

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74133; File No. SR-ICEEU-2015-003]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Related to New Haircuts

January 26, 2015.

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 January 23, 2015, ICE Clear Europe Limited (“ICE Clear Europe”) 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 primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to modify the cross-currency haircuts applied by ICE Clear Europe to Permitted Cover provided by Clearing Members in order to address recent volatility in Swiss franc (“CHF”) exchange rates. The Clearing House has determined to modify the CHF cross-currency haircuts as follows:

#### PROPOSED CHF CROSS CURRENCY HAIRCUTS

Currency pair	Current haircut (%)	Proposed haircut (%)
CHF-CAD .....	10.00	16.00
CHF-CZK .....	6.00	17.25
CHF-DKK .....	6.00	17.25
CHF-EUR .....	10.00	17.25
CHF-GBP .....	10.00	16.25
CHF-HUF .....	6.00	17.25
CHF-JPY .....	6.00	16.25
CHF-NOK .....	6.00	14.75

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

#### PROPOSED CHF CROSS CURRENCY HAIRCUTS—Continued

Currency pair	Current haircut (%)	Proposed haircut (%)
CHF-PLN .....	6.00	18.50
CHF-SEK .....	8.00	16.00
CHF-TRY .....	6.00	17.50
CHF-USD .....	10.00	15.75
CHF-ZAR .....	6.00	19.75

#### II. Self-Regulatory Organization’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 III below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

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

###### 1. Purpose

Under its existing margin and haircut methodology, ICE Clear Europe imposes an additional haircut, referred to as a “cross-currency haircut,” with respect to assets provided by Clearing Members as Permitted Cover for margin obligations where the Permitted Cover is denominated in a different currency from that of the relevant margin requirement. The cross-currency haircut is designed to protect the Clearing House against exchange rate risk in the event it needs to liquidate the Permitted Cover and convert the proceeds into the currency of the relevant underlying obligation following a Clearing Member default.<sup>3</sup>

As has been publicly reported, on January 15, 2015, the Swiss central bank discontinued a policy establishing a minimum exchange rate of 1.20 Swiss francs per Euro. Very large moves in Swiss franc exchange rates followed that decision, with the result that the Swiss franc appreciated approximately 16–17% on that day against other major currencies such as the US dollar, Euro and British pound. Because that level of appreciation exceeded the existing

<sup>3</sup> Current cross-currency haircuts are set out in the List of Permitted Cover and Limits on Collateral published on the Clearing House’s Web site, [https://www.theice.com/publicdocs/clear\\_europe/list-of-permitted-covers.pdf](https://www.theice.com/publicdocs/clear_europe/list-of-permitted-covers.pdf).

cross-currency haircut of 10% applied by the Clearing House for those currency pairs, the Clearing House, consistent with its internal policies, reviewed the cross-currency haircut levels for all relevant Swiss franc currency pairs. As a result of that review, the Clearing House determined to modify the CHF cross-currency haircuts as set forth in Item I above.

In reviewing the haircuts, the Clearing House applied, consistent with its policies and practices, a value at risk model under both parametric and historical simulation methods, taking into account both recent volatility and historical volatility, and looking at both one and two day liquidation period assumptions for the relevant Permitted Cover.

###### 2. Statutory Basis

ICE Clear Europe believes that the change in CHF cross-currency haircuts is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the regulations thereunder applicable to it, and in particular, is consistent with the prompt and accurate clearance of and settlement of securities transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>5</sup> ICE Clear Europe is proposing the change in response to a significant recent increase in the volatility of CHF exchange rates as observed in the market. The Clearing House has determined, based on the application of its internal policies and value at risk models, that the proposed increase in cross-currency haircuts is appropriate to protect the Clearing House against currency risk where Clearing Members provide Permitted Cover in one currency to cover margin obligations in a different currency. The change thus enhances the Clearing House’s risk management, margin framework and financial resources to support its clearing operations in the event of Clearing Member default. As a result, ICE Clear Europe believes that the change will facilitate the prompt and accurate clearance and settlement of securities and derivatives transactions, and promote the public interest and the protection of investors, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>6</sup>

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

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

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

ICE Clear Europe does not believe the proposed changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change will apply to all Clearing Members and market participants that provide Permitted Cover in circumstances where a CHF cross-currency haircut applies. ICE Clear Europe does not believe the change will have a material effect on access to clearing or the ability of Clearing Members and other market participants to obtain clearing services, or limit market participants' choices for clearing contracts. Although the increased haircuts may increase the cost of using certain types of Permitted Cover, ICE Clear Europe believes that such costs are warranted by the increased CHF exchange rate risk presented to the Clearing House. As a result, ICE Clear Europe believes that any impact on competition is 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*

Written comments relating to the proposed changes have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

### **III. 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-ICEEU-2015-003 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-2015-003. 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 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/clear-europe/regulation>.

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-2015-003 and should be submitted on or before February 20, 2015.

### **IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

Section 19(b)(2)(C) of the Act<sup>7</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act<sup>8</sup> requires, among other things, that the rules of a registered 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, and, in general, to protect investors and the public interest.

The Commission finds that the proposed revisions to the Swiss franc cross-currency haircuts are consistent with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations

thereunder applicable to ICE Clear Europe. ICE Clear Europe proposes to revise the cross-currency haircut levels for all relevant Swiss franc currency pairs in response to increased volatility in Swiss franc exchange rates, which has resulted in appreciation of the Swiss franc exceeding the existing cross-currency haircuts applied to its Swiss franc currency pairs. The revised haircuts, which were determined using risk-based models and parameters, are intended to protect ICE Clear Europe from exchange rate risk in the event it needs to liquidate relevant Permitted Cover and convert the proceeds into the currency of the relevant underlying obligation following the default of a Clearing Member. The Commission therefore believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions, and, in general, to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act<sup>10</sup> and the rules and regulations thereunder.

ICE Clear Europe has requested that the Commission approve the proposed rule change on an accelerated basis for good cause shown. ICE Clear Europe states that the proposed rule change is intended to address a recent market development resulting in substantially increased volatility in Swiss franc exchange rates. ICE Clear Europe believes that in light of these developments, it is necessary to increase the Swiss franc cross-currency haircuts as set forth herein in order to appropriately manage the currency risks from Permitted Cover provided to the Clearing House. ICE Clear Europe further believes that a delay in implementation of the proposed changes could adversely affect its risk management and unnecessarily expose the Clearing House to increased currency risk if it were necessary to liquidate Permitted Cover in the event of a Clearing Member default. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2)(C)(iii) of the Act,<sup>11</sup> for approving the proposed rule change on an accelerated basis.

### **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

<sup>7</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(C)(iii).

Act<sup>12</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-ICEEU-2015-003) be, and hereby is, approved on an accelerated basis.<sup>14</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74136; File No. SR-OCC-2015-02]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Concerning a Proposed Capital Plan for Raising Additional Capital That Would Support the Options Clearing Corporation's Function as a Systemically Important Financial Market Utility

January 26, 2015.

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 January 14, 2015, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by OCC.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>12</sup> 15 U.S.C. 78q-1.

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</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>15</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> OCC also filed proposals in this proposed rule change as an advance notice under Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010. 12 U.S.C. 5465(e)(1). See File No. SR-OCC-2014-813. In Items I and II below, OCC states that the purpose of this proposal is in part to facilitate compliance with the SEC Proposed Rules (as defined below) and address Principle 15 of the Principles for Financial Market Infrastructures. The Commission notes that the SEC Proposed Rules are pending. The Commission will evaluate the proposed rule change under the Act and the rules currently in force thereunder.

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change is filed by OCC in order to set forth a proposed Capital Plan for raising additional capital that would support OCC's function as a systemically important financial market utility and facilitate OCC's compliance with new regulatory requirements applicable to systemically important financial market utilities that have been proposed by the Commission but have not yet been adopted.

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

In its filing with the Commission, OCC 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. OCC 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

##### 1. Purpose

OCC is proposing to amend its By-Laws and other governing documents, and to adopt certain policies, for the purpose of implementing a plan for raising additional capital ("Capital Plan") under which the options exchanges that own equity in OCC ("Stockholder Exchanges" or "Stockholders") would make an additional capital contribution and commit to replenishment capital ("Replenishment Capital") in circumstances discussed below, and would receive, among other things, the right to receive dividends from OCC.<sup>4</sup> In addition to the additional capital contribution and Replenishment Capital, the main features of the Capital Plan are: (i) A policy establishing OCC's fees at a level that would be sufficient to cover OCC's estimated operating expenses plus a "Business Risk Buffer" as described below ("Fee Policy"), (ii) a policy establishing the amount of the annual refund to clearing members of OCC's fees ("Refund Policy"), and (iii) a policy for calculating the amount of dividends to be paid to the Stockholder Exchanges ("Dividend Policy"). The Capital Plan is proposed to be

<sup>4</sup> The Capital Plan has also been filed with the Commission as an advance notice (SR-OCC-2014-813), which was amended and restated on January 14, 2015.

implemented on or about February 27, 2015, subject to all necessary regulatory approvals.<sup>5</sup>

The Capital Plan would significantly increase OCC's capital in connection with its increased responsibilities as a systemically important financial market utility, and OCC believes that it would facilitate OCC's compliance with new regulatory requirements applicable to such systemically important financial market utilities that have been proposed by the Commission but have not yet been adopted.<sup>6</sup> For purposes of its capital planning, OCC has used the working assumption that the new requirements contained in the Commission's proposed amendments to Rule 17Ad-22 of the SEC Proposed Rules will be adopted substantially as proposed, and the Capital Plan is intended to ensure OCC's ability to comply with Rule 17Ad-22, specifically paragraph (e)(15) thereof, when the SEC Proposed Rules become effective. In addition, it is intended to address Principle 15 of the Principles for Financial Market Infrastructures published by the Bank for International Settlements and the International Organization of Securities Commissions, which provides, among other things, that a financial market utility should identify, monitor and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue to operate as a going concern. The Capital Plan calls for an infusion of substantial additional equity capital by the Stockholder Exchanges to be made prior to February 27, 2015, subject to regulatory approval, that when added to retained earnings accumulated by OCC in 2014 will significantly increase OCC's capital levels as compared to historical levels. Additionally, the Capital Plan includes the Replenishment Capital commitment, which would provide OCC access to additional equity contributed by the Stockholder Exchanges should OCC's equity fall close to or below the amount that OCC determines to be appropriate to support its business and manage business risk in compliance with Rule 17Ad-22, as discussed more fully below.

<sup>5</sup> The material features of the Capital Plan are summarized in the Term Sheet that is included as Exhibit 3 to this filing. Certain details of the Term Sheet may change as a result of negotiations between OCC and the Stockholder Exchanges or changes in financial figures, but OCC does not anticipate any material changes to the Capital Plan.

<sup>6</sup> See Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 29507 (May 22, 2014) ("SEC Proposed Rules").