

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95104; File No. SR-ICEEU-2022-012)

June 14, 2022

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Part H of 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 June 9, 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

ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) proposes to amend Part H of its Delivery Procedures (“Delivery Procedures” or “Procedures”) to correct a drafting inconsistency.

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).

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 addresses delivery under the monthly ICE Endex German THE Natural Gas futures contract (“Monthly Contract”), and daily futures contract with respect to the same underlying commodity (“Daily Contract”) to correct an inconsistency in the delivery timetable for routine deliveries of Daily Contracts. Currently, the delivery timetable in Section 5.2 provides that for Daily Contracts Exchange for Physicals (“EFPs”) and Exchange for Swaps (“EFSs”) may be posted up to one hour following the cessation of trading. This is inconsistent with existing Section 2.6, which provides that with respect to Daily Contracts, EFPs and EFSs may be posted up to thirty minutes following the cessation of trading. The proposed amendment would change the delivery timetable to be consistent with Section 2.6, which sets forth the correct deadline.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendment to the Delivery Procedures is 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.

As discussed above, the amendment would modify Part H of the Delivery Procedures in order to correct an inconsistency regarding the deadline for submission of EFPs and EFSs with respect to Daily Contracts. In ICE Clear Europe's view the amendment would thus facilitate the clearing membership process, and related risk management by the Clearing House. The amendments would therefore facilitate the prompt and accurate clearing of cleared contracts and protect investors and the public interest in the sound operations of the Clearing House, consistent with the requirements of Section 17A(b)(3)(F).⁷ Further, the amendments will not affect the safeguarding of

⁵ 15 U.S.C. 78q-1.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

securities and funds in the custody or control of the Clearing House or for which it is responsible, within the meaning Section 17A(b)(3)(F).⁸

The proposed amendment is also consistent with relevant provisions of Rule 17Ad-22.⁹ Rule 17Ad-22(e)(10)¹⁰ 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.” The proposed amendment, which would correct an inconsistency regarding the deadline for submission of EFPs and EFSs with respect to Daily Contracts, would not otherwise change the delivery terms and conditions for the Daily Contracts or otherwise affect the ICE Clear Europe’s existing financial resources, risk management, systems and operational arrangements supporting delivery. The amendment thus appropriately clarifies the role and responsibilities of the Clearing House and Clearing Members with respect to physical delivery. As a result, ICE Clear Europe believes the amendment is consistent with the requirements of Rule 17Ad-22(e)(10).¹¹

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 17 CFR 240.17 Ad-22.

¹⁰ 17 C.F.R. 240.17Ad-22(e)(10).

¹¹ 17 C.F.R. 240.17Ad-22(e)(10).

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

ICE Clear Europe does not believe the proposed amendment would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment to the Delivery Procedures is intended to correct an inconsistency in the delivery timetable for routine deliveries of Daily Contracts. ICE Clear Europe does not believe that the amendment 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 that the amendment 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 amendment has 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 Act¹² and paragraph (f) of Rule 19b-4¹³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

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-2022-012 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-2022-012. 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, DC 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-2022-012 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.¹⁴

J. Matthew DeLesDernier,
Assistant Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).