

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81075; File No. SR-ICEEU-2017-009]

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

July 5, 2017.

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 June 21, 2017, 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)(4)(ii) thereunder,<sup>4</sup> 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. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to amend the ICE Clear Europe Finance Procedures to add Australian dollars (“AUD”) as a currency eligible for variation margin and settlement payments for financials and softs contracts in the F&O product category which settle in that currency.

#### 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

##### i. Purpose

ICE Clear Europe proposes revising its Finance Procedures to add AUD as a currency eligible for variation margin and settlement payments for financials and softs contracts in the F&O product category which settle in that currency. These revisions do not involve any changes to the ICE Clear Europe Clearing Rules.<sup>5</sup>

Specifically, ICE Clear Europe proposes to add AUD to the list of eligible variation margin and settlement currencies for financials and softs contracts in paragraph 2.1 of the Finance Procedures. Other conforming changes have been made in paragraphs 4.1(a), (b) and (c) and 4.4(a) of the Finance Procedures. As with the other currencies currently eligible to be used as variation margin and settlement payments for financials and softs contracts, AUD will be subject to haircuts determined pursuant to the Finance Procedures and existing ICE Clear Europe haircut policies and procedures.

##### ii. Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act<sup>6</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22,<sup>7</sup> and in particular 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>8</sup> The amendments are intended to revise the Finance Procedures to permit variation margin and settlement payments to be made in AUD for certain financials and softs contracts that settle in such currency. In ICE Clear Europe’s view, the amendments will enhance the procedures for settlement of cash variation margin and settlement payments, and thus promote the prompt and accurate clearance and settlement of cleared financials and softs 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. 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 Finance Procedures in order to permit Clearing Members to provide AUD, on an optional basis, as variation margin and settlement payments for certain financials and softs contracts. 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. 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. 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>9</sup> and Rule 19b-4(f)(4)(ii).<sup>10</sup> ICE Clear Europe believes that summary effectiveness is warranted with respect to the proposed rule changes because the proposed amendments effect a change in an existing service of a registered clearing agency that primarily affects the 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, within the meaning of Rule 19b-4(f)(4)(ii). Use of AUD will be limited to

<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).

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

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

<sup>7</sup> 17 CFR 240.17Ad-22.

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

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

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

F&O contracts that are financial and softs contracts. As a result, the proposed changes will not affect the Clearing House's CDS clearing operations or CDS Clearing Members acting in their capacity as such. In addition, the proposed amendments will not affect ICE Clear Europe's financial resources or risk management applicable to the CDS clearing business. Accordingly, ICE Clear Europe does not believe that the proposed amendments will have a significant effect on its securities clearing activity as a registered securities clearing agency or the rights or obligations of clearing members with respect thereto. 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-2017-009 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-2017-009. 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 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-2017-009 and should be submitted on or before August 1, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81076; File No. SR-ICEEU-2017-005]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Clearing House Contributions to CDS Default Resources

July 5, 2017.

#### I. Introduction

On May 4, 2017, ICE Clear Europe Limited ("ICE Clear Europe") 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 (SR-ICEEU-2017-005) to modify its Finance Procedures with respect to ICE Clear Europe's contributions to funds available in the event of a clearing member's default. The proposed rule change was published for comment in the **Federal Register** on May 23, 2017.<sup>3</sup> The Commission received no comment letters regarding the proposed change.

<sup>11</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> Securities Exchange Act Release No. 34-80706 (May 17, 2017), 82 FR 23692 (May 23, 2017) (SR-ICEEU-2017-005) (the "Notice").

For the reasons discussed below, the Commission is approving the proposed rule change.

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

ICE Clear Europe maintains financial resources to cover potential losses resulting from a CDS Clearing Member default by collecting margin from CDS Clearing Members, maintaining the CDS Guaranty Fund which is made up of CDS Member Contributions, and allocating its own contribution. In the event that ICE Clear Europe experiences losses from the default of a CDS Clearing Member, it first looks to the margin and CDS Guaranty Fund contributions provided by that defaulting CDS Clearing Member. Next, ICE Clear Europe applies part of its own contribution—the Clearing House CDS Initial Contribution. Third, ICE Clear Europe applies the CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members together with the remainder of its own contribution (the Clearing House CDS GF Contribution).

ICE Clear Europe has proposed revisions to its Finance Procedures to permit ICE Clear Europe to redesignate all or a part of the Clearing House CDS GF Contribution as the Clearing House CDS Initial Contribution. If such redesignation were to occur, the Clearing House CDS GF Contributions would no longer be used *pari passu* with non-defaulting CDS Clearing Members' contributions to the CDS Guaranty Fund. Instead, the redesignated amounts would be used before non-defaulting CDS Clearing Members' contributions. Accordingly, ICE Clear Europe has proposed amending paragraph 15.2(a) of the Finance Procedures, which establishes the amount of the Clearing House CDS Initial Contribution, to provide that "[t]he amount of the Clearing House CDS Initial Contribution may be further increased by [ICE Clear Europe] redesignating all or part of any of the Clearing House CDS GF Contributions as Clearing House CDS Initial Contributions." Section 15.2(a) will also provide that any redesignation will be notified by circular. ICE Clear Europe has also proposed additional, conforming changes to paragraphs 15.2(b) to refer to amounts so redesignated as Clearing House CDS Initial Contribution; 15.2(c) to take into account amounts that are redesignated when establishing the Clearing House CDS GF Contributions; 15.2(d) to include redesignated amounts in the Clearing House CDS GF Contribution when calculating any replenishment to the Clearing House CDS GF