

Robert W. Errett,

Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, December 1, 2016 at 12 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Chair White, as duty officer, voted to consider the items listed for the closed meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: November 23, 2016.

**Brent J. Fields,**

Secretary.

[FR Doc. 2016-28772 Filed 11-25-16; 11:15 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79375; File No. SR-ICEEU-2016-013]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Finance Procedures

November 22, 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 November 9, 2016, 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 changes pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(i) and (ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the changes is to modify certain aspects of the ICE Clear Europe Finance Procedures.

#### II. Self-Regulatory Organization’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) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (a) Purpose

The purpose of the amendments is to modify certain aspects of the ICE Clear Europe Finance Procedures. In paragraph 2.1 of the Finance

Procedures, amendments are made to add South African rand (“ZAR”) as a currency eligible for Variation Margin and settlement payments for financials and softs contracts which settle in such currency. Other conforming changes have been made in the Finance Procedures (including in paragraph 4) to reflect the addition of ZAR as an eligible currency for such purposes. As with the other currencies currently eligible to be used as Variation Margin and settlement payments for financials and softs contracts, ZAR will be subject to haircuts determine [sic] pursuant to the [sic] Finance Procedures and existing ICE Clear Europe haircut policies. [sic] A typographical error and erroneous cross-reference have also been corrected in paragraph 2.2.

In paragraph 6.1(e) of the Finance Procedures, the daily deadline for a Clearing Member to provide manual cash settlement instructions for same-day USD payments has been extended from 16:00 to 16:45 (London time). ICE Clear Europe is making this change to accommodate a request of Clearing Members, and does not believe it will adversely affect the Clearing House’s treasury or other operations. In paragraph 6.1(i)(vii), a change has been made to clarify that end-of-day or ad hoc payments by a Clearing Member to the Clearing House may include, in addition to other listed categories of payments, transfers of Surplus Collateral.

Amendments have been made to paragraph 8.3 of the Finance Procedures, which generally provides that the Clearing House will not recognize any value for non-cash collateral (such as securities collateral) within a specified period prior to its redemption or maturity. Under the existing rule, this period commences one business day prior to redemption or maturity. The amendments adopt a different approach for UK government bonds, for which the period will commence seven business days prior to redemption or maturity. This approach is designed to reflect limitations imposed by the relevant securities settlement system on the transfer of UK government bonds during the seven business day period prior to redemption or maturity.

In paragraph 11.3(b), which addresses procedures for transfer of non-cash permitted cover, an incorrect statement that the Clearing House does not support cross-border or inter-settlement facility settlements, bridge transactions or similar transactions has been removed. In paragraph 11.4, certain account details and matching deadlines for particular securities transfer systems

<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)(i) and (ii).

would be removed from the Finance Procedures. ICE Clear Europe would instead publish such information (as updated from time to time) on its Web site. This change would avoid the need to amend the Finance Procedures to reflect future changes in operational settlement details.

Paragraph 13.9 has been revised to remove an erroneous reference to a letter of credit.

#### (b) Statutory Basis

ICE Clear Europe believes that the changes described herein 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> 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>7</sup> The amendments are intended to update and clarify certain provisions of the Finance Procedures relevant to settlement payments and use of non-cash permitted cover. As discussed above, the amendments address the acceptance of ZAR for variation margin and settlement payments for certain financials and softs contracts. The amendments also modify the treatment of UK government bonds for valuation purposes to reflect certain restrictions on transfer of such bonds in the period immediately prior to redemption or settlement. In ICE Clear Europe's view, the amendments will generally enhance the procedures for settlement of cash and non-cash permitted cover, and thus promote the prompt and accurate clearance and settlement of cleared contracts. As a result, ICE Clear Europe believes the amendments are consistent with the requirements of Section 17A of the Act and the regulations thereunder.

#### (B) Self-Regulatory Organization'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 Finance Procedures in order to clarify

certain aspects of the settlement of cash and non-cash permitted cover for cleared contracts . . . [sic] ICE Clear Europe does not believe the amendments would materially affect the cost of clearing, adversely affect access to clearing in these products for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. The changes will apply to all Clearing Members.

Although certain changes may affect the cost of using UK government bonds as collateral (during the period immediately prior to redemption or maturity of such collateral), those changes are, in ICE Clear Europe's view, necessary and appropriate to reflect limitations on transfer of such bonds in such period. As a result, ICE Clear Europe believes that any impact or burden on competition from such amendments would be appropriate in furtherance of the purpose of the Act.

#### (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 upon filing pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and Rule 19b-4(f)(4)(i) and (ii)<sup>9</sup> thereunder. Certain aspects of the amendments effect a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. Other aspects of the amendments effect a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible, and does not significantly affect the

respective rights or obligations of the clearing agency or persons using its clearing service. 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2016-013 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-2016-013. 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 Web site (<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 Web site 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 Web site at <https://www.theice.com/clear-europe/regulation#rule-filings>.

All comments received will be posted without change; the Commission does

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

<sup>6</sup> 17 CFR 240.17Ad-22. [sic]

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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(4).

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-2016-013 and should be submitted on or before December 20, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79378; File No. SR-NYSEMKT-2016-63]

### Self-Regulatory Organizations; NYSE MKT LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Change, as Modified by Amendment No. 1, Amending the Co-location Services Offered by the Exchange To Add Certain Access and Connectivity Fees

November 22, 2016.

#### I. Introduction

On August 16, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change (1) to provide additional information regarding access to various trading and execution services; connectivity to market data feeds and testing and certification feeds; connectivity to Third Party Systems; and connectivity to DTCC provided to Users using data center local area networks; and (2) to establish fees relating to a User’s access to various trading and execution services; connectivity to market data feeds and testing and certification feeds; connectivity to DTCC; and other services. The proposed rule change was published for comment in the **Federal Register** on August 26, 2016.<sup>3</sup> The Commission received no comments in response to the proposed rule change.<sup>4</sup>

On October 4, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to November 24, 2016.<sup>5</sup>

On November 2, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> The Commission is publishing this order to solicit comments on Amendment No. 1 from interested persons and to institute proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.<sup>7</sup> Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input on the proposed rule change, as modified by Amendment No. 1, and on the issues presented by the proposal.

#### II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The proposed rule change seeks to amend the co-location services offered by the Exchange to (1) provide additional information regarding the access to trading and execution services and connectivity to data provided to Users with local area networks available in the data center; and (2) establish fees relating to a User’s<sup>8</sup> access to trading

which is equally relevant to this filing. See letter to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (IEX), dated September 9, 2016 (“IEX Letter”).

On September 23, 2016, the NYSE submitted a response (“Response Letter”).

<sup>5</sup> See Securities Exchange Act Release No. 34-78968 (September 28, 2016), 81 FR 68493.

<sup>6</sup> Amendment No. 1 is discussed further *infra*. Amendment No. 1 is available on the Commission’s Web site at <https://www.sec.gov/comments/sr-nysemkt-2016-63/nysemkt201663-1.pdf>.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. See Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR-NYSE-2015-40). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates NYSE MKT LLC (“NYSE MKT”) and NYSE Arca, Inc. (“NYSE Arca” and, together with NYSE MKT, the “Affiliate SROs”). See Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR-NYSE-2013-59).

and execution services; connectivity to data feeds and to testing and certification feeds; connectivity to clearing; and other services.<sup>9</sup>

#### Background and Access to Exchange Systems

As discussed more fully in the Notice, a User can purchase access to the Liquidity Center Network (“LCN”) and/or internet protocol (“IP”) network in the data center through the purchase of a 1, 10, or 40 Gb LCN circuit, a 10 Gb LX Circuit, bundled network access, Partial Cabinet Solution bundle, or 1, 10 or 40 Gb IP network access.<sup>10</sup> The purchase of any of the LCN or IP network circuit options gives a User access<sup>11</sup> to the Exchange’s trading and execution systems, connectivity to the Exchange’s certification and testing feeds,<sup>12</sup> and the ability to connect to any NYSE Data Product.<sup>13</sup> More specifically, access to the Exchange’s trading and execution system provides a User with access to the Exchange’s “customer gateways that provide for order entry, order receipt (*i.e.* confirmation that an order has been received), receipt of drop copies and trade reporting (*i.e.* whether a trade is executed or cancelled), as well as for sending information to shared data services for clearing and settlement.”<sup>14</sup> The Exchange seeks to add clarifying language in its proposed rule to reflect the services included with purchase of Exchange system access.<sup>15</sup>

#### Connectivity to Included Data Products

As discussed more fully below, the Exchange offers connectivity to three types of data products: Included Data Products, Premium NYSE Data Products, and Third Party Data Feeds.<sup>16</sup>

<sup>9</sup> See Notice, *supra* note 3, 81 FR at 58993.

<sup>10</sup> See *id.*

<sup>11</sup> The purchase of access is subject to receiving authorization from the NYSE, NYSE MKT or NYSE Arca for the Included Data Products, as applicable. See *id.* at 58993 n.10.

<sup>12</sup> Certification feeds are used to certify that a User conforms to any relevant technical requirements for receipt of data or access to Exchange systems. Testing feeds, which do not carry live production data, provide Users with an environment to conduct tests with the non-live data, including testing for upcoming Exchange releases and product enhancements or the User’s own software development. See *id.* at 58993. These feeds are only available over the IP network, however a User without an IP network connection may obtain an IP network circuit for purposes of testing and certification for free for three months. See *id.* at 58993 n.12.

<sup>13</sup> See *id.* at 58993.

<sup>14</sup> See *id.* The Exchange represents that connectivity to the Exchange systems can be obtained without the purchase of access to the LCN or IP network. See *id.*

<sup>15</sup> See *id.*

<sup>16</sup> See *id.* at 58993-58994. Neither the NYSE Data Products or Third Party Data Feeds provide access or order entry to the Exchange’s execution system.

<sup>10</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> See Securities Exchange Act Release No. 34-78629 (August 22, 2016), 81 FR 58992 (“Notice”).

<sup>4</sup> The Commission notes that it did receive one comment letter on a related filing, NYSE-2016-45,