

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97746; File No. SR-ICEEU-2023-015)

June 16, 2023

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments Part HH of its 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 6, 2023, ICE Clear Europe Limited 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 Limited. ICE Clear Europe Limited 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 HH of its Delivery Procedures (“Delivery Procedures” or “Procedures”)⁵ to make certain corrections and clarifications with respect to the ICE

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).

⁵ Capitalized terms used but not defined herein have the meanings specified in the Delivery Procedures or, if not defined therein, the ICE Clear Europe Clearing Rules.

Endex French PEG Natural Gas Contracts to be consistent with relevant exchange contract specifications.

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 HH of the Delivery Procedures which applies to ICE Endex French PEG Natural Gas Contracts to make certain corrections and clarifications to be consistent with exchange contract specifications. In paragraph 3.2, the amendments would clarify that the contract trades in megawatt hours (MWh) per day and would correctly reflect that the contract is delivered in kilowatt hours (kWh) rather than MWh. The delivery documentation summary in paragraph 9.1 would also be amended to reflect the correction from MWh to kWh for deliveries under the contract. In paragraph 9.2, a correction would be made for invoice report and account sale report requirements to reflect that ICE Endex French PEG Daily Futures are priced in Euros per MWh (rather than pence per Therm). The amendments do not otherwise change the terms and conditions of deliveries under the relevant contract.

(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 Act⁶ and 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. The proposed changes to the Delivery Procedures are designed to make certain clarifications and corrections in Part HH relating to settlement for ICE Endex French PEG Natural Gas Contracts, for consistency with relevant exchange contract specifications. The amendments do not otherwise change the manner in which the contracts are cleared or settled. Accordingly, ICE Clear Europe believes that the Delivery Procedures, as amended, 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.⁸ (In ICE Clear Europe's view, the amendments would not affect the safeguarding of funds or securities in the custody or

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).⁹⁾

In addition, Rule 17Ad-22(e)(10)¹⁰ provides that “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably 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 would make certain corrections and clarifications relating to settlement under ICE Endex French PEG Natural Gas Contracts, including with respect to deliveries being made in kWh. The amendments thus appropriately clarify the role and responsibilities of the Clearing House and Clearing Members with respect to the contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Rule 17Ad-22(e)(10).¹¹

(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 make certain corrections and clarifications relating to ICE Endex French PEG Natural Gas Contracts. The amendments would not change the obligations of market

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 17 C.F.R. 240.17Ad-22(e)(10).

¹¹ 17 C.F.R. 240.17Ad-22(e)(10).

participants under those contracts. 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

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 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

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

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 (<https://www.sec.gov/rules/sro.shtml>) or
- Send an email to rule-comments@sec.gov. Please include file number SR-ICEEU-2023-015 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-2023-015. This file number should be included on the subject line if email 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 (<https://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 am and 3 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>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-ICEEU-2023-015 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier,
Deputy Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).