

has represented that notwithstanding the creation of standard omnibus indirect accounts for FCM/BD Clearing Members that will be made available as position-keeping subaccounts of the existing customer accounts, the Swap Customer Account is not currently available for use by FCM/BD Clearing Members for customer positions in CDS Contracts (including CDS Contracts that are security-based swaps).<sup>32</sup> The Commission relies on these particular representations and explanations by ICE Clear Europe. Consequently, the Commission believes that the proposed rule changes regarding Indirect Clearing facilitate ICE Clear Europe's ability to comply with regulatory requirements in the jurisdictions in which it operates, and help ensure that ICE Clear Europe's policies and procedures provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions, consistent with the requirements of Rule 17Ad-22(e)(1).<sup>33</sup>

#### b. Straight-Through Processing

The Commission understands that ICE Clear Europe is required under relevant provisions of MiFID II to implement certain provisions regarding straight-through processing. The Commission believes that the proposed rule changes regarding straight-through processing will better enable ICE Clear Europe to ensure that transactions are submitted, accepted, and cleared without undue delay. Therefore, the Commission finds that the proposed rule changes regarding straight-through processing promote the prompt and accurate clearance and settlement of securities transactions consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>34</sup> Moreover, the Commission further finds the proposed rule changes regarding straight-through processing protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act<sup>35</sup> because the expeditious processing of transactions in cleared derivatives reduces the possibility of those transactions being disrupted by intervening events, such as a technological breakdown or a reduction in the financial condition of one of the counterparties. Furthermore, because the Commission believes that the proposed rule changes regarding straight-through process will maintain the consistency of ICE Clear Europe's CDS Procedures with relevant provisions of MiFID II, the Commission

finds that such proposed changes will help ensure that ICE Clear Europe's policies and procedures provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions, consistent with Rule 17Ad-22(e)(1).<sup>36</sup>

#### c. Other Provisions

With respect to the proposed rule changes amending ICE Clear Europe's Rules to implement new definitions for "Emission Allowance" and "Emissions Registry", as well as certain related conforming and clarifying edits, and the proposed changes to the Clearing Procedures to rename ICE Clear Europe's "Market Maker Programs" as "Liquidity Provider Programs" and to rename the relevant position keeping accounts accordingly, the Commission believes that the proposed rule changes will better enable ICE Clear Europe to maintain consistency with the relevant provisions of MiFID II, thereby helping to ensure that ICE Clear Europe's policies and procedure provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. As a result, the Commission finds that such proposed rule changes are consistent with the requirements of Rule 17Ad-22(e)(1).<sup>37</sup>

In its filing, ICE Clear Europe requested that the Commission grant accelerated approval of the proposed rule change pursuant to Section 19(b)(2)(C)(iii) of the Exchange Act.<sup>38</sup> Under Section 19(b)(2)(C)(iii) of the Act,<sup>39</sup> the Commission may grant accelerated approval of a proposed rule change if the Commission finds good cause for doing so. ICE Clear Europe believes that accelerated approval is warranted because the proposed rule change is required in order to comply with the MiFID II requirements, which go into effect on January 3, 2018.

The Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act, for approving the proposed rule change on an accelerated basis, prior to the 30th day after the date of publication of notice in the **Federal Register**, because the proposed rule change is required as of January 3, 2018 in order to facilitate ICE Clear Europe's efforts to comply with the aforementioned MiFID II requirements. Additionally, the Commission notes that the proposed changes do not impede compliance with relevant U.S. law,

including Section 17A(b)(3)(F) of the Act.

#### V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>40</sup> and the rules and regulations thereunder.

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act<sup>41</sup> that the proposed rule change (SR-ICEEU-2017-014) be, and hereby is, approved on an accelerated basis.<sup>42</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>43</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82415; File No. SR-ICEEU-2017-015]

#### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amendments to the ICE Clear Europe Clearing Procedures for the Exercise of F&O Options Contracts

December 28, 2017.

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 December 20, 2017, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II, and III below, which Items have been primarily prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(4)(ii) thereunder,<sup>4</sup> so that the proposal was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit

<sup>40</sup> 15 U.S.C. 78q-1.

<sup>41</sup> 15 U.S.C. 78s(b)(2).

<sup>42</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>43</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).

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

<sup>32</sup> See *supra* note 16.

<sup>33</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>34</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>35</sup> *Id.*

<sup>36</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>37</sup> *Id.*

<sup>38</sup> 15 U.S.C. 78s(b)(2)(C)(iii).

<sup>39</sup> *Id.*

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**

The principal purpose of the proposed amendments is to modify certain provisions of the ICE Clear Europe Procedures (the "Procedures")<sup>5</sup> applicable to the exercise of F&O option contracts in order to align the Procedures with recent changes to ICE Futures Europe (the "Exchange" or "IFEU") rules for certain energy option contracts (the "Affected Contracts").<sup>6</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**

The purpose of the proposed changes is to amend certain provisions of the Procedures applicable to the exercise of F&O option contracts in order to align the Procedures with changes to the Exchange rules for the Affected Contracts.

The amendments to the Procedures principally address the following matters:

##### **Exercise of At-The-Money Options**

The Procedures are being revised to contemplate automatic exercise of call options that are at-the-money on the expiration date, where the relevant

Exchange contract specifications so provide.

##### **Exercise Instructions on the Expiration Date**

The Procedures are also being revised to contemplate that some options cannot be electively (as opposed to automatically) exercised or abandoned on the expiration date, where the relevant Exchange contract specifications so provide.

Both sets of changes are intended to be consistent with the revised contract specifications for the Affected Contracts, which will feature automatic exercise of at-the-money call options and limitations on elective exercise on the expiration date.

The amendments to the Procedures also contain various other updates and clarifications to option exercise procedures. The specified changes being made to the Procedures are as follows:

In paragraph 5.1, a definition of "At The Money" has been added.

Several provisions have been updated to change terminology from "manual exercise" to "elective exercise" and clarify that elective exercise instructions or other notices may be submitted electronically in accordance with relevant technical specifications in effect (including via API) as well as manually via the ICE systems. These include paragraphs 5.2(b)(i), 5.3(a), 5.3(b), 5.4(a), 5.4(b) and 5.5(c).

Paragraph 5.2(c) has been revised to provide that the default settings to be applied for purpose of automatic exercise will be specified in the contract terms of the Exchange.

In paragraph 5.3(b), a clarification has been made that that this section refers to early exercise only.

In paragraph 5.5(b), amendments have been made to reflect that Exchange contract terms may state that automatic exercise will apply to at-the-money options, as discussed above.

In paragraph 5.5(d), an unnecessary statement concerning consequences of failure to contact the clearing house regarding exercise difficulties has been removed.

In paragraph 5.6, text has been added to include the determination of whether options are at and out of the money. Examples in paragraph 5.6(b) have been removed as unnecessary and outdated in light of the current changes.

Paragraph 5.7(a) has been amended to provide that the Exchange contract terms for a particular option will determine whether elective exercise and/or abandon notifications can be submitted on the relevant expiry date, as discussed above.

In paragraph 5.7(b), minor changes have been made to improve and correct wording and report names.

##### **(b) Statutory Basis**

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act<sup>7</sup> and the regulations thereunder applicable to it, including the standards under Rule 17Ad-22.<sup>8</sup>

Section 17A(b)(3)(F) of the Act<sup>9</sup> 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 amendments align exercise procedures for F&O option contracts with recent changes to relevant Exchange rules, and make certain other updates to such procedures. Specifically, the amendments revise exercise procedures to permit automatic exercise of at-the-money call options and to provide limitations on elective exercise on expiry day, where provided in the Exchange rules. The changes thus facilitate prompt and accurate clearance and settlement of F&O option contracts, consistent with the relevant exchange rules.

In addition, Rule 17Ad-22(e)(21)<sup>10</sup> requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves, among other matters. As discussed above, the amendments update exercise procedures with respect to option contracts to more effectively meet the requirements of its participants and the F&O option markets served by ICE Clear Europe, and align with particular Exchange rules.

#### *(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 amendments modify certain provisions of the

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the Procedures or the ICE Clear Europe Clearing Rules.

<sup>6</sup> These contracts include ICE Futures West Texas Intermediate Light Sweet Crude Oil Options Contract; ICE Futures West Texas Intermediate Light Sweet Crude Oil (CAD Denominated) Options Contract; ICE Futures West Texas Intermediate Light Sweet Crude Oil Weekly Options Contract; ICE Futures New York Harbour Heating Oil Options Contract; and ICE Futures New York Harbour Unleaded Gasoline Blendstock (RBOB) Options Contract.

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 17 CFR 240.17Ad-22.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(21)(i) and (iv).

Procedures applicable to the exercise of options to align the Procedures with recent changes to the Exchange rules, and to make certain other clarifications and updates. ICE Clear Europe does not believe the amendments would affect competition among clearing members or adversely affect the cost of clearing, the market for clearing services generally or access to clearing in these products by clearing members or other market participants.

*(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 amendments.

**III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(4)(ii)<sup>12</sup> 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, security-based swap submission or advance notice 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-ICEEU-2017-015 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-2017-015. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice 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 Section, 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 inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/notices/Notices.shtml?regulatoryFilings>.

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-2017-015 and should be submitted on or before January 25, 2018.

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

**Robert W. Errett,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-82424; File No. SR-CboeEDGX-2017-008]

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Market Data Fees**

December 29, 2017.

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 December 15, 2017, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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 filed a proposal to amend [sic] the Market Data section of its fee schedule to lower the Internal Distribution<sup>5</sup> fees and to adopt per User fees for the Cboe One Summary Feed.

The text of the proposed rule change is available at the Exchange's website at [www.markets.cboe.com](http://www.markets.cboe.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 Exchange included statements

<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)(ii).

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

<sup>5</sup> A "Distributor" is defined as "any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party." See the Exchange's fee schedule available at [http://markets.cboe.com/us/equities/membership/fee\\_schedule/edgx/](http://markets.cboe.com/us/equities/membership/fee_schedule/edgx/). An "Internal Distributor" is defined as "a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity." *Id.*

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>13</sup> 17 CFR 200.30-3(a)(12).