

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-88356; File No. SR-ICEEU-2020-001)

March 10, 2020

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Clearing Member Transaction Fees for Certain Equity Derivatives Contracts, Specifically the Fee Caps for the Block Only Standard and Flexible Single Stock Futures and Options (“the Contracts”).

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 25, 2020, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, 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”) proposes rule changes relating to fees payable by Clearing Members for certain Equity Derivatives contracts, specifically the fee caps for the Block Only Standard and Flexible Single Stock Futures and Options

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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)(2).

(“the Contracts”). The revisions do not involve any changes to the ICE Clear Europe Clearing Rules or Procedures.<sup>5</sup>

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. 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

The purpose of the proposed rule changes is for ICE Clear Europe to update certain fees payable by Clearing Members for certain Equity Derivatives contracts which are cleared by ICEU Clear Europe. Specifically, ICE Clear Europe proposes changing the Clearing Member fee caps for the Block Only Standard and Flexible Single Stock Futures and Options. No changes will be made to the underlying fee rate per contract ("RPC") for these products. Attached as Exhibit 5 is the table listing the new fee caps for the Block Only Standard and Flexible Single Stock Futures and Options that will be included in a Circular in advance of the proposed effective date. The new Clearing Member fee caps are intended to come into effect on 2 March 2020. The proposed revisions to the Clearing Member fee caps are described in detail as follows.

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<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

ICE Clear Europe generally imposes clearing fees for the Contracts on a per lot basis. However, ICE Clear Europe also establishes a fee cap applicable to the clearing for the Contracts, which limits the maximum clearing fee payable by a Clearing Member per leg of a transaction regardless of the size or number of lots actually cleared. A similar fee structure (and fee cap) applies to the trading fee charged by the relevant exchange on which the Contracts are listed, which in this case is ICE Futures Europe (“the Exchange” or “IFEU”). For example, under the proposed trading/clearing fees for UK Standard and Flexible Stock Options, with an total (i.e. trading plus clearing) fee cap of £400 and a combined trading/clearing fee of £0.40 per lot, a market participant would need to trade/clear 1,000 lots to meet the total fee cap on a trade by trade basis. Any volume over 1,000 lots would not attract any charge on a trade by trade basis.

ICE Clear Europe is proposing to increase the Clearing Member fee caps for the Contracts as discussed below. It should also be noted that the total trading/clearing fee caps would remain extremely low compared to notional value. For example, the largest trade that the Exchange observed from September 2018 to September 2019 in UK Stock Options in notional terms was £86.6m and the proposed total fee cap of £400 represents 0.00046% of this notional value.

The changes to ICE Clear Europe's Clearing Member fee caps for the Contracts are intended to be consistent with parallel changes being made by the relevant exchange on which the Contracts are listed, namely IFEU. The Exchange has determined that it would be appropriate to raise the fee caps related to exchange fees for the Contracts, as the existing fee caps are low in notional terms compared to the size of trades in the Contracts and do not reflect the risks and costs that both the Exchange and the Clearing

House take on by facilitating this business. These changes result from IFEU's annual review of fees for all of its Equity Derivative products and, with regards to these specific products, the fee caps have not changed since the predecessor LIFFE exchange was acquired 6 years ago as part of ICE's acquisition of the New York Stock Exchange. ICE Clear Europe also notes that in the case of the UK Standard Stock Options, raising the fee caps may also incentivise the use of the Central Limit Order Book instead of block transactions.

Please find a breakdown of the existing trading/clearing fee structure and the proposed new fee structure below (changes highlighted in red) as per Exhibit 5. There are two fee structures for the Contracts, the difference between them being that if a Clearing Member meets the applicable minimum volume threshold it can choose to have the trade details published with a 15 minute delay post-trade which involves slightly higher fees than the standard fees associated with trades published as soon as they are matched.

|   | Fee Cap <sup>2</sup> |          |       |                         |                    |                   |          |       |                         |                    |
|---|----------------------|----------|-------|-------------------------|--------------------|-------------------|----------|-------|-------------------------|--------------------|
|   | Published            |          |       |                         |                    | Delayed Published |          |       |                         |                    |
|   | Exchange             | Clearing | Total | Exercise/<br>Assignment | Cash<br>Settlement | Exchange          | Clearing | Total | Exercise/<br>Assignment | Cash<br>Settlement |
| UK Single Stock Options<br>(block only) | £ 40                 | £ 360    | £ 400 | £ 400                   | N/A                | £ 50              | £ 450    | £ 500 | £ 400                   | N/A                |

|   |      |       |       |       |       |      |       |       |       |       |
|---|------|-------|-------|-------|-------|------|-------|-------|-------|-------|
| Austrian, Belgian, Czech, Danish, Dutch, Finnish, French, German, Hungarian, Irish, Italian, Norwegian, Polish, Portuguese, Spanish, Swedish, Swiss Single Stock futures (block only) | € 45 | € 405 | € 450 | N/A   | € 450 | € 58 | € 517 | € 575 | N/A   | € 450 |
| Austrian, Belgian, Danish, Dutch, Finnish, French, German, Irish, Italian, Norwegian, Portuguese, Spanish, Swedish, Swiss Single Stock Options (block only)                           | € 50 | € 450 | € 500 | € 500 | N/A   | € 60 | € 540 | € 600 | € 500 | N/A   |
| Canadian, Indian DR, South Korean DR, Swiss DR, UK Single Stock Futures (block only)  | £ 50 | £ 450 | £ 500 | N/A   | £ 500 | £ 60 | £ 540 | £ 600 | N/A   | £ 500 |

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act, including Section 17A of the Act<sup>6</sup> and regulations thereunder applicable to it. ICE Clear Europe's fees are imposed at the product level on a per transaction basis (as are the applicable Exchange fees). As a result, the fees (and fee caps) apply equally to all market participants who trade/clear the Contracts. ICE Clear

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<sup>6</sup> 15 U.S.C. 78q-1.

Europe continues to believe that the use of fee caps provides appropriate incentives and rewards to market participants for the use of the Clearing House’s clearing services for the Contracts. However, as noted above, ICE Clear Europe has not increased the applicable fee caps since it began clearing the Contracts six years ago, and believes that the current cap levels are too low, relative to the observed trade sizes and activity, to properly compensate ICE Clear Europe for the risks, costs and expenses of clearing the Contracts. ICE Clear Europe believes that the increases in the fee caps are modest in size in comparison to notional volume cleared and are appropriate to compensate it for offering clearing services for the Contracts, taking into account the investments it has made in providing its clearing services. ICE Clear Europe has determined that the revised fee caps will provide a more appropriate balance between the costs of clearing and expenses incurred by ICE Clear Europe and an appropriate fee structure for market participants that takes into account their transaction volume. As such, in ICE Clear Europe’s view, the amendments are consistent with the equitable allocation of 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<sup>7</sup>, and further do not unfairly discriminate among such participants in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>8</sup>

(B) Self-Regulatory Organization’s Statement on Burden on Competition

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<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(D). Under this provision, “[a] clearing agency shall not be registered unless the Commission determines that — (D) The rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.”

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

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 purpose of the Act. As discussed above, because fees are imposed on a per transaction basis at the product level, the fee caps are applied equally to all those market participants who trade and/or clear the Contracts. Although the amendments may result in higher fees for particular Clearing Members because of the higher fee caps, ICE Clear Europe believes that the new fee caps would be set at an appropriate level to better reflect the cost that the Clearing House takes on by facilitating the relevant clearing services. Any such higher fees will also more closely reflect the volume traded. ICE Clear Europe does not believe that the amendments 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 fee caps will apply to all Clearing Members, ICE Clear Europe 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.

(C) Self-Regulatory Organization'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 and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)<sup>9</sup> of the Act and paragraph (f) of Rule 19b-4<sup>10</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, 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-2020-001 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.

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-ICEEU-2020-001. 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 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/notices/Notices.shtml?regulatoryFilings>.

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-2020-001 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>11</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).