

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96722; File No. SR-ICEEU-2023-001)

January 20, 2023

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to clearing fees for ICE Futures Europe Gilt Futures and Options and Euribor Options contracts

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 January 9, 2023, 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)(2) 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.

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).

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 changes to certain of its clearing fees for ICE Futures Europe Gilt Futures and Options and Euribor Options contracts.⁵

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 increase certain clearing fees for ICE Futures Europe (“IFEU”) Gilt Futures and Options and Euribor Options contracts. The fee changes are intended to provide revenue to support the further development of IFEU’s Gilt markets and bring fees related to these contracts in line with the fees of other government bond futures and options traded on other Exchanges. For Euribor options, the changes would be made to align fees with existing ICE Clear Europe clearing fees for

⁵ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

the underlying Euribor futures⁶. The amendments do not otherwise change the terms and conditions of the relevant contract.

Fees with respect to the Gilt contracts have not been changed since 2017. The fee increases are intended to align fees for the Gilt contracts more closely with those of government bond futures and options traded on other exchanges. In addition, there is only limited open interest in certain Gilt contracts (particularly the short, medium and ultra-long contracts). The proposed fee increases (together with planned increases in trading fees at IFEU) are intended to provide revenue to support additional business development activity with respect to these contracts, including funding liquidity provider and other incentives that may be adopted in the future. In ICE Clear Europe's experience with similar contracts, such incentives will likely be needed in order to generate additional market activity and liquidity in contracts with limited existing open interest.

With respect to Euribor options, the Clearing House proposes to increase the clearing fees to align with the underlying Euribor futures contracts. ICE Clear Europe believes that the changes will eliminate an unnecessary distinction between the cost of trading futures and options. ICE Clear Europe notes that clearing fees with respect to these contracts have not changed since ICE Clear Europe commenced clearing them in 2014.

The fee tables below set forth the proposed clearing fee changes. The proposed new fees are intended to come into effect on February 1, 2023, subject to regulatory

⁶ IFEU is contemporaneously increasing certain trading fees relating to these contracts, and is expected to announce such increases by circular in advance of implementation.

approval. ICE Clear Europe intends, together with IFEU, to publish a Circular to inform market participants of the changes in advance of such proposed effective date.

Gilt Futures and Options proposed Exchange and Clearing fees

Below is a table showing the existing and proposed clearing fees and a table showing the proposed amended Exchange and Clearing fees.

CONTRACT — SHORT, MEDIUM, LONG AND ULTRA-LONG GILTS	EXISTING CLEARING FEE	<u>PROPOSED NEW CLEARING FEE</u>
Futures Contracts	0.20	<u>0.24</u>
Futures Basis/Block	0.20	<u>0.24</u>
Futures Block with Delayed Publication	0.34	<u>0.36</u>
Deliveries	2.50	2.50 ⁷
Options Contracts (Long Gilt only)	0.20	<u>0.24</u>
Options Block (Long Gilt only)	0.20	<u>0.24</u>
Options Block with Delayed Publication (Long Gilt only)	0.34	<u>0.36</u>
Option Exercise (Long Gilt only)	0.20	<u>0.33</u>

CONTRACT— EURIBOR®	EXISTING CLEARING FEE	<u>PROPOSED NEW CLEARING FEE</u>
Futures Contracts	0.20	0.20 ⁸
Futures Basis/Block	0.20	0.20
Futures Block with Delayed Publication	0.34	<u>0.36</u>
Cash Settlement	0.25	<u>0.28</u>
Options Contracts	0.18	<u>0.20</u>
Options Block	0.18	<u>0.20</u>
Options Block with Delayed Publication	0.34	<u>0.36</u>
Option Exercise	0.25	<u>0.28</u>

⁷ Clearing fees applicable to deliveries would be unchanged. Fee information for deliveries is included in the table for completeness.

⁸ Clearing fees applicable to futures contracts and futures/basis block transactions would be unchanged. Fee information for these contracts is included for completeness.

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act⁹ and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act¹⁰ requires that “[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants.” ICE Clear Europe believes that its clearing fees, as proposed to be amended, would be reasonable and appropriate for the relevant Contracts. ICE Clear Europe's fees are imposed at the product level on a per transaction basis (as are the applicable Exchange fees), and would be generally applicable to market participants trading in the contracts. As set forth above, ICE Clear Europe is proposing to increase clearing fees for the relevant Gilt contracts in order to support further development of trading and liquidity in those contracts, in light of the lack of current open interest. ICE Clear Europe believes the higher fees will facilitate funding of liquidity and other incentives that will support the contract. The amended fees will also be consistent with the fees applicable to government bond futures contracts traded at other exchanges. ICE Clear Europe has determined that the increased fees would provide an appropriate balance between the costs of clearing for market participants and the expenses incurred by ICE Clear Europe in offering clearing of the relevant contracts, and permit greater support by ICE Clear Europe of clearing such products. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.¹¹

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act¹² which requires, among other things, that “[t]he rules of a clearing agency [...] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.” As noted above, the fees, as proposed to be amended, would apply on a per transaction and would apply to market participants generally. Although ICE Clear Europe may use revenue from additional fees to support liquidity and other incentive arrangements for Gilt contracts, ICE Clear Europe believes that any such incentives that may be adopted will be appropriately tailored to support additional trading and liquidity in the contracts. As a result, the amendments would not result in any unfair discrimination among Clearing Members in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.¹³

(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 purpose of the Act. Although ICE Clear Europe is increasing certain clearing fees, as set forth herein, it believes such changes are appropriate to reflect the costs and

⁹ 15 U.S.C. 78q-1.

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 15 U.S.C. 78q-1(b)(3)(F).

expenses incurred by the Clearing House in clearing the relevant Contracts and are consistent with other contracts cleared at the Clearing House and similar contracts cleared on other venues. The amendments would also support appropriate liquidity and other incentive arrangements to further develop trading. ICE Clear Europe does not believe that the amendments would adversely affect the ability of Clearing Members or other market participants generally to access clearing services for the Contracts. Further, since the revised fees will be the base rate applicable to all Clearing Members and market participants that clear the products, ICE Clear Europe believes that the amendments would not otherwise affect competition among Clearing Members, adversely affect the market for clearing services or limit market participants' choices for obtaining clearing services. As a result, ICE Clear Europe does not believe the amendments would have any impact or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes 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 Act¹⁴ and paragraph (f) of Rule 19b-4¹⁵ 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, security-based swap submission or advance notice 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-2023-001 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-ICEEU-2023-001. 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-2023-001 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.¹⁶

Sherry R. Haywood,
Assistant Secretary.

¹⁶ 17 CFR 200.30-3(a)(12).