

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICC-2019-013 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-ICC-2019-013. 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 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 Credit and on ICE Clear Credit's website at <https://www.theice.com/clear-credit/regulation>.

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-ICC-2019-013 and should be submitted on or before December 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87624; File No. SR-ICEEU-2019-026]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Amendments to the ICE Clear Europe Delivery Procedures

November 25, 2019.

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 November 21, 2019, 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 by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(4)(ii) thereunder,<sup>4</sup> such that the proposed rule change 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, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed amendments is for ICE Clear Europe to add delivery terms relating to the ICE Futures Europe Permian West Texas Light Crude Oil Futures Contracts (the "ICE WTL Futures Contracts") and the ICE Endex Austrian VTP Natural Gas Daily Futures Contracts (the "ICE Endex VTP Natural Gas Daily Futures"), and collectively, the "Contracts").<sup>5</sup>

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>15</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).

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

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the "Rules") and the Delivery Procedures.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

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, Security-Based Swap Submission or Advance Notice*

##### (a) Purpose

ICE Clear Europe is proposing to amend its Delivery Procedures to amend Section 9 and Part CC to provide delivery procedures relating to the ICE WTL Futures Contracts, which will be traded on ICE Futures Europe and cleared by ICE Clear Europe. In addition, ICE Clear Europe is proposing to amend Part EE to provide delivery procedures relating to the ICE Endex VTP Natural Gas Daily Futures, which will be traded on ICE Endex and cleared by ICE Clear Europe.

Currently, Section 9 and Part CC set out the delivery specifications and procedures for deliveries under the ICE Futures Europe Permian West Texas Intermediate Crude Oil Futures Contracts ("ICE WTI Contracts"). The proposed amendments would extend Section 9 and Part CC to also apply to the ICE WTL Futures Contracts, on substantially the same basis as the ICE WTI Contracts. In this regard, the amended procedures would address, with respect to the ICE WTL Futures Contracts, among other matters, delivery options, delivery timetables, the nominations process, invoicing, provision of buyer's and seller's security, delivery tolerances, and relevant documentation. Amended Part CC would make clear that the ICE WTI Contracts and ICE WTL Futures Contracts remain separate contracts and would not be fungible, and that the various delivery documentation for each of the contract types would need to clearly reference the type to which they refer.

The amendments would add a new definition of "Permian WT," which is used to refer to both types of contracts where appropriate in the Delivery Procedures. The definition of "Tariffs" in Part CC would be extended to also

include Magellan Tariff R.C.T. 1.3.0 or BridgeTex Tariff F.E.R.C. 6.1.0 in respect of the ICE WTL Futures Contracts. Additional conforming amendments would be made throughout Part CC to incorporate the inclusion of the ICE WTL Futures Contracts.

Currently, Part EE sets out the delivery specifications and procedures for deliveries under the ICE Endex CEGH Austrian VTP Natural Gas Futures (“ICE Endex VTP Natural Gas Futures”). The proposed amendments would extend Part EE to also apply to the ICE Endex VTP Natural Gas Daily Futures, on a similar basis.

In this regard, the amended procedures would address, with respect to ICE Endex VTP Natural Gas Daily Futures, among other matters, trade nominations, the delivery process, delivery timetables, Clearing House liability, nominations process, invoicing, provision of buyer’s and seller’s security, delivery failures and relevant documentation. Separate delivery timetables (both for routine and failed deliveries) would be added for the ICE Index VTP Natural Gas Daily Futures, which would address in further detail the timing of the nominations process and the provision of buyer’s and seller’s security, among other matters. A new documentation summary would also be added for the ICE Endex VTP Natural Gas Daily Futures.

The amendments would also add a new definition for “ICE Endex VTP Natural Gas Daily Futures” and amend the defined term, “ICE Endex VTP Natural Gas,” to “ICE Endex VTP Natural Gas Futures”. Additional conforming amendments would be made throughout Part EE to incorporate the inclusion of the ICE Endex VTP Natural Gas Daily Futures, as well as to make certain typographical and similar corrections.

#### (b) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>6</sup> 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, and the protection of investors and the public interest. The proposed amendments are designed to facilitate the clearing of new physically settled Contracts that are being launched for trading by the ICE Futures Europe and

ICE Endex exchanges and that will be cleared by ICE Clear Europe. The amendments would extend the existing Delivery Procedures for the ICE WTI Contracts and the ICE Endex VTP Natural Gas Futures to the obligations and roles of the Clearing House and the relevant parties for delivery under the ICE WTL Futures Contracts and the ICE Endex VTP Natural Gas Daily Futures, respectively. ICE Clear Europe believes that its financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such Contracts (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 would be consistent with the prompt and accurate clearance and settlement of the Contracts as set out in the proposed Delivery Procedures amendments, and the protection of investors and the public interest consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>7</sup> (In ICE Clear Europe’s view, the amendments would not adversely 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).<sup>8</sup>)

In addition, Rule 17Ad–22(e)(10)<sup>9</sup> 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 would clarify the application of the existing Delivery Procedures to establish the obligations and roles of the Clearing House and the relevant parties for delivery under the Contracts and 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 Contracts for trading on the ICE Futures Europe and ICE Endex

markets. ICE Clear Europe believes that the Contracts would provide additional opportunities for interested market participants to engage in trading activity in the Permian West Texas light crude oil market and in the Austrian natural gas 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 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, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and paragraph (f) of Rule 19b–4<sup>11</sup> 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

<sup>7</sup> 15 U.S.C. 78q–1(b)(3)(F).

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

<sup>9</sup> 17 CFR 240.17Ad–22(e)(10).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b–4(f).

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

• Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2019-026 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-ICEEU-2019-026. 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>.

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-2019-026 and should be submitted on or before December 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87622; File No. SR-ICC-2019-010]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change Proposed Rule Change, as Modified by Partial Amendment No. 1, Relating to Amendments to the ICC Clearing Rules To Address Non-Default Losses

November 25, 2019.

#### I. Introduction

On August 8, 2019, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend ICC's Clearing Rules (the "Rules")<sup>3</sup> to address treatment of losses not related to a Clearing Participant default. The proposed rule change was published for comment in the **Federal Register** on August 28, 2019.<sup>4</sup> The Commission received comments regarding the proposed rule change.<sup>5</sup> On October 4, 2019, the Commission designated a longer period of time for Commission action on the proposed rule change until November 26, 2019.<sup>6</sup> On October 7, 2019, ICC filed a partial amendment ("Partial Amendment No. 1") to modify the proposed rule change.<sup>7</sup> The Commission is publishing this notice and order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>8</sup> to determine whether to approve or disapprove the

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

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

<sup>3</sup> Capitalized terms used but not defined herein have the meanings specified in the Rules.

<sup>4</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the ICC Clearing Rules; Exchange Act Release No. 86729 (Aug. 22, 2019); 84 FR 45191 (Aug. 28, 2019) ("Notice").

<sup>5</sup> Comments are available at <https://www.sec.gov/comments/sr-icc-2019-010/sr-icc2019010.htm>.

<sup>6</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Amendments to the ICC Clearing Rules To Address Non-Default Losses; Exchange Act Release No. 87225 (Oct. 4, 2019); 84 FR 54712 (Oct. 10, 2019).

<sup>7</sup> In Partial Amendment No. 1 to the proposed rule change, ICC provided additional details and analyses surrounding the proposed rule change in the form of a confidential Exhibit 3.

<sup>8</sup> 15 U.S.C. 78s(b)(2)(B).

proposed rule change, as modified by Partial Amendment No. 1 (hereinafter, "proposed rule change").

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

As described more fully in the Notice, the proposed rule change would define three exclusive categories of losses not related to a Clearing Participant default: (i) Investment Losses, (ii) Custodial Losses, and (iii) Non-Default Losses. With respect to the treatment of such losses, the proposed rule change would: (i) Define the resources of ICC that ICC would apply to cover each such category of losses; (ii) assign responsibility to Clearing Participants, in certain circumstances, to make contributions with respect to Investment Losses and Custodial Losses; and (iii) address the treatment of recoveries by ICC with respect to such losses. The proposed rule change would also make additional changes related to such losses, including addressing the effect the proposed rule change would have on other ICC rules.

#### III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.<sup>9</sup> Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>10</sup> the Commission is providing notice of the potential grounds for approval or disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act and the rules thereunder, including the following:

- Section 17A(b)(3)(D) of the Act, which requires that the rules of ICC provide for the equitable allocation of reasonable dues, fees, and other charges among its participants;<sup>11</sup>
- Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(D).

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