

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93603; File No. SR–ICEEU–2021–018]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Procedures

November 17, 2021.

#### I. Introduction

On September 20, 2021, 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 make certain changes to its existing Collateral and Haircut Procedures (the “Collateral Procedures”). The proposed rule change was published for comment in the *Federal Register* on October 7, 2021.<sup>3</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 is proposing to revise the Collateral Procedures to (i) state explicitly its formula for calculating the value of its published list of acceptable collateral (“Permitted Cover”) provided by Clearing Members (“Members”) for covering their margin and guaranty fund requirements and (ii) update its processes for monitoring data related to collateral valuations, and specify the roles and responsibilities of its various internal teams in performing such monitoring processes.<sup>4</sup> The proposed revisions are described in more detail below.<sup>5</sup>

To ensure that the collateral ICE Clear Europe holds is highly liquid with low credit and market risk, ICE Clear Europe only accepts assets that meet the criteria set forth in the Collateral Procedures, which ICE Clear Europe refers to as

Permitted Cover. To facilitate Permitted Cover valuations, ICE Clear Europe is proposing an explicit formula to calculate the Permitted Cover value in new Section 2.2 of the Collateral Procedures. As proposed, cover value is equal to  $\text{Nominal} * \text{Price} / 100 * (1 - \text{Haircut})$ <sup>6</sup> +  $\text{Nominal} * \text{Accrued}$ , where price is clean (*i.e.*, without accrued interest) and accrued is expressed in %. Proposed Section 2.2 also would state that as a matter of standard practice at ICE Clear Europe, Treasuries are given no cover value two business days prior to maturity and a cash call would be issued if a Member’s account is in deficit. Additionally, proposed Section 2.2 would state that accrued interest will lose value one day prior to the coupon pay date. ICE Clear Europe represents that these changes reflect its existing practice for the valuation of Permitted Cover and are intended to document such practice more clearly.<sup>7</sup>

The proposed rule change also would update ICE Clear Europe’s processes for monitoring data related to collateral pricing and would describe the roles of various teams tasked with such monitoring. Specifically, the proposed changes to Section 5.1 (Data Monitoring) would add a new sentence stating that the System Operations team checks end of day collateral pricing. The proposed changes to Section 5.1 would then state that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not “stale,” and also would remove intraday market data from the scope of such monitoring. Currently, Section 5.1 does not specify the responsibilities of any internal teams, stating that ICE Clear Europe monitors end of day and intraday market data it uses to value collateral thresholds to ensure that the data is not “stale.” Additionally, the proposed changes would add a new sentence at the end of Section 5.1 which states that the Treasury team reconciles and confirms the daily bilateral collateral positions (nominal amounts).

Finally, the proposed rule change would update the scope of the Collateral Procedures in Section 1.2 to include intraday and end of day valuation of collateral, which is consistent with ICE Clear Europe’s existing practice. Currently, Section 1.2 excludes intraday and end of day valuation of collateral

and any associated margin processes from the scope of the Collateral Procedures.

#### III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>8</sup> and Rules 17Ad–22(e)(2)(i) and (v), and (e)(5) thereunder.<sup>9</sup>

##### A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be 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 ICE Clear Europe or for which it is responsible.<sup>10</sup>

As described above, the proposed rule change would revise the Collateral Procedures to state explicitly ICE Clear Europe’s formula for calculating the value of Permitted Cover and to update ICE Clear Europe’s processes for monitoring data related to collateral valuations, which would also specify the roles and responsibilities of its various internal teams in performing such monitoring processes. For the specific reasons discussed below, the Commission believes that, in general, the proposed rule change would facilitate the sound operation of ICE Clear Europe’s margin framework and overall risk management and financial stability of ICE Clear Europe, and thereby promote ICE Clear Europe’s prompt and accurate clearance and settlement of cleared contracts, and help assure the safeguarding of securities and funds which are in ICE Clear Europe’s custody or control or for which ICE Clear Europe is responsible.

First, the Commission believes that proposed new Section 2.2, in clearly documenting ICE Clear Europe’s formula for calculating the value of Permitted Cover; its standard practice of giving no cover value two business days prior to maturity of Treasuries and

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe Collateral and Haircut Procedures, Exchange Act Release No. 93236 (Oct. 1, 2021), 86 FR 55879 (Oct. 7, 2021) (SR–ICEEU–2021–018) (“Notice”).

<sup>4</sup> Capitalized terms used not defined herein have the meanings specified in the Collateral Procedures or the ICE Clear Europe Clearing Rules (the “Rules”), as applicable.

<sup>5</sup> The following description of the proposed rule change is substantially excerpted from the Notice.

<sup>6</sup> The term “Haircut” refers to the risk-based haircut or reduction percentage that ICE Clear Europe sets and applies to the value of certain collateral.

<sup>7</sup> See Notice at 55879.

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

<sup>9</sup> 17 CFR 240.17Ad–22(e)(2)(i) and (v), and (e)(5).

<sup>10</sup> 15 U.S.C. 78q–1(b)(3)(F).

issuing a cash call if a Member's account is in deficit; and also its standard practice for accrued interest to lose value one day prior to the coupon pay date, would help ensure that Members and internal personnel at ICE Clear Europe make accurate and consistent cover value calculations that adequately cover Members' margin and guaranty fund requirements. These aspects of the proposed rule change would, in turn, enhance ICE Clear Europe's ability to reduce the risk of loss mutualization among its Members when closing out a defaulting Member's portfolio and liquidating collateral under potentially stressed market conditions, thereby safeguarding the financial resources of non-defaulting Members.

Second, the Commission believes that the proposed changes to Section 5.1 (Data Monitoring), in documenting that the System Operations team checks end of day collateral pricing; that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not "stale," and thus more timely and accurate; that monitoring of intraday market data is removed from the scope of such monitoring, and that the Treasury team reconciles and confirms the daily bilateral collateral positions (or nominal amounts), would, taken together, enhance the accuracy, clarity, and transparency of ICE Clear Europe's collateral valuation data monitoring procedures and help internal teams focus procedurally on their monitoring responsibilities. For example, the proposed removal of monitoring intraday market data would help focus the ECS System Operations team on monitoring end of day pricing, but not intraday pricing. The Commission believes that these aspects of the proposed rule change would support the ongoing accuracy of Permitted Cover valuations that inform and facilitate the adequacy of ICE Clear Europe's calculations of its Members' margin and guaranty fund requirements and, in turn, would further enhance ICE Clear Europe's ability to mitigate the risk of loss mutualization in the event of a Member's default, thereby safeguarding the financial resources of non-defaulting Members.

Third, the Commission believes that the proposed changes in Section 1.2 to include intraday and end of day valuation of collateral would ensure that the Collateral Procedures clearly document ICE Clear Europe's existing collateral valuation practice and also clarify that such practice is conducted under the Collateral Procedures.

Clarifying the scope of the Collateral Procedures document would enhance its completeness and comprehensiveness, and help ICE Clear Europe's personnel efficiently implement the associated operational activities, thereby contributing to the prompt and accurate clearance and settlement of cleared contracts.

The Commission also notes that it has previously found the Collateral Procedures consistent with the Act<sup>11</sup> and because there are no proposed material changes, believes that the Collateral Procedures continue to be consistent with the Act.

Therefore, for the reasons discussed above, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, and assure the safeguarding of securities and funds in ICE Clear Europe's custody or control, consistent with the Section 17A(b)(3)(F) of the Act.<sup>12</sup>

#### *B. Consistency With Rules 17Ad-22(e)(2)(i) and (v) Under the Act*

Rules 17Ad-22(e)(2)(i) and (v) require that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility, respectively.<sup>13</sup>

With respect to Rule 17Ad-22(e)(2)(i), the Commission believes that the proposed changes in Section 1.2, by including intraday and end of day valuation of collateral within the scope of the Collateral Procedures, would clearly and transparently document that such collateral valuation activities are conducted under the Collateral Procedures and thus subject to the governance process currently set forth in the Collateral Procedures document.

With respect to Rule 17Ad-22(e)(2)(v), the Commission believes that the proposed changes to Section 5.1 (Data Monitoring), in documenting that the System Operations team checks end of day collateral pricing, that the Credit team has controls to monitor end of day market data that the ECS System Operations team uses to value collateral against thresholds to ensure that the data is not "stale," and that the Treasury

team reconciles and confirms the daily bilateral collateral positions (or nominal amounts), would specify clear and direct roles and responsibilities of the internal teams involved in ICE Clear Europe's data monitoring processes.

The Commission therefore believes the proposed changes in Section 1.2 provide for governance arrangements that are clear and transparent, and the proposed changes to Section 5.1 specify clear and direct lines of responsibility.

For these reasons, the Commission finds that the proposed rule change is consistent with Rules 17Ad-22(e)(2)(i) and (v).<sup>14</sup>

#### *C. Consistency With Rule 17Ad-22(e)(5) Under the Act*

Rule 17Ad-22(e)(5) requires that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually.<sup>15</sup>

The Commission believes that the proposed rule change, by documenting ICE Clear Europe's formula for calculating the value of Permitted Cover and related standard practices for valuing Treasuries and accrued interest, and also by documenting that the ECS System Operations team uses end of day market data to value collateral against thresholds to ensure that the data is not stale, would enhance the accuracy of ICE Clear Europe's collateral valuation practices and help ensure that ICE Clear Europe continues to manage prudently its and its Members' credit exposure by adequately covering Members' margin and guaranty fund requirements.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(5).<sup>16</sup>

#### **IV. Conclusion**

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act<sup>17</sup> and

<sup>11</sup> Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to the ICE Clear Europe Collateral and Haircut Policy and Collateral and Haircut Procedures, Exchange Act Release No. 88136 (Feb. 6, 2020), 85 FR 8075 (Feb. 12, 2020) (SR-ICEEU-2019-019).

<sup>12</sup> 15 U.S.C. 78q-(b)(3)(F).

<sup>13</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>15</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>16</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>17</sup> 15 U.S.C. 78q-1(b)(3)(F).

Rules 17Ad-22(e)(2)(i) and (v), and (e)(5) thereunder.<sup>18</sup>

It is therefore ordered pursuant to Section 19(b)(2) of the Act<sup>19</sup> that the proposed rule change (SR-ICEEU-2021-018) be, and hereby is, approved.<sup>20</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93598; File No. SR-CBOE-2021-066]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.34

November 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 5, 2021, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.34. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the

Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The Exchange 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

###### 1. Purpose

The Exchange proposes to modify the optional duplicate order protection risk limit setting for Users in Rule 5.34(c)(9). Duplicate order protection is voluntary functionality, which was designed to protect Users against execution of multiple identical orders that may have been erroneously entered. Specifically, pursuant to current Rule 5.34(c)(9), if a User enables this functionality for a port, then after the System receives a specified number of duplicate orders with the same EFID,<sup>5</sup> side, price, quantity, and class within a specified time period (the User determines the number and length of the time period), the System will (A) reject additional duplicate orders until it receives instructions from the User to reset this control or (B) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control. The User may continue to submit cancel requests prior to reset.

The Exchange proposes to amend this risk setting to eliminate the time parameter. Particularly, as amended, the System will continue to check for a specified number of duplicate orders (which will continue to be determined by the User), but no longer check to see if any such duplicative orders were received over a specified period of time. Instead, the system will compare each submitted order against the immediately

preceding order that was submitted with respect to the orders’ EFID, side, price, quantity, and class. For example, suppose a User sets the duplicative order count to 10 orders. When the System receives an incoming order, the System checks if the immediately preceding order it received had the same EFID, side, price, quantity and class. If the order does not, then the System keeps the count at “0” (and performs the same process for the next incoming order). If the order does, the System will count that order as “1”. If the following 9 incoming orders through that port are also duplicates (*i.e.*, same EFID, side, price, quantity and class), then regardless of how long it takes for such orders to come into the System, the System will (i) reject any additional duplicate orders until it receives a reset instruction from the User or (ii) reject all incoming orders submitted through that port for that EFID until the User contacts the Trade Desk to request it reset this control, as it does today.

The Exchange has observed that the time parameter check under the current duplicate order protection feature can potentially create a (albeit minor) latency impact for Users who opt to use the functionality. More specifically, minor latency can arise in connection with the specified time parameter because the System must store and conduct a check across all orders sent during the specified time period when this risk check is enabled. The Exchange believes removing the time parameter check will eliminate this latency for Users that opt to use the duplicate order protection. The Exchange does not believe that the proposed rule change will impact the effectiveness of the duplicate order protection feature for those Users that opt to enable such functionality. Also, as noted above, the use of the risk limit is voluntary. The Exchange will continue to offer Users a full suite of additional price protection mechanisms and risk controls which the Exchange believes sufficiently mitigate risks associated with Users entering orders and quotes at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, as a likely result of human or operational error.

Lastly, the Exchange proposes to correct an erroneous rule number. Particularly, the Exchange proposes to update Rule 5.34(c)(12) to Rule 5.34(c)(11), which follows the immediately preceding subparagraph (10) of Rule 5.34(c).

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the

<sup>18</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v), and (e)(5).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</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>21</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The term “EFID” means an Executing Firm ID. The Exchange assigns an EFID to a Trading Permit Holder, which the System uses to identify the Trading Permit Holder and the clearing number for the execution of orders and quotes submitted to the System with that EFID.