

**ICE CLEAR U.S.<sup>®</sup>, INC.  
RULES**

**Part 1  
General Provisions**

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of such person's business, such person shall not be deemed to have used such information in violation of this Rule 108(a), unless it can be shown that such person would not have effected such transaction in the absence of such information.

(b) For the purposes of this Rule 108, the terms "material" and "non-public information" each shall have the meaning set forth in Commission Regulation 1.59(a).

#### **Rule 109. Consent to Disclosure of Certain Information**

A person, by becoming a member of the Board or a member of a committee established by the Board, shall be deemed irrevocably to authorize and direct each futures commission merchant at which such person maintains an account to furnish the Corporation with such documents and information relating to such person's trading in futures contracts, securities or options as the Corporation may from time to time request for the purpose of monitoring compliance with Rule 108, and to agree to furnish the Corporation with such information relating to any such trading as the Corporation may from time to time request.

#### **Rule 110. Notices to Clearing Members**

The delivery by hand, electronic transmission, telefacsimile or telephone of any notice, order or other communication to a Clearing Member at the address, telefacsimile number or telephone number last designated by it shall be good and sufficient delivery thereof to such Clearing Member.

**Amended by the Board April 11, 2005; effective April 22, 2005.**

#### **Rule 111. Conflicts of Interest**

(a) *Definitions.* For purposes of this Rule the following definitions shall apply:

(1) The term "disciplinary committee" shall mean any person or committee of persons, or any subcommittee thereof, that is authorized to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions, or to hear appeals thereof in cases involving any violation of the Rules, except in those cases where the person or committee imposes summary action pursuant to Rule ~~902~~901.

(2) The term "family relationship of a person" shall mean the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

(3) The term "Board" shall mean the Board of Directors, and any subcommittee thereof duly authorized to take action or to recommend the taking of action on behalf of the Corporation.

(4) The term "oversight panel" shall mean any panel, or any subcommittee thereof, authorized to recommend or establish policies or procedures with respect to the Corporation's surveillance, compliance, rule enforcement, or disciplinary responsibilities.

(5) The term "member's affiliated firm" shall mean a firm in which the member is an employee or a "principal," as defined in CFTC Regulation 3.1(a).

(6) The term "named party in interest" shall mean a person or entity that is identified by name as a subject of any matter being considered by the Board, a disciplinary committee, or oversight panel.

(7) The term "significant action" shall mean (A) Emergency, as defined in Section 7.5(a) of the By-Laws and (B) any changes in margin levels that are designed to respond to extraordinary market conditions (such as an actual or attempted corner, squeeze, congestion or undue concentration of positions) or that otherwise are likely to have a substantial effect on prices in any Contract cleared by the Corporation; provided, however, that for purposes of clause (B) above, a margin change shall not be deemed likely to have a substantial effect on the price of a Contract cleared by the Corporation if such margin change was made in response to a change in the

Settlement Price of any delivery month of such Contract if the amount of such margin change is equal to or less than 15% of the Settlement Price of such delivery month on the previous Business Day.

*(b) Named Party in Interest Conflict*

(i) Prohibition. No member of the Board, a disciplinary committee or oversight panel shall knowingly participate in such body's deliberations or voting in any matter involving a named party in interest where such member (A) is an officer, director or employee of the named party in interest or an Affiliated Person of such named party in interest or (B) has any other significant, ongoing business relationship with a named party in interest or an Affiliated Person of such named party in interest. No member shall automatically be deemed to have a significant ongoing business relationship with a named party in interest solely by virtue of being an officer, director or employee of a Clearing Member or Affiliated Person of such a Clearing Member that executes trades opposite, clears Contracts for, carries Contracts with, the named party in interest or an Affiliated Person of such named party in interest.

(ii) Disclosure. Prior to consideration of any matter involving a named party in interest, each member of the deliberating body shall disclose to the President or his designee whether such member has one of the relationships listed in paragraph (b)(i) of this Rule with a named party in interest.

(iii) Procedure and Determination. Exchange staff shall determine whether any member is subject to a conflicts restriction under this paragraph (b). Such determination shall be based upon a review of the following information:

(A) information provided by the member pursuant to paragraph (b)(ii), above, and

(B) any other source of information that is held by and reasonably available to the Exchange.

*(c) Financial Interest in a Significant Action Conflict*

(i) Prohibition. No member of the Board, a disciplinary committee or oversight panel shall participate in such body's deliberations and voting on any Significant Action if such member knowingly has a direct and substantial financial interest in the result of the vote based upon either Exchange or non-Exchange positions that could reasonably be expected to be affected by the Significant Action under consideration, as determined pursuant to this Rule.

(ii) Disclosure. Prior to consideration of any Significant Action, each member of the deliberating body who does not choose to abstain from deliberations and voting shall disclose to the President or his designee position information, that is known to such member, with respect to any particular month or months that are under consideration, and any other positions which the deliberating body reasonably expects could be affected by the Significant Action, as follows:

(A) gross positions held at the Exchange in the member's personal accounts or "controlled accounts," as defined in CFTC Regulation 1.3(j);

(B) gross positions held at the Exchange in proprietary accounts, as defined in CFTC Regulation 1.17(b)(3), at the member's affiliated firm;

(C) gross positions held at the Exchange in accounts in which the member is a principal, as defined in CFTC Regulation 3.1(a);

(D) net positions held at the Exchange in "customer" accounts, as defined in CFTC Regulation 1.17(b)(2), at the member's affiliated firm; and

(E) any other types of positions, whether maintained at the Exchange or elsewhere, held in the member's personal accounts or the proprietary accounts of the member's affiliated firm, that the Corporation reasonably expects could be affected by the Significant Action.

(iii) Procedure and Determination. Corporation staff shall determine whether any member is subject to a conflicts restriction under this paragraph (c) based upon a review of the most recent large trader reports and clearing records available to the Corporation, information provided by the member with respect to positions pursuant to paragraph (c)(ii) of this Rule and any other source of information that is held by and reasonably available to the Corporation, taking into consideration the exigency of the significant action being contemplated. Unless the deliberating body establishes a lower position level, a member shall be subject to the conflict restriction in paragraph (c)(i) of this Rule if the staff's review identifies a position in the member's personal or controlled accounts or accounts in which the member is a principal as specified in paragraphs (c)(ii)(A), (C) and (E), in excess of 10 lots, or a position in the accounts of the member's affiliated firm as specified in paragraphs (c)(ii)(B), (D) and (E), in excess of 100 lots.

(iv) Deliberation Exemption. Any member of the Board, a disciplinary committee or oversight panel who would otherwise be required to abstain from deliberations and voting pursuant to paragraph (c) hereof may participate in deliberations, but not voting, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided, however, that before reaching any such determination the deliberating body shall fully consider the position information specified in paragraph (c)(ii), above, which is the basis for such member's substantial financial interest in the significant action that is being contemplated. In making its determination, the deliberating body shall consider:

(A) whether the member's participation in deliberations is necessary to achieve a quorum; and

(B) whether the member has unique or special expertise, knowledge or experience in the matter being considered.

(v) Documentation. The minutes of any meeting to which the conflicts determination procedures set forth in this Rule apply, shall reflect the following information:

(A) the names of all members who attended the meeting in person or who otherwise were present by electronic means;

(B) the name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and

(C) information on the position information that was reviewed for each member.

**Amended by the Board December 9, 2008; effective December 15, 2008 [¶¶ (a)(3), (4), (5), (6) and (7), (b)(i), (c)(i), (ii) and (E), and (iii)].**

**ICE CLEAR U.S.<sup>®</sup>, INC.  
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#### Rule 403. Daily Reporting of Open Contracts

(a) Each Clearing Member shall report its open interest to the Corporation as follows:

(i) By ~~6:45~~7:30 p.m. (or by such other time as may be prescribed by the President) of each Business Day, it shall report to the Corporation its open interest in all Contracts, except that during the notice period for any delivery month under any futures contract, any Clearing Member carrying futures contracts for delivery in that delivery month shall report its open interest in such futures contracts ~~by 5:00 p.m. (or by at such other time on each Business Day as may be prescribed by the President) of each Business Day~~; and

(ii) By 9:00 a.m. (or at such other time as the President may prescribe) of each Business Day, it shall report to the Corporation any adjustments to be made in the open interest reported on the previous Business Day.

(iii) The Corporation shall use the open interest reported pursuant to subparagraph (i) for all purposes, and shall use the adjustments reported pursuant to subparagraph (ii) solely for the purpose of enabling the Listing Exchange to publish the open interest in all outstanding Contracts.

(b) If the account of any customer carried by any Clearing Member (other than on an omnibus basis) has a long and short position in the same delivery month, the Clearing Member must determine, in accordance with applicable law, whether such positions should be reported on a net or gross basis. only the net position of such customer in that delivery month should be reported as open interest. If the account of any customer carried by any Clearing Member (other than on an omnibus basis) or if any proprietary account of any Clearing Member has a long and short position in the same delivery month in Contracts which are identical except for the size of the unit of trading and which are identified by the Corporation as fungible, the Clearing Member may cause the positions to be offset and report as open interest only the net position of such customer or proprietary account for the contract in which a position remains. Positions which have been reported on a net basis may not be re-opened other than by trading, unless authorized by the Corporation in writing.

(c) If a Clearing Member discovers an error in any report made pursuant to this Rule 403, such Clearing Member shall as soon as practicable submit to the Corporation and the Listing Exchange a correction and a written statement as to how the error occurred.

**Amended by the Board March 8, 2005; effective March 9, 2005 [¶¶ (a) and (b)].**

**Amended by the Board November 10, 2008; effective November 14, 2008 [¶ (b)].**

**Amended by the Board September 23, 2014; effective \_\_\_\_\_, 2014 [¶¶ (a) and (b)].**

#### Rule 404. Reporting of Exchange Positions Carried by Other Firms

(a) If a Clearing Member has customer or proprietary positions in any Contract carried for it by another Clearing Member or by a futures commission merchant which is not a Clearing Member, the Clearing Member first referred to shall:

(i) Give written notice to the Corporation of the name of such other Clearing Member or futures commission merchant not later than the close of business on the first day any such position is carried by such other Clearing Member or futures commission merchant; and

(ii) If any such position is being carried or maintained by a futures commission merchant which is not a Clearing Member, provide to the Corporation, on each Business Day, by the time specified by the Corporation for the purpose, the information specified in Rule 404(b) concerning any such position.

(b) Each Clearing Member shall report to the Corporation, on each Business Day, by the time specified by the Corporation for the purpose, in such manner as may be prescribed by the Corporation, the number of long and short open positions in each Contract for each expiration month which such Clearing Member is carrying for any other Clearing Member as of the close of business on the preceding Business Day. Each such report shall separately specify positions carried for such other Clearing Member's proprietary account and customer account.

**Rule 405. Transfers of Open Positions**

Any transfer of a Contract shall be subject to the following:

(a) if the transferor shall have been declared to be in default, transfers may only be effected at the current day's settlement price unless the Corporation in its discretion determines that, because of excess margin on deposit or for other sufficient reason, accepting the transfer at other prices permitted by Exchange rules would not jeopardize the Corporation;

(b) if, in any case, the Corporation in its discretion determines that it would be contrary to the best interests of the Corporation to accept a transfer at a price other than the current day's settlement price, it may, notwithstanding any provision to the contrary in the Exchange rules, require such transfer to be effected at such settlement price; and

(c) subject to the limitations of Exchange Rule 4.11, after receipt of a signed instruction from a Clearing Member issued at the request of a customer that is not currently in default to it (the "Carrying Clearing Member") to transfer all or a portion of the customer's account to another Clearing Member (the "Receiving Clearing Member"), and provided that such instruction contains the customer's name and account number (and, if the transfer is not of the entire account, a description of which Contracts are to be transferred), the Corporation shall effect such transfer without requiring the prior close-out and re-booking of the Contracts so long as (i) the Receiving Clearing Member agrees to accept the transfer, (ii) the transferred Contracts will have appropriate margin at the Receiving Clearing Member and (iii) any remaining Contracts in the customer's account at the Carrying Clearing Member will have appropriate margin.

**Amended by the Board January 18, 2012; effective February 10, 2012 [¶ (c)].**

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#### **Rule 804. Amounts Payable to the Corporation**

Upon completion of the liquidation or transfer of the positions of a Person pursuant to Rule 803, the Corporation shall be entitled on demand to recover from such Person all amounts due to the Corporation for all losses, liabilities and expenses (including without limitation legal fees and disbursements) incurred by the Corporation in connection with such liquidation or transfer.

#### **Rule 805. Reinstatement of Suspended Member**

Any Clearing Member suspended pursuant to Rule 801 may apply for reinstatement as provided in Rule ~~905~~903.

#### **Rule 806. Close-Out Netting**

(a) Insolvency of the Corporation. If at any time the Corporation: (i) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition presented against it, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an Order for Relief or the making of an order for the Corporation's winding-up or liquidation, or (ii) approves resolutions authorizing any proceeding or petition described in clause (i) above (collectively, a "Bankruptcy Event"), all open positions in the Corporation shall be closed promptly.

(b) Default of the Corporation. If at any time the Corporation fails to comply with an undisputed obligation to pay money or deliver property to a Clearing Member that is due and owing in connection with a transaction cleared by the Corporation, for a period of thirty days from the date that the Corporation receives notice from the Clearing Member of the past due obligation, the Clearing Member's open proprietary and customer positions at the Corporation shall, at the election of that Clearing Member, be closed promptly.

(c) Wind-Up of Contracts. If at any time the Board determines, by virtue of the number of Withdrawing Clearing Members or otherwise, that a winding up (offset) of all outstanding positions at the Corporation is prudent, then all open positions at the Corporation shall be closed promptly.

(d) Netting and Close-Out. At such time as a Clearing Member's positions are closed pursuant to this Rule 806, the obligations of the Corporation to a Clearing Member in respect of all of its proprietary positions, accounts, collateral and deposits to the Guaranty Fund shall be netted, in accordance with the Bankruptcy Code, the Act and the regulations adopted thereunder in each case, against the obligations of that Clearing Member in respect of both its proprietary and its customers' positions, accounts, collateral and its obligations to the Guaranty Fund to the Corporation. All obligations of the Corporation to a Clearing Member in respect of its customer positions, accounts, and collateral shall be separately netted against the positions, accounts and collateral of its customers in accordance with the requirements of the Bankruptcy Code, the Act and the regulations adopted thereunder in each case. At the time a Bankruptcy Event takes place, the authority of the Corporation, pursuant to Section 5.5 of the By-Laws, to make new assessments and/or require a Clearing Member to cure a deficiency in its Guaranty Fund deposit, arising after the Bankruptcy Event, shall terminate, and all positions open immediately prior to the close-out shall be valued in accordance with the procedures of paragraph (e) of this Rule.

(e) Valuation. As promptly as reasonably practicable, but in any event within thirty days of (i) the Bankruptcy Event, (ii) if a Clearing Member elects to have its open positions closed as

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**ICE CLEAR U.S.<sup>®</sup>, INC.**  
**PART 9**  
**Disciplinary Proceedings**

**Rule 901. Rule Violations**

(a) Except as provided in paragraph (b) of this Rule 901, the Corporation shall refer any suspected violation of the By-Laws or these Rules by any Clearing Member to the enforcement staff of ICE Futures U.S. for appropriate action, in accordance with the rules of ICE Futures U.S.

(b) The President or his designee may summarily impose a fine against any Clearing Member:

(i) for failing to make timely payments to the Corporation of original or variation margin, option premiums, dues, fees, fines, assessments or other charges, and

(ii) for failing to make timely and accurate submissions to the Corporation of notices, reports, or other information required under any provision of the By-Laws or these Rules.

The amounts of the fines for any category of violations which may be imposed pursuant to this Rule 901(b) ~~shall be set by the Board from time to time, provided that the maximum fine for any one violation~~ shall not exceed \$10,000. Nothing contained in this Rule 901(b) shall preclude any other action against a Clearing Member pursuant to Rule 901(a) or otherwise with respect to conduct described in this Rule 901(b). The imposition of a fine pursuant to this Rule 901(b) shall be the final action of the Corporation. ~~if a request to review such fine shall not be submitted to the Board by the Clearing Member when and as provided in Rule 902.~~

**Amended by the Board February 3, 2009; effective February 12, 2009 [¶ (a)].**

**Amended by the Board September 29, 2014; effective \_\_\_\_\_, 2014 [¶ (b)].**

**~~Rule 902. Summary Imposition of Fines; Request for Review~~**

~~The Corporation shall give a Clearing Member written notice of a fine imposed pursuant to Rule 901(b). Such notice shall specify the date of the occurrence for which the fine is being imposed, the provision or provisions of the By Laws or Rules giving rise to the fine and the amount of the fine. Within ten days of the giving of such notice, the Clearing Member~~

~~(a) shall pay such fine, or~~

~~(b) at its election, may submit a written request to the Board to review such fine. Any such request shall specify the basis for such review.~~

**~~Rule 903. Review of Summary Fine by Board~~**

~~(a) The Board shall hear and consider a request for review made pursuant to Rule 902 at the next regular meeting of the Board held more than two weeks after the date on which such request for review is received by the Corporation.~~

~~(b) At the Board meeting at which the request for review is heard and considered, the Clearing Member may appear and present evidence to establish that it did not commit the violation for which the fine was imposed and/or that the fine imposed is excessive, and the staff of the Corporation may present evidence to establish that such Clearing Member did commit such violation and/or that such fine was not excessive.~~

~~(c) The Board shall not be bound by formal rules of evidence or by technical considerations. The Board shall follow such procedures as it deems best calculated to ascertain material information and otherwise to insure a fair and impartial hearing.~~

~~(d) The Board shall issue a written decision and shall provide a copy of such decision to the President and the Clearing Member. The decision may affirm, cancel, decrease or increase any fine imposed pursuant to Rule 901(b), subject to the maximum set forth therein. Such decision shall be the final action of the Corporation.~~

**Rule 904902. Clearing Member Financial Emergencies**

(a) If at any time the Board, in its sole discretion, determines that a Financial Emergency exists, or there is a substantial question as to whether a Financial Emergency exists with respect to any Clearing Member, the Board may suspend, or take any other action against, involving or with respect to such Clearing Member and/or any Affiliated Person of such Clearing Member which is also a Clearing Member as the Board may deem necessary or appropriate including, but not limited to, order the Clearing Member to deposit such additional margin with the Corporation as deemed appropriate; prescribe such additional capital requirements as deemed appropriate; order special or advance variation margin payments to be made by such Clearing Member; prescribe such limitations on Position Risk as deemed appropriate; or transfer Contracts to another Clearing Member through an auction of such Contracts or otherwise.

(b) Any action taken against, involving or with respect to any Clearing Member pursuant to this Rule shall be taken after notice and an opportunity to be heard, unless (i) such Clearing Member shall have waived the right to such notice and opportunity, or (ii) the President in his sole discretion shall determine that (A) giving such notice or opportunity to be heard before taking such action is not practicable under the circumstances, and (B) there is reason to believe that immediate action is necessary to protect the best interests of the marketplace. Any such notice shall be given not later than one hour before the hearing.

(c) In any case in which action is taken against, involving or with respect to a Clearing Member without prior notice and opportunity to be heard, the Corporation shall give such member notice and an opportunity to be heard promptly thereafter. Every such notice shall (i) state the action taken, (ii) briefly state the reasons for the action and (iii) state the effective time, date and duration of the action.

(d) In any hearing pursuant to this Rule the Board shall not be bound by formal rules of evidence or by technical considerations and shall follow such procedures as it deems best calculated to ascertain material information and otherwise to insure a fair and impartial hearing.

(e) At the hearing, the President or his designee shall present such evidence and considerations as may tend to show that a Financial Emergency exists or that there is a substantial question as to whether a Financial Emergency exists with respect to such Clearing Member, and the Clearing Member may present such evidence and considerations as may tend to show that no such Financial Emergency or substantial question exists. The Clearing Member may be represented by legal counsel or any other representative of its choosing at such hearing. A substantially verbatim record of the hearing shall be made, but need not be transcribed unless the Clearing Member so requests or the Corporation so determines.

(f) The Board shall issue a written decision and shall provide a copy of such decision to the President and the Clearing Member, together with a copy of any transcript that may have been made of the hearing and copies of any documents that may have been presented at the hearing. The decision shall include a statement of the Board's determination as to whether a Financial Emergency exists or there is a substantial question as to whether a Financial Emergency exists with respect to such Clearing Member and, if so, a description of any action taken, including the

affirmance, modification or reversal of any action theretofore taken, and the effective date and duration of the action. Such decision shall be the final action of the Corporation and shall not be subject to appeal within the Corporation.

**Amended by the Board December 9, 2008; effective December 15, 2008 [¶¶ (a), (b) and (d) - (f)].**

**Rule 905903. Reinstatement of Suspended Member; Revocation or Modification of Other Actions; Termination of Status**

A Clearing Member which has been suspended pursuant to Rule 801 or 904902, or which has been the subject of any other action pursuant to Rule 904902, may seek reinstatement or revocation or modification of such action by submitting an application therefore in such form and accompanied by such information as the Corporation may prescribe. Such application may be rejected or granted in whole or in part by the Board in its discretion. If a Clearing Member which has been so suspended does not so apply for reinstatement within thirty (30) days after the commencement of such suspension, or if such Clearing Member shall have so applied and the Board shall have rejected the application, the Board may terminate such Clearing Member's status as a Clearing Member after giving such Clearing Member notice and an opportunity to be heard in accordance with the procedures set forth in Section 5.3(b) of the By-Laws for denying an application to become a Clearing Member.

**Amended by the Board July 10, 2006; effective July 17, 2006 [termination].**

**Rule 906904. Conflicts of Interest**

A member of the Board may not participate in any proceedings conducted pursuant to this Part 9 if such member is precluded from participating in deliberations or voting on the matter pursuant to the conflict of interest principles set forth in Rule 111(b).

**Amended by the Board December 9, 2008; effective December 15, 2008.**

**Rule 907905. Liability for Expenses**

Any Clearing Member which, after notice and opportunity for hearing pursuant to these Rules, has been found by final action of the Corporation to have violated any By-Law or Rule, or has been the subject of action taken pursuant to Rule 904902, may, in the discretion of the Corporation, be required to pay to the Corporation an amount equal to any and all expenses incurred by the Corporation (including without limitation legal and accounting fees and expenses and the costs of liquidating or transferring Contracts) incurred in investigating the matter, preparing the matter for referral to the Exchange or for submission to the Board, or otherwise in connection with such violation or action, as the case may be, in addition to any fine or other penalty which may be imposed on such Clearing Member.

**Amended by the Board December 9, 2008; effective December 15, 2008**