

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77943; File No. SR-ICEEU-2016-004]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Amendment No. 1 and Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Additions to Permitted Cover

May 27, 2016.

#### I. Introduction

On February 10, 2016, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change relating to additions to Permitted Cover. The proposed rule change was published for comment in the **Federal Register** on March 2, 2016.<sup>3</sup> The Commission did not receive comments on the proposed rule change. On April 15, 2016, the Commission extended the time period in which to either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to May 31, 2016.<sup>4</sup> On May 13, 2016, ICEEU filed Amendment No. 1 to the proposal.<sup>5</sup> For the reasons discussed below, the Commission is approving the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposed Rule Change

The purpose of the proposed rule change is to permit Clearing Members of ICE Clear Europe to provide additional

categories of securities, including treasury bills and floating and inflation-linked government bonds (the “Additional Permitted Cover”) to ICE Clear Europe to satisfy certain margin and guaranty fund requirements.

Specifically, the Additional Permitted Cover will include the following types of government securities: (i) U.S. Treasury floating-rate notes (“UST FRNs”), (ii) Canadian government treasury bills and Canadian government real return bonds, (iii) Spanish government treasury bills (*Letras del Tesoro*), (iv) Swedish government treasury bills, (v) German government inflation-linked bonds (of two types: *Deutsche Bundesrepublik Inflation-Linked Bonds* and *Bundesobligationen I/L*), (vi) Japanese government CPI-linked bonds, and (vii) Swedish government inflation index-linked bonds.

ICE Clear Europe represents that it believes that the Additional Permitted Cover is of minimal credit risk, comparable to that of other sovereign debt currently accepted by ICE Clear Europe as Permitted Cover. ICE Clear Europe also represents that other debt obligations of the same governments that issue the Additional Permitted Cover are currently eligible as Permitted Cover. According to ICE Clear Europe, the Additional Permitted Cover consisting of treasury bills is substantially similar to existing forms of treasury bill Permitted Cover currently accepted by the Clearing House. In terms of the Additional Permitted Cover consisting of inflation-linked government bonds, ICE Clear Europe represents that it currently accepts similar bonds issued by other governments. As a result, ICE Clear Europe does not believe that such bonds would pose any additional or novel risks for the Clearing House. ICE Clear Europe further believes that the Additional Permitted Cover has demonstrated low volatility, including in stressed market conditions.

ICE Clear Europe represents that it will initially apply to the Additional Permitted Cover the same valuation haircuts as currently applied to currently accepted bonds of the same issuer and within the same maturity bucket. ICE Clear Europe also asserts that it will review and modify such haircuts from time to time, in accordance with Clearing House’s Collateral and Haircut Policy and will impose both absolute limits and relative limits for each type of Additional Permitted Cover (other than U.S. Treasury obligations), consistent with the existing issuer limits for Permitted Cover and the Collateral and Haircut

Policy. As part of that policy, ICE Clear Europe asserts that an additional haircut will apply where Additional Permitted Cover is used to cover a margin requirement denominated in a different currency, to cover the exchange rate risk.

ICE Clear Europe represents that it will accept the Additional Permitted Cover in respect of original margin requirements for F&O Contracts and initial margin requirements for CDS Contracts. In addition, ICE Clear Europe represents that the UST FRNs will be accepted as Permitted Cover in respect of F&O and CDS guaranty fund contribution requirements and the Spanish and German securities constituting Additional Permitted Cover will also be accepted for the Euro-denominated component of the CDS guaranty fund. According to ICE Clear Europe, the other types of Additional Permitted Cover will not be accepted in respect of guaranty fund requirements and the Additional Permitted Cover cannot be used to satisfy variation margin requirements because variation margin must be paid in cash in the currency of the contract.

#### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>6</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act<sup>7</sup> requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>8</sup> and the rules and regulations thereunder applicable to ICE Clear Europe. The proposed rule change will permit Clearing Members of ICE Clear Europe to provide additional categories of securities to satisfy certain margin and guaranty fund requirements. The

<sup>6</sup> 15 U.S.C. 78s(b)(2)(C).

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

<sup>8</sup> 15 U.S.C. 78q-1.

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

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

<sup>3</sup> Securities Exchange Act Release No. 34-77234 (February 25, 2016), 81 FR 10949 (Mar. 2, 2016).

<sup>4</sup> Securities Exchange Act Release No. 34-77634 (April 15, 2016), 81 FR 23531 (April 21, 2016).

<sup>5</sup> ICE Clear Europe filed Amendment No. 1 to clarify in its List of Permitted Cover that the operation of the relative limits applicable to certain Permitted Cover apply across an individual Clearing Member’s total initial margin and guaranty fund requirement, as described in ICE Clear Europe’s Collateral and Haircut Policy. The List of Permitted Cover incorrectly described the relative limit as applying only to the initial margin requirement. The amendment is intended to ensure that the description of relative limits in the List of Permitted Cover is consistent with the approach set forth in ICE Clear Europe’s Collateral and Haircut Policy, but does not substantively change any policies or procedures. Amendment No. 1 is not subject to comment because it is a technical amendment that does not alter the substance of the proposed rule change or raise any novel regulatory issues.

Additional Permitted Cover is substantially similar to existing forms of Permitted Cover, will be subject to the same valuation haircuts as currently applied to currently accepted bonds of the same issuer and within the same maturity bucket, and will be subject to both absolute limits and relative limits, consistent with the existing issuer limits for Permitted Cover and the Collateral and Haircut Policy. The Commission believes that the proposed rule change is intended to allow Clearing Members more flexibility in meeting their margin and guaranty fund requirements without compromising ICE Clear Europe's risk management function.

The Commission therefore finds that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (File No. SR-ICEEU-2016-004) as amended by Amendment No. 1, be, and hereby is, approved.<sup>11</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Robert W. Errett,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77938; File No. SR-OCC-2016-007]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Related to The Options Clearing Corporation's Membership Approval Process

May 27, 2016.

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 May 16, 2016, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. 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

The purpose of this proposed rule change is to: (i) Vest the authority to approve or disapprove new membership applications with OCC's Risk Committee,<sup>3</sup> and (ii) delegate authority to the Executive Chairman or President of OCC to approve new membership applications provided that: (a) It is not recommended that the Risk Committee impose additional membership criteria upon the applicant pursuant to Section 1, Interpretation and Policy .06 of Article V of OCC's By-Laws, and (b) the Risk Committee is given not less than five business days to determine that the application should be reviewed at a meeting of the Risk Committee and the Risk Committee has not requested that the application be reviewed at a meeting of the Risk Committee within such five day period.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### (1) Purpose

The purpose of this proposed rule change is to streamline OCC's membership approval process by: (i) Allowing OCC's Executive Chairman or President to approve pro forma applications for clearing membership, and (ii) to vest ultimate authority with OCC's Risk Committee, not its Board, to approve or disapprove applications for clearing membership that are not approved by either OCC's Executive Chairman or President. To this end, OCC is proposing to: (i) Vest the authority to approve or disapprove new membership applications with OCC's Risk Committee, and (ii) delegate authority to the Executive Chairman or President of OCC to approve new membership applications provided that: (a) It is not recommended by the Risk Committee's designated delegates or agents that the Risk Committee impose additional membership criteria upon the applicant pursuant to Section 1, Interpretation and Policy .06 of Article V of OCC's By-Laws, and (b) the Risk Committee is given not less than five business days to determine that the application should be reviewed at a meeting of the Risk Committee and the Risk Committee has not requested that the application be reviewed at a meeting of the Risk Committee within such five day period. The practical effect of the proposed rule change is that either OCC's Executive Chairman or President would be approving most applications for clearing membership at OCC since most applicants for clearing membership choose to have their application presented for approval only when such approval is pro forma in nature (*i.e.*, the applicant meets all of the clearing membership requirements at OCC and there is no need to impose additional membership requirements). OCC believes that the proposed rule change would better allocate the time and resources of the Board and Risk Committee and ensure applications for clearing membership are considered in a timely manner.

##### Background

OCC believes that its membership criteria are objective standards that are designed not to unfairly discriminate in

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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

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

<sup>3</sup> OCC's Risk Committee is a committee of OCC's Board of Directors. See OCC's By-Laws Article III, Section 9.