19b–4(f)(2) [36] 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. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2023–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2023–11. 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 (*https://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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–EMERALD–2023–11, and should be submitted on or before May 23, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–09211 Filed 5–1–23; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 240.19b–4(f)(2).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97383; File No. SR–ICEEU–2023–012]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Futures and Options Default Management Policy

April 26, 2023.

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 April 13, 2023, 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 [3] and Rule 19b–4(f)(4)(ii) thereunder,[4] 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

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') is proposing to adopt a new Futures and Options Default Management Policy (''Policy''),[5] to replace its existing Futures and Options Default Management Policy. The new Policy is intended to provide clearer procedures and guidance for managing a default by one or more Clearing Members.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to adopt a new Futures and Options Default Management Policy, which would address procedures and requirements for the Clearing House's management of an Event of Default with respect to an F&O Clearing Member consistent with the requirements of Clearing House's Rules and Procedures. The Policy would replace the existing Futures and Options Default Management Policy. The new Policy is designed to more clearly reflect and describe various aspects of the Clearing House's existing default management practices and procedures for F&O Contracts (and would not generally change those practices and procedures). The new Policy would also clarify and enhance certain governance matters relating to F&O default management, as well as certain practices relating to hedging strategy following a default, as discussed below. The new Policy would also provide for certain additional scenarios to be used in default testing drills, as discussed below. The new Policy would also eliminate certain outdated or superseded provisions or the provisions that are no longer applicable.

The Policy would include a background section describing the overall purpose of the document, which is to provide structure and guidance for ICE Clear Europe's management of an Event of Default within the framework

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules and the Futures and Options Management Policy.

of the Rules and applicable law, and without attempting to specify the actions the Clearing House would take in all or any particular situations. The background section would also set out the scope of the Policy, which is to set out the key factors to consider in declaring and managing an Event of Default. In addition, it would present the Clearing House's three lines of defense model for managing risks. The First Line of defense would be responsible for ensuring the Policy requirements are met and would consist of the Clearing Risk, Treasury, Operations, Legal, Compliance and Finance Departments. The Second Line of defense would be responsible for challenging the First Line on adherence to the requirements of the Policy and would be the Risk Oversight Department. The Third Line would provide independent and objective assurance to the Board and would be the Internal Audit Function.

The Policy would set out the Clearing House's overall objectives when declaring and managing an Event of Default, which are generally to take timely action to return the Clearing House, as soon as reasonably practicable, to a matched book while aiming to contain losses and liquidity pressures. Depending on the circumstances, other objectives may include ensuring timely completion of settlement, limiting disruption to the market and closing out the defaulter's positions and liquidating collateral in a prudent and orderly manner. The objectives reflect that the default management framework will be guided by the relevant Rules as well as the Policy and any supporting procedures that may be adopted.

The Policy would detail the governance and responsibilities of various personnel and committees with respect to default management. (These provisions are intended to more clearly document existing practice, rather than change that practice.) The Policy would in particular reflect the following: the Board of Directors has delegated to the President the authority to declare an Event of Default and take all actions the Clearing House may take under the rules in managing an event of default. The President has the discretion to consult the ERC Default Management Committee (''DMC''), which is a subcommittee of the Executive Risk Committee. The President has the authority to make final decisions but may delegate powers as appropriate. The DMC would also assume the responsibilities of the President in the declaration and management of an Event of Default if the President is unavailable. The DMC would require a quorum of the majority of voting members of the Executive Risk Committee for the DMC to make decisions and the decisions would have to be by unanimous agreement of the voting members of the Executive Risk Committee present in the meeting. If there are dissenting views at the DMC level, the issue must be escalated to the Board. Consistent with the requirements of the Rules, the Policy would state that a declaration of an Event of Default would be limited to circumstances where an event in Rule 901(a) has occurred with respect to a Clearing Member.

The Policy would also outline various aspects of default management for which processes and procedures should be in place (which processes and procedures are not set out in the Policy itself). The Policy would state that procedures for pre-default monitoring must be in place in order to identify early circumstances that may develop into Events of Default, and procedures should be in place to quickly suspend a defaulting Clearing Member's access to trading and prevent payments or collateral transfers to the defaulting Clearing Member. Furthermore, the Policy would set out that management information would have to be available on short notice to support the President and must be sufficiently detailed to allow for risk management decisions, including key risk details on positions, collateral and liquidity. The Policy would also state that processes should be in place to establish hedging strategies and support timely liquidation of positions. Pursuant to the existing Rules, the Clearing House may engage in hedging trades ahead of liquidating the defaulter's portfolio. The Policy would provide that advice on hedging strategy may be sought from relevant exchanges or market participants. Any hedging strategy would need to be approved by the President before execution. In terms of liquidation, the Policy would provide that a process to liquidate positions via auctions or private sale would have to be in place. For an auction, the Policy would state that factors such as participation and possible risk of auction failure should be considered in determining auction composition. If there is a dependency on a third party, arrangements would have to be in place in case the third party is not available.

The Policy would also address the need for a defined process for client porting (and for liquidation where porting cannot occur). A notification of the opening of the porting window would also have to be communicated to the market in order to allow clients of the defaulting Clearing Member to participate in the porting process. A process would have to be defined to support the porting of client positions and collateral pursuant to the Rules and Standard Terms but subject to applicable law.

The Policy would also address the Clearing House's communication strategy around defaults. Prior to an Event of Default, the Clearing House would endeavor to prevent communications with the concerned Clearing Member becoming public, unless allowed under Rule 106 or required by the Clearing Member's regulators, the Clearing House's regulators, and/or other government authorities. The Clearing House would serve a default notice on the defaulter as soon as practicable after declaring a default and issue a circular in respect of any default notice, consistent with the Rules. ICE Clear Europe would engage with other ICE exchanges, clearing organizations, and external legal advisors when appropriate.

The Policy would reflect the requirement of the Rules that post-default, a net sum would to be calculated according to the methodology in the Rules.

The policy would also require the test and review of the default procedures on a quarterly basis, through practicing certain aspects of the default management process. In addition, the Clearing House would have to conduct a default test on an annual basis with mandatory participation of the Clearing Members. Moreover, a multi-year default management plan would have to be maintained and approved by the Executive Risk Committee and shared with the Board Risk Committee. The multi-year default management plan would have to consider Default Member Scenarios (looking at representative credit and market risk scenarios over the testing cycle), Other Variables (such as the timing of the default and other potential constraints), Liquidity Management (including liquidity issues arising from sourcing liquidity, collateral liquidation and investment counterparty failure), End of Default and Recovery (including testing powers of assessment and recovery mechanisms), People (including relevant personnel and testing the ability of departments to support default management), and Governance (including testing executive governance, communication with the Board and Board approval). Additional testing should be conducted following material changes in the default management process or otherwise where necessary, and more extreme scenarios

or combinations of scenarios should be considered to identify weakness in the default management process. The multi-year default management plan along with the scope, results and lessons learned of each default test would be shared with the Board Risk Committee and the Board. In order to ensure the Board maintains oversight of the default management process, the default drills that include direct participation of the Board members would be done at least on an annual basis.

Finally, the Policy would describe governance, breach management and exception handling, in a manner generally consistent with other ICE Clear Europe policies. The document owner identified by the Clearing House would be responsible for ensuring that the Policy remains up-to-date and reviewed in accordance with the Clearing House's governance processes. Document reviews would encompass at the minimum regulatory compliance, documentation and purpose, implementation, use and open items from previous validations or reviews. Results of the review would have to be reported to the Executive Risk Committee or in certain cases to the Model Oversight Committee. The document owner would also aim to remediate the findings, complete internal governance and receive regulatory approvals before the following annual review is due. The document owner would also be responsible for reporting any material breaches or deviations to the Head of Department, Chief Risk Officer and Head of Regulation and Compliance in order to determine the appropriate governance escalation and notification requirements. Exceptions to the Policy would also be approved in accordance with such governance processes.

The Policy would also recognize that the management of any particular default will depend on factors and circumstances that may be difficult to predict. As a result, the President would be allowed to override elements of the Policy to declare and manage an Event of Default in accordance with the provisions of the Rules.

(b) Statutory Basis

ICE Clear Europe believes that the Policy is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934 (''Act'') [6] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [7] 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 Policy is designed to set out the objectives and overall practices and processes of the Clearing House in declaring and managing an Event of Default, recognizing that the details of any particular default will vary. The new Policy would more clearly set out the responsibilities of the President and DMC in declaring and managing a default. The Policy would also outline various aspects of the default management process, including communications, hedging, client porting and liquidation. The Policy would also address default testing, and the Clearing House's multi-year testing plan to address various scenarios and aspects of the default management process. In ICE Clear Europe's view, the Policy will thus facilitate management of the risks related to a default or anticipated default from a Clearing Member, so that the Clearing House can promptly restore a matched book and contain losses. The new Policy will thus promote the prompt and accurate clearing and settlement of cleared transactions and is consistent with the protection of investors and the public interest in the continued operation of the Clearing House in the event of a Clearing Member default. (ICE Clear Europe would not expect the adoption of the Policy to materially affect the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible.) Accordingly, the Policy satisfies the requirements of Section 17A(b)(3)(F).[8]

The Policy is also consistent with relevant provisions of Rule 17Ad–22.[9] Rule 17Ad–22(e)(2) provides that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [. . .] provide for governance arrangements that are clear and transparent'' [10] and ''[s]pecify clear and direct lines of responsibility.[11] As discussed, the Policy would clearly state certain responsibilities of the President, Board, DMC, and Executive Risk Committee, among others, in relation to oversight of the Clearing House's declaration and management of an Event of Default. Specifically, and consistent with current practice, the President would have full authority in declaring and managing an Event of Default, with the ability to delegate if necessary or for the DMC to assume certain responsibilities if the President is unavailable. In line with the Clearing House's other policies and procedures, the Policy would also describe the responsibilities of the document owner and appropriate escalation and notification requirements for responding to exceptions and deviations from the Policy. In ICE Clear Europe's view, the Policy is therefore consistent with the requirements of Rule 17Ad–22(e)(2).[12]

Rule 17A–22(e)(13) [sic] provides that the ''covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable [. . .] ensure that [sic] the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring the covered clearing agency's participants and, where [sic] practicable, other stakeholders to participate [sic] the testing and review of its default procedures, including any close-out procedures, at least annually and following material changes thereto.'' [13] As discussed above, the Policy would address the Clearing House's procedures for testing its default management framework, which includes annual default tests in which participation by Clearing Members is mandatory, and further provides for additional testing in the event of material changes in the default management process. The new Policy would outline the Clearing House's overall multi-year testing plan and address key scenarios and considerations to be included in the default testing process. In ICE Clear Europe's views, these testing procedures, together with the other aspects of the Policy and the underlying Rules, will facilitate its ability to take timely action to contain losses and liquidity pressure in the event of a Clearing Member default. As such, the Policy is consistent with the requirements of Rule 17Ad–22(e)(13).[14]

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17 Ad–22.

[10] 17 CFR 240.17 Ad–22(e)(2)(i).

[11] 17 CFR 240.17 Ad–22(e)(2)(v).

[12] 17 CFR 240.17 Ad–22(e)(2).

[13] 17 CFR 240.17Ad–22(e)(13).

[14] 17 CFR 240.17Ad–22(e)(16). [sic]

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

ICE Clear Europe does not believe the Policy would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The Policy is being adopted to document the Clearing House's practices relating to declaring and managing an Event of Default of a Clearing Member. The Policy does not change the rights or obligations of Clearing Members or the Clearing House under the Rules or Procedures. The Policy does set out certain requirements for Clearing Members to participate in annual default testing (reflecting current practice), but the Clearing House does not believe this requirement would impose a material burden on Clearing Members (and in any event such participation is required of all Clearing Members under Commission regulations as set out above). Accordingly, ICE Clear Europe does not believe that adoption of the Policy would adversely affect competition among Clearing Members, materially affect the costs of clearing, adversely affect the ability of market participants to access clearing or the market for clearing services generally, or otherwise adversely affect competition in clearing services. Therefore, ICE Clear Europe does not believe the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes 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 amendment has 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 rule change.

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) of the Act [15] and paragraph (f) of Rule 19b–4 [16] 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 (*https://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2023–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2023–012. 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 (*https://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/notices/Notices.shtml?regulatoryFilings.*

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–ICEEU–2023–012 and should be submitted on or before May 23, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–09207 Filed 5–1–23; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34901; 812–15425]

Total Fund Solution and Cromwell Investment Advisors, LLC

April 26, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6-07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

SUMMARY OF APPLICATION: The requested exemption would permit Applicants (as defined below) to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

APPLICANTS: Total Fund Solution and Cromwell Investment Advisors, LLC.

FILING DATES: The application was filed on January 20, 2023, and amended on March 30, 2023 and April 17, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on May 22, 2023, and