

**SECURITIES AND EXCHANGE COMMISSION**

Release No. 34-80269 ; File No. SR-ICEEU-2017-003

March 17, 2017

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of a Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to the CDS End-of-Day Price Discovery 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 March 10, 2017, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change 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, Security-Based Swap Submission, or Advance Notice

The principal purpose of the changes is to modify certain aspects of ICE Clear Europe’s CDS End-of-Day Price Discovery Policy (the “EOD Price Discovery Policy”).

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

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

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

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

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, Security-Based Swap Submission or Advance Notice

1. Purpose

The purpose of the rule change is to incorporate certain enhancements to the EOD Price Discovery Policy. These revisions do not require any changes to the ICE Clear Europe Clearing Rules.

ICE Clear Europe proposes revising its EOD Price Discovery Policy to implement a new direct price submission process for Clearing Members. Currently, ICE Clear Europe uses an intermediary agent to implement functions of its price discovery process. Under the current process, Clearing Members make required price submissions to the intermediary agent. These prices are then input into ICE Clear Europe's price settlement methodology to determine settlement prices. ICE Clear Europe is proposing to remove the intermediary agent from the price settlement process. In doing so, ICE Clear Europe will require Clearing Members to submit prices directly to the clearing house. The prices will continue to be input into ICE Clear Europe's price settlement methodology to determine settlement prices. ICE Clear Europe is not otherwise changing the price settlement methodology itself.

The proposed revisions to the EOD Price Discovery Policy are described in detail as follows: Under the revised policy, ICE Clear Europe requires Clearing Members to establish direct connectivity with the clearing house and use a FIX API to submit required prices. ICE Clear Europe is revising the EOD Price Discovery Policy to remove references to the intermediary agent and the Valuation Service API (and related message

terminology), which will be decommissioned with the launch of the new Clearing Member direct price submission process. The revisions also add references to the new FIX API message terminology which will be utilized under the new Clearing Member direct price submission process. Such changes are reflected throughout the EOD Price Discovery Policy. ICE Clear Europe has also updated the EOD Price Discovery Policy to specify that ICE Clear Europe will send the unsolicited FIX API messages directly to each Clearing Member.

Under the new Clearing Member direct price submission process, ICE Clear Europe will consolidate the price discovery process across index and single-name CDS. As such, new FIX API messages will include information for both index and single-name CDS. Previously, the price discovery process provided files separately for each product type. ICE Clear Europe has also updated the submission requirements for the CDX.NA.HY index to note that prices may be submitted in either price or upfront format; previously, only price format was accepted.

ICE Clear Europe has updated the EOD Price Discovery Policy to reflect the replacement of existing firm trade data files with new FIX API firm trade messages. ICE Clear Europe also made minor changes to the timings of certain steps in the price settlement process; no changes were made to the actual settlement submission windows.

ICE Clear Europe has also updated the process for distribution of end-of-day prices set forth in the EOD Price Discovery Policy. Under the new process, ICE Clear Europe will publish separate messages for Clearing Members, listing end-of-day prices for single-name and index CDS. The end-of-day prices provided will not change and will continue to be based on a Clearing Members' cleared positions. ICE Clear Europe will

continue to publish end-of-day prices for every listed risk sub-factor's most actively traded instrument, and to distribute daily end-of-day prices for all cleared instruments through Markit.

## 2. Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act<sup>3</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22,<sup>4</sup> and are consistent with the prompt and accurate clearance of 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 ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>5</sup> The amendments are intended to simplify and increase the efficiency of ICE Clear Europe's price discovery process. In particular, the changes will decrease external operational risk, as ICE Clear Europe will no longer rely on the services of an intermediary agent to perform key aspects of its price discovery process. In ICE Clear Europe's view, the amendments will generally enhance the end-of-day settlement process, and thus promote the prompt and accurate clearance and settlement of cleared contracts, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>6</sup> The amendments are also consistent with the requirements regarding the management of

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<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 17 CFR 240.17Ad-22.

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

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

operational risk in Rule 17Ad-22(d)(4)<sup>7</sup> and (as and when compliance therewith is required) Rule 17Ad-22(e)(17).<sup>8</sup>

B. Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. ICE Clear Europe is adopting the amendments to the EOD Price Discovery Policy in order to enhance certain aspects of the price discovery process. The amendments will apply uniformly across all Clearing Members, and will not change the nature of information to be submitted by Clearing Members. ICE Clear Europe does not believe the amendments would materially affect the cost of clearing, adversely affect access to clearing in CDS Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. As a result, 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 changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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<sup>7</sup> 17 CFR 240.17Ad-22(d)(4).

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

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

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2017-003 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-2017-003. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice 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 a.m. and 3:00 p.m. 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#rule-filings>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2017-003 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.<sup>9</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).