



55 East 52nd Street
New York, NY 10055

AMSTERDAM ATLANTA CALGARY CHICAGO HOUSTON LONDON NEW YORK SINGAPORE WINNIPEG

BY ELECTRONIC TRANSMISSION

Submission No. 21-8
January 22, 2021

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Amendment to ICE Futures U.S. Rule 4.37(e) - Transfers of Open Positions after Last Trading Day - Submission Pursuant to Section 5c(C)(1) of the Act and Regulation 40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby self-certifies the amendments to Exchange Rule 4.37(e), which are set forth in Exhibit A. As described below, the amendments: (i) eliminate the maximum quantity of physically settled contracts that may be transferred after Last Trading Day (“LTD”) for all products except for agricultural futures; (ii) change the time by which such transfers in certain products must be made to coincide with current Clearing Organization Rules, procedures and system requirements; and (iii) expressly permit transfers of delivery positions in Physical Environmental Contracts after LTD.

Exchange Rule 4.37(e) allows a Clearing Member to transfer an open position that it is carrying, as a result of an error, after the close of trading on LTD in an expiring futures contract that is settled by physical delivery. The Rule facilitates the transfer of such erroneously held positions to market participants that are better suited to make or take delivery of the underlying product. This mechanism helps participants avoid potential defaults and mitigate the costs associated with inadvertently carrying a position into delivery. Rule 4.37(e) also specifies the time by which such transfers must be made and the maximum allowable quantity that may be transferred for each product or product group.

The amendments to Rule 4.37(e) eliminate the maximum transferable quantity restriction for all products except for agricultural futures. Limiting the quantity of contracts that may be transferred after LTD runs counter to the primary policy objective of Rule 4.37(e), which is to eliminate market disruptions, mitigate costs caused by defaults and ensure good delivery against Exchange futures contracts. It should be noted that the quantity limits are being left in place for the agricultural futures in order to allow for consultation with the various Exchange product committees before making any changes to those contracts.

Additional amendments to Rule 4.37(e) also: (i) change the time by which transfers in certain products must be made to more closely align them with current Clearing Organization Rules, procedures

and system requirements; and (ii) expressly permit transfers of delivery positions in Physical Environmental Contracts after LTD. Finally, non-substantive amendments to the Rule condense into a single table the specified time and quantity limitations (where applicable) for each contract or group of contracts.

Certifications

The Exchange certifies that the amendments to Rule 4.37, which will become effective on February 8, 2021, comply with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendments comply with the following core principles:

Core Principles 3 (Contracts not Readily Subject to Manipulation) and 4 (Prevention of Market Disruptions)

The Exchange believes that the amendments to Rule 4.37, which eliminate the maximum quantity of contracts that may be transferred after LTD, will reduce the impact of potential market disruptions caused by participants inadvertently carrying large positions into delivery. The amended Rule will facilitate the transfer of such large positions to market participants that are better suited to make or take delivery of the underlying product. This helps ensure good delivery and proper functioning of physically settled contracts listed by the Exchange. Furthermore, only positions that are carried in error may be transferred after LTD. As such, the Exchange does not believe that limiting the quantity of contracts that may be transferred after LTD is necessary to deter participants from intentionally carrying such positions into delivery.

Core Principle 1 (Compliance with Rules)

The Exchange will continue to establish, monitor, and enforce compliance with all rules and procedures, including amended Rule 4.37.

Core Principle 7 (Availability of information)

This submission and the amended Rule will be posted on the Exchange's Website.

The Exchange is not aware of any opposing views with regard to the amendments to Rule 4.37 and further certifies that, concurrent with this filing, a redacted copy of this submission was posted on the Exchange's website at <https://www.theice.com/futures-us/regulation#rule-filings>

If you have any questions or need further information, please contact me at 212-748-4021 or at jason.fusco@theice.com.

Sincerely,



Jason V. Fusco
Assistant General Counsel
Market Regulation

Enc.

EXHIBIT A

(In the text of the amendments below, additions are shown underscored and deletions are bracketed and lined through.)

Rule 4.37. Transfer Transactions Not Required to Be Made Competitively

(a) The following transfer Transactions need not be made competitively:

(i) transfers of open contracts on the books of a Clearing Member or from one (1) Clearing Member to another Clearing Member:

(A) made at the request of a client where no change in beneficial ownership is involved;

(B) to correct errors made in the clearing of a trade(s) provided that the transfer occurs within three Business Days after the date on which the error occurred and

(ii) transfers of open contracts following the close of trading on the Last Trading Day of a particular delivery month, as provided in paragraph (e) of this Rule.

Transfers referred to in subparagraph (a)(i)(A), which offset existing Positions in the spot month, may not occur on or after the first (1st) notice day of the delivery month. Concurrent long and short positions that are held by the same beneficial owner on or after the first (1st) notice day of the delivery month must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date. The receiving Firm has the responsibility to assure compliance with this Rule.

(b) Transfers of Futures Contracts made pursuant to subparagraphs (a)(i)(A) may be effected at (i) the prior day's Settlement Price, (ii) the current day's Settlement Price, or (iii) at the original market price. Transfers of Options Contracts made pursuant to subparagraphs (a)(i)(A) may be effected at either the original market Premium or a Premium of zero. For all such transfers, the transferee must carry the transferred contracts on his or its books at either the original dates or the transfer date, with the exception of Canola Futures Contracts, which must be carried on the transferee's books at the original dates.

(c) Notwithstanding the requirements of subparagraph (a)(i)(A), the Chief Regulatory Officer or his designee may approve a transfer that results in a change of beneficial ownership in the following circumstances:

- (i) transfers made for the purpose of facilitating a restructuring or consolidation of a partnership, investment fund or commodity pool-so long as the managing partner or pool operator remains the same, the transfers do not result in the liquidation of any open Positions, and the pro rata allocation of positions in the new account do not result in more than a de minimis change in the value of the interest of any participant; and

(ii) transfers made as a result of, a merger, asset purchase, consolidation or similar non-recurring corporate transaction between two (2) or more entities.

For purposes of this Rule, a change in beneficial ownership shall not be deemed to have occurred with respect to (A) transfers between Firms which are 100% owned by the same Person and (B) transfers between any Person and any entity owned 100% by such Person.

(d) Notwithstanding any other provision of this Rule, the President or his designee may, with the consent of the Clearing Member(s), authorize the transfer of existing Positions between accounts or between Clearing Members when the circumstances so require and such transfer is deemed: (i) to be in the best

interests of the marketplace; or (ii) to be the most appropriate means to remedy an error that results from the good faith acts or omissions of any party.

(e)(i) ~~After the close of trading on the Last Trading Day of any delivery month or Contract Date [in any Bitcoin, Canola, Cocoa, Coffee “C”, Cotton No. 2, Financial, FCOJ, Sugar No. 11, Sugar No. 16, Gold Daily Contract, Silver Daily Contract and Precious Metal Contracts (but not later than 10:30 a.m. of the Last Trading Day for the Gold Daily Contract and the Silver Daily Contract; and not later than 5:00 p.m. of the Last Trading Day for the, Financial Contracts, Precious Metals Contracts, Cocoa, Coffee “C”, Cotton No. 2, Canola and FCOJ; and not later than 10:00 a.m. for any Bitcoin Contract, on the following business Day; and not later than 9:00 a.m. for any Sugar No. 11 and Sugar No. 16 on the following Business Day;]~~ a Clearing Member carrying one (1) or more open contracts for that delivery month for its own account or the account of any other Person as the result of an error may transfer any or all of such contracts to any other account carried by such Clearing Member or to any other Clearing Member (together with any delivery documents evidencing an intention to deliver or receive with respect to such contracts); provided that such transfers shall be subject to the following time and quantity limitations unless otherwise specified in the Clearing Organization Rules and procedures:

| <u>Contract</u> | <u>Time/Day</u> | <u>Aggregate Quantity</u> |
|-------------------------------|--------------------------|---------------------------|
| <u>Cocoa</u> | <u>4:30 p.m./LTD</u> | <u>10 contracts</u> |
| <u>Coffee “C”</u> | <u>4:30 p.m./LTD</u> | <u>10 contracts</u> |
| <u>Sugar No. 16</u> | <u>9:00 a.m./LTD+1</u> | <u>10 contracts</u> |
| <u>Gold Daily</u> | <u>10:30 a.m./LTD</u> | <u>No Limit</u> |
| <u>Silver Daily</u> | <u>10:30 a.m./LTD</u> | <u>No Limit</u> |
| <u>Cotton No. 2</u> | <u>4:30 p.m./LTD</u> | <u>20 contracts</u> |
| <u>Canola</u> | <u>10:00 a.m./LTD+1</u> | <u>20 contracts</u> |
| <u>Bitcoin</u> | <u>4:00 p.m./LTD</u> | <u>No Limit</u> |
| <u>Financial Contract</u> | <u>11:00 a.m./LTD</u> | <u>No Limit</u> |
| <u>Precious Metals</u> | <u>6:30 p.m./LTD</u> | <u>No Limit</u> |
| <u>FCOJ</u> | <u>4:30 p.m./LTD</u> | <u>20 contracts</u> |
| <u>Sugar No. 11</u> | <u>9:00 a.m./LTD+1</u> | <u>80 contracts</u> |
| <u>Physical Environmental</u> | <u>11:00 a.m./LTD +1</u> | <u>No Limit</u> |

~~[(i) for any delivery month in Cocoa, Coffee “C” and Sugar No. 16, no Clearing Member may so transfer for its own account and/or the account of any other Person, in the aggregate, more than ten (10) contracts in such delivery month;~~

~~(ii) for any contract date in Gold Daily, Silver Daily and Bitcoin Daily Contracts, and any delivery month in Bitcoin, Cotton No. 2, Canola, a Financial Contract, Precious Metals, and FCOJ, no Clearing Member may so transfer for its own account or the account of any other Person, in the aggregate, more than twenty (20) contracts in such delivery month;~~

~~(iii) for any delivery month in Sugar No. 11, no Clearing Member may so transfer for its own account and/or the account of another Person, in the aggregate, more than eighty (80) contracts in such delivery month; and~~

~~(iv)]~~(ii) If a Clearing Member transferring purchase contracts pursuant to this paragraph (e) shall have received a Multiple Delivery Notice with respect to such contracts and:

(A) if the transfer is made to one (1) or more of the Deliverers identified in such Multiple Delivery Notice, then, after the transfer has been effected, such Multiple Delivery Notice shall be deemed amended to reflect the deletion of the contracts so transferred; or

(B) if the transfer is to any other Person, then all of the rights and obligations of the transferor under the Multiple Delivery Notice with respect to the contracts transferred will become the rights and obligations of the transferee, and the transferee will immediately notify the Deliverer of the transfer, specifying the name and address of the transferee and identifying the contracts transferred.