

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 20549-1090 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. 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 4-546 and should be submitted on or before March 28, 2019.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-04083 Filed 3-6-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85236; File No. SR-ICEEU-2018-010]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe CDS Risk Policy (the "CDS Risk Policy"), CDS Clearing Back-Testing Policy (the "Back-Testing Policy") and CDS Stress-Testing Policy (the "Stress-Testing Policy") (Collectively, the "CDS Policies")

March 1, 2019.

#### I. Introduction

On November 13, 2018, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to modify and update certain provisions of its risk policies related to CDS Contracts. The proposed rule change was published for comment in the **Federal Register** on December 4, 2018.<sup>3</sup> On December 26, 2018, the

Commission extended the period to take action on the proposed rule change to March 4, 2019.<sup>4</sup> The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description of the Proposed Rule Change

##### A. CDS Risk Policy

The proposed rule change would incorporate into the CDS Risk Policy a description of ICE Clear Europe's overall Board risk appetite and limit framework.<sup>5</sup> Currently the CDS Risk Policy does not reference the framework, but other ICE Clear Europe policies, including the Stress-Testing Policy, reference the framework. The description of the framework that the proposed rule change would add to the CDS Risk Policy would be consistent with the description of the framework that other ICE Clear Europe policies, including the Stress-Testing Policy, use. As described in the proposed change to the CDS Risk Policy, the framework would use Board-level risk appetite statements, risk appetite metrics, and management risk limits, and would be subject to review at least annually.<sup>6</sup> The proposed rule change would add description of the framework to the CDS Risk Policy to make clear that the CDS Risk Policy is part of ICE Clear Europe's overall risk management.

The proposed rule change would specifically address periodic reviews of margin requirements and the related margin methodology and parameters. Currently, the CDS Risk Policy provides that ICE Clear Europe conducts a statistical analysis of the margin levels and market performance on at least a monthly basis. Similarly, under the proposed revised policy, the clearing risk department would be required to perform such a review at least monthly, consistent with applicable legal requirements.<sup>7</sup>

The proposed rule change would provide additional detail about the use of the results of such reviews by ICE Clear Europe management. Specifically, under the proposed rule change, the head of first line clearing risk would present the results of the monthly review to ICE Clear Europe's Model Oversight Committee ("MOC").<sup>8</sup> The

head of first line clearing risk would report to the President of ICE Clear Europe and would manage ICE Clear Europe's first line clearing risk team including default management, liquidity risk, market risk and counterparty risk. Moreover, the proposed rule change would provide that at the end of each quarter, the Clearing Risk Department would share its monthly reviews from the quarter with the Risk Oversight Department ("ROD"), which would perform a second-line review. The head of second line clearing risk then would present the results of this quarterly review to the MOC. The head of second line clearing risk would be ICE Clear Europe's Chief Risk Officer and would report to the President and the senior independent director of ICE Clear Europe.<sup>9</sup> The CDS Risk Policy currently provides only that the Risk Management Department recommends margin methodology changes to the President and Board of Directors of ICE Clear Europe for their approval. Thus, the proposed rule change would provide more explanation regarding ICE Clear Europe's use of the monthly reviews of margin levels.

The proposed amendments would also clarify that the Clearing Risk Department would recommend proposed margin methodology changes resulting from the review process to the Board for approval. Currently, the CDS Risk Policy provides that the ICE Clear Europe Risk Management Department recommends margin methodology changes to the President and the Board for their approval. Thus, this proposed change would update the name of the responsible ICE Clear Europe department from Risk Management Department to Clearing Risk Department. Moreover, this proposed change would eliminate a redundancy in providing that ICE Clear Europe's Board alone shall approve margin methodology changes. Because ICE Clear Europe's President also serves on the Board, it would not be necessary for both the President and the Board to separately approve margin methodology changes.<sup>10</sup>

The proposed rule change would specify in further detail the timing and extent of backtesting and stress testing.<sup>11</sup> Currently, the CDS Risk Policy provides that ICE Clear Europe conducts backtesting on a daily basis, but the Policy does not specify that ICE Clear Europe uses standard predetermined

<sup>4</sup> Securities Exchange Act Release No. 84957 (Dec. 26, 2018), 84 FR 855 (Jan. 31, 2019) (SR-ICEEU-2018-010).

<sup>5</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the CDS Policies or ICE Clear Europe Rulebook.

<sup>6</sup> Notice, 83 FR at 62638.

<sup>7</sup> See 17 CFR 240.17Ad-22(e)(6)(vi).

<sup>8</sup> Notice, 83 FR at 62638.

<sup>9</sup> *Id.*

<sup>10</sup> See [https://www.theice.com/publicdocs/clear\\_europe/Organisational\\_Structure\\_Objectives\\_Strategy.pdf](https://www.theice.com/publicdocs/clear_europe/Organisational_Structure_Objectives_Strategy.pdf).

<sup>11</sup> Notice, 83 FR at 62638.

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

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

<sup>3</sup> Securities Exchange Act Release No. 84667 (Nov. 28, 2018), 83 FR 62638 (Dec. 4, 2018) (SR-ICEEU-2018-010) ("Notice").

parameters and assumptions, nor does it provide any information about sensitivity analysis. Consistent with applicable law, the proposed rule change would require that: (i) ICE Clear Europe's Clearing Risk Department conduct backtesting at least once each day using standard predetermined parameters and assumptions; (ii) ICE Clear Europe conduct sensitivity analyses of its margin models and review parameters and assumptions for backtesting on at least a monthly basis; and (iii) ICE Clear Europe conduct sensitivity analyses and reviews more frequently than monthly when the relevant products cleared or markets served display high volatility or become less liquid or when the size or concentration of positions held by Clearing Members increases or decreases significantly.<sup>12</sup> With respect to stress testing, the CDS Risk Policy currently provides details regarding stress testing scenarios and provides that ICE Clear Europe executes such scenarios on a regular basis, but does not specify that ICE Clear Europe conducts stress testing daily or uses standard predetermined parameters and assumptions. Consistent with applicable law, the proposed rule change would require that the clearing risk department conduct stress testing at least once each day using standard predetermined parameters and assumptions, which are reviewed on at least a monthly basis and more frequently when the relevant products cleared or markets served display high volatility or become less liquid or when the size or concentration of positions held by Clearing Members increases or decreases significantly.<sup>13</sup>

The proposed rule change would also establish details regarding policy governance and reporting. The proposed rule change would specify that the models used to support the policy objectives of the policy are subject to an annual independent validation and governance oversight which may be performed by an independent member of the ROD or an external validator.<sup>14</sup> The CDS Risk Policy does not currently provide any details regarding validation of the models used to support the policy. The CDS Risk Policy owner, who is the CDS Risk Director and part of the Clearing Risk Department, would be responsible for ensuring that the policy remains up-to-date and is reviewed, with the support of the ROD.<sup>15</sup>

The proposed rule change would also provide a new process for escalation

and reporting of any deviations from the policy, as well as compliance with regulatory reporting and filing requirements and would make the policy owner responsible for both. Under the current policy, any changes to the Policy that affect the risk profile of ICE Clear Europe are subject to Board approval, and any exceptions or deviations from the Policy must be reported to the Chief Risk Officer and escalated to the CDS Risk Committee and Board Risk Committee, if material. Under the proposed rule change, the policy owner must report any deviations from the Policy or material breaches to the President of ICE Clear Europe and the Risk Oversight Department, who will then proceed with appropriate governance and further escalation. Thus, this change ensures that deviations and material breaches are reported to the President and Risk Oversight Department who can then proceed with Board involvement if needed. This change also ensures the involvement of the Risk Oversight Department, who supports other functions under the Policy, such as the reviews discussed above. Finally, this change would make the process for escalation and reporting consistent with the process currently found in the Stress-Testing Policy.

The proposed rule change would further specify the roles of various departments and committees at ICEEU with respect to the CDS Risk Policy.<sup>16</sup> Currently, the CDS Risk Policy describes the roles of the Risk Working Group ("RWG") (which consists of risk personnel of Clearing Members, and provides guidance on risk management matters, including review of margin and stress testing parameters), Trading Advisory Committee (which advises on pricing processes), and MOC (which is responsible for overall model risk management of the Clearing House, and for oversight of the periodic reviews described above) in advising on and approving matters related to the Policy. The proposed rule change would further specify the role of the RWG and MOC in providing feedback and reviewing the results of ongoing monitoring of models that support the CDS Risk Policy. The proposed rule change would also provide further detail as to the composition and role of the RWG and MOC. Finally, the proposed rule change would make the Clearing Risk Department, with the support of the ROD, responsible for adherence to the policy and relevant appetite metrics.

The proposed rule change would also update references to various committees

and departments of ICE Clear Europe, correct typographical and similar errors, update cross-references, and remove an unnecessary reference to ICE Clear Credit.

#### B. Back-Testing Policy

The proposed rule change would make changes to the Back-Testing Policy similar to those changes described above for the CDS Risk Policy. Specifically, the proposed rule change would incorporate into the Back-Testing Policy a description of ICE Clear Europe's overall Board risk appetite and limit framework.<sup>17</sup> Currently the Back-Testing Policy does not reference the framework, but other ICE Clear Europe policies, including the Stress-Testing Policy, reference the framework. The description of the framework that the proposed rule change would add to the Back-Testing Policy would be consistent with the description of the framework that other ICE Clear Europe policies, including the Stress-Testing Policy, use. As described in the proposed change to the Back-Testing Policy, the framework would use Board-level risk appetite statements, risk appetite metrics, and management risk limits, and would be subject to review at least annually.<sup>18</sup> The proposed rule change would add description of the framework to the Back-Testing Policy to make clear that the Back-Testing Policy is part of ICE Clear Europe's overall risk management.

The proposed rule change would also add the same provisions relating to the timing of backtesting and related sensitivity analysis discussed above in the context of the CDS Risk Policy.<sup>19</sup> Currently, the Back-Testing Policy provides that ICE Clear Europe conducts backtesting on a daily basis, but the Policy does not specify that ICE Clear Europe uses standard predetermined parameters and assumptions, nor does it provide any information about sensitivity analysis.

In addition, the proposed rule change would clarify the meaning of, and make other changes to, certain confidence levels used in the backtesting process.<sup>20</sup> Specifically, the proposed rule change would specify that these confidence levels represent the confidence to which models are expected to perform. Although the Back-Testing Policy currently describes the confidence levels that ICE Clear Europe uses in backtesting, it does not make clear what these confidence levels represent. Thus, the proposed change would clarify the

<sup>12</sup> See 17 CFR 240.17Ad-22(e)(6)(vi).

<sup>13</sup> See 17 CFR 240.17Ad-22(e)(4)(vi).

<sup>14</sup> Notice, 83 FR at 62638.

<sup>15</sup> Notice, 83 FR at 62638.

<sup>16</sup> *Id.*

<sup>17</sup> Notice, 83 FR at 62638.

<sup>18</sup> Notice, 83 FR at 62638.

<sup>19</sup> *Id.*

<sup>20</sup> Notice, 83 FR at 62639.

meaning of the confidence levels and therefore how those confidence levels are used in evaluating ICE Clear Europe's backtesting. The proposed rule change would also remove a reference to the 99% quantile used before EMIR implementation. ICE Clear Europe no longer uses this confidence level in backtesting. Rather, in the guidelines relating to remediation of poor backtesting, the proposed rule change would state explicitly that portfolio backtesting is done using a confidence level of 99.5% or higher.

As with the amendments to the CDS Risk Policy, the proposed rule change would also establish details regarding policy governance and reporting.<sup>21</sup> Specifically, the proposed rule change would specify that the models used to support the objectives of the Back-Testing Policy are subject to an annual independent validation and governance oversight which may be performed by an independent member of the ROD or an external validator. The Back-Testing Policy does not currently provide details regarding independent validation of the models used to support the Policy. The proposed rule change would make the Back-Testing Policy owner, who is the CDS Risk Director and part of the Clearing Risk Department, responsible for ensuring that the Back-Testing Policy remains up-to-date and is reviewed, with the support of the ROD.<sup>22</sup> The proposed rule change would make the Clearing Risk Department, with the support of the ROD, responsible for adherence to the policy and relevant appetite metrics.<sup>23</sup>

The proposed rule change would also provide a new process for escalation and reporting of any deviations from the policy, as well as compliance with regulatory reporting and filing requirements and would make the policy owner responsible for both. Currently, the Back-Testing Policy provides that the Policy will be reviewed and approved in accordance with the Policy Governance Review Calendar, or whenever the Clearing House identifies further issues requiring specific attention under the Policy. The proposed rule change would provide that any deviations from the Policy must be appropriately escalated and reported in a timely manner by the policy owner and would also make the policy owner responsible for reporting any material breaches or deviations to the President and Risk Oversight Department. Thus, this proposed rule change would

provide additional detail to the escalation of changes to the Policy as well as make the process for escalation and reporting consistent with the process proposed to be added to the CDS Risk Policy. Finally, this change would make the process for escalation and reporting consistent with the process proposed for the CDS Risk Policy and the process currently found in the Stress-Testing Policy.

The proposed rule change would also update references to various committees and departments of ICE Clear Europe, correct typographical and similar errors, and update cross-references.

### C. Stress-Testing Policy

The proposed rule change would make changes to the Stress-Testing Policy similar to those described above for the CDS Risk Policy. Specifically, the proposed rule change would amend the Stress-Testing Policy to include the same provisions relating to the timing of stress testing discussed above in the context of the CDS Risk Policy.<sup>24</sup> Currently, the Stress-Testing Policy provides details regarding stress testing scenarios and provides that ICE Clear Europe executes such scenarios on a regular basis, but does not specify that ICE Clear Europe conducts stress testing daily or uses standard predetermined parameters and assumptions.

The proposed rule change would also amend the Stress-Testing Policy to reflect the role of the Board Risk Committee, in addition to the CDS Risk Committee, in reviewing and overseeing stress testing. Specifically, the proposed rule change would amend the Stress-Testing Policy to ensure that both the CDS Risk Committee and the Board Risk Committee are sufficiently informed to advise the Board on the safety and soundness of the risk management approach and to provide a mechanism for management and the committees to test the level of protection offered in the potential stress scenarios.<sup>25</sup> Under the current policy, the Board Risk Committee, in addition to the CDS Risk Committee, reviews and advises on stress testing results. The current policy does not specifically require that the Board Risk Committee be sufficiently informed to advise the Board on the safety and soundness of the risk management approach or provide a mechanism for the Board Risk Committee to test the level of protection offered in the potential stress scenario, however. Thus, the proposed rule change would correct this situation and ensure that the Board Risk Committee is

sufficiently informed to fulfill its roll under the Policy.

### III. Commission Findings

Section 19(b)(2)(C) of the Act 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.<sup>26</sup> For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>27</sup> and Rules 17Ad-22(e)(2)(i) and (v), (e)(4)(vi), and (e)(6)(vi) thereunder.<sup>28</sup>

#### A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and, in general, to protect investors and the public interest.<sup>29</sup>

As discussed above, the proposed rule change would amend the CDS Policies to provide more detail with respect to the use of the results of periodic reviews of margin requirements and the related methodology by ICE Clear Europe management, including second-line reviews and reporting to ICE Clear Europe's Chief Risk Officer, President, and senior independent director. The proposed rule change would also specify that ICE Clear Europe's daily backtesting uses standard predetermined parameters and assumptions and that ICE Clear Europe conducts sensitivity analyses of its margin models and reviews parameters and assumptions for backtesting on at least a monthly basis, and more frequently than monthly in certain cases, as discussed above. Similarly, the proposed rule change would specify that ICE Clear Europe conducts stress testing once each day and that in doing so, ICE Clear Europe uses standard predetermined parameters and assumptions, which are reviewed on at least a monthly basis and more

<sup>26</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>27</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>28</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v), (e)(4)(vi), and (e)(6)(vi).

<sup>29</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>21</sup> Notice, 83 FR at 62639.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Notice, 83 FR at 62639.

<sup>25</sup> Notice, 83 FR at 62639.

frequently, as discussed above. Finally, with respect to the Back-Testing Policy, the proposed rule change would clarify the meaning of confidence levels used in the backtesting process and eliminate a confidence level no longer used in backtesting.

The Commission believes that these changes, taken as a whole, would help to improve ICE Clear Europe's stress testing and backtesting. In providing more detail with respect to the use of the results of periodic reviews of margin requirements and the related methodology by ICE Clear Europe management, including second-line reviews and reporting to ICE Clear Europe's Chief Risk Officer, President, and senior independent director, the Commission believes that the proposed rule change would help to improve ICE Clear Europe's evaluation and revision of its margin requirements, related methodology, and parameters. The Commission believes that this, in turn, would help to ensure that ICE Clear Europe maintains effective margin requirements, related methodology, and parameters.

Similarly, in specifying that stress testing is conducted daily, the Commission believes that the proposed rule change would help improve the effectiveness of stress testing by ensuring that it is conducted on a regular basis. Moreover, in specifying that in conducting backtesting and stress testing ICE Clear Europe uses standard predetermined parameters and assumptions, the Commission believes that the proposed rule change would help ensure the accuracy and reliability of backtesting and stress testing. Finally, the Commission believes that in clarifying the meaning of confidence levels used in the backtesting process and removing a confidence level no longer used by ICE Clear Europe, the proposed rule change would help to ensure the effectiveness of ICE Clear Europe's backtesting process by helping to ensure that ICE Clear Europe conducts backtesting at the correct confidence level. Because backtesting and stress testing can help reveal inadequacies in ICE Clear Europe's margin requirements and the models that support those requirements, the Commission believes that the proposed rule change would help to ensure that ICE Clear Europe maintains effective margin requirements.

Given that an effective margin system is necessary to manage ICE Clear Europe's credit exposures to its Clearing Members and the risks associated with clearing security based swap-related portfolios, the Commission believes that the proposed rule change would help

improve ICE Clear Europe's ability to avoid losses that could result from the mismanagement of such credit exposures and risks. Because such losses could disrupt ICE Clear Europe's ability to promptly and accurately clear security based swap transactions, by making the above-described improvements to the review and reporting of ICE Clear Europe's margin requirements and timing and scope of backtesting and stress testing, the Commission believes that the proposed rule change would help promote the prompt and accurate clearance and settlement of securities transactions.

Similarly, appropriate management of ICE Clear Europe's credit exposures to its Clearing Members and the risks associated with clearing security based swap-related portfolios is critical to avoiding the realization of losses on such portfolios that could threaten ICE Clear Europe's ability to operate, thereby threatening access to securities and funds in ICE Clear Europe's control. Because the proposed changes would improve ICE Clear Europe's ability to manage such credit exposures by improving the processes ICE Clear Europe uses to review and maintain its margin system, including backtesting and stress testing, the Commission believes that the proposed rule change would help assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible. Finally, for both of these reasons, the Commission believes the proposed rule change is consistent with protecting investors and the public interest.

Therefore, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in ICE Clear Europe's custody and control, and, in general, protect investors and the public interest, consistent with the Section 17A(b)(3)(F) of the Act.<sup>30</sup>

#### *B. Consistency With Rules 17Ad-22(e)(2)(i) and (v)*

Rules 17Ad-22(e)(2)(i) and (v) require that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.<sup>31</sup>

As discussed above, the proposed rule change would revise the CDS Policies to specify the roles of various departments

and committees at ICE Clear Europe, including the role of RWG and MOC in providing feedback and reviewing the results of ongoing monitoring of models that support the CDS Risk Policy and update references to ICE Clear Europe committees. The Commission believes that this change would improve the transparency of ICE Clear Europe's governance arrangements by clarifying the role played by various departments and committees in following and maintaining the CDS Policies.

With respect to the CDS Risk Policy and Back-Testing Policy specifically, the Commission believes that the proposed rule change, in incorporating an overall Board risk appetite and limit framework, would help to clarify the governance around the risk appetite associated with the CDS Risk Policy and Back-Testing Policy and make clear that the policies are part of ICE Clear Europe's overall risk management. The Commission similarly believes that the proposed rule change would help improve the transparency of ICE Clear Europe's governance arrangements in specifying that the models used to support the CDS Risk Policy and Back-Testing Policy are subject to an annual independent validation and governance oversight. The Commission further believes that the proposed rule change would help ICE Clear Europe specify clear and direct responsibility for the CDS Risk Policy and Back-Testing Policy by assigning an owner for each policy and making that owner responsible for ensuring that the policy remains up-to-date and is reviewed. Similarly, the Commission believes that in making the clearing risk department, with the support of the ROD, responsible for adherence to the policies and relevant appetite metrics, the proposed rule change would specify who is responsible for compliance with the policies. Finally, the Commission believes that, in amending the CDS Risk Policy and Back-Testing Policy to provide a new process for escalation and reporting of any deviations from the policies, as well as compliance with regulatory reporting and filing requirements (and make the policy owner responsible for both), the proposed rule change would clarify the governance arrangements with respect to deviations from the policies. This proposed change would also make the process for escalation and reporting consistent across all of the CDS Policies, thus further contributing to clarity and transparency of ICE Clear Europe's governance arrangements.

With respect to the Stress-Testing Policy, the Commission also believes that the proposed rule change, in

<sup>30</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>31</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

specifically requiring that the Board Risk Committee be sufficiently informed to advise the Board on the safety and soundness of the risk management approach, would help to ensure that the Board Risk Committee is sufficiently informed to carry out its roll under the Policy, thereby helping to ensure that the Board Risk Committee has a clear and direct responsibility under the Policy.

Finally, the Commission believes that in correcting typographical errors and updating cross-references, as discussed above, the proposed rule change would clarify ICE Clear Europe's governance arrangements by helping to ensure that the CDS Policies correctly reference the positions, departments, and/or committees responsible under the CDS Policies.

Therefore, for the above reasons the Commission finds that the proposed rule change is consistent with Rules 17Ad-22(e)(2)(i) and (v).<sup>32</sup>

#### *C. Consistency With Rule 17Ad-22(e)(4)(vi)*

Rule 17Ad-22(e)(4)(vi) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements under Rule 17Ad-22(e)(4)(i) through (iii), as applicable, by (i) conducting stress testing of its total financial resources once each day using standard predetermined parameters and assumptions; (ii) conducting a comprehensive analysis on at least a monthly basis of the existing stress testing scenarios, models, and underlying parameters and assumptions, and considering modifications to ensure they are appropriate for determining the required level of default protection in light of current and evolving market conditions; (iii) conducting a comprehensive analysis of stress testing scenarios, models, and underlying parameters and assumptions more frequently than monthly when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by its participants increases significantly; and (iv) reporting the results of its analyses to appropriate decision makers at ICE Clear Europe, including but not limited

to, its risk management committee or board of directors.<sup>33</sup>

As discussed above, ICE Clear Europe's policies do not currently require that stress testing be conducted daily or that it use standard predetermined parameters and assumptions. The proposed rule change would amend the CDS Risk Policy and Stress-Testing Policy to require that ICE Clear Europe's clearing risk department conduct stress testing at least once each day using standard predetermined parameters and assumptions, which are reviewed on at least a monthly basis and more frequently when the relevant products cleared or markets served display high volatility or become less liquid or when the size or concentration of positions held by Clearing Members increases or decreases significantly. Moreover, the proposed rule change would amend the CDS Risk Policy to provide greater detail with respect to ICE Clear Europe's periodic reviews, including second-line review and reporting, of margin requirements, related methodology, and parameters.

The Commission believes that these proposed amendments would help ensure that ICE Clear Europe complies with the requirements of Rule 17Ad-22(e)(4)(vi) by establishing standards for frequency of testing and review and use of standard predetermined parameters and assumptions consistent with those of the rule. Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(4)(vi).<sup>34</sup>

#### *D. Consistency With Rule 17Ad-22(e)(6)(vi)*

Rule 17Ad-22(e)(6)(vi) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by (i) conducting backtests of its margin model at least once each day using standard predetermined parameters and assumptions; (ii) conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of its margin resources; (iii) conducting a sensitivity analysis of its margin model and a

review of its parameters and assumptions for backtesting more frequently than monthly during periods of time when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by participants increases or decreases significantly; and (iv) reporting the results of its analyses under to appropriate decision makers, including but not limited to, its risk management committee or board of directors, and using these results to evaluate the adequacy of and adjust its margin methodology, model parameters, and any other relevant aspects of its credit risk management framework.<sup>35</sup>

As discussed above, ICE Clear Europe's policies do not currently require that ICE Clear Europe use standard predetermined parameters and assumptions in conducting backtesting nor do they provide detail regarding sensitivity analysis. The proposed rule change would amend the CDS Risk Policy and Back-Testing Policy to require that (i) ICE Clear Europe's clearing risk department conduct backtesting at least once each day using standard predetermined parameters and assumptions and (ii) ICE Clear Europe conduct sensitivity analyses of its margin models and review parameters and assumptions for backtesting on at least a monthly basis, and more frequently than monthly when the relevant products cleared or markets served display high volatility or become less liquid or when the size or concentration of positions held by Clearing Members increases or decreases significantly. Moreover, the proposed rule change would amend the CDS Risk Policy to provide greater detail with respect to ICE Clear Europe's periodic reviews, including second-line review and reporting, of margin requirements, related methodology, and parameters.

The Commission believes that these proposed amendments would help ensure that ICE Clear Europe complies with the requirements of Rule 17Ad-22(e)(6)(vi) by establishing standards for frequency of testing and review, use of standard predetermined parameters and assumptions, and use of sensitivity analysis consistent with those of the rule. Therefore, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(6)(vi).<sup>36</sup>

<sup>32</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>33</sup> 17 CFR 240.17Ad-22(e)(4)(vi).

<sup>34</sup> 17 CFR 240.17Ad-22(e)(4)(vi).

<sup>35</sup> 17 CFR 240.17Ad-22(e)(6)(vi).

<sup>36</sup> 17 CFR 240.17Ad-22(e)(6)(vi).

#### IV. 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(b)(3)(F) of the Act<sup>37</sup> and Rules 17Ad-22(e)(2)(i) and (v), (e)(4)(vi), and (e)(6)(vi) thereunder.<sup>38</sup>

It is therefore ordered pursuant to Section 19(b)(2) of the Act<sup>39</sup> that the proposed rule change (SR-ICEEU-2018-010) be, and hereby is, approved.<sup>40</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>41</sup>

**Eduardo A. Aleman,**  
Deputy Secretary.

[FR Doc. 2019-04085 Filed 3-6-19; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85225; File No. SR-EMERALD-2019-06]

#### Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510, Minimum Price Variations and Minimum Trading Increments To Extend the Penny Pilot Program

March 1, 2019.

Pursuant to the provisions of 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 February 19, 2019, MIAX Emerald, LLC (“MIAX Emerald” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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

The Exchange is filing a proposal to amend Exchange Rule 510, Minimum Price Variations and Minimum Trading

Increments, Interpretations and Policies .01 to change the date on which the pilot program for the quoting and trading of certain options in pennies is scheduled to expire.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX Emerald’s principal office, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The Exchange 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

##### Background

MIAX Emerald plans to commence operations as a national securities exchange registered under Section 6 of the Act<sup>3</sup> on March 1, 2019. As described more fully in MIAX Emerald’s Form 1 application,<sup>4</sup> the Exchange is an affiliate of Miami International Securities Exchange, LLC (“MIAX Options”) and MIAX PEARL, LLC (“MIAX PEARL”). MIAX Emerald Rules, in their current form, were filed as Exhibit B to its Form 1 on August 16, 2018, and at that time, the above mentioned rules, were substantially similar to the rules of the MIAX Options exchange. In the time between when the Exchange filed its Form 1 and the time the Exchange received its approval order, MIAX Options made changes to its rule book. In order to ensure consistent operation of both MIAX Emerald and MIAX Options by having consistent rules, the Exchange proposes to amend MIAX Emerald Rule 510, as described below.

<sup>3</sup> 15 U.S.C. 78f.

<sup>4</sup> See Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10-233) (order approving application of MIAX EMERALD, LLC for registration as a national securities exchange).

#### Proposal

Once operational, the Exchange will be a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the “Penny Pilot Program” or “Program”). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of \$0.01 for all series in such option classes with a price of less than \$3.00; and in minimum increments of \$0.05 for all series in such option classes with a price of \$3.00 or higher. Options overlying the PowerShares QQQ™ (“QQQ”), SPDR® S&P 500® ETF (“SPY”), and iShares® Russell 2000 ETF (“IWM”), however, are quoted and traded in minimum increments of \$0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007<sup>5</sup> and currently includes more than 300 of the most active option classes. Rule 510, Interpretations and Policies .01, currently states that the Penny Pilot Program is scheduled to expire on December 31, 2018. The purpose of the proposed rule change is to modify the expiration date set forth in Rule 510, to match the most recent expiration date, as updated by the other options exchanges, including MIAX Options.<sup>6</sup>

In addition to changing the date on which the Penny Pilot Program will expire, which will be June 30, 2019, the Exchange proposes to make one additional change to the Rule. Currently, Interpretations and Policies .01, states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2018.<sup>7</sup>

<sup>5</sup> See Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR-CBOE-2006-92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR-ISE-2006-62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR-Phlx-2006-74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR-NYSEArca-2006-73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR-Amex-2006-106).

<sup>6</sup> See Securities Exchange Act Release No. 84864 (December 19, 2018), 83 FR 66778 (December 27, 2018) (SR-MIAX-2018-38) (extending the Penny Pilot Program from December 31, 2018 to June 30, 2019).

<sup>7</sup> The month immediately preceding a replacement class’s addition to the Pilot Program (*i.e.*, December) is not used for purposes of the six-

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<sup>37</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>38</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v), (e)(4)(vi), and (e)(6)(vi).

<sup>39</sup> 15 U.S.C. 78s(b)(2).

<sup>40</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>41</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.