

of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding, and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.<sup>85</sup>

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.

#### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.<sup>86</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by November 27, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 10, 2020. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 2, in addition to any other comments they may wish to submit about the proposed rule change.

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-CboeBYX-2020-021 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-CboeBYX-2020-021. 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-CboeBYX-2020-021 and should be submitted by November 27, 2020. Rebuttal comments should be submitted by December 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>87</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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<sup>87</sup> 17 CFR 200.30-3(a)(57).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90296; File No. SR-NYSEArca-2020-77]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend NYSE Arca Rule 8.601-E To Adopt Generic Listing Standards for Active Proxy Portfolio Shares

October 30, 2020.

On August 31, 2020, NYSE Arca, Inc. 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 amend NYSE Arca Rule 8.601-E to adopt generic listing standards for Active Proxy Portfolio Shares. The proposed rule change was published for comment in the **Federal Register** on September 21, 2020.<sup>3</sup> The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 5, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates December 20, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEArca-2020-77).

<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. 89874 (September 15, 2020), 85 FR 59338.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

<sup>85</sup> See *id.*

<sup>86</sup> Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Jill M. Peterson,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90290; File No. SR-ICEEU-2020-013]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to the ICE Clear Europe Investment Management Procedures

October 30, 2020.

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 October 23, 2020, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. 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, Security-Based Swap Submission, or Advance Notice

ICE Clear Europe proposes to amend its Investment Management Procedures (the “Procedures”) to make certain clarifications and updates with respect to permissible investments, as further described herein. The revisions would not involve any changes to the ICE Clear Europe Clearing Rules.<sup>3</sup>

#### II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

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, Security-Based Swap Submission or Advance Notice

##### (a) Purpose

ICE Clear Europe is proposing to adopt the amendments to the Procedures to clarify the requirements for investment of customer funds provided by FCM/BD Clearing Members, in light of the expansion of permitted investments to include qualifying Euro-denominated non-U.S. sovereign debt pursuant to an exemptive order issued by the Commodity Futures Trading Commission (the “CFTC Order”).<sup>4</sup> The amendments would also remove certain credit rating requirements for government bonds, clarify certain matters relating to the use of central bank deposits and update certain portfolio concentration limits in light of market conditions.

ICE Clear Europe is proposing to amend the investment management objectives to clarify that the references to cash subject to investment under the Procedures are not intended to refer to ICE Clear Europe’s corporate cash held for operating purposes and not for meeting skin-in-the-game contributions, regulatory capital or other purposes connected to treasury activities in connection with the management of Clearing Member margin or guaranty fund contributions. This is consistent with current practice.

In the discussion of overall investment considerations, the amendments would clarify that the overall goal that non-overnight investments should have a variety of maturity dates is not necessarily applicable in all cases (such as investments in bank deposits). Further, the description of how futures commission merchant (“FCM”) customer funds may be invested would be amended to permit investments in cash deposits, to clarify that direct purchases with U.S. dollar cash are limited to U.S. sovereign bonds and to provide that direct purchases with Euro cash may be made in French and German sovereign bonds as permitted in the CFTC Order. The requirement that no more than 5% of the investible funds should be held as unsecured cash would be clarified to state that the calculation

would be made over an averaging period of one calendar month. Certain other typographical and similar corrections would be made to this section.

The table of authorized investments and concentration limits for cash from Clearing Members and Clearing House “Skin In The Game” would be amended such that: (i) Instead of stating that the maximum issuer/counterparty concentration limit is 15% of the total EUR balance in a single government issuer, there would be no limit for French/German government bonds and the 15% limit would apply for government bonds issued by Belgium and the Netherlands; and (ii) an additional concentration limit for EU government bonds would be imposed at 20% of the total EUR balance in a single issue for German or French government bonds and 10% of the total EUR balance in a single issue for Belgian or Dutch government bonds. For investments of FCM customer funds in EU government bonds, additional criteria would apply as set out in the CFTC Order. With respect to central bank deposits, the Federal Reserve and the European Central Bank (“ECB”) would be added to the list of allowed central banks. While ICE Clear Europe does not necessarily have access to deposits at such central banks at this time, the amendment is intended to allow for possible future developments.

The amendments would add an additional category to the table of authorized investments and concentration limits for regulatory capital for commercial bank deposits with unsecured cash limits to be set separately for financial service providers, the maximum portfolio concentration limit being no more than 5% of the total investible funds in unsecured cash on average each calendar month, the maximum maturity being overnight and the minimum credit ratings being A-1/P-1.

The acceptable collateral table for reverse repurchase agreements would be amended to add GBP and EUR agency bonds with AA-/Aa3 credit ratings and a 2% haircut. The credit rating requirement (currently (AA-/Aa3)) would be removed for UK and US sovereign bonds. The amendments would also specify that for FCM customer funds invested in EUR reverse repo, only collateral meeting the requirements of the CFTC Order would be accepted.

The Glossary section would be updated such that central banks would be added to the definition of Permitted Depositories for FCM Customer Funds where the CFTC has provided the relevant exemption to ICE Clear Europe.

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<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 ICE Clear Europe Clearing Rules (the “Rules”).

<sup>4</sup> Order Granting Exemption From Certain Provisions of the Commodity Exchange Act Regarding Investment of Customer Funds and From Certain Related Commission Regulations, 83 FR 35241 (July 25, 2018).