



**BY ELECTRONIC TRANSMISSION**

Submission No. 17-202  
October 24, 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 EFRP Procedures  
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 amendments to Exchange Rule 4.06 and the Exchange’s Exchange for Related Position (“EFRP”) Procedures, which are reflected in the Exchange’s EFRP FAQ (“FAQ”), as set forth in Exhibit A.

The Exchange is amending Rule 4.06 and the FAQ to: (i) clarify the reporting requirements for EFRP transactions; and (ii) relieve Exchange clearing members of the responsibility to exercise due diligence to detect non-*bona fide* EFRP transactions executed by its customers. In addition, the Exchange is incorporating language from Question 8 of the FAQ into Rule 4.06(d). The language requires an Exchange clearing member with actual or constructive notice or knowledge of the execution of non-*bona fide* EFRPs by its customers, to take appropriate action.

These amendments, which will become effective on November 8, 2017, were made at the recommendation of the Commission’s Department of Market Oversight. The Exchange is not aware of any opposing views and certifies that the amendment to the FAQ complies with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendment complies with Core Principle 9, which allows designated contract markets (“DCM”)

to authorize transactions, such as EFRP transactions, that are executed away from the DCM's centralized marketplace. The Exchange further certifies that, concurrent with this filing, a notice of pending certification was posted on the Exchange's website as well as a copy of this submission, which may be accessed 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 long horizontal stroke at the end.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.  
cc: Division of Market Oversight

## EXHIBIT A

### Rule 4.06. Exchange for Related Position

\*\*\*

(d) All Commodity Contracts effected as part of EFRP Transactions shall be cleared in the usual manner. ~~[Clearing Members are responsible for exercising due diligence as to the bona fide nature of EFRPs submitted on behalf of their Customers].~~ If a Clearing Member has actual or constructive notice or knowledge of the execution of non-bona fide EFRPs by its customer and the Clearing Member fails to take appropriate action, the Clearing Member may be found to have committed an act detrimental to the best interests of the Exchange.

## ICE FUTURES U.S.

### EFRP FAQs

~~[October 2016]~~ November 2017

\*\*\*

#### **8. Who is responsible for submitting documentation to the Exchange when requested?**

Exchange requests for EFRP documentation are commonly directed to the Clearing Member(s) that cleared the transaction. The carrying Clearing Member is responsible for providing the requested documents and information on a timely basis. It should be noted, however, that all market participants are subject to the jurisdiction of the Exchange pursuant to Rule 4.00 and may be requested to furnish information and may be subject to disciplinary action for violation of Exchange Rules.

~~Firms that execute or clear EFRPs on behalf of customers should establish, document and execute controls that are reasonably designed to determine a customer's suitability to engage in EFRP transactions and detect the execution of non-bona fide EFRPs. If a Clearing Member has actual or constructive notice or knowledge of the execution of non-bona fide EFRPs by its customer and the Clearing Member fails to take appropriate action, the Clearing Member may be found to have committed an act detrimental to the best interests of the Exchange.~~

\*\*\*

**17. How soon after execution must EFRPs be submitted to the Exchange?**

EFRP transactions in energy products executed during the trading session should be submitted to the Exchange through ICE Block as soon as possible following agreement to the terms by the relevant parties but no later than the end of the trading session for the corresponding contract market, absent mitigating circumstances. ~~EFRP transactions should be submitted to the Exchange as soon as possible following agreement to the terms by the relevant parties. EFRPs in energy products may be submitted through ICE Block during the trading hours for the corresponding energy contract market only.~~

EFRP transactions in all other products executed during the trading session should be submitted to the Exchange through ICE Block as soon as possible following agreement to the terms by the relevant parties but no later than thirty (30) minutes after the end of the trading session for the corresponding contract market, absent mitigating circumstances. ~~EFRP transactions in agricultural and financial products may be submitted through ICE Block from the opening of the corresponding contract market until 30 minutes after the close of that market.~~ The only exception is for EFRP transactions executed on the last trading day for any delivery month in any Sugar No. 11® or Sugar No. 16 futures contract which must be executed and entered into ICE Block no later than five (5) minutes prior to the close of trading.

**[REMAINDER OF FAQ UNCHANGED]**