevant Transferor(s) and Transferee(s) by 12:30 CET (not 14:00 CET).

A new delivery documentation summary timetable for the Contracts would be added which describes the certain reports to be made available to Clearing Members by the Clearing House with respect to the Contracts and certain other forms, as well as timing specifications.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Delivery Procedures are consistent with the requirements of Section 17A of the Act⁵ and the regulations thereunder applicable to it. In particular, 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 to the Delivery Procedures are designed to establish delivery procedures relating to the Contracts, which will be traded on ICE Endex and cleared at ICE Clear Europe. The amendments would set out delivery specifications related to the Contracts, including the settlement price, delivery timing and delivery documentation, in line with Delivery Procedures for the Monthly Contract and other types of deliverable energy futures

⁵ 15 U.S.C. 78q-1.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

contracts. Contracts providing for delivery under Part H will be cleared by the Clearing House in the substantially same manner as the existing Monthly Contract and other types of deliverable energy futures contracts and will be supported by ICE Clear Europe's existing F&O financial resources, risk management, systems and operational arrangements. Accordingly, ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such contracts and to manage the risks associated with such contracts. As a result, in ICE Clear Europe's view, the amendments would be consistent with the prompt and accurate clearance and settlement of the contracts, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.⁷ (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).⁸)

In addition, Rule 17Ad-22(e)(10)⁹ provides that "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable [...] 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

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 17 CFR 240.17Ad-22(e)(10).

would modify Part H of the Delivery Procedures to add procedures applicable to the delivery and settlement of the Contracts. The procedures would address, among other matters, delivery specifications for such contracts and certain other documentation and timing matters, consistent with the requirements of the Clearing House. Clearance of the Contracts would otherwise be supported by ICE Clear Europe's existing financial resources, risk management, systems and operational arrangements. The amendments thus appropriately clarify the role and responsibilities of the Clearing House and Clearing Members with respect to physical delivery. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).¹⁰

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

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendments to the Delivery Procedures are intended to establish procedures applicable to the delivery and settlement of the Contracts in connection with the listing of such Contracts for trading on the ICE Endex market. ICE Clear Europe believes that such contracts would provide opportunities for interested market participants to engage in trading activity in the relevant German natural gas 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 for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe

¹⁰ 17 CFR 240.17Ad-22(e)(10).

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 rule change.

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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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:

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

- 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-2022-006 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-2022-006. 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 NE, Washington, D.C. 20549, on official business days between the hours of 10:00 am 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-2022-006 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.¹³

Eduardo Aleman
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).