

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96274; File No. SR-ICEEU-2022-022)

November 8, 2022

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice and Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Part GG 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 October 28, 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) 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 GG of its Delivery Procedures to update certain documentation,

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).

timing and other requirements relating to delivery under ICE Futures Abu Dhabi Murban Crude Oil Futures Contracts (“Murban Crude Oil Futures Contracts”).

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 GG of its Delivery Procedures to clarify certain delivery specifications relating to Murban Crude Oil Futures Contracts. The proposed changes include amendments to the delivery timetable in respect of delivery of Murban Crude Oil Futures Contracts to modify certain time periods to be more consistent with underlying cash markets, at the request of market participants, and to make other drafting clarifications and improvements. Specifically, the amendments would extend the date by which Buyers would be required to send the Clearing House and Seller Delivery Range Nomination Form stating the Buyer’s preferred three-delay delivery range from the 5th calendar day of the month preceding the Delivery Period (or the following day if such 5th calendar day is not a Clearing Day) to the 25th calendar day prior to the first calendar day of the delivery month. In practice, the change will extend the deadline up to two days. In light of this extension, ICE Clear Europe does not believe

it is necessary to provide a further extension if the relevant day is not a Clearing Day. The amendments would also move the deadline to 14:00 LPT on the relevant day rather than 16:00 LPT. Such amendments are intended to align the deadline with that specified for the cash market in the Abu Dhabi National Oil Company's (ADNOC's) General Terms and Conditions for the Sale of Crude Oil/ Condensate and Liquefied Petroleum Gas (the "ADNOC's GTCs").⁵ Market participants have requested these changes to reduce the operational burden on Buyers of having different deadlines for the Murban Crude Oil Futures Contracts and the cash market. The timing updates would also be reflected in the delivery documentation summary.

The Clearing House also proposes to amend the delivery timetable to change the timing the finalization of the loading programme for the Delivery Period and the delivery range determination to the 15th calendar day prior to the first calendar day of the Delivery Month and the 15th calendar day prior to the first calendar day of the Delivery Month +1 Clearing Day, respectively. Such amendments are also intended to align such timing with the timing specified in ADNOC's GTCs for the cash market. Such updates are also intended to ease the delivery operational burden on Sellers by harmonizing the delivery specifications applicable to Murban Crude Oil Futures Contracts under Part GG of the Delivery Procedure's with the requirements of ADNOC's GTCs in the cash market.

⁵ ADNOC's General Terms and Conditions for the Sale of Crude Oil/ Condensate and Liquefied Petroleum Gas is available at the following link:
https://www.adnoc.ae/-/media/adnoc-v2/files/adnoc_crude-and-lpg_gtcs_january-2020-edition-final_v1.ashx?la=en&hash=C9551678CC5CBBBAB30DFE83A495800E8AD540A1.

The amendments would also make certain drafting corrections and clarifications. An incorrect reference in the delivery timetable to delivery range nomination under Section 4 of Part GG has been removed and a correct reference to vessel nomination has been added in the appropriate section of the delivery timetable. Additionally, the amendments would add to the portion of the delivery timetable that discusses finalization of the delivery range determination that the Terminal Operator would be able to shorten the delivery range from three consecutive Terminal Loading Days to two consecutive Terminal Loading Days at any time, provided that the Terminal Operator gives notice to the Buyer, Seller and the Clearing House. This change is consistent with the existing contractual specifications of the Murban Crude Oil Futures Contracts.

Minor updates would be made to Section 4 of Part GG. The title preceding the table in such section would be changed from “ICE Murban Crude Oil Delivery Vessel Nomination Table” to “ICE Murban Crude Oil Vessel Nomination Table”, for consistency with other documentation. Information regarding Clearing Days would also be removed from the section as unnecessary since such deadlines are calculated using calendar days and not Clearing Days.

Other typographical and similar corrections would be made throughout Part GG.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to Part GG of the Delivery Procedures are consistent with the requirements of Section 17A of the Act⁶ and

⁶ 15 U.S.C. 78q-1.

the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act⁷ 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 proposed changes to Part GG of the Delivery Procedures are designed to more closely align the timing for certain delivery-related documentation and processes relating to Murban Crude Oil Futures Contracts with the underlying cash market terms and conditions. Other updates would be made to improve clarity and readability. The amendments do not otherwise change the terms and conditions of Murban Crude Oil Futures Contracts, and the contracts will continue to be cleared by ICE Clear Europe in the same manner as they are currently. In ICE Clear Europe's view, the amendments are thus consistent with the prompt and accurate clearance and settlement of cleared contracts and the protection of investors and the public interest. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible). Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).⁸

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

In addition, Rule 17Ad-22(e)(10)⁹ 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 clarify certain delivery specifications for Murban Crude Oil Futures Contracts relating to the determination of delivery ranges and certain other documentation and timing matters, consistent with the ADNOC’s GTCs. The amendments would not otherwise change the manner in which the contracts are cleared or in which delivery is made, as 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 amendments are being adopted to update and clarify the delivery specifications in Part GG of the Delivery Procedures in connection with Murban Crude Oil Futures Contracts, and will not otherwise affect the contract. ICE Clear

⁹ 17 C.F.R. 240.17Ad-22(e)(10).

¹⁰ 17 C.F.R. 240.17Ad-22(e)(10).

Europe does not expect that the proposed changes will adversely affect access to clearing or the ability of Clearing Members, their customers or other market participants to continue to clear contracts. ICE Clear Europe also does not believe the amendments would materially affect the cost of clearing or otherwise impact competition among Clearing Members or other market participants or limit market participants' choices for selecting clearing services. Accordingly, ICE Clear Europe does not believe the amendments would impose any burden on competition not necessary or 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 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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-2022-022 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-2022-022. 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-2022-022 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

Sherry R. Haywood,
Assistant Secretary.

¹³ 17 CFR 200.30-3(a)(12).