



Submission No. 22-69  
April 1, 2022

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

**Re: Amendment to ICE Futures U.S. Rules 6.01-6.04-- Emergency Action Authority-  
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 certifies the amendments to Exchange Rules 6.01-6.04 which are set forth in Exhibits A and B<sup>1</sup>. As discussed below, the amendments clarify and consolidate various rules relating to the exercise of emergency authority, the declaration of trading suspensions and the establishment of settlement prices in physical emergencies.

Rule 6.01 defines the term “emergency”, contains a non-exclusive list of the types of actions which may be taken in an emergency and identifies the governance process surrounding such actions. The amendments to Rule 6.01: (i) expressly add the occurrence of a geopolitical event to the definition of the term “emergency”, (ii) delete references to emergency action being taken by an Executive Committee or other committee to which emergency powers have been conferred, because no such committees exist, and (iii) relocate a provision from Rule 6.03 which allows one Board member to suspend trading in an emergency when the requisite quorum of directors is not available to consider the action.

Rule 6.02 addresses the procedures for suspending trading when a physical emergency exists, such as a trading platform disruption or other system breakdown. The changes to Rule 6.02 are minor updates to correct an obsolete title and to codify the power of the ICE COO to reverse any actions instituted by the COO in response to a trading platform disruption, upon resolution of the platform disruption.

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<sup>1</sup> Exhibit A contains clean text of the Rules and Exhibit B reflects a redline of the Rules.



Rule 6.03 currently authorizes the Board to suspend trading in an emergency and when doing so is deemed to be in the best interests of the Exchange (whether or not there is an emergency). It further allows such action to be taken by one director if only 1 director is available to do so. The amendments delete all of this Rule and relocate to Rule 6.01 (as referenced above) the authority of a single director to shut the market in the case of an emergency if a quorum of the Board cannot be convened. The portion of the Rule which authorizes suspending the market when it is deemed in the best interests of the Exchange has been eliminated. The Exchange believes that any such circumstance would amount to an emergency within the meaning of Rule 6.01.

Rule 6.04 (which has been renumbered as Rule 6.03) sets forth the procedures for determining the settlement price of a contract when trading has been suspended due to a *physical emergency* declared under Rule 6.02. The changes to this Rule primarily address inconsistencies surrounding how the settlement price will be established if the market is suspended during the period of time comprising the normal settlement period. This Rule was originally adopted when the trading day ended at 3p.m. and the settlement period was typically the last 2 minutes of trading prior to the close. However, that process no longer make sense for contracts that trade 23 hours a day or contracts which continue trading for several hours after their settlement price has been determined. For the same reason, the current rule provision for extending the trading session is no longer relevant.

To rectify the inconsistencies in former Rule 6.04 the amendments delete obsolete provisions but retain the key principles that apply to the normal settlement process, i.e., settlement is determined in accordance with Rule 4.24 and if the weighted average of traded prices is used (as opposed to other methods applicable when no trades have taken place), the prices will be taken from a pre-defined window of 1,2,5 or 15 minutes as specified for the particular contract in Rule 4.25. The reference period for the settlement window is defined in the amendments as follows: (i) immediately prior to the suspension of trading, if trading does not resume during the session or (ii) immediately prior to the end of the session, if trading resumes during the session. Finally, the amendments also provide that settlement prices may be established on a different basis, as may be announced by the Exchange, to provide the flexibility that may be needed to account for unique emergency circumstances.

Similar conforming changes have been made to address the settlement price calculation if the suspension occurs on the last trading day of an expiring contract. As specified in renumbered Rule 6.03, the Exchange may hold a special trading session for an expiring, physically delivered contract, at a time and for a duration as determined by the Exchange taking into account the circumstances surrounding the suspension--for example, how much of the last trading day was suspended and whether there was any open interest--to ensure an orderly expiration of the contract.

The Exchange certifies that the amendments to Rules 6.01-6.04 comply with the requirements of the Act and the CFTC Regulations promulgated thereunder. The Exchange has reviewed the



designated contract market core principles ("Core Principles") as set forth in the Act and has determined that the amendments comply with the following relevant Core Principles:

**EMERGENCY AUTHORITY**

The amendments comply with the requirements of Core Principle 6, Regulation 38.350 and the Acceptable Practices in Appendix B to Part 38 of the Regulations. In particular, the amendments codify the procedures for the exercise of appropriate emergency authority, including the power to suspend or curtail trading in contracts.

**COMPLIANCE WITH RULES**

The amendments will be enforced by the Exchange in accordance with Core Principle 2..

**AVAILABILITY OF INFORMATION**

As required by Core Principle 7, the text of the amended Rules will be codified in the Exchange's Rulebook and made available on the Exchange's Website.

The Exchange is not aware of any opposing views with regard to the amendments and 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 212-748-4083 or at [audrey.hirschfeld@ice.com](mailto:audrey.hirschfeld@ice.com).

Audrey R. Hirschfeld

A handwritten signature in blue ink that reads "Audrey R. Hirschfeld".

SVP and General Counsel  
ICE Futures U.S., Inc.



## EXHIBIT A

### Rule 6.01. Emergency Action

(a) Definitions. As used in this Rule 6.01 the term "Emergency" means any occurrence or circumstance which, in the opinion of the Board, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any agreements, Commodity Contracts, or Transactions on the Exchange, including any manipulative or attempted manipulative activity; any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of Positions; any circumstances which may materially affect the performance of agreements, Commodity Contracts or Transactions traded on the Exchange, including failure of the payment system or the bankruptcy or insolvency of any Member; any geopolitical event or action taken by any governmental body, or any other board of trade, market or facility which may have a direct impact on trading on the Exchange and any other circumstance which may have a severe, adverse effect upon the functioning of the Exchange.

(b) Governing Body. Emergency Action may be taken by the affirmative vote of not less than two-thirds of the members of the Board present and voting at a meeting at which there is physically in attendance a quorum. In the event a quorum of the Board is not available, all trading on the Exchange may be suspended by action of one (1) member of the Board if only one (1) member is present, for such period of time as in the judgment of such member is necessary. Any action so taken by one (1) member of the Board shall be subject to review and modification by the Board. A member of the Board shall be deemed physically in attendance at a meeting if such a Person participates in the meeting in person or remotely by means of electronic communication.

(c) Emergency Actions. In the event of an Emergency, the Exchange may, subject to Part 40 of the Regulations under the Act, place into immediate effect a rule which may provide for, or may authorize the Exchange, or the Board or any committee, to undertake actions which, in the opinion of the Board are necessary or appropriate to meet the Emergency, including, but not limited to, such actions as:

- (i) Imposing limits or restrictions on position size, limiting trading to liquidation only, in whole or in part, or limiting trading to liquidation only except for new sales or grants of Commodity Contracts by parties who have the Commodity underlying such contracts;
- (ii) Extending or shortening the expiration date for trading in Commodity Contracts;
- (iii) Extending the time of delivery under or expiration of Commodity Contracts;
- (iv) Changing delivery points and/or the means of delivery;
- (v) Ordering the liquidation, or transfer of open Commodity Contracts, the fixing of a Settlement Price or Settlement Premium, or the reduction in positions;
- (vi) Ordering the transfer of Commodity Contracts, and the money, securities, and property securing such contracts, held on behalf of Customers by a Member to another Member or other Members, willing to assume such contracts or obligated to do so;
- (vii) Extending, limiting or changing hours of trading;
- (viii) Modifying price limits or circuit breakers;
- (ix) Suspending or curtailing trading;



(x) Changing the amount of money to be paid, or the quality of merchandise to be received, under Exchange Futures Contracts, whether theretofore or thereafter entered into or otherwise altering delivery terms or conditions;

(xi) Requiring additional Margin to be collected from Customers or Members; and

(xii) Modifying or suspending any provision of the Rules.

Whenever any action is taken under this Rule pursuant to which trading is suspended or other changes in procedure are made, all matters relating to notices, deliveries and other obligations may be suspended or deferred in such manner as the governing body may determine.

#### **Rule 6.02. Physical Emergencies**

(a) In the event the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a "Physical Emergency", such as fire or other casualty, bomb threat, substantial inclement weather, power failure, communication or transportation breakdown, computer malfunction, screen-based trading system break-down, backlog or delay in clearing or in the processing of data related to clearing Trades, or other similar events, the President, or in his absence any Senior Vice President or in all of their absences any other officer may take any action which, in the opinion of such officer is necessary or appropriate to deal with the Physical Emergency, including, but not limited to, suspending trading in any one (1) or more Commodity Contracts, delaying the opening of trading in any one (1) or more Commodity Contracts, extending the Last Trading Day and/or the time of trading, *provided, however*, that in the event of a computer malfunction or screen-based trading system disruption, the Chief Operating Officer of ICE, or his delegee, may also take any action which, in the opinion of such person is necessary or appropriate to deal with the computer malfunction or screen-based trading system disruption in accordance with Exchange procedures relating to such malfunctions and business disruptions.

(b) In the event the President or other officer has ordered suspension of trading, the President, or in his absence any Senior Vice President, or in all of their absences any other officer may order restoration of trading on the Exchange, or may remove other restrictions so imposed, if such officer determines that the Physical Emergency has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner; *provided, however*, that the Chief Operating Officer of ICE, or a delegee of such officer, may discontinue any action taken under paragraph (a) of this Rule by such officer or delegee upon determining that the malfunction or disruption to which the action was a response has been abated.

(c) Any action taken hereunder shall be filed with the Commission in accordance with Part 40 of the Regulations under the Act.

**Amended by the Board May 19, 2011; effective May 23, 2011 [¶ (a)].**

**Amended by the Board June 23, 2016; effective July 25, 2016 [¶ (a)].**



### **Rule 6.03. Settlement Price Determination in Physical Emergencies**

When a Physical Emergency is declared in accordance with Rule 6.02, the following shall apply with respect to determining the Settlement Price:

(a) Daily Settlement Price of Exchange Futures Contracts

If trading of an Exchange Futures Contract is suspended during the time period when the daily Settlement Price is to be determined, the daily Settlement Price will be determined in accordance with Rule 4.34(b)(i) through (b)(iv). In the event that the weighted average of traded prices are used pursuant to Rule 4.34(b)(i) and (ii), the Exchange shall, unless it announces otherwise, use the weighted average of prices from the last one (1), two (2), five (5) or fifteen (15) minute period depending on the convention specified in Rule 4.25(b) for the contract, which occurs: (i) immediately prior to the suspension of trading, if trading does not resume during the trading session, and (ii) immediately prior to the end of the session, if trading resumes during the session.

(b) Daily Settlement Price of Exchange Options Contracts

If trading of an Exchange Option Contract is suspended during the period when the daily Settlement Price is to be determined, the daily Settlement Price will be determined using the Settlement Price of the corresponding Exchange Futures Contract and standard option valuation models, unless otherwise announced by the Exchange.

(c) If a Physical Emergency occurs prior to the end of trading for an expiring Exchange Contract on the Last Trading Day:

(i) with respect to any Exchange Financial, Index, and all cash-settled futures contracts, if trading does not resume, the expiration process shall proceed in accordance with the Rules;

(ii) with respect to physically settled Exchange agricultural, environmental, gold and silver futures contracts, if trading in the expiring futures contract does not resume with more than two (2) hours remaining before the time specified in Rule 4.25(c):

(A) Settlement Prices for the trading day will be calculated in accordance with subparagraph (a) of this Rule, and

(B) trading in the expiring futures contract may be conducted during a special session to be held as determined by the Exchange. Settlement Prices for such special trading session will be calculated using the last one (1), two (2) or fifteen (15) minutes of trading depending on the convention for the expiring futures contract specified in Rule 4.25(b). The Settlement Price for such special session will be determined in accordance with the procedures set forth in Rule 4.34(b)(i) through (b)(iv).

(C) If trading is conducted during a special session in accordance with subparagraph (c)(ii)(B) of this Rule, then all dates and times specified in the Rules with respect to the delivery of the expiring contract shall be adjusted as determined by the Exchange; and



(iii) with respect to all Options Contracts, if trading does not resume prior to the normal closing time for the Options Contract, the Options Contract will expire in accordance with the Rules.



## EXHIBIT B

[additions are underscored in the text and deletions are struck through]

### Rule 6.01. Emergency Action

(a) Definitions. As used in this ~~section~~ Rule 6.01 ~~the~~ term "Emergency" means any occurrence or circumstance which, in the opinion of the Board, requires immediate action and threatens or may threaten such things as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any agreements, Commodity Contracts, or Transactions on the Exchange, including any manipulative or attempted manipulative activity; any actual, attempted, or threatened corner, squeeze, congestion, or undue concentration of Positions; any circumstances which may materially affect the performance of agreements, Commodity Contracts or Transactions traded on the Exchange, including failure of the payment system or the bankruptcy or insolvency of any Member; any geopolitical event or action taken by any governmental body, or any other board of trade, market or facility which may have a direct impact on trading on the Exchange and any other circumstance which may have a severe, adverse effect upon the functioning of the Exchange.

(b) Governing ~~b-Body. empowered to take Emergency action~~ Emergency Action may be taken by ~~the following:~~

~~(i) By the Board in the case of any Emergency.~~

~~(ii) By the Executive Committee in the case of any Emergency where it is impracticable, in the opinion of the Chairman, the Vice Chairman or, in their absence, any two (2) members of the Board, to call a meeting of the Board to deal with the Emergency.~~

~~(iii) By any committee of the Exchange pursuant to powers conferred on said committee under the Rules.~~

~~(c) Vote Required~~

~~The vote required of the governing body authorized to take any Emergency action hereunder shall be:~~

~~(i) In the case of action by the Board, the affirmative vote of not less than two-thirds of the members of the Board present and voting at a meeting at which there is physically in attendance a quorum. In the event a quorum of the Board is not available, all trading on the Exchange may be suspended by action of one (1) member of the Board if only one (1) member is present, for such period of time as in the judgment of such member is necessary. Any action so taken by one (1) member of the Board shall be subject to review and modification by the Board. A member of the Board shall be deemed physically in attendance at a meeting if such a Person participates in the meeting in person or remotely by means of electronic communication. ~~;~~ ~~or~~~~

~~(ii) In the case of action by a committee, the affirmative vote of two (2) or more Persons constituting not less than two-thirds of the members of said committee physically present and voting at a meeting at which there is physically in attendance a quorum; provided, however, that the consent in writing to such action of all members of such governing body shall be sufficient to take such Emergency action without a meeting;~~

~~(iii) A member of the Board or of a committee shall be deemed physically present or physically in attendance at a meeting if such a Person participates in the meeting by means of~~





~~a conference telephone or similar communications equipment allowing all Persons participating in the meeting to hear each other at the same time.~~

~~(d) Action which may be taken~~

~~(i) (c) Emergency Actions.~~ In the event of an Emergency, the Exchange may, subject to Part 40 of the Regulations under the Act, place into immediate effect a rule which may provide for, or may authorize the Exchange, or the Board or any committee, to undertake actions which, in the opinion of the Board are necessary or appropriate to meet the Emergency, including, but not limited to, such actions as:

~~(1-i)~~ Imposing limits or restrictions on position size, limiting trading to liquidation only, in whole or in part, or limiting trading to liquidation only except for new sales or grants of Commodity Contracts by parties who have the Commodity underlying such contracts;

~~(2-ii)~~ Extending or shortening the expiration date for trading in Commodity Contracts;

~~(3-iii)~~ Extending the time of delivery under or expiration of Commodity Contracts;

~~(4-iv)~~ Changing delivery points and/or the means of delivery;

~~(5-v)~~ Ordering the liquidation, or transfer of open Commodity Contracts, the fixing of a Settlement Price or Settlement Premium, or the reduction in positions;

~~(6-vi)~~ Ordering the transfer of Commodity Contracts, and the money, securities, and property securing such contracts, held on behalf of Customers by a Member to another Member or other Members, willing to assume such contracts or obligated to do so;

~~(7-vii)~~ Extending, limiting or changing hours of trading;

~~(8-viii)~~ Modifying price limits or circuit breakers;

~~(9-ix)~~ Suspending or curtailing trading;

~~(10-x)~~ Changing the amount of money to be paid, or the quality of merchandise to be received, under Exchange Futures Contracts, whether theretofore or thereafter entered into or otherwise altering delivery terms or conditions;

~~(11-xi)~~ Requiring additional Margin to be collected from Customers or Members; and

~~(12-xii)~~ Modifying or suspending any provision of the Rules.

~~(ii)~~ Whenever any action is taken under this Rule pursuant to which trading is suspended or other changes in procedure are made, all matters relating to notices, deliveries and other obligations may be suspended or deferred in such manner as the governing body may determine.

**Rule 6.02. Physical Emergencies**

(a) In the event the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a "Physical Emergency", such as fire or other casualty, bomb threat, substantial inclement weather, power failure, communication or transportation breakdown, computer malfunction, screen-based trading system break-down, backlog or delay in clearing or in the processing of data related to clearing Trades, or other similar events, the President, or in his



absence any Senior Vice President or in all of their absences any other officer may take any action which, in the opinion of such officer is necessary or appropriate to deal with the Physical Emergency, including, but not limited to, suspending trading in any one (1) or more Commodity Contracts, delaying the opening of trading in any one (1) or more Commodity Contracts, extending the Last Trading Day and/or the time of trading, ***provided, however***, that in the event of a computer malfunction or screen-based trading system disruption, the Chief Operating Officer ~~Vice President, Operations~~ of ICE, or his delegee, may also take any action which, in the opinion of such person is necessary or appropriate to deal with the computer malfunction or screen-based trading system disruption in accordance with Exchange procedures relating to such malfunctions and business disruptions.

(b) In the event the President or other officer has ordered suspension of trading, the President, or in his absence any Senior Vice President, or in all of their absences any other officer may order restoration of trading on the Exchange, or may remove other restrictions so imposed, if such officer determines that the Physical Emergency has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner; ***provided, however***, that the Chief Operating Officer of ICE, or a delegee of such officer, may discontinue any action taken under paragraph (a) of this Rule by such officer or delegee upon determining that the malfunction or disruption to which the action was a response has been abated.

(c) Any action taken hereunder shall be filed with the Commission in accordance with Part 40 of the Regulations under the Act.

**Amended by the Board May 19, 2011; effective May 23, 2011 [¶ (a)].**

**Amended by the Board June 23, 2016; effective July 25, 2016 [¶ (a)].**

### **Rule 6.03. Suspension of Trading**

~~(a) The Board may, in its discretion, by an affirmative vote of two thirds of the members of the Board present at a meeting (which, in an Emergency, may be held without previous notice), close the Exchange or suspend trading in any one (1) or more Commodity Contracts on such days or portions of days as will, in its judgment, serve to promote the best interest of the Exchange.~~

~~(b) In the event of an Emergency when a quorum of the Board is not available, all trading on the Exchange may be suspended by an affirmative vote of two thirds of the members of the Board present, or by action of one (1) member of the Board if only one (1) member is present, for such period of time as in their or his judgment is necessary. In the event of an Emergency which prevents normal attendance on the Floor of the Exchange, when no member of the Board is present, any officer of the Exchange shall have authority to order suspension of trading on the Exchange for such period of time as in his judgment is necessary. Any action taken under this paragraph shall be subject to review and modification by the Board.~~

### **Rule 6.04. Settlement Price Determination in Physical Emergencies**

When a Physical Emergency is declared in accordance with Rule 6.02, the following shall apply with respect to determining the Settlement Price:

(a) Daily Settlement Price of ~~With respect to~~ Exchange Futures Contracts,



~~(i) if the trading hours have been extended, If trading of an Exchange Futures Contract is suspended during the time period when the daily Settlement Price is to be determined, the daily Settlement Prices will be determined in accordance with Rule 4.34(b)(i) through (b)(iv); in the~~ In the event that the weighted average of traded prices are used pursuant to Rule 4.34(b)(i) and (ii), the Exchange shall, unless it announces otherwise, use the weighted average of prices from the last one (1), ~~or two (2), five (5) or fifteen (15)~~ minute period ~~minutes of the extended trading hours~~ depending on the convention specified in Rule 4.25(b) for the contract, which occurs: (i) immediately prior to the suspension of trading, if trading does not resume during the trading session, and (ii) immediately prior to the end of the session, if trading resumes during the session.

~~(ii) if electronic trading does not resume, Settlement Prices will be determined in accordance with Rule 4.34(b)(i) through (b)(iv); in the event that the weighted average of traded prices are used pursuant to Rule 4.34(b)(i) and (ii), the prices from the last one (1) or two (2) minutes, depending on the convention specified in Rule 4.25(b) for the contract, shall be used.~~

~~(b) With respect to all Daily Settlement Price of Exchange Options Contracts, if the trading hours have been extended or if the market does not reopen for trading, If trading of an Exchange Option Contract is suspended during the period when the daily Settlement Price is to be determined, the daily Settlement Price will be determined using the Settlement Price of the corresponding Exchange Futures Contract and standard option valuation models , unless otherwise announced by the Exchange.~~

(c) If a Physical Emergency occurs prior to the end of trading for an expiring Exchange Contract on the Last Trading Day:

(i) with respect to any Exchange Financial, Index, ~~Credit Index~~ and all cash-settled futures contracts, if trading does not resume, the expiration process shall proceed in accordance with the Rules;

(ii) with respect to physically settled Exchange agricultural, environmental, gold and silver futures contracts, if trading in the expiring futures contract does not resume with more than two (2) hours remaining before the time specified in Rule 4.25(c):

(A) Settlement Prices for the trading day will be calculated in accordance with subparagraph (a)~~(ii)~~ of this Rule, and

(B) trading in the expiring futures contract ~~will~~ may be conducted during a special session to be held as determined by the Exchange [on the next Business Day until 11:00 am New York time]. Settlement Prices for such special trading session will be calculated using the last one (1), two (2) or fifteen (15) minutes of trading depending on the convention for the expiring futures contract specified in Rule 4.25(b). The Settlement Price for such special session will be determined in accordance with the procedures set forth in Rule 4.34(b)(i) through (b)(iv). ~~in accordance with subparagraph (a)(i) of this Rule.~~



(C) If trading is conducted during a special session [~~on the next Business Day~~] in accordance with subparagraphs ~~(d)(ii)(A) or (d)(ii)(B)(H)~~ of this Rule, then all dates and times specified in the Rules with respect to the delivery of the expiring contract shall be adjusted as determined by the Exchange [~~accordingly~~]; and

(iii) with respect to all Options Contracts, if trading does not resume prior to the normal closing time for the Options Contract, the Options Contract will expire in accordance with the Rules.