

### Inter-Market Competition

The proposed amendments to the Tier 5 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options do not impose an undue burden on inter-market competition. The pricing changes proposed above are generally designed to attract additional order flow to the Exchange, which strengthens the Exchange's competitive position.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which pricing changes in this market may impose any burden on competition is extremely limited.

NOM is a relatively small market so its ability to burden intermarket competition is limited. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

### Intra-Market Competition

The proposed amendments to the Tier 5 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options do not impose an undue burden on intra-market competition. Increasing the Tier 5 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options and also requiring participants to add more volume on NOM and add liquidity on The Nasdaq Stock Market will attract liquidity to the Exchange. The additional rebate incentive that is being offered to Participants that qualify for the Tier 5 rebate and also add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot

Options of above 0.50% of total industry customer equity and ETF option ADV contracts per day in a month will further incentivize Market Makers to direct order flow to the Exchange. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads. Overall, the Exchange believes that the tiered NOM Market Maker Rebates to Add Liquidity in Penny Pilot Options along with the proposed Tier 5 increased rebate incentive will continue to reflect the progressively increasing rebate requirements offered to NOM Market Maker to incentivize them to earn the highest possible rebates by bringing the most order flow to the Exchange.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>26</sup>

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2019-084 on the subject line.

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

### 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-NASDAQ-2019-084. 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 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 SR-NASDAQ-2019-084 and should be submitted on or before November 7, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

<sup>27</sup> 17 CFR 200.30-3(a)(12).

*Extension:*

Rule 22c–1, SEC File No. 270–793, OMB Control No. 3235–0734

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 22c–1 (17 CFR 270.22c–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the “Investment Company Act” or “Act”) enables a fund to choose to use “swing pricing” as a tool to mitigate shareholder dilution. Rule 22c–1 is intended to promote investor protection by providing funds with an additional tool to mitigate the potentially dilutive effects of shareholder purchase or redemption activity and a set of operational standards that allow funds to gain comfort using swing pricing as a means of mitigating potential dilution.

The respondents to amended rule 22c–1 are open-end management investment companies (other than money market funds or exchange-traded funds) that engage in swing pricing. Compliance with rule 22c–1(a)(3) is mandatory for any fund that chooses to use swing pricing to adjust its NAV in reliance on the rule.

While we are not aware of any funds that have engaged in swing pricing,<sup>1</sup> we are estimating for the purpose of this analysis that 5 fund complexes have funds that may adopt swing pricing policies and procedures in the future pursuant to the rule. We estimate that the total burden associated with the preparation and approval of swing pricing policies and procedures by those fund complexes that would use swing pricing will be 280 hours.<sup>2</sup> We also estimate that it will cost a fund complex \$43,406 to document, review and initially approve these policies and procedures, for a total cost of \$217,030.<sup>3</sup>

<sup>1</sup> No funds have engaged in swing pricing as reported on Form N–CEN as of August 14, 2019.

<sup>2</sup> This estimate is based on the following calculation: (48 + 2 + 6) hours × 5 fund complexes = 280 hours.

<sup>3</sup> These estimates are based on the following calculations: 24 hours × \$201 (hourly rate for a senior accountant) = \$4,824; 24 hours × \$463 (blended hourly rate for assistant general counsel (\$433) and chief compliance officer (\$493)) = \$11,112; 2 hours (for a fund attorney’s time to prepare materials for the board’s determinations) × \$340 (hourly rate for a compliance attorney) = \$680; 6 hours × \$4,465 (hourly rate for a board of 8 directors) = \$26,790; (\$4,824 + \$11,112 + \$680 + \$26,790) = \$43,406; \$43,406 × 5 fund complexes =

Rule 22c–1 requires a fund that uses swing pricing to maintain the fund’s swing policies and procedures that are in effect, or at any time within the past six years were in effect, in an easily accessible place.<sup>4</sup> The rule also requires a fund to retain a written copy of the periodic report provided to the board prepared by the swing pricing administrator that describes, among other things, the swing pricing administrator’s review of the adequacy of the fund’s swing pricing policies and procedures and the effectiveness of their implementation, including the impact on mitigating dilution and any back-testing performed.<sup>5</sup> The retention of these records is necessary to allow the staff during examinations of funds to determine whether a fund is in compliance with its swing pricing policies and procedures and with rule 22c–1. We estimate a time cost per fund complex of \$292.<sup>6</sup> We estimate that the total for recordkeeping related to swing pricing will be 20 hours, at an aggregate cost of \$1,460, for all fund complexes that we believe include funds that have adopted swing pricing policies and procedures.<sup>7</sup>

Amortized over a three-year period, we believe that the hour burdens and time costs associated with rule 22c–1, including the burden associated with the requirements that funds adopt policies and procedures, obtain board approval, and periodic review of an annual written report from the swing pricing administrator, and retain certain records and written reports related to swing pricing, will result in an average aggregate annual burden of 113.3 hours, and average aggregate time costs of \$73,803.<sup>8</sup>

*We request written comment on:* (a) Whether the collections of information

\$217,030. The hourly wages used are from SIFMA’s Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. The staff previously estimated in 2009 that the average cost of board of director time was \$4,000 per hour for the board as a whole, based on information received from funds and their counsel. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately \$4,465.

<sup>4</sup> See rule 22c–1(a)(3)(iii).

<sup>5</sup> See *id.*

<sup>6</sup> This estimate is based on the following calculations: 2 hours × \$58 (hourly rate for a general clerk) = \$116; 2 hours × \$88 (hourly rate for a senior computer operator) = \$176. \$116 + \$176 = \$292.

<sup>7</sup> These estimates are based on the following calculations: 4 hours × 5 fund complexes = 20 hours. 5 fund complexes × \$292 = \$1,460.

<sup>8</sup> These estimates are based on the following calculations: (280 hours (year 1) + (3 × 20 hours) (years 1, 2 and 3)) × 3 = 113.3 hours; (\$217,030 (year 1) + (3 × \$1,460) (years 1, 2 and 3)) × 3 = \$73,803.

are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission’s estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: October 10, 2019.

**Jill M. Peterson,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87275; File No. SR–ICEEU–2019–020]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the ICE Clear Europe Clearing Rules and Procedures

October 10, 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 September 30, 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 primarily 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)(6)<sup>4</sup> thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit

<sup>1</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)(6).