

supported the draft amendments,²⁷ and one commenter suggested that the MSRB could easily separate Rule G–21(e) from the rest of Rule G–21, if necessary.²⁸ Specifically, commenters expressed support for the proposed rule change's use of hyperlinks, harmonization of Rule G–21(e) with the advertising rules of other financial regulators, and enhanced out-of-state disclosure. The MSRB summarizes the comments received relating to the proposed rule change in the four comment letters by topic below.

A. Hyperlinks

Fidelity and SIFMA expressed support for the use of hyperlinks to provide more current performance information.²⁹ The MSRB appreciates Fidelity's and SIFMA's support for the proposed rule change and their suggestion concerning the expanded use of hyperlinks. The Board anticipates that it will continue to explore the use of hyperlinks in other areas of its rule book.

B. Harmonization With Other Financial Regulations

FSI supported the proposed rule change's harmonization with the SEC's advertising rules applicable to mutual funds.³⁰

C. Out-of-State Disclosure

SI supported the enhanced out-of-state disclosure. SI commented that the "added detail and clarity" will enhance the value of 529 college savings plans for investors and advisors, because the disclosure will assist the reader in more fully understanding what the other benefits may be of investing in a 529 college savings plan offered by the

investor's or the designated beneficiary's home state.³¹

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 of 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 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. Please include File Number SR–MSRB–2017–04 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–MSRB–2017–04. 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 the filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2017–04 and should be submitted on or before July 28, 2017.

For the Commission, pursuant to delegated authority,³²

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81068; File No. SR–ICEEU–2017–007]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Amendments to the ICE Clear Europe Limited Articles of Association

June 30, 2017.

I. Introduction

On May 2, 2017, 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"),¹ and Rule 19b–4 thereunder,² a proposed rule change (SR–ICEEU–2017–007) to amend its Articles of Association. The proposed rule change was published for comment in the **Federal Register** on May 19, 2017.³ The Commission received no comment letters regarding

³² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Securities Exchange Act Release No. 34–80674 (May 19, 2017), 82 FR 23080 (May 19, 2017) (SR–ICEEU–2017–007) (the "Notice").

²⁷ See, e.g., FSI letter at 2.

²⁸ See SIFMA letter at 8 ("[t]his section can be easily separated from the rest of the rule, if necessary").

²⁹ Specifically, Fidelity stated:

We fully support these draft amendments and believe that hyperlinks are a commonly used method of communication, well understood by investors, through which investors can obtain additional details on facts that matter to them.

See Fidelity letter at 3.

Similarly, SIFMA stated that, "SIFMA and its members support the ability to use hyperlinks in this rule" See SIFMA letter at 8.

³⁰ Specifically, FSI stated:

I. FSI strongly supports efforts to harmonize Rule G–21 with other financial regulations

. . . The Proposed Rule also amends Rule G–21(e) to incorporate the provisions included in the SEC's amendments to its registered investment company advertising rules. The draft amendments to Rule G–21(e) replace the money market mutual fund disclosure required by current Rule G–21 with a modified version of the money market mutual fund disclosure currently required by SEC rules.

See FSI letter at 2.

³¹ SI stated, in part, that:

Strategic Insight appreciates the higher level of detail and clarity by expanding the description of "other benefits" to include reference to "such as financial aid, scholarship funds, and protection from creditors" as these are important factors that investors often overlook. By expanding the description, 529s will also be easier to understand which encourages use of the product. Ultimately, the added detail and clarity will enhance the value of 529s for investors and advisors, as they may not have been able to identify what the "other benefits" were referencing previously.

See SI letter.

the proposed change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

As more fully described in the Notice, the proposed rule change seeks to amend the Articles of Association, among other things, to update the Articles to add definitions that reflect ICE Clear Europe's existing committees, change the minimum number of directors from two to six, provide for selection of replacement or additional directors by the Nominations Committee, make use of a Senior Independent Director appointed in accordance with the UK Corporate Governance Code, stagger the retirement or rotation of independent directors (the provisions for the retirement or rotation of CDS directors will not change), explicitly provide that directors appoint members of relevant committees, which operate under their own terms of reference, require independent directors to disclose to the Board of Directors all other directorships that they hold both prior to appointment and on an ongoing basis, adopt new procedures identifying and addressing conflicts of interest of directors with respect to both transactions with ICE Clear Europe where a director has an interest and matters in the ordinary course in which directors' interests are affected (*i.e.*, directors affiliated with clearing members), make clarifications to notice waiver requirements, and require a written record of all unanimous or majority decisions of the directors for at least ten years. Additionally, ICE Clear Europe proposed other non-substantive corrections and clarifications to the Articles of Association. For example, various references to persons have been revised to be gender-neutral, and various articles have been renumbered in light of the changes discussed above.

III. Discussion and 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.⁴ Section 17A(b)(3)(C) of the Act requires,⁵ among other things, that the rules of a clearing agency⁶ assure a fair

representation of its participants in the selection of its directors and administration of its affairs. Section 17A(b)(3)(F) of the Act requires,⁷ among other things, that the rules of a registered 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, 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 and, in general, to protect investors and the public interest. Rule 17Ad-22(e)(2) requires that a covered clearing agency⁸ shall establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent; clearly prioritize the safety and efficiency of the covered clearing agency; support the public interest requirements in Section 17A of the Act; establish that the board of directors and senior management have appropriate experience and skills to discharge their duties and responsibilities; specify clear and direct lines of responsibility; and consider the interests of participants' customers, securities issuers and holders, and other relevant stakeholders of the covered clearing agency.⁹

The Commission finds that the proposed rule change is consistent with Section 17A of the Act and Rule 17Ad-22 thereunder. In particular, the Commission finds that the amendments will clarify aspects of ICE Clear Europe's governance framework and thus, in ICE Clear Europe's view, facilitate the efficient operation of the clearing house and the prompt and accurate clearance and settlement of transactions. The Commission believes that these amendments are consistent with ICE Clear Europe's obligation to have governance arrangements that are clear and transparent, prioritize the safety and efficiency of the clearing agency, and support the public interest requirements in Section 17A of the Act and the objectives of owners and participants. Finally, with respect to potential conflicts of interest concerning matters in the ordinary course in which directors' interests are affected, the Commission believes that this provision is consistent with the requirement that the rules of a clearing agency assure a fair representation of its participants in

the administration of its affairs. ICE Clear Europe has represented that these provisions are not intended to result in the recusal or disqualification of member-affiliated directors as a class,¹⁰ but rather could result in recusal on a case-by-case basis depending on the conflict. Further, any recusal is not automatic; rather, ICE Clear Europe's shareholders or the remaining directors have the ability to determine whether full or limited participation by the interested director is appropriate. Moreover, ICE Clear Europe currently affords members participation in product risk committees and on the Board's Risk Committee.

Relying on these findings and assurances, the Commission believes that the proposed rule change is consistent with Sections 17A(b)(3)(C) and (F) of the Act,¹¹ and Rule 17Ad-22(e)(2) thereunder.¹²

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICEEU-2017-007) be, and hereby is, approved.¹³

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

Brent J. Fields,
Secretary.

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¹⁰ In particular, ICE Clear Europe has represented that the recusal provisions in proposed Article 53 of its Shareholder Articles would not prohibit member-affiliated directors from participating in decisions relating to margin levels as a general matter, decisions to clear new contracts, or other similar general matters that are applicable to all members or particular classes of clearing members.

¹¹ 15 U.S.C. 78q-1(b)(3)(C) and (F).

¹² 17 CFR 240.17Ad-22(e)(2).

¹³ 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).

¹⁴ 17 CFR 200.30-3(a)(12).

⁴ 15 U.S.C. 78s(b)(2)(C).

⁵ 15 U.S.C. 78q-1(b)(3)(C).

⁶ The "rules of a clearing agency" include its articles of incorporation and bylaws. 15 U.S.C. 78c(a)(27).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ See 17 CFR 240.17Ad-22(a)(5) (defining "covered clearing agency").

⁹ See 17 CFR 240.17Ad-22(e)(2).