



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68497; File No. SR-ICEEU-2012-12)

December 20, 2012

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Acceptance of Letters of Credit or Pass-Through Letters of Credit Deposits from Non-Financial Institution Energy Clearing Members

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4² thereunder, notice is hereby given that on December 19, 2012, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II and III, below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A)(iii)³ of the Act and Rule 19b-4(f)(4)(ii)⁴ thereunder, so that the proposal was 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

The purpose of the proposed rule change is to accept Letters of Credit as permitted cover for certain clearing members for cleared energy futures. As part of the update to the Permitted Cover, ICE Clear Europe will consider new requests to use Letters of Credit or Pass through Letters of Credit to meet Initial/Original Margin

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(4)(ii).

requirements. All capitalized terms not defined herein are defined in the ICE Clear Europe Rules.

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 and comments 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 these statements.⁵

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In addition to providing clearing services for credit default swaps, ICE Clear Europe also provides clearing services for non-securities contracts in energy and emissions markets ("Energy Futures Products"). ICE Clear Europe is updating the List of Permitted Cover and Haircuts⁶ to allow non-financial institution Energy Clearing Members to deposit Letters of Credit or Pass-Through Letters of Credit to cover Initial/Original Margin requirements for Energy Futures Products.⁷

⁵ The Commission has modified the text of the summaries provided by ICE Clear Europe.

⁶ The updated list of Permitted Cover, along with the corresponding haircut rates, can be found at the following location:
https://www.theice.com/publicdocs/clear_europe/list-of-permitted-covers.pdf.

⁷ Letters of Credit and Pass-Through Letters of Credit are subject to concentration limits as described in the list of Permitted Cover. See id.

The Clearing House will accept three forms of the Letter of Credit:

- Letters of Credit: May be deposited by non-financial Energy Clearing Members;
- Pass-Through Letters of Credit: May be deposited by non-financial institutions that are clients of Energy Clearing Members without FCM Clearing Member status; and
- Pass-Through Letters of Credit: May be deposited by non-financial institutions that are clients of Clearing Members with FCM Clearing Member status, from November 28, 2012.

Both forms of Pass-Through Letters of Credit are transferrable from ICE Clear Europe to the Clearing Member making the Clearing Member the beneficiary of the proceeds at execution. The Clearing Member will be responsible for assessing the wording of the Letter of Credit and only consent to its use in case the Letter on Credit is acceptable by the Clearing Member as permitted cover and fully compliant with its regulatory requirements.

ICE Clear Europe believes that the proposed change is consistent with the requirements of Section 17A of the Act and the regulations thereunder applicable to it. Section 17A(b)(3)(F)⁸ of the Act requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest. ICE Clear Europe believes that allowing non-financial institutions to deposit Letters of Credit or Pass-Through Letters of Credit as permitted cover for Initial/Original Margin requirements for energy futures products would help protect investors and the public interest.

⁸ 15 U.S.C. 78q-1(b)(3)(F).

B. Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe that the proposed rule change would have any impact, or impose any burden, on competition.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

ICE Clear Europe has not solicited written comments regarding the proposed change. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii)⁹ of the Act and Rule 19b-4(f)(4)(ii)¹⁰ thereunder because it primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures, and does not significantly affect the securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service. 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

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(4)(ii).

¹¹ 15 U.S.C. 78s(b)(3)(C).

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 may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or by sending an e-mail to rule-comments@sec.gov. Please include File No. SR-ICEEU-2012-12 on the subject line.
- Paper comments should be sent in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C., 20549-0609.

All submissions should refer to File Number SR-ICEEU-2012-12. To help the Commission process and review your comments more efficiently, please use only one method of submission. 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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, N.E., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will 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/publicdocs/regulatory_filings/ICEU_SEC_121912_2012-12.pdf.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2012-12 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.¹²

Kevin M. O'Neill
Deputy Secretary

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¹² 17 CFR 200.30-3(a)(12).