

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97789; File No. SR-ICEEU-2023-016)

June 22, 2023

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments FTSE 100 Index Contracts and SARON Futures 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 June 9, 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 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 to amend certain clearing transaction fees for FTSE 100 index contracts and SARON futures contracts (the “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 specified ICE Futures Europe (“IFEU”) contracts, specifically the ICE Futures Europe FTSE 100 Futures and Options Contracts, FTSE 100 Dividend Index Futures Contracts (collectively the “Equity Index Contracts”) and Three-Month SARON® Index Futures Contracts (the “SARON Futures.”) The proposed fee changes are set forth in the following tables:

⁵ Capitalized terms used but not defined herein have the meanings specified in the IFEU Equity Index Contracts and SARON Futures or, if not defined therein, the ICE Clear Europe Clearing Rules.

CONTRACT— FTSE 100 Futures and Options Contract	EXISTING CLEARING FEE (£/CONTRACT)	<u>PROPOSED NEW CLEARING FEE (£/CONTRACT)</u>
Outrights/Basis	0.24	<u>0.27</u>
Block	0.29	<u>0.33</u>
Block with Delayed Publication	0.33	<u>0.35</u>
Cash Settlement fee (Futures)	0.35	<u>0.40</u>
Exercise/Assignment fee (Options)	0.35	<u>0.40</u>
Block fee cap (Options)	2,080	<u>2,350</u>
Block fee cap with Delayed Publication (Options)	2,800	<u>3,100</u>
Exercise/Assignment fee cap (Options)	2,400	<u>2,700</u>
FTSE 100 Trade at Index Close Published	0.28	<u>0.31</u>
FTSE 100 Trade at Index Close Delayed Published	0.35	<u>0.38</u>
CONTRACT— FTSE 100 Dividend Index Futures Contract	EXISTING CLEARING FEE (£/CONTRACT)	<u>PROPOSED NEW CLEARING FEE (£/CONTRACT)</u>
Outrights/Basis	0.24	<u>0.27</u>
Block	0.29	<u>0.33</u>
Block with Delayed Publication	0.33	<u>0.35</u>
Cash Settlement fee	0.35	<u>0.40</u>

CONTRACT— SARON Index Futures	EXISTING CLEARING FEE (€/CONTRACT)	<u>PROPOSED NEW CLEARING FEE (€/CONTRACT)</u>
Outrights/Basis	0.40	<u>0.48</u>
Block	0.40	<u>0.48</u>
Block with Delayed Publication	0.56	<u>0.68</u>
Cash Settlement fee	0.50	<u>0.60</u>

The proposed fee changes are intended to become operative on July 1, 2023, subject to regulatory approval.

The proposed increases in clearing fees for the Equity Index Contracts are intended to provide additional revenue to support the ongoing investments by ICE Clear Europe in developing clearing for derivative products on FTSE indexes, including the Equity Index Contracts. The amendments are also intended to bring fees into line with the fees of similar equity index contracts traded on other European exchanges, which have increased in 2023.

The proposed increases in fees for SARON Futures are intended to provide additional revenue to support ongoing clearing of the SARON Futures, including to support marketing and business development efforts relating to Swiss franc denominated interest rate derivatives in light of the continued evolution of European markets as a result of ongoing regulatory changes under EU law and other factors.

The amendments to the fees for both Equity Index Contracts and SARON Futures will also generally provide additional revenue to support Clearing House investments that enhance the services provided to market participants, including through new clearing technology to augment the existing clearing platform, reduce systems risk, and add additional regulatory reporting related to MIFID and other regulations. Fee increases also reflect the current inflationary macroeconomic environment.

(b) Statutory Basis

ICE Clear Europe believes that the proposed fee amendments for the Equity Index Contracts and SARON Futures are consistent with the requirements of Section 17A of the

Act⁶ and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act⁷ 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 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. ICE Clear Europe has determined that the increased clearing fees are appropriate to support continued investments in clearing operations. Specifically, the increased fees for the Equity Index Contracts would support ongoing development of clearing of derivatives on FTSE indices, and will be consistent with fees for other contract for similar equity index futures contracts traded on other exchanges. The increased fees for the SARON Futures would facilitate ongoing market and business development with respect to that contract. ICE Clear Europe has further determined that the increased fees would be commensurate with the size and nature of the contracts and 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, taking into account the investments ICE Clear Europe has made and will continue to make in clearing such products. As such, in ICE Clear Europe’s view, the amendments are consistent with the equitable allocation of

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78q-1(b)(3)(D).

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.⁸

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act⁹ which requires, among other things, that the “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 proposed fee changes for the Contracts would apply on a per transaction basis and would apply to Clearing Members and market participants generally. 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.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. Although ICE is increasing certain clearing fees, as set forth herein, it believes such changes are appropriate to reflect the costs and expenses incurred by the Clearing House and to support continued investment in its operations and infrastructure to support clearing activities for these and other contracts. Further, as discussed above, because fees are imposed on a per transaction basis at the product level, the revised fees would be applied equally to all Clearing Members and other market participants who transact in the Contracts. ICE does not believe that the amendments

⁸ 15 U.S.C. 78q-1(b)(3)(D).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

would adversely affect the ability of such Clearing Members or other market participants generally to access clearing services for the Contracts. Further, since the revised fees will apply to market participants generally, ICE 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. 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 Received from Members, Participants or Others

Written comments relating to the proposed amendment have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 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 (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to rule-comments@sec.gov. Please include file number SR-ICEEU-2023-016 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-2023-016. 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 (<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>.

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-2023-016 and should be submitted on or before [insert date 21 days after publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Lynn Taylor,

Assistant Secretary.

¹³ 17 CFR 200.30-3(a)(12).