

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82729; File No. SR-ICEEU-2018-004 )

February 16, 2018

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a New F&O Concentration Charge 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 February 8, 2018, 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 changes pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(4)(ii) thereunder,<sup>4</sup> so that the proposal 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 proposes to implement a new F&O Concentration Charge Policy (the “Policy”), which will replace separate existing concentration charge policies for its energy and its financials and softs products.

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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> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

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 proposes to adopt the Policy, which will implement a new concentration charge margin model that will apply to all F&O Contracts, in both the energy and financials and softs ("F&S") sectors. ICEU currently uses two separate concentration charge models: one for energy products and one for F&S products. The existing concentration models and their associated policies will be retired upon implementation of the Policy. The concentration charge model is designed to provide the Clearing House with extra margin to cover the potential additional default costs where liquidation of a defaulter's positions may be delayed or prolonged due to highly concentrated positions within the defaulter's portfolio.

The new Policy is largely based on the existing concentration charge model applicable to F&S products, and as a result it is expected only marginally to impact margin for F&S products. The new Policy adds a few enhancements to the existing F&S model. Specifically, certain technical detail from the F&S model will be enhanced such that the concentration charge will no longer be calculated as a multiple of total

SPAN initial margin, but instead as a multiple of individual margin component (*i.e.*, outright or the scanning risk and the inter-month risk) summed together.

The new Policy marks a more significant methodology change for energy products, and may more significantly increase concentration charges for those products. The existing energy concentration charge model is based on the percentage share of each clearing member's initial margin to the total clearing house initial margin, while the new Policy (like the existing F&S policy) is based on the clearing member's position relative to the perceived level of market depth as represented by the daily trading volume in the relevant products. ICE Clear Europe believes that the new Policy will provide a more robust approach to measuring concentration risk, based on expected cost and time of liquidation, and to imposing additional margin charges as a result.

The Policy itself sets out the key steps and procedures for calculating the concentration charge for F&O contracts. Calculation are made for each underlying commodity and each relevant expiration period. The Policy operates by scaling the initial margin requirement upward by extending the holding or liquidation period beyond the margin period of risk used in the standard margin calculation, to account for the longer time it is expected to take the Clearing House to liquidate the positions in light of the average daily trading volume in the product. The concentration charge is thus designed to reflect the portion of the defaulter's position expected to be remaining after the margin period of risk. The Policy uses a concentration charge scaling formula that takes into account these considerations. The final concentration charge takes into account both an outright position scanning range calculation and an intermonth (calendar spread) position calculation.

The Policy sets out additional operational steps related to determining concentration charges, including weekly calculations and reports to members regarding their concentration charge percentages per underlying, per Clearing Member and on an account level. Additional detail can be provided to Clearing Members upon request. Parameters for the model are reviewed on an ongoing basis in conjunction with the charge calculation cycle and through a quarterly formal review of all parameters, where the latest market statistics are used to assess their adequacy.

The Policy also incorporates an overall Board risk appetite and limit framework, which is consistent with other ICE Clear Europe policies, based on ICE Clear Europe's corporate objectives and risk objectives as established by the Board. The Policy also addresses governance and reporting, including independent validation, policy review and exception handling. Relevant models used to support the Policy are subject to an annual independent validation and governance oversight. The Policy addresses review and oversight by the policy owner, as well as escalation and notification protocols. The Policy will be reviewed by the F&O Risk Committee and Board at least annually. At a minimum, any material changes will be discussed by the ICE Clear Europe executive risk committee and approved by the Board (on the advice of the F&O Risk Committee and Board Risk Committee). Material deviations are reported to the ICE Clear Europe President and the risk oversight department to determine the appropriate governance escalation and notification requirements.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act<sup>5</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22.<sup>6</sup> Section 17A(b)(3)(F) of the Act<sup>7</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 new Policy is designed to enhance the Clearing House's margin model, by providing a more robust analysis of concentration risk that may be caused by clearing member positions that cannot be liquidated within the standard margin period of risk, and to provide for additional initial margin resources to cover that risk. The Policy will thus better align clearing member margin requirements with the concentration risks presented by such members. As such, the Policy will facilitate the prompt and accurate clearance and settlement of transactions, and protect the Clearing House against the risk of default, which will in turn enhance the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F).

In addition, Rule 17Ad-22(e)(6)<sup>8</sup> requires that a clearing agency cover its credit exposures to its participants by establishing a risk-based margin system that, among other

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<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 17 C.F.R. 240.17Ad-22.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 17 C.F.R. 240.17Ad-22(e)(6).

matters, produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market; and calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. As noted above, the new Policy is designed to enhance the Clearing House's ability to set additional margin requirements that reflect the concentration risk of particular Clearing Member portfolios, and thereby to hold sufficient margin to cover the additional liquidation risk inherent in those portfolios. The Policy sets appropriately conservative concentration limits that will bring concentration charges for energy products into alignment with other F&O products. The Policy is thus consistent with the requirements of Rule 17Ad-22(e)(6).

Rule 17Ad-22(e)(6)(vii)<sup>9</sup> further requires that each covered clearing agency establish written policies and procedures that provide for 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. As set forth above, the models underlying the Policy are subject to an annual independent validation. The Policy itself is subject to review by the F&O Risk Committee and Board at least annually. The Model parameters used to determine concentration limits are reviewed on an ongoing basis and there is also a quarterly formal review of all the parameters, where the latest market statistics are used to assess their adequacy. These procedures are consistent with Rule 17Ad-22(e)(6)(vii).

(B) Clearing Agency's Statement on Burden on Competition

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<sup>9</sup> 17 C.F.R. 240.17Ad-22(e)(6)(vii).

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 purposes of the Act. The changes are being proposed in order to more appropriately manage concentration risks in the in the portfolios of Clearing Members, and ensure that ICE Clear Europe imposes sufficient concentration charges to cover the potential liquidation risks arising from concentrated portfolios. The revised approach may result in increased concentration charges for F&O Clearing Member, particularly those with concentrated energy portfolios, and so may increase the cost of clearing for those Clearing Members. However, ICE Clear Europe believes that any such additional cost is appropriate to take into account the concentration risk posed to the Clearing House by such Clearing Members, consistent with the provisions of the Act and Commission regulations relating to margin requirements and methodologies as discussed above. The Policy will apply to all F&O Clearing Members, and such Clearing Members will be able to manage their positions to limit potential concentration charges if they so choose. ICE Clear Europe does not believe that the revised Policy will otherwise impact competition among Clearing Members or other market participants, or affect the ability of market participants to access clearing generally. As a result, ICE Clear Europe believes that any impact on competition is 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 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.

### III. Date of Effectiveness of the Proposed Rule Change

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and paragraph (f) of Rule 19b-4<sup>11</sup> 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 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-2018-004 on the subject line.

#### Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-ICEEU-2018-004. This file number should be included on the subject line if e-mail is used. To help the Commission

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 C.F.R. 240.19b-4(f).



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 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. 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-2018-004 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>12</sup>

Eduardo Aleman  
Assistant Secretary

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