

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-98138; File No. SR-ICEEU-2023-019)

August 15, 2023

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the Model Risk Policy.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 4, 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. 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 modify its Model Risk Governance Framework (to be renamed the Model Risk Policy) (the “Model Risk Policy” or the “Policy”)<sup>3</sup> to make certain enhancements to the Clearing House’s current policy and practices as they pertain to model and parameter risks.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Policy.

**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 its Model Risk Governance Framework (to be renamed the Model Risk Policy) to expand its current scope to include certain risk frameworks and to distinguish between “Business As Usual” (“BAU”) and non-BAU parameter changes, among other changes discussed herein.

The amendments would expand the scope of the Policy to include risk frameworks used to quantify, aggregate and manage the risks of the Clearing House. The amendments would further clarify that references to “model” in the rest of the document would refer to both models and risk frameworks. The discussion of the architecture supporting the Policy would be revised to also include guidelines for the remediation of validation findings relating to models.

The amendments would also state that changes to risk parameters would be categorized as significant and not significant. This would follow the same categorization under the existing Policy with respect to model changes. A footnote referencing a

specific ESMA opinion as providing the criteria defining model change significance would be revised to state more generally that the criteria will be in accordance with prevailing regulatory opinions, guidelines or requirements (in order to take into account any other regulatory positions that may be in effect from time to time). Moreover, the changes to parameters would be categorized as Business as Usual (“BAU”) and Non-BAU. Changes considered BAU would be defined as changes in the parameters resulting from the application of existing methodologies as part of a regular review or calibration exercise. Non-BAU changes would be all other changes. The amendments would clarify that the definition of BAU would be in accordance with existing regulatory guidelines.

The amendments would also clarify certain governance responsibilities. The Board would be responsible for the approval of significant non-BAU changes to risk parameters. Auto Pilot versus Production deviations beyond BAU thresholds will generally follow a similar governance process to that for changes in parameters but given that these deviations are usually time sensitive and driven by stressed market conditions, the Clearing House will need the ability to act quickly to ensure market stability. Thus, for these situations the governance process will involve Board notification rather than Board pre-approval and Risk Oversight Department review rather than full independent pre-validation. The Model Oversight Committee would be responsible for establishing and maintaining a model inventory and assigning a specific owner to each model (a function currently performed by the First Line). The Model Oversight Committee would also be responsible for approving non-significant non-BAU changes to risk parameters and for reviewing significant non-BAU changes to risk parameters for recommendation

to the Board. In addition, the committee would be responsible for approving changes to model documentation.

The First Line responsibilities would also be modified by the amendments. As noted above, the First Line would no longer be responsible for establishing and maintaining a model inventory and assigning a specific owner to each model as that responsibility would be moved to the Model Oversight Committee. The First Line would be responsible for proposing and seeking approval for non-BAU changes to risk parameters (as it currently does for models, model changes, and model retirements). Similarly, the First Line would also be responsible for proposing significance levels for non-BAU changes to risk parameters. The Second Line would be responsible for performing independent validation exercises for non-BAU changes to risk parameters (as it currently does for models).

Finally, a new sub-section would be added addressing Non-BAU parameter changes. The section would provide that significant non-BAU changes to risk parameters must be validated before they are implemented in production. Non-significant non-BAU changes must be validated in accordance with the validation pipeline.

A number of other drafting clarifications and conforming changes replacing the references to “Framework” with “Policy” would also be made throughout the document.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Policy are consistent with the requirements of Section 17A of the Securities Exchange Act of 1934

(the “Act”)<sup>4</sup> and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act<sup>5</sup> 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 Policy are designed to facilitate the risk management and governance of risk frameworks in a similar manner to that for models under the existing framework. The processes, controls and escalations used by the Clearing House with respect to the testing and reviewing of models, as well the responsibilities of the Clearing House’s committees, management and the Board in relation to the models would thus be applied to risk frameworks. The amendments provide additional procedures for the management of risk parameter changes, distinguishing between BAU and non-BAU (which are subject to additional review and governance requirements). The Clearing House believes these changes will further overall risk management at the Clearing House, which would in turn promote the stability of the Clearing House and the prompt and accurate clearance and settlement of cleared contracts. The enhanced Policy is therefore also generally consistent with the protection of investors and the public interest in the safe operation of the Clearing House. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe’s

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<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

custody or control or for which it is responsible.) Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).<sup>6</sup>

The amendments to the Policy are also consistent with relevant provisions of Rule 17Ad-22.<sup>7</sup> Rule 17Ad-22(e)(3)(i) provides that “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable [...] identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency”.<sup>8</sup> The amendments to the Policy are intended to expand the considerations of the existing model governance framework to apply to risk frameworks as well as models and to distinguish BAU and non-BAU changes to risk parameters for purposes of ongoing review and oversight. The expanded scope of the Policy will, in ICE Clear Europe’s view, assist the Clearing House in the ongoing review and oversight of the models and frameworks it uses in the operation of the Clearing House, and the management of the risks that may arise from the use of such models and frameworks. The amendments would thus strengthen the overall risk management of the Clearing House. In ICE Clear Europe’s view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(3)(i).<sup>9</sup>

Rule 17Ad-22(b)(4) provides “[a] registered clearing agency that performs central counterparty services shall establish, implement, maintain and enforce written policies and procedures reasonably designed to [...] [p]rovide for an annual model validation

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 17 CFR 240.17 Ad-22.

<sup>8</sup> 17 CFR 240.17 Ad-22(e)(3)(i).

<sup>9</sup> 17 CFR 240.17 Ad-22(e)(3)(i).

consisting of evaluating the performance of the clearing agency's margin models and the related parameters and assumptions associated with such models by a qualified person who is free from influence from the persons responsible for the development or operation of the models being validated".<sup>10</sup> The amendments add non-BAU changes to risk parameters but do not otherwise change the Policy's or Clearing House's practice in reviewing and validating models. Under the Policy, the First Line would still be responsible for development and operation of the models, while the Risk Oversight Department (as part of the Second Line) is responsible for performing independent validation exercises for the new models, model changes and non-BAU changes to risk parameters. The Risk Oversight Committee would also oversee independent validation exercises performed by external validators. In ICE Clear Europe's view, the amendments are therefore consistent with Rule 17Ad-22(b)(4).<sup>11</sup>

Rules 17Ad-22(e)(4)(vii) provides "[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [...] [e]ffectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by [...] [p]erforming a model validation for its credit risk models not less than annually or more frequently as may be contemplated by the covered clearing agency's risk management framework established [...]"<sup>12</sup> and 17Ad-22(e)(6)(vii) provides "[e]ach covered clearing agency shall establish, implement, maintain and

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<sup>10</sup> 17 CFR 240.17Ad-22(b)(4).

<sup>11</sup> 17 CFR 240.17Ad-22(b)(4).

<sup>12</sup> 17 CFR 240.17Ad-22(e)(4)(vii).

enforce written policies and procedures reasonably designed to, as applicable [...] [c]over, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum [...] [r]equires a model validation for the covered clearing agency's margin system and related models to be performed not less than annually, or more frequently as may be contemplated by the covered clearing agency's risk management framework [...].<sup>13</sup> The amendments to the Policy expand the current scope to include risk frameworks and do not otherwise change ICE Clear Europe's model validation cycles. As per the Policy and the Clearing House's current practice, the validation pipeline would still include annual validation cycles. In ICE Clear Europe's view, the amendments are therefore consistent with Rules 17Ad-22(e)(4)(vii)<sup>14</sup> and 17Ad-22(e)(6)(vii).<sup>15</sup>

Rule 17Ad-22(e)(2) provides that “[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable [...] provide for governance arrangements that are clear and transparent”<sup>16</sup> and “[s]pecify clear and direct lines of responsibility”<sup>17</sup>. The amendments to the Policy would extend the existing responsibilities of the Clearing House's committees, management and the Board with respect to models to also apply to risk frameworks. The amendments would also clarify certain responsibilities of the Board and other relevant committees and personnel as they relate to BAU and Non-BAU changes to risk

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<sup>13</sup> 17 CFR 240.17Ad-22(e)(6)(vii).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(4)(vii).

<sup>15</sup> 17 CFR 240.17Ad-22(e)(6)(vii).

<sup>16</sup> 17 CFR 240.17 Ad-22(e)(2)(i).

<sup>17</sup> 17 CFR 240.17 Ad-22(e)(2)(v).

parameters. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(2).<sup>18</sup>

(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 expand the Clearing House's Model Risk Policy, which relate to the Clearing House's internal processes for model and risk framework review, and overall risk management. The amendments will not change the Clearing House Rules or Procedures and will not change the rights or obligations of the Clearing House or Clearing Members. ICE Clear Europe does not believe the amendments and adoption would affect the costs of clearing, the ability of market participants to access clearing, or the market for clearing services generally. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is inappropriate 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 amendments 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.

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<sup>18</sup> 17 CFR 240.17 Ad-22(e)(2).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

**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 (<https://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2023-019 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-2023-019. 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, DC 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.ice.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-2023-019 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.<sup>19</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>19</sup> 17 CFR 200.30-3(a)(12).