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**New York, NY 10055**

**BY ELECTRONIC TRANSMISSION**

Submission No. 16-37  
March 28, 2016

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

**Re: Amendments to Rules 6.07 and 21.02(e) - Pursuant to Commission Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) submits by written certification the amendments to Exchange Rules 6.07 and 21.02 discussed below and set forth in Exhibit A.

**Rule 6.07**

The Exchange is amending IFUS Rule 6.07 to address recent changes to Commission Regulation 1.35. IFUS Rule 6.07 sets forth the Exchange’s general record keeping requirements. It tracks the record keeping requirements codified in Commission Regulation 1.35, which recently were amended to: (1) exclude registered commodity trading advisors who are DCM members from the requirement to record and maintain oral communications; and (2) eliminate the requirement that unregistered DCM Members maintain records of written pre-execution communications or any text messages.

Currently, IFUS Rule 6.07 expressly sets forth specific requirements and exceptions to maintain certain records and oral recordings. Rather than change the specific requirements to conform to the recent amendments to Commission Regulation 1.35, the amendments to Exchange Rule 6.07 will simply require participants to maintain records in accordance with the CFTC’s requirements as may be in effect from time to time.

**Rule 21.02(e)**

Exchange Rule 21.02(e) authorizes the Vice President of Market Regulation to issue summary fines of up to \$10,000 for minor infractions relating to: (i) recordkeeping violations, (ii) block trade violations; (iii) the failure to comply with the Exchange's rules concerning the assignment and inclusion of proper trader identifications on electronic orders; and (iv) the failure to comply with the Exchange's requirements for clerks accessing the electronic trading system from the trading floor. Currently, Rule 21.02(e)(i) allows the Exchange's Vice President of Market Regulation to issue a summary fine in any case in which it is concluded that there may have been a violation of "any trading card or order ticket record keeping rule". The amendment to the Rule will allow summary fines to be issued for all record keeping violations, not just those related to order tickets (note: trading cards no longer exist at IFUS), including, but not limited to the failure to record or maintain, as may be required of certain participants, oral and written communications related to transactions in Exchange contracts.

The Exchange certifies that the amendment, which will become effective on April 12, 2016, complies with the Commodity Exchange Act, as amended, and the regulations thereunder. Specifically, the amendments to Rule 6.07 comply with Core Principle 10 (Trade Information) as the Exchange has expressly adopted the CFTC's recordkeeping requirements. The amendments to Rule 21.02(e) comply with Core Principle 13 (Disciplinary procedures) as the imposition of minor sanctions for violating record keeping rules is consistent with the Commission's guidance in Appendix B to Part 38.

There were no substantive opposing views to the amendment. The Exchange further certifies that concurrent with this filing a 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](mailto:jason.fusco@theice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Jason V. Fusco". The signature is fluid and cursive, with a large initial "J" and "F".

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.

## EXHIBIT A

### Rule 6.07. General Record Requirements

(a) Each Person shall [~~make and file reports and maintain records and recordings~~] in accordance with the rules and regulations of, and in such manner and form and at such times as may be prescribed by, the CFTC: [~~-, showing the details and terms of all Transactions involving Exchange Futures or Option Contracts consummated on the Exchange or subject to the Rules and all related Cash Commodity or forward transactions. Included among such records shall be all orders (filled, unfilled, or canceled), trading cards, signature cards, street books, journals, ledgers, canceled checks, copies of confirmations, copies of statements of purchase and sale, month end statements and all other records, which have been prepared in the course of dealing in Exchange Futures or Option Contracts consummated on the Exchange or subject to the Rules and all related Cash Commodity or forward transactions. All such records must be in permanent form, showing the parties to all such Transactions, including the Persons for whom made, any assignments or transfers thereof, with the parties thereto, and the manner in which said Transactions are fulfilled, discharged or terminated. Such record shall be kept for a period of five (5) years from the date thereof, or for a longer period if the CFTC shall so direct, and shall at all times be open to the inspection of any representative of the CFTC or the United States Department of Justice.~~

~~—(b) Except as provided in subparagraph (c) of this rule or in an alternative compliance schedule approved under Commission Regulations, all Members, all non-members registered with the Commission as futures commission merchants and all non-members registered with the Commission as introducing brokers shall record and maintain all oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction involving Exchange Futures or Option Contracts and related Cash Commodity or forward transactions, whether communicated by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media.~~

~~—(c) The requirement to record oral communications in paragraph (b) above shall not apply to:~~

~~(i) Oral communications that lead solely to the execution of a related Cash Commodity Transaction or forward transaction;~~

~~(ii) Oral communications provided or received by a floor broker that do not lead to the purchase or sale for any person other than the floor broker of any Exchange Futures or Option Contracts;~~

~~(iii) An introducing broker that has generated over the preceding three years \$5 million or less in aggregate gross revenues from its activities as an introducing broker;~~

~~(iv) A floor trader;~~

~~(v) A commodity pool operator;~~

~~(vi) A member of a designated contract market that is not registered or required to be registered with the Commission in any capacity.~~

(i) maintain all documents on which Trade information is originally recorded;

- (ii) keep full, complete, and systematic records (including all pertinent data and memoranda) of all transactions relating to its business of dealing in commodity interests and related cash or forward transactions, which shall include all orders (filled, unfilled, or canceled), signature cards, street books, journals, ledgers, wire transfer records, canceled checks, copies of confirmations, copies of statements of purchase and sale, and all other records, which have been prepared in the course of its business of dealing in Commodity Contracts and related cash or forward transactions; and
- (iii) keep oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in a Commodity Contract and any related cash or forward transactions (but not oral communications that lead solely to the execution of a related cash or forward transaction), whether transmitted by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media.

~~—(d) ] (b) Recordings of oral communications required under paragraph (b) above shall be kept for a period of one-year. All other records shall be kept for a minimum period of five (5) years. [All records and recordings shall be open to the inspection of by any representative of the CFTC or the United States Department of Justice at all times.~~

~~(e) Unless otherwise specifically provided, all records listed in this Rule must be retained in accordance with the Act and the regulations thereunder.]~~

#### **Rule 21.02. Compliance Staff — Powers and Duties**

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(e) Notwithstanding the provisions of paragraph (d) of this Rule, the Vice President or his designee may issue a warning letter or impose a summary fine of no more than ten thousand dollars (\$10,000) in any case in which it is concluded that there may have been a violation of:

- (i) any ~~[trading card or order ticket]~~ record keeping rule;
- (ii) Rule 4.02(g)(2) or (g)(3);
- (iii) Rule 4.02(k)(2)(E)
- (iv) Rule 4.07 (a), (b) or (c);
- (v) Rule 6.15(a) or (b);
- (vi) Rule 2.22 or Rule 18.05(a) or (d);
- (vii) Rule 27.05(a)(i);
- (viii) paragraph (a), (b) or (c) of Rule 27.09;
- (ix) Rule 21.04, by failing to produce documents, books or records, within the time period prescribed by the Exchange; or
- (x) 27.12A(a) through (e).

The authority to impose such a summary fine does not limit the Vice President's authority to refer the matter to the BCC instead of imposing a summary fine. A summary fine imposed in accordance with this

paragraph shall become final and effective and payment shall become due and owing to the Exchange fifteen (15) calendar days after the Member receives the fine.