



**BY ELECTRONIC TRANSMISSION**

Submission No. 17-112  
July 10, 2017

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: Amendments to ICE Futures U.S. Rules 8.17, 11.08, 11.09, 9.27, 29.06 and 29.18 --  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commodity Futures Trading Commission ("Commission") Regulation 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") self certifies the amendments attached as Exhibit A. The amendments relate to the collection and payment of variation margin by the Clearing House with respect to contracts that are the subject of delivery notices, and are being made to conform to changes being made by ICE Clear U.S. that will become effective no sooner than July 25, 2017. Recently, the Exchange had amended these same rules to conform with new procedures implemented by ICE Clear US pursuant to which ICE Clear US would no longer collect and pay variation margin on delivery positions in cash, but would, instead, include an equivalent variation margin amount as an adjustment to the clearing member's daily initial margin requirement (See Exchange submission 17-86). Following implementation and based on clearing members' preferences, ICE Clear US determined to restore the former practice under which it collected and paid daily variation margin on notice positions from/to clearing members in cash in the same manner as variation margin was paid and collected on open contracts. Accordingly, the amendments contained in this submission essentially restore provisions which had been deleted in submission 17-86, to ensure that the Exchange rules are consistent with the reinstated clearinghouse procedures.

In restoring the former provisions, minor language changes have been made to some of the rules to ensure that like provisions in each of the relevant product rules are worded identically. In addition, the Exchange has revised obsolete provisions in the sugar rules as described below.

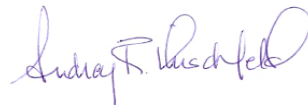
The former version of Sugar Rule 11.08(3)(c) had indicated that any net variation margin amount owing to a deliverer would be passed back to it by the clearinghouse when the deliverer had given notice to the Clearing House that the bills of lading had been issued by it. This obligation was subject to the receiver not issuing a responsive notice to the clearinghouse indicating the bills of lading were not issued to it. Similarly, the former version of the rule had indicated that any net variation margin amount owing to a receiver would be passed back to the receiver by the clearinghouse when the receiver furnished notice to the clearinghouse that payment for the sugar had been made, unless the deliverer issued a responsive notice to the Clearing House contesting the notification. The Exchange has not restored these provisions in order to render the Exchange Rules consistent with current practice. Specifically, the net amount of any variation margins which have been paid to either party from the date of issuance of the Delivery Notice to the date of settlement are collected by the Clearing House and paid to the other party when both clearing

members have confirmed to the Clearing House that settlement has been completed. This is now reflected in paragraph (c)(iii) of Rule 11.08(3).

Separately, the Exchange has made two new amendments to the Sugar No. 16 contract rules. First, Rule 29.06 (Delivery Documents) has been amended to specifically state that upon report from both clearing members that either pro forma settlement or final settlement has been made, the net amount of any variation margin that has been paid to either party by the clearinghouse between the time the delivery notice was issued and the report of such settlement, will be collected by the clearinghouse from the clearing member that received such variation margin payments and paid to the other clearing member. This is consistent with the Sugar No. 11® contract rules and updates the Sugar No.16 rules, which previously had indicated that the clearing members would make such payments directly between them. Second, Rule 29.18(h) (Notice of Failure to Meet Obligations), which addresses arbitration awards, has been amended by adding two provisions that appear in the parallel sections of the arbitration rules of all the other affected contracts. Specifically, these amendments make clear that the payment of an arbitration award--which constitutes final settlement under the defaulted contract-- must be made without any setoff or deduction whatsoever, and that upon such final settlement, the clearinghouse will collect the net variation margins received by a party during the period from issuance of the delivery notice and pay such amount to the other party. In other words, the same variation margin procedure that would occur in the ordinary course upon final settlement of a contract will apply where such settlement is delayed until an arbitration award is satisfied.

The Exchange is not aware of any views expressed in opposition to the amendments and certifies that the amendments, which will become effective for trade date July 26, 2017, comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. The Exchange further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website and may be accessed at (<https://www.theice.com/futures-us/regulation#rule-filings>). If you have any questions or need further information, please contact the undersigned at 212-748-4083 or [Audrey.hirschfeld@theice.com](mailto:Audrey.hirschfeld@theice.com).

Sincerely yours,



Audrey R. Hirschfeld  
SVP and General Counsel

cc: Division of Market Oversight

## Exhibit A

(In the text below, deletions are overstruck and additions are underscored.)

### Rule 8.17. Expedited Arbitration Procedure

\* \* \*

(i) The Special Arbitration Committee shall render its award in writing adjudging which, if any, party is in default, awarding the amount of money, if any, to be paid by the party in default, and granting any further remedy or relief which it deems just and equitable. The award of the Special Arbitration Committee shall be final and binding upon each of the parties to the arbitration, and judgment upon such award may be entered by any court having jurisdiction. In addition, any award, if not complied with within the time specified in the award, shall be enforceable by disciplinary proceedings commenced pursuant to the Rules.

(j) The payment as prescribed above shall be made by the close of business on the second (2<sup>nd</sup>) Business Day after notification in writing of the Special Arbitration Committee's award without any setoff or deduction whatsoever. Payment and settlement of any default as determined above shall be effected through the President. ~~and s]~~Such payment shall be accepted as final payment, and the net amount of any variation Margins which have been paid to either party from the date of issuance of the Delivery Notice to the date of payment of the settlement of the default shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rule Unchanged]

### Rule 11.08. Obligations of the Receiver and Deliverer

\* \* \*

#### (3) Settlements

\* \* \*

(c)(i) At the time Deliverer furnishes bills of lading pursuant to paragraph (a)(i) of this Rule, the Deliverer shall so notify the Clearing Organization in writing, with a copy of such notice concurrently furnished to the Receiver. ~~Any such notice shall be in writing, with a copy concurrently furnished to the Deliverer, and shall be issued within twenty four (24) hours of receipt of the Deliverer's notice referred to in the preceding sentence.~~

(ii) At the time Receiver makes payment for sugar pursuant to paragraph ~~{(e)}~~ (b) of this Rule, the Receiver shall so notify the Clearing Organization, with a copy of such notice concurrently furnished to the Deliverer. ~~Any such notice shall be in writing, with a copy concurrently furnished to the Receiver, and shall be issued within twenty four (24) hours of receipt of the Receiver's notice referred to in the preceding sentence.~~

(iii) Upon receipt by the Clearing Organization of notice from both the Deliverer and the Receiver that pro forma or final settlement has been made, the net amount of any variation margin that has been paid to either party from the date of issuance of the Delivery Notice shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rue Unchanged]

## Rule 11.09. Arbitration of Disputes

\* \* \*

(b) (vii) The Special Arbitration Committee shall render its award in writing adjudging which, if any, party is in default, declaring the settlement price, awarding the amount of money, if any, to be paid by the party in default, and granting any further remedy or relief which it deems just and equitable, which may include the award of money in an amount which exceeds the amounts to be paid pursuant to subparagraphs (v) and (vi) of this Rule. The award of the Special Arbitration Committee shall be final and binding upon each of the parties to the arbitration, and judgment upon such award may be entered by any court having jurisdiction. In addition, any award, if not complied with within the time specified in the award, shall be enforceable by disciplinary proceedings pursuant to the Rules.

(viii) The payment as prescribed above shall be made without any setoff or deduction whatsoever by the close of business on the second (2<sup>nd</sup>) Business Day after notification in writing of the Special Arbitration Committee's award. Payment and settlement of any default as determined above shall be effected through the President. Such payment shall be accepted as final payment, provided the net amount of any variation Margins paid to either party in respect of the contracts with respect to which such payment is made from the time the Multiple Delivery Notice for such contracts was issued shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rule Unchanged]

## Rule 9.27. Arbitration Of Disputes

\* \* \*

(e) In the case where a Deliverer is determined to be in default by the Special Arbitration Committee for failure to meet delivery obligations then:

(i) where the settlement price determined by the Special Arbitration Committee is higher than the price stated on the Delivery Notice, the Deliverer shall be required to pay to the Receiver the difference between such settlement price and the price stated on the Delivery Notice; or

(ii) where the settlement price determined by the Special Arbitration Committee is lower than the price stated on the Delivery Notice, the Receiver shall be required to pay to the Deliverer the difference between such settlement price and the price stated on the Delivery Notice.

(f) In the case where a Receiver is determined to be in default by the Special Arbitration Committee for failing to meet receiving obligations then:

(i) where the settlement price determined by the Special Arbitration Committee is higher than the price stated on the Delivery Notice, the Deliverer shall be required to pay to the Receiver the difference between such settlement price and the price stated on the Delivery Notice; or

(ii) where the settlement price determined by the Special Arbitration Committee is lower than the price stated in the Delivery Notice, the Receiver shall be required to pay to the Deliverer the difference between such settlement price and the price stated on the Delivery Notice.

(g) The obligations of the parties under this Rule shall be satisfied without any setoff or deduction whatsoever. Upon final payment as set forth in paragraph (i) hereof, the net amount of any variation Margins which have been paid to either party from the date of issuance of the Delivery Notice to the date of payment of the settlement of the default, shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rule Unchanged]

**Rule 29.06. Delivery Documents**

\* \* \*

(c) With respect to pro forma settlement:

(i) Receiver will pay the pro forma invoice value between the hours of 10:00 A.M. and 3:00 P.M., without any set-off or deduction whatsoever, within one (1) hour after presentation by Deliverer which shall be not later than 2:00 P.M. on the Business Day (providing normal New York banking facilities are available) that the documents are presented as above. Unless otherwise mutually agreed payment shall be made by wire transfer in same day funds.

(ii) At the time pro forma settlement is made~~[-]~~ the Deliverer and Receiver jointly must notify the Clearing Organization in writing of such pro forma settlement. Upon receipt by the Clearing Organization of notice from both the Deliverer and the Receiver that Pro Forma settlement ( or final settlement, in the event that the delivery proceeds directly to final settlement without having first proceeded to Pro Forma settlement) has been made, the net amount of any variation margin that has been paid to either party from the date of issuance of the Delivery Notice shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rule Unchanged]

**Rule 29.18. Notice of Failure to Meet Obligations**

\* \* \*

(h) The payment as prescribed above shall be made by the close of business on the second (2<sup>nd</sup>) Business Day after notification in writing of the Special Arbitration Committee's award, without any setoff or reduction whatsoever. Payment and settlement of any default as determined above shall be effected through the President and such payment shall be accepted as final payment, and the net amount of any variation Margins which have been paid to either party from the date of issuance of the Delivery Notice shall be collected from such party by the Clearing Organization and paid to the other party.

[Remainder of Rule Unchanged]