

the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

#### **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 (i) as the Commission may designate up to 90 days of such date 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2012-142 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2012-142. 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 Web site (<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 Web site 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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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-NYSEArca-2012-142 and should be submitted on or before January 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68496; File No. SR-ICEEU-2012-14]

### **Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Intra-Day Margin Calling Policy for Energy Clearing Members**

December 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> 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)<sup>3</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit

<sup>32</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)(iii).

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

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 subject Energy Clearing Members to an Intraday Margin Call in the event that the Intraday Margin Liability of the Member exceeds certain defined limits. 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.<sup>5</sup>

#### 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 will subject Energy Clearing Members to an Intraday Margin Call in the event that the Intraday Margin Liability of the Member is greater than:

- 20% of the Energy Clearing Member's total collateral held with ICE Clear Europe to meet margin requirements;
- 2.5% of the Clearing Member's Balance Sheet capital (discounted, where appropriate, by credit rating); and
- The individual Energy Guaranty Fund contribution of the Energy Clearing Member.

Intraday Margin Calls will be made independent of Energy Guaranty Fund and Balance Sheet capital if the Intraday Margin Liability is greater than the total collateral held with ICE Clear Europe to meet margin 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)<sup>6</sup> 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 subjecting Energy Clearing Members to an Intraday Margin Call under certain circumstances would help protect investors and the public interest.

#### 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)<sup>7</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>8</sup> 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.<sup>9</sup>

### 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File

No. SR-ICEEU-2012-14 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, DC, 20549-0609.

All submissions should refer to File Number SR-ICEEU-2012-14. 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 Web site (<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 Web site 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 also will be available for inspection and copying at the principal office of ICE Clear Europe, and on ICE Clear Europe's Web site at: [https://www.theice.com/publicdocs/regulatory\\_filings/ICEEU\\_SEC\\_121912\\_2012-14.pdf](https://www.theice.com/publicdocs/regulatory_filings/ICEEU_SEC_121912_2012-14.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-2012-14 and should be submitted on or before January 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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<sup>5</sup> The Commission has modified the text of the summaries provided by ICE Clear Europe.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>10</sup> 17 CFR 200.30-3(a)(12).