



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-96503; File No. SR-ICEEU-2022-026]

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

December 15, 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 December 6, 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 Act³ and Rule 19b-4(f)(4) 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 amend its Finance Procedures in order to align the timing at which monthly interest payments and monthly transaction fees are processed.

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)(4).

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 amend its Finance Procedures to align the timing for payment of the return on cash margin and Guaranty Fund deposits of Clearing Members with that for payment of monthly transaction fees. Under existing Finance Procedures paragraph 6.1(i)(vi), transaction fees are payable through the overnight payment call or return by the fifth Business Day after the end of each month. ICE Clear Europe is proposing to amend Finance Procedures paragraph 6.1(i)(iv) to provide that interest on margin and Guaranty Fund contributions will be credited by the fifth Business Day after the end of each month, rather than the fourth Business Day after the end of each month. ICE Clear Europe proposes to implement the change on or about December 14, 2022.

ICE Clear Europe believes that processing interest and transaction fees on the same day as part of the same net overnight payment calculation will reduce the number and size of overall cash flows and thus improve overall payment efficiency. The change will also reduce unnecessary potential liquidity demands on the Clearing House and Clearing Members to the extent of offsetting interest and transaction fees and reduce the risk to the Clearing House of a failure or default in payment of transaction fees by a

Clearing Member after payment by the Clearing House of interest. ICE Clear Europe believes that the benefits of improving payment efficiency in this manner will be more significant in the current rising interest rate environment, as increases in ICE Clear Europe's ICE Deposit Rate have resulted in an increase in monthly interest payments due from ICE Clear Europe to Clearing Members.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the Finance Procedures are consistent with the requirements of Section 17A⁵ of the Act and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act⁶ requires that "[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees and other charges among its participants." ICE Clear Europe believes that the proposal is a reasonable and appropriate change to the timing of payment of return on cash margin and Guaranty Fund contributions, in order to enhance overall settlement efficiency. This is particularly so, in ICE Clear Europe's view, in light of the current interest rate environment which has led to increases in the ICE Deposit Rate. The amendment also reduces liquidity demands and reduces the risk of a payment failure or default with respect to the payment of transaction fees. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.⁷

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act which requires, among other things, that "[t]he rules of a clearing

⁵ 15 U.S.C. 78q-1.

⁶ 15 U.S.C. 78q-1(b)(3)(D).

⁷ 15 U.S.C. 78q-1(b)(3)(D).

agency [...] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.”⁸ As noted above, the Finance Procedures, as proposed to be amended, would apply to all Clearing Members and the amendments would not otherwise the rights or obligations of the Clearing House or Clearing Members with respect to the payment of transaction fees or the payment of interest on cash margin and Guaranty Fund contributions. Section 17A(b)(3)(F) also requires that the “[t]he rules of a clearing agency [...] are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities or funds which are in the custody or control of the clearing agency or for which it is responsible . . . and, in general, to protect investors and the public interest.”⁹ As set forth above, ICE Clear Europe believes the amendments will enhance payment efficiency and reduce payment risks. As such, the amendments, in ICE Clear Europe’s view, would be consistent with prompt and accurate clearance and settlement, would not adversely affect the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and generally would be consistent with the public interest in the sound operation of the Clearing House. As a result, the amendments are consistent with the requirements of Section 17A(b)(3)(F) of the Act.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

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

of the purposes of the Act. The proposed amendments to the Finance Procedures are intended to reduce the number of cash flows, improve payment efficiency and to reduce the (low) risk of payment failure with respect to transaction fees, by changing the interest payment date to be consistent to that of the transaction fee payment date. The amendments would not otherwise change the rights or obligations of market participants. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in the new contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not 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 amendments have 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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2022-026 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-2022-026. This file number should be included on the subject line if e-mail 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 am and 3:00 pm. 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 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-2022-026 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE *FEDERAL REGISTER*].

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

Sherry R. Haywood,
Assistant Secretary.

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¹³ 17 CFR 200.30-3(a)(12).