broader financial system. OCC has been designated as a SIFMU, in part, because its failure or disruption could increase the risk of significant liquidity or credit problems spreading among financial institutions or markets.[45] The Commission believes that the proposed changes would support OCC's ability to continue providing services to the U.S. options markets by establishing multiple backup systems across the proposed Cloud Infrastructure and an on-premises backup while also allowing OCC to quickly set up additional capacity or applications as necessary. OCC's continued operations would, in turn, help support the stability of the financial system by reducing the risk of significant operational problems spreading among market participants that rely on OCC's central role in the options market.

Accordingly, and for the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[46]

B. Consistency With Rule 17Ad–22(e)(17)(ii) Under the Exchange Act

Rule 17Ad–22(e)(17)(ii) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[47]

As described in Section II.A. above, OCC proposes to increase the resiliency of its systems by migrating from two on-premises data centers to two separate, logically isolated Virtual Private Clouds with an on-premises backup data center. As described in Section II.B. above, OCC proposes to expand its existing physical and cyber security program with a focus on: (i) access controls; (ii) data governance; (iii) configuration management; and (iv) testing, as well as the implementation of additional tools not currently available for use in OCC's on-premises data centers. As described in Section II.C. above, operating in a Cloud Infrastructure would allow OCC to quickly scale resources to meet elevated trade volumes as well as run risk management processes, such as backtesting, more quickly than is currently possible.

Accordingly, the Commission believes that the changes proposed in the Advance Notice are consistent with Rule 17Ad–22(e)(17)(ii) under the Exchange Act.[48]

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–OCC–2021–802), as modified by Partial Amendments No. 1, 2, 3, and 4 and that OCC is *authorized* to implement the proposed change as of the date of this notice.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–23230 Filed 10–25–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96118; File No. SR–ICEEU–2022–019]

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

October 20, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 11, 2022, 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. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] such that the proposed rule change was immediately 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

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to modify its Investment Management Procedures (the ''Investment Management Procedures'' or the ''Procedures'') to clarify certain permitted investments and related limits for the Clearing House when managing cash received from Clearing Members as margin or from the Clearing House's contribution to the guaranty fund.

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

(a) Purpose

ICE Clear Europe is proposing to update the Table of Authorised Investments and Concentration Limits for Cash from CMs and from Skin In The Game (the ''Table'') in the Procedures to make certain clarifications that reflect limitations on investments that can be made with customer funds provided by FCM Clearing Members under applicable law. The amendments reflect restrictions that ICE Clear Europe currently observes (and are described elsewhere in the existing Procedures), and accordingly will not constitute a change in practice. Specifically, the amendment would provide that the reference in the Table to there being ''no limit'' for counterparty concentration in respect to investments in (i) US government agency bonds and (ii) UK government agency bonds, as well as the 15% concentration limit specified for the purchase of EU government agency bonds each applies to cash provided by non-FCM Clearing Members. The amendments would also state explicitly in the Table that FCM customer funds may not be invested in such assets. The proposed changes reflect limitations under CFTC regulations.[5] Such updates

[45] *See* Financial Stability Oversight Council (''FSOC'') 2012 Annual Report, Appendix A, *https://home.treasury.gov/system/files/261/here.pdf* (last visited Feb. 17, 2022).

[46] 12 U.S.C. 5464(b).

[47] 17 CFR 240.17Ad–22(e)(17)(ii).

[48] *Id.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

[5] Consistent with ICE Clear Europe's current practice, certain limitations in the amendments are more restrictive than required under CFTC regulations. For example, investment of FCM customer funds in U.S. agency securities is not permitted, as described in the amendments, although CFTC Rule 1.25(b)(3)(i)(B) would permit investment in U.S. agency obligations up to a

are intended to provide greater clarity in the Table as to the permissible investment of customer cash provided by Clearing Members and accurately document existing practices, consistent with legal requirements.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Investment Management Procedures are consistent with the requirements of Section 17A of the Act [6] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [7] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance 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 the clearing agency or for which it is responsible, and the protection of investors and the public interest.

The proposed changes to the Investment Management Procedures are designed to reflect the Clearing House's practices with respect to the management of investments, in light of existing CFTC regulations relating to the investment of customer funds provided by FCM Clearing Members. The amendments would reflect certain limitations under CFTC Rule 1.25, as discussed above, on investments of FCM customer cash in agency securities, consistent with the Clearing House's current practice. The proposed amendments thus promote the accuracy and clarity of the Clearing House's policies and procedures and are consistent with the prompt and accurate clearing and settlement of cleared contracts. The amendments are thus also generally consistent with the protection of investors and the public interest in the safe operation of the Clearing House. The updates will also facilitate management of the cash held by the Clearing House from Clearing Members and their customers in accordance with applicable law, and thus enhance the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible. Accordingly, the amendments are consistent with the requirements of Section 17A(b)(3)(F).[8]

Rule 17A–22(e)(16) requires clearing agencies to safeguard their own and their ''participants' assets, minimize the risk of loss and delay in access to these assets, and invest such assets in instruments with minimal credit, market and liquidity risks.'' [9] As discussed above, the amendments to the Investment Management Procedures are intended to more clearly document investment limitations in connection with the investment of cash assets provided by Clearing Members to reflect current practice and applicable law, including the requirements of CFTC regulations. As such, the revised Investment Management Procedures will help enable the Clearing House to safeguard such assets and minimize the risk of loss from liquidity and investment risks, consistent with the requirements of Rule 17Ad–22(e)(16).[10]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The changes are being proposed in order to update the Investment Management Procedures to provide clarifications and additional details where necessary in order to reflect existing practices and are not intended to impose new requirements on Clearing Members. The terms of clearing are not otherwise changing. ICE Clear Europe does not believe that proposed amendments would adversely affect competition among Clearing Members or other market participants or affect the ability of market participants to access clearing generally. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes 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 amendment has not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. 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.* Please include File Number SR–ICEEU–2022–019 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–2022–019. 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 such filings will also be available for

maximum of 50 percent of the total assets held in segregation by the futures commission merchant or derivatives clearing organization. 17 CFR 1.25(b)(3)(i)(B). A footnote referencing this rule would be included in the Table.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(16).

[10] 17 CFR 240.17Ad–22(e)(16).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

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–ICEEU–2022–019 and should be submitted on or before November 16, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–23234 Filed 10–25–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96111; File No. SR–NYSEARCA–2022–70]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 7.44–E

October 20, 2022.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 11, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to modify Rule 7.44–E relating to the Retail Liquidity Program. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, 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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rule 7.44–E, which sets forth the Exchange's Retail Liquidity Program (the ''Program'').[4] The purpose of the Program is to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement. Rule 7.44–E provides for a class of market participant called Retail Liquidity Providers (''RLPs''), and non-RLP ETP Holders are able to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced better than the best protected bid or offer, called a Retail Price Improvement Order (''RPI Order'').[5] When there is an RPI Order in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, that such interest exists.[6] Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPI Orders and then may interact with other liquidity on the Exchange or elsewhere, depending on the Retail Order's instructions.[7] The segmentation in the Program allows retail order flow to receive potential price improvement as a result of their order flow being deemed more desirable by liquidity providers. The Program is currently limited to trades in NYSE Arca-listed securities and securities traded on the Exchange pursuant to unlisted trading privileges (''UTP Securities''), except for NYSE-listed securities.[8]

The Exchange now proposes to modify Rule 7.44–E to expand the Program's availability to all securities traded on the Exchange. Rule 7.44–E(a)(4) currently defines an RPI Order as consisting of ''non-displayed interest in NYSE Arca-listed securities and UTP Securities, excluding NYSE-listed (Tape A) securities, that would trade at prices better than the PBB or PBO by at least $0.001 and that is identified as such.'' To expand the program to permit RPI Orders in all securities traded on the Exchange (including NYSE-listed securities), the Exchange proposes to modify Rule 7.44–E(a)(4) such that the rule would provide that an RPI Order is ''non-displayed interest that would trade at prices better than the PBB or PBO by at least $0.001 and that is identified as such.''

Subject to the effectiveness of this proposed rule change, the Exchange will implement this change in the fourth quarter of 2022 and announce the implementation date by Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes expanding the Program's availability to all securities traded on the Exchange would remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Program was established on a pilot basis in 2013 and was approved by the Commission to operate on a permanent basis in 2019. *See* Securities Exchange Act Release No. 87350 (October 18, 2019), 84 FR 57106 (October 24, 2019) (SR–NYSEArca–2019–63). In connection with the Commission's approval of the Program on a pilot basis, the Commission granted the Exchange's request for exemptive relief from Rule 612 of Regulation NMS, 17 CFR 242.612 (the ''Sub-Penny Rule''), which, among other things, prohibits a national securities exchange from accepting or ranking orders priced greater than $1.00 per share in an increment smaller than $0.01. *See* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107). The Exchange notes that the change proposed in this filing has no substantive impact under the Sub-Penny Rule and thus does not require an update or revision to the exemptive relief previously granted by the Commission.

[5] *See* Rules 7.44–E(a)(1) (defining an RLP) and 7.44–E(a)(4) (defining RPI Order).

[6] *See* Rule 7.44–E(j).

[7] *See* Rule 7.44–E(a)(2) (defining RMO); Rules 7.44–E(a)(3) and 7.44–E(k) (describing Retail Orders).

[8] *See* Rule 7.44–E(a)(4).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).