

disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹⁰ designates December 29, 2018 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSEArca-2018-25), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84463; File No. SR-ICEEU-2018-016]

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 Delivery Procedures

October 22, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 10, 2018, ICE Clear Europe Limited (“ICE Clear Europe” or the “Clearing House”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposed rule changes pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(4)(ii) thereunder,⁴ so that the proposal was immediately 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 principal purpose of the proposed amendments is for ICE Clear Europe to amend its Delivery Procedures (the “Delivery

Procedures”)⁵ with respect to the delivery terms relating to the ICE Futures Europe (“ICE Futures Europe” or “IFEU”) Permian West Texas Intermediate Crude Oil Futures Contract.

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 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

(a) Purpose

ICE Clear Europe is amending its Delivery Procedures to add a new Part CC addressing delivery under a new Permian West Texas Intermediate Crude Oil Futures Contract (the “Permian WTI Contract”) that will be traded on ICE Futures Europe and cleared by ICE Clear Europe, and to make certain related changes. ICE Clear Europe does not otherwise propose to amend its Clearing Rules (the “Rules”)⁶ or Procedures in connection with these changes.

New Part CC of the Delivery Procedures provides specifications and procedures for deliveries under the Permian WTI Contract, which will take place at the Magellan Crude Oil Pipeline Company, L.P. (“Magellan”) East Houston terminal (“MEH”). Consistent with the exchange contract terms, the buyer and seller must be approved shippers with delivery documentation with Magellan. Delivery may be effected through orders for inter-facility transfer, in-line (or in-system) transfer or in-tank transfer of title, in accordance with relevant Magellan documentation and tariffs, as set out in Part CC and the relevant exchange contract terms. The amendments also establish standards for delivery quality, as well as relevant procedures for exchange of futures for physical transactions under exchange rules.

Part CC addresses certain the responsibility of the Clearing House and

relevant parties for delivery under the Permian WTI Contracts, supplementing the existing provisions of the Rules. Specifically, neither the Clearing House nor ICE Futures Europe are responsible for the performance of Magellan or any person operating MEH nor do they make any representation regarding the authenticity, validity or accuracy of any delivery tender notice, confirmation of transfer or any other notice, document, file, record or instrument used or delivered pursuant to the Rules and Procedures.

The amendments address delivery margin and relevant contract security with respect to Permian WTI Contracts. The amendments specify certain details of the delivery process. Delivery of ICE Permian WTI Contracts will be based on open contract positions at the close of trading on the last trading day for which physical delivery is specified. A delivery schedule must be agreed between Magellan and the Buyer and Seller. The procedures include a detailed timeframe for relevant notices of intent to deliver or receive, nominations of parties to delivery or receive, delivery confirmations, invoicing, release of delivery margin following completion of delivery and other matters.

The amendments also contemplate the use of alternative delivery procedures for Permian WTI Contracts, under which the buyer and seller under a contract may agree to arrange delivery and payment for a specific tender outside of the exchange rules and in lieu of the standard delivery arrangements and procedures. The amendments set out notice and other requirements for such alternative delivery procedures.

ICE Clear Europe is also adding a new section 16.7 requiring Clearing Members, Buyers, Seller, Transferors and Transferees that make or take delivery pursuant to a Contract to comply with requirements relating to filing, notification, reporting, registration, certification or authorization under Applicable Laws or from the Delivery Facility.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act⁷ 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,

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4)(iii).

⁵ Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Delivery Procedures.

⁶ Capitalized terms used but not defined herein have the meanings specified in the Rules.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

and the protection of investors and the public interest. The proposed amendments are designed to facilitate the clearing of a new physically settled oil futures contract, the Permian WTI Contract, that is being launched for trading by the ICE Futures Europe exchange. The amendments set out the obligations and roles of Clearing Members, the Clearing House and Magellan, the facility used for physical delivery under the Permian WTI Contracts. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such products (and to address physical delivery under such contracts) and to manage the risks associated with such contracts. As a result, in ICE Clear Europe's view, the amendments will be consistent with the prompt and accurate clearance and settlement of the Permian WTI Contracts, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.⁸ (In ICE Clear Europe's view, the amendments will not affect the safeguarding of funds or securities in the custody or control of the clearing agency or for which it is responsible, within the meaning of Section 17A(b)(3)(F).⁹)

In addition, Rule 17Ad-22(e)(10)¹⁰ requires that each covered clearing agency establish and maintain transparent written standards that state its obligations with respect to the delivery of physical instruments, and establish and maintain operational practices that identify, monitor and manage the risks associated with such physical deliveries. As discussed above, the amendments to the Delivery Procedures to allow for the delivery and settlement of ICE Permian WTI Contracts, taken together with the Rules and ICE Futures Europe exchange contract terms, set out the obligations of the Clearing House and other parties with respect to delivery under the Permian WTI Contract. The amendments also adopt procedures for such deliveries, which will facilitate identifying, monitoring and managing risks associated with delivery.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the

purposes of the Act. The changes are being proposed in order to update the Delivery Procedures in connection with the listing of the ICE Permian WTI Contract for trading on the ICE Futures Europe market. ICE Clear Europe believes that such contracts will provide additional opportunities for interested market participants to engage in trading activity in the Permian WTI market. ICE Clear Europe does not believe the amendments would adversely affect competition among Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in ICE Permian WTI Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

(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 and Timing of Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f) of Rule 19b-4¹² 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. Please include File Number SR-ICEEU-2018-016 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-2018-016. 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 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. 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-2018-016 and should be submitted on or before November 16, 2018.

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

Eduardo A. Aleman,
Assistant Secretary.

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⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 17 CFR 240.17Ad-22(e)(10).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

¹³ 17 CFR 200.30-3(a)(12).