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–BX–2013–025. 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 filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2013–025 and should be submitted on or before April 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07214 Filed 3–27–13; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69209; File No. SR–ICEEU–2013–05]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing Proposed Rule Changes Regarding Central Counterparty Resolution and Recovery Procedures

March 22, 2013.

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 March 7, 2013, ICE Clear Europe Limited (''ICE Clear Europe'') 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. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

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

ICE Clear Europe submits these proposed amendments to its Rules in order to adopt new provisions relating to clearinghouse resolution and recovery following the exhaustion of available resources after a Clearing Member default or a series of Clearing Member defaults. The amendments would, among other matters: (i) Establish a ''cooling-off period'' in cases of certain Clearing Member defaults that result in guaranty fund depletion, in which case the liability of Clearing Members for additional guaranty fund assessments would be capped for all defaults during that period; (ii) establish new procedures under which a Clearing Member may terminate its Clearing Membership, both in the ordinary course of business and during a cooling-off period, and related procedures for unwinding all positions of such a Clearing Member and capping its continuing liability to ICE Clear Europe, (iii) provide for ''haircutting'' of variation margin gains and other outgoing payments by ICE Clear Europe in situations when ICE Clear Europe determines, following a Clearing Member's default, that it is unlikely to have sufficient resources to make all such payments; (iv) permit ICE Clear Europe to temporarily suspend payments on cleared contracts when ICE Clear Europe determines that applying haircuts to Clearing Members' variation margin gains will not be sufficient to address a shortfall in resources, or when an auction of the positions of a defaulting Clearing Member has failed; (v) revise procedures for the termination of clearing and the wind-up of outstanding contracts of a particular type in the event the resources available to ICE Clear Europe to support those contracts are exhausted; (vi) eliminate rules permitting the forced allocation of credit default swap (''CDS'') positions to non-defaulting Clearing Members in the case of a failed default auction, and provide for the use of guaranty funds of Clearing Members that fail to participate in default auctions prior to the guaranty funds of other Clearing Members; and (vii) in general limit the effect of losses in certain product categories—*viz.,* Energy, CDS or foreign exchange (''FX'')—on ongoing clearing for other product categories.

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 changes, and discussed any comments it received on the proposed rule changes. 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 these statements.[3]

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

i. Purpose

The proposed rule changes are intended to establish arrangements for the recovery and resolution of ICE Clear Europe's central counterparty services. The proposed Rule amendments are described in detail below.

In Part 1 of ICE Clear Europe's Rules (''Rules''), various conforming changes have been made to definitions, including the definitions of ''FX Default Amount'', ''Termination Close-Out Deadline Date'', ''Termination Close-Out Time'' and ''Termination Date.'' Rule 105(c) (entitled ''Termination'') has been revised to conform to new termination provisions in Part 9 of the Rules, and to clarify the use of the term ''Termination Notice Time'' in connection with a termination of ICE Clear Europe's services. A new

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has modified the text of the summaries prepared by ICEEU.

subsection (f) has been added to Rule 110 which permits ICE Clear Europe to delay making outgoing variation margin payments on an intra-day basis in certain circumstances when a Clearing Member has failed to make a variation margin payment to the Clearing House on such day.

In Rule 209 (entitled ''Termination of Clearing Membership''), certain provisions addressing the termination of Clearing Membership and a default by ICE Clear Europe and the consequences thereof have been moved to Rules 912 and Rule 918, as discussed below. Various conforming changes are made in Part 4 of the Rules.

Part 9 of the Rules has been revised to incorporate the new resolution and recovery provisions discussed above. In addition, several provisions that were previously in other parts of the Rules have been moved into Part 9 to consolidate the relevant provisions. Rule 905, which permitted the forced allocation of CDS contracts to Clearing Members in the event of a failed auction or other inability to close out or transfer relevant positions, has been removed following extensive discussions with Clearing Members. ICE Clear Europe believes that the risks of this scenario are now addressed through the haircutting, suspension and termination procedures discussed below. Various other conforming changes are made in Rules 905 and 906.

Former Rule 1103 (entitled ''Application of Assets upon Event of Default'') has been moved to Rule 908. In addition to various conforming changes, new Rule 908 also clarifies the application of guaranty fund contributions and other resources depending on the product categories in which a defaulting Clearing Member acted. New Rule 908(i) provides that, if a non-defaulting Clearing Member fails to participate in a default auction or does not comply with its obligations under any such auction, its guaranty fund contributions will be applied prior to the guaranty fund contributions of other non-defaulting Clearing Members.

Former Rules 1105 (entitled ''Powers of Assessment: Energy''), 1106 (entitled ''Powers of Assessment: CDS'') and 1107 (entitled ''Powers of Assessment: FX'') have been moved to new Rules 909, 910 and 911, respectively. In addition to certain conforming changes, new Rules 909, 910 and 911 have been revised to clarify the timing under which ICE Clear Europe may call for assessments, the maximum assessment liability of Clearing Members acting in each product category, and the manner in which any assessments called by ICE Clear Europe but not yet used will be held.

Certain provisions addressing the termination of transactions in the event of an ICE Clear Europe insolvency or other default (formerly in Rule 209) have been moved to new Rule 912, which also includes certain conforming changes and a clarification relating to a default that affects some but not all product categories.

New Rule 913 contains various new definitions used in the haircutting provisions in Rule 914, the suspension provisions of Rule 915 and the termination provisions of Rule 916. New Rule 914 establishes the haircutting mechanism. The core of Rule 914 is a procedure for haircutting (*i.e.,* reducing) the variation margin and certain other contractual payments ICE Clear Europe owes to Clearing Members for a contract category, to the extent of a shortfall in available resources for that contract category, when ICE Clear Europe issues a ''Haircutting Determination.'' Such a determination may be made when certain conditions are satisfied:

(i) One or more Clearing Member defaults have occurred but ICE Clear Europe has not yet declared and either paid or submitted a claim in respect of all net sums due to or from the defaulter in respect of its proprietary account and all of its customer accounts; and

(ii) ICE Clear Europe determines, based on one of several relevant tests, that its available resources are insufficient to pay all relevant outward variation margin and contractual payments and/or its available resources would be insufficient to cover the losses or shortfalls to the Clearing House from the close out of the defaulter's positions.

A Haircutting Determination will not be made if: (i) A determination to suspend clearing has been made under Rule 915; (ii) clearing in the relevant contracts is being terminated under Rule 916 or a Clearing House insolvency; or (iii) a failure to pay has occurred. In the event of such a determination, on the day during the ''Loss Distribution Period'' specified by ICE Clear Europe, the net amount owed on such day to each Clearing Member that is deemed to be a ''cash gainer'' in respect of an account class (*i.e.,* a member that would otherwise be entitled to receive variation margin or other payments in respect of such account class) will be subject to a percentage haircut. Corresponding adjustments are also made for ''cash losers'' (*i.e.,* those who owe the Clearing House) to the extent amounts previously owed to them have received a haircut.

New Rule 915 authorizes ICE Clear Europe to make a ''Suspension Determination'' for a contract category when the following conditions occur: (i) ICE Clear Europe's obligations to meet variation margin payments or the cost of auctioning off the positions of a defaulting Clearing Member will not be satisfied through the haircutting procedure of Rule 914; (ii) following the declaration of all net sums in respect of a particular default, ICE Clear Europe might be rendered insolvent if it does not suspend clearing; or (iii) an auction in a relevant contract category has failed. In such circumstances, during the suspension period, which is initially up to 2 business days, payments in respect of contracts in the suspended category will be suspended.

New Rule 916 permits ICE Clear Europe to terminate a set of contracts if, at the end of a suspension period under Rule 915, the conditions for suspension are still satisfied, or if ICE Clear Europe determines that, because of the termination of Clearing Members, there will be insufficient Clearing Members for clearing of the relevant contract category to remain viable. Rule 916 provides a procedure for determining the termination price for all contracts in a particular set. To the extent the termination value payable by ICE Clear Europe for the terminated contract set exceeds available resources for that contract set, ICE Clear Europe's obligations will be limited to the available resources. This will permit clearing activity to continue in other contract categories.

Rule 917 implements a ''cooling-off period'' concept. A cooling-off period is triggered by certain defaults that result in a guaranty fund assessment or a series of defaults resulting in depletion of the guaranty fund. During a cooling-off period, the assessment liability of a Clearing Member is capped with respect to all defaults occurring during the period.

Rule 918 revises the procedures for Clearing Members that wish to terminate their Clearing Membership (including during a cooling-off period). Clearing members that have submitted a termination notice are required to close out their open contracts by a specified deadline. Rule 918 also provides for the calculation and payment of a net amount to or from the terminating Clearing Member for each of its accounts in respect of the close out of all of its positions. Terminating Clearing Members are not responsible for additional guaranty fund contributions for defaults occurring after the effective date of their termination.

Various conforming changes are also made to Part 11 of the Rules. Rule 1102(g), addressing the return of the

guaranty fund, has been revised to conform to the new termination provisions in Rule 918. Former Rule 1104, which addresses the use of guaranty fund contributions, has been redesignated as Rule 1103. Other conforming changes have been made in parts 12 and 15 of the Rules, as well.

ii. Statutory Basis

ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A [4] of the Act and the regulations thereunder applicable to it, in particular, 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, derivatives agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] ICE Clear Europe has developed the new resolution and recovery procedures in response to issues raised by the Bank of England as overseer of its payment arrangements, and following extensive consultation with the Bank of England, the Financial Services Authority, and Clearing Members. Specifically, ICE Clear Europe believes that the proposed rule changes will enhance its stability following the default of one or more Clearing Members, and will reduce the risk of its failure or insolvency. The revisions will, in particular, facilitate the orderly wind-down or termination of contracts affected by a default, and will minimize the effect on other categories of contracts, for which clearing should be able to continue. Further, ICE Clear Europe, as a clearing house for multiple products, also believes that the changes will reduce the risk of a systemic problem in one cleared market causing contagion or creating risks for other cleared markets. The amendments also provide clearer limitations on the liability of Clearing Members for assessments following defaults, and a clearer procedure for termination of Clearing Membership.

B. Self-Regulatory Organization'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.

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78q–1(b)(3)(F).

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

ICE Clear Europe has solicited written comments relating to the proposed rule change, but has not received any written comments to date. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are 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–2013–05 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–2013–05. 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 of submission. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule 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 Section, 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 ICE Clear Europe's principal office and on ICE Clear Europe's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEU_SEC_030613.pdf*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2013–05 and should be submitted on or before April 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07177 Filed 3–27–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69220; File No. SR–CBOE–2013–040]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Complex Orders and Mini-Options

March 22, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the 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

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.