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**BY ELECTRONIC TRANSMISSION**

Submission No. 22-127  
July 28, 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: Amendments to Exchange Rule 21.02(e), “Compliance Staff - Powers and Duties” -  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), ICE Futures U.S., Inc. (“Exchange”) hereby certifies the amendments to Exchange Rule 21.02(e) set forth in Exhibit A, which expand the list of rule violations for which the Exchange staff can issue summary fines to include apparent violations of the requirement to utilize the Exchange’s Self-Trade Prevention Functionality (“STPF”), which is codified in Appendix III to Chapter 4 of the Exchange’s Rules, and to issue summary fines related to any impermissible transfer under Rule 4.37.

As background, effective trade date March 1, 2021, the Exchange made available a new version of the ICE self-trade prevention functionality (“STPF”), which must be used by those market participants who are required under the Rules to use STPF. Pursuant to Appendix III to Chapter 4 of the Exchange Rules, the use of STPF is mandatory for proprietary traders with direct market access who utilize algorithmic trading applications. Failure to utilize such functionality is a violation of Exchange Rules and may be subject to disciplinary action. The requirements for utilization of STPF and the associated facts and circumstances surrounding a violation of those requirements are straight-forward and not subject to interpretation. As such, the amendments provided in Exhibit A include Appendix III in the list of violations for which the Chief Regulatory Officer (“CRO”) exercises summary fine authority, currently codified in Exchange Rule 21.02(e).

Additionally, the amendments broaden the summary fining authority of the CRO to all problematic and impermissible transfers under Rule 4.37 (by removing “(a)(i)” from paragraph (e)(vii) of the Rule).

Previously only transfers that did not result in a change in beneficial ownership of the underlying positions were covered. The amendment gives the CRO additional discretion to impose prompt disciplinary sanctions when it determines that a position transfer was not executed in accordance with any aspect of Exchange Rule 4.37.

Further, amendments to Rule 21.02(e) make clear that a market participant seeking to rescind or reduce a summary fine may only present new evidence in support thereof and may not simply oppose issuance of the fine. The Exchange believes that the amendment will remove any ambiguity on this point.

Finally, conforming amendments to paragraph (i)(x) of the Rule remove the distinction that only paragraphs (a) through (e) of Rule 4.19 are rules for which a summary fine may be imposed. The paragraphs included in the Rule comprise the entirety of Exchange Rule 4.19.

The rule amendments will be effective trade date August 12, 2022, or such other date as the Exchange may determine, which shall be no sooner than 10 business days after receipt of this submission by the Commission.

## **Certifications**

The Exchange certifies that the rule amendments comply with the requirements of the Act and the rules and 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:

### **COMPLIANCE WITH RULES**

The Exchange's amended Rule 21.02 provides guidance to market participants related to the Exchange's authority to issue summary fines. The amended rule provides clarity as to the applicability of summary fines based on certain rule violations.

### **AVAILABILITY OF GENERAL INFORMATION**

The Exchange is publicly posting the amended rule to ensure that market participants have updated guidance and information related to the Exchange's Summary Fine authority. The rule will also be available on the ICE Futures U.S. website.

### **DISCIPLINARY PROCEDURES**

The amended rules are in furtherance of the Exchange's authority to issue disciplinary sanctions, pursuant to CFTC Regulation 38.710. Further, the amendments to Rule 21.02(e) comply with Core Principle 13 (Disciplinary procedures) as the imposition of minor sanctions for violations of Exchange rules which are readily discernable and do not require the exercise of significant discretion, is consistent with the Commission's guidance in Appendix B to Part 38.

The Exchange is not aware of any substantive opposing views expressed by members or others with respect to the rule amendments and 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>).

If you have any questions or need further information, please contact me at 312-836-6745 or at [patrick.swartz@ice.com](mailto:patrick.swartz@ice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Pat", with a long horizontal stroke extending to the right.

Patrick Swartzer  
Director  
Market Regulation

Enc.  
cc: Division of Market Oversight  
New York Regional Office

## EXHIBIT A

(Additions are underlined and deletions are [~~struck through~~].)

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

\* \* \*

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

- (i) any record keeping rule;
- (ii) Rule 4.02(g)(2), (3), (4) or (5);
- (iii) Rule 4.02(k)(2)(A) or (D)
- (iv) Rule 4.07 (a), (b) or (c);
- (v) Rule 6.15(a), (b), (d)(1), (d)(2), (d)(3) or (d)(4);
- (vi) Rule 2.22 or Rule 18.05(a) or (d);
- (vii) Rule 4.37[~~(a)(i)~~];
- (viii) paragraph (a), (b) or (c) of Rule 4.15;
- (ix) Rule 21.04, by failing to produce documents, books or records, within the time period prescribed by the Exchange; [~~or~~]
- (x) Rule 4.19[~~(a) through (e)~~]; or
- (xi) Appendix III to Chapter 4.

The authority to impose such a warning letter or summary fine does not limit the Chief Regulatory Officer's authority to refer the matter to the BCC instead of imposing such sanction. A summary fine imposed in accordance with this paragraph shall become final and effective and payment shall become effective fifteen (15) calendar days after receipt. A Member or non-member market participant may not merely contest the issuance of a summary fine but may present new evidence to the Market Regulation Department [~~and~~]to request the summary fine be rescinded or reduced during the fifteen (15) calendar day period until the fine has become effective. The decision to cancel, modify or affirm a summary fine imposed in accordance with this paragraph shall be made at the sole and absolute discretion of the Chief Regulatory Officer or his designee.

**[REMAINDER OF RULEBOOK UNCHANGED]**