

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

**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-NASDAQ-2020-044 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-NASDAQ-2020-044. 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 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, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-NASDAQ-2020-044, and should be submitted on or before August 24, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-89420; File No. 4-631]

**Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the Plan To Address Extraordinary Market Volatility To Add MEMX LLC as a Participant**

July 29, 2020.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 608 thereunder,<sup>2</sup> notice is hereby given that on July 6, 2020, MEMX LLC ("MEMX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the Plan to Address Extraordinary Market Volatility ("LULD Plan" or "Plan") as a Participant.<sup>3</sup> The amendment adds MEMX as a Participant<sup>4</sup> to the LULD Plan. The Commission is publishing this

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78k-1(a)(3).

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> See Letter from Anders Franzone, General Counsel, MEMX, dated July 6, 2020, to Vanessa A. Countryman, Secretary, Commission. On May 6, 2012, the Commission issued an order approving the Plan on a pilot basis (the "Approval Order"). See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The Commission approved the LULD Plan on a permanent basis on April 11, 2019. See Securities Exchange Act Release No. 85623, 84 FR 16086 (April 17, 2019).

<sup>4</sup> Defined in Section I(K) of the Plan as follows: "Participant" means a Party to the Plan.

notice to solicit comments on the amendment from interested persons.

**I. Description and Purpose of the Amendment**

As noted above, the sole proposed amendment to the LULD Plan is to add the Exchange as a Participant. On May 4, 2020, the Commission issued an order granting MEMX's application for registration as a national securities exchange.<sup>5</sup> A condition of the Commission's approval was the requirement for MEMX to join the Plan.

Under Section II(C) of the LULD Plan, any entity registered as a national securities exchange or national securities association under the Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III (B) of the Plan. Section III(B) of the LULD Plan sets forth the process for a prospective new Participant to effect an amendment of the Plan. Specifically, the LULD Plan provides that such an amendment to the Plan may be effected by the new national securities exchange or national securities association by executing a copy of the Plan as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan); and submitting such executed Plan to the Commission. The amendment will be effective when it is approved by the Commission in accordance with Rule 608 of Regulation NMS, or otherwise becomes effective pursuant to Rule 608 of Regulation NMS.

MEMX has become a participant in the applicable Market Data Plans,<sup>6</sup> executed a copy of the Plan currently in effect, with the only change being the addition of its name in Section II(A) of the Plan, and has provided a copy of the Plan executed by MEMX to each of the other Participants. MEMX has also submitted the executed Plan to the Commission. Accordingly, all of the Plan requirements for effecting an

<sup>5</sup> See Securities Exchange Act Release No. 88806, 85 FR 27451 (May 8, 2020).

<sup>6</sup> See Letter from Robert Books, Chairman, Operating Committee, CTA/CQ Plans, to Vanessa A. Countryman, Secretary, Commission, dated June 29, 2020 to Vanessa A. Countryman, Secretary, SEC (relating to Thirty-Fourth Substantive Amendment to the Second Restatement of the CTA Plan and Twenty-Fifth Substantive Amendment to the Restated CQ Plan adding MEMX as a participant) and letter from Robert Books, Chairman, Operating Committee, UTP Plan, to Vanessa A. Countryman, Secretary, Commission, dated June 29, 2020 (relating to Forty-Eighth Amendment to the UTP Plan adding MEMX as a participant).

amendment to the Plan to add MEMX as a Participant have been satisfied.

## II. Effectiveness of the Proposed Amendment

The foregoing Plan amendment has become effective pursuant to Rule 608(b)(3)(iii)<sup>7</sup> because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,<sup>8</sup> if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment 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 4-631 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 4-631. 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 website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 NE, Washington, DC 20549-1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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 4-631 and should be submitted on or before August 24, 2020.

By the Commission.

**J. Matthew DeLesDernier**,  
*Assistant Secretary*.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89409; File No. SR-ICEEU-2020-005]

### Self-Regulatory Organizations; ICEEU Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICEEU Clearing Rules

July 28, 2020.

#### I. Introduction

On June 2, 2020, 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 to revise its Clearing Rules (the "Rules")<sup>3</sup> to account for default insurance proceeds. The proposed rule change was published for comment in the **Federal Register** on June 18, 2020.<sup>4</sup> The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

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

ICE Clear Europe proposes amendments to Parts 9 and 11 of the Rules relating to its use of default

insurance that is intended to cover losses resulting from a Clearing Member default.<sup>5</sup> Currently, ICE Clear Europe includes proceeds from default insurance among the resources available to meet the obligations and liabilities arising from a default for the F&O contract category, but not for the CDS or FX contract categories. Such default insurance provides an additional default resource to cover losses from Clearing Member defaults, prior to the need to use guaranty fund resources or assessment contributions from non-defaulting Clearing Members.

As noted further below, the proposed rule change would add insurance proceeds to the assets available for defaults for the CDS and FX contract categories, and would alter the placement of insurance proceeds in the default waterfall for the F&O contract category. However, ICE Clear Europe is not, and would not be, required to obtain or maintain default insurance.

Specifically, the proposal would amend the default waterfalls in Rules 908(b) (for F&O-only Clearing Members or Sponsored Principals), (c) (for CDS-only Clearing Members or Sponsored Principals), (d) (for FX-only Clearing Members or Sponsored Principals) and (g) (for Clearing Members or Sponsored Principals in multiple membership categories), such that default insurance proceeds would be placed third in each of these default waterfalls, after first applying the Defaulter's resources and then ICE Clear Europe's initial contribution (often referred to as its "skin in the game") in the waterfall of assets used to meet the obligations and liabilities of a Defaulter and any shortfall, loss or liability to ICE Clear Europe upon an Event of Default. (In the case of a Defaulter with multiple membership categories, the proceeds of default insurance would be applied to each Default Amount on a pro rata basis, as provided in Rule 908(g)(iii).) Default insurance proceeds would thus be applied before guaranty fund contributions and assessment contributions from non-defaulting Clearing Members.<sup>6</sup>

Rule 1103(e) sets forth certain limitations with respect to the benefits of default insurance. The proposed rule change would amend this rule to clarify that ICE Clear Europe is not obligated to

<sup>5</sup> The following description of the proposed rule change is excerpted from the Notice, 85 FR 36904.

<sup>6</sup> Conforming amendments would be made to the Rule 101 definitions of "ICE Clear Europe CDS GF Contribution," "ICE Clear Europe F&O GF Contribution," and "ICE Clear Europe FX GF Contribution" as well as to Rule 909(a), reflecting the placement of default insurance proceeds in the applicable waterfalls under Rule 908.

<sup>7</sup> 17 CFR 242.608(b)(3)(iii).

<sup>8</sup> 17 CFR 242.608(a)(1).

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

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

<sup>3</sup> Capitalized terms used but not defined herein have the meanings specified in the Rules.

<sup>4</sup> Securities Exchange Act Release No. 89060 (June 12, 2020), 85 FR 36904 (June 18, 2020) (SR-ICEEU-2020-005) ("Notice").