



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75624; File No. SR-ICEEU-2015-013]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to CDS End-of-Day Price Discovery Policy

August 6, 2015

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on July 24, 2015, ICE Clear Europe Limited (“ICE Clear Europe” or “Clearing House”) 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 primarily prepared by ICE Clear Europe. 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

ICE Clear Europe proposes to amend its end-of-day price discovery policies and procedures for credit default swap (“CDS”) contracts to incorporate certain enhancements.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for 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. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ICE Clear Europe proposes to amend its CDS End-of-Day Price Discovery Policy (the “EOD Price Discovery Policy”) to make certain enhancements to the end-of-day submission and firm trade process for CDS contracts. ICE Clear Europe also proposes to adopt a new Price Submission Disciplinary Framework (the “Disciplinary Framework”) that addresses missed price submissions by Clearing Members for CDS contracts. ICE Clear Europe does not otherwise propose to change its Clearing Rules or Procedures in connection with these amendments.

Under the EOD Price Discovery Policy, ICE Clear Europe currently utilizes a “cross and lock” algorithm as part of its CDS price discovery process. Under this algorithm, standardized bids and offers derived from Clearing Member submissions are matched by sorting them from highest to lowest and lowest to highest levels, respectively. This sorting process pairs the Clearing Member submitting the highest bid price with the Clearing Member submitting the lowest offer price, the Clearing Member submitting the second highest bid price with the Clearing Member submitting the second-lowest offer price, and so on. The algorithm then identifies crossed and/or locked markets. Crossed markets are the Clearing Member pairs generated by the sorting and ranking process for

which the bid price of one Clearing Member is above the offer price of the matched Clearing Member. The algorithm identifies locked markets, where the bid and the offer are equal, in a similar fashion.

Whenever there are crossed and/or locked matched markets, the algorithm applies a set of rules designed to identify standardized submissions that are “obvious errors.” The algorithm sets a high bid threshold equal to the preliminary end-of-day (“EOD”) level plus one bid-offer width (“BOW”), and a low offer threshold equal to the preliminary EOD level minus one BOW. The algorithm considers a Clearing Member’s standardized submission to be an “obvious error” if the bid is higher than the high bid threshold, or the offer is lower than the low offer threshold.

Clearing Member pairs identified by the algorithm as crossed or locked markets may be required from time to time, under the EOD Price Discovery Policy, to enter into cleared CDS trades with each other (“Firm Trades”). Currently, ICE Clear Europe excludes standardized submissions it identifies as obvious errors from potential Firm Trades and does not use these submissions in its determination of published EOD levels.

ICE Clear Europe proposes to impose certain consequences under the Firm Trade methodology for Clearing Members providing price discovery submissions deemed to be obvious errors. As revised, the process for determining potential Firm Trades will now include all standardized submissions, including those classified as obvious errors (and as a result submissions that are obvious errors may result in Firm Trades). However, obvious errors will not be used in the calculation of the final EOD level, as under the current framework. Thus, ICE Clear Europe will effectively execute its current EOD algorithm twice: initially in the same way it does today (eliminating obvious errors) to

generate the final EOD levels, and again, without excluding obvious errors, to generate Firm Trades and related reversing transactions.³

To limit the potential exposure created through Firm Trades that include a bid or offer from an obvious error submission, ICE Clear Europe will adjust Firm Trade prices, where appropriate, to fall within a predefined band on either side of the EOD price such that the potential profit or loss (“P/L”) realized by unwinding the trade at the EOD level is capped.

To prevent Clearing Members from receiving Firm Trades with large P/L impact in certain index instruments that are less actively traded, and for which it is therefore more difficult and/or more expensive to manage the associated risk, ICE Clear Europe will automatically generate reversing transactions at the end-of-day price level for specific index CDS instruments (i.e., for specific combinations of index/sub-index and series determined by the ICE Clear Europe risk department in consultation with the trading advisory committee). Currently, reversing transactions are only available for eligible single name CDS instruments.

ICE Clear Europe is also revising the EOD Price Discovery Policy to remove the option for Clearing Members to provide end-of-day price submissions for single name CDS instruments in terms of spread and associated recovery rate. Under the revised approach, Clearing Members will be required to provide price submissions (or equivalent “points upfront” submissions) for all single name CDS instruments.

Clearing Members may provide a recovery rate, which the Clearing House will use for

³ A reversing transaction is a second cleared transaction with identical attributes to the initial Firm Trade, but with the buyer and seller counterparties reversed, and at that day’s EOD price rather than the initial Firm Trade price.

purposes of its own analysis. Accordingly, the Clearing House will no longer need to convert spread submissions for single name instruments into a price level for purposes of the EOD price determination process. Various conforming changes have been made throughout the policy as a result.

ICE Clear Europe also proposes to implement a new Disciplinary Framework, which addresses failures by a Clearing Member to provide required EOD price submissions for CDS Contracts in which they hold cleared open interest with the Clearing House (“Missed Submissions”). For purposes of the Disciplinary Framework, obvious errors (as described above) with respect to CDX index CDS contracts will also be treated as Missed Submissions (since such instruments are not subject to Firm Trade requirements). ICE Clear Europe will impose a cash assessment on Clearing Members for each Missed Submission, generally ranging from \$1,000 to \$4,000, depending on whether the Missed Submission related to an index or single-name, whether it occurred on an announced firm trade date and whether the related contract is actively traded. For single name CDS contracts, the framework also specifies an aggregate daily maximum assessment per Clearing Member for multiple Missed Submissions and a daily maximum assessment per Clearing Member per risk sub-factor.

As part of a new summary assessment process, ICE Clear Europe will determine on a monthly basis whether a Clearing Member has any Missed Submissions and provide the Clearing Member a notice of assessment with details of such Missed Submissions. The notice of assessment will include information about the date, type, quantity and assessment amount for the relevant Missed Submission(s). The Disciplinary Framework also provides a procedure for a Clearing Member to dispute a notice of assessment. A Clearing Member will have fifteen days from the notice of

assessment to dispute the notice or seek to have it waived or rescinded. The Clearing House may grant a waiver of an assessment for certain specified reasons. A conditional waiver may be granted for the first instance of a Missed Submission for a particular instrument, provided that the Clearing Member does not have another Missed Submission in that instrument within 90 days. The Clearing House may grant an unconditional waiver where Missed Submissions result from extraordinary circumstances outside of the Clearing Member's control, such as market-wide disruptions. The imposition of a cash assessment on a Clearing Member does not preclude ICE Clear Europe from taking any other disciplinary action against a Clearing Member under the Rules and Procedures, including for persistent failures to meet the requirements of the EOD Price Discovery Policy.

2. Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act⁴ and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act⁵ 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, and the protection of investors and the public interest. The proposed amendments are designed to enhance the Clearing House's EOD Price Discovery Policy, which is a key aspect of the risk management and daily settlement procedures of the

⁴ 15 U.S.C. 78q-1.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

Clearing House. In ICE Clear Europe's view, the changes will strengthen the incentive of Clearing Members to provide accurate end-of-day price submissions, by imposing new consequences under the Firm Trade Methodology for submissions that are obviously erroneous. The amendments will further incentivize accurate price submissions by imposing financial consequences on Clearing Members for Missed Submissions, through cash assessments under the new Disciplinary Framework. The amendments thus ensure Clearing Members are accountable for all price submissions and any failures to make submissions. This will promote the accuracy and integrity of the overall end-of-day pricing and settlement process. The amendments also contain certain other enhancements and clarifications to the end-of-day price submission process, as discussed above.

Accordingly, ICE Clear Europe believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions, within the meaning of Section 17(A)(b)(3)(F).⁶

In addition, in ICE Clear Europe's view, the new Disciplinary Framework provides an appropriately tailored set of cash assessments for Missed Submissions by Clearing Members, in light of the importance of end-of-day price submissions to the Clearing House risk management and settlement procedures. The framework is thus consistent with the requirements of Section 17A(b)(3)(G) of the Act.⁷ The framework also provides a procedure for notifying Clearing Members of the details of any such assessments for Missed Submissions, and for Clearing Members to dispute and/or seek a

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 15 U.S.C. 78q-1(b)(3)(G).

waiver of such assessments. In ICE Clear Europe's view, this aspect of the framework is consistent with the requirements of Section 17A(b)(3)(H) of the Act.⁸

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The enhancements to ICE Clear Europe's price discovery process apply uniformly to all Clearing Members. As a result, ICE Clear Europe does not believe that the adoption of the policy amendments will adversely affect competition among Clearing Members, or the ability of market participants to clear contracts generally. The Clearing House also does not believe that the amendments will reduce access to clearing CDS contracts generally or limit market participants' choices for clearing CDS.

The amendments may result in certain additional costs for Clearing Members that are required to enter into Firm Trades as a result of obvious errors in their submissions, or are subject to cash assessments as a result of Missed Submissions. ICE Clear Europe believes that these additional costs are warranted to enhance the integrity of the price submission process, and are in any event generally within the control of the Clearing Member. As a result, ICE Clear Europe does not believe the proposed amendments impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

⁸ 15 U.S.C. 78q-1(b)(3)(H).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. 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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2015-013 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-2015-013. 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 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/clear-europe/regulation#rule-filings>. 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-2015-013 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Robert W. Errett,
Deputy Secretary.

BILLING CODE 8011-01p

[FR Doc. 2015-19757 Filed: 8/11/2015 08:45 am; Publication Date: 8/12/2015]

⁹ 17 CFR 200.30-3(a)(12).