



55 East 52nd Street
New York, NY 10055

BY ELECTRONIC TRANSMISSION

Submission No. 21-152

November 1, 2021

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

Re: Amendments to ICE Futures U.S. Rule 6.29 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.5

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.5, ICE Futures U.S., Inc. (“Exchange”) hereby voluntarily submits amendments to Exchange Rule 6.29 for Commission review and approval. The amendments to Exchange Rule 6.29 provide for the recognition of non-enumerated bona fide hedge exemptions in accordance with new CFTC Regulation 150.9 and are set forth in Exhibit A.

Amendments to Exchange Rule 6.29 (Exhibit A)

Exchange Rule 6.29 sets forth the recognized exemptions from Exchange-set position limits and the process to obtain such exemptions. The amendments align the rule with new Part 150 of the Commission’s Regulations. Specifically, amendments in paragraph (a) make clear that the Exchange will allow exemptions from position limits related to non-enumerated bona fide hedges. While previously codified in Rule 6.29, the approval of non-enumerated bona fide hedges for core-referenced and referenced contracts is now subject to a designated procedure defined in CFTC Regulation 150.9.

The Exchange intends to implement the changes to Exchange Rule 6.29 on January 1, 2022, or such other date as the Exchange may determine, which shall be no sooner than 45 business days after review and approval of this submission by the Commission. Relatedly, the Exchange has submitted additional changes to Exchange Rule 6.29 in a separate submission, effective January 1, 2022 or such other date as the Exchange may determine, which shall be no sooner than 10 business days after receipt of the submission

by the Commission, which align the remainder of the rule with CFTC Regulation 150 and allow for amendments to the Exchange's Guidance on Position Limits document to answer frequently asked questions regarding the Exchange's position limits and exemption rules, including the provisions regarding the Exchange's recognition of non-enumerated bona fide hedges for both excluded contracts and contracts subject to CFTC Regulation 150.2 (See *Exchange Submission No. 21-151*).

Certifications

The Exchange certifies that the amendments to Exchange Rule 6.29 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 amendments to Exchange Rule 6.29 are set forth in the Exchange Rulebook and will be enforced by the Exchange, in compliance with Core Principle 2 and CFTC Regulation 38.150(a)(2), which expressly provides that a board of trade shall establish, monitor, and enforce compliance with the rules of the contract market.

POSITION LIMITS OR ACCOUNTABILITY

Positions in the Exchange's futures and option on futures contracts will continue to be subject to position limits and position accountability levels set by the Exchange, in compliance with Core Principle 5 and CFTC Regulation 38.300, which expressly provides that a board trade shall adopt for each contract of the board of trade, as is necessary and appropriate, position limitations or position accountability for speculators and such position limits shall be set at a level not higher than the position limitation established by the Commission. Generally, the Exchange's position limits are based upon the deliverable supply in the cash market or position limits at other designated contract markets and have been deemed appropriate by the Commission in its rulemaking. All positions held in options on futures markets are aggregated with the relevant futures contracts underlying the option on futures for purposes of position limits and position accountability levels.

AVAILABILITY OF GENERAL INFORMATION

The Exchange is publicly posting the amended Exchange Rule 6.29 to ensure that market participants have updated guidance and information related to the Exchange's exemptions from position limits, in furtherance of CFTC Regulation 38.401.

The Exchange is not aware of any substantive opposing views expressed by members or others with respect to the amended Exchange Rule 6.29 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@theice.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~~] and include amendments self-certified in Exchange Submission No. 21-151)

Rule 6.29. Exemptions

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to (i) bona fide hedging positions as defined in CFTC Regulation 150.1 or non-enumerated hedging positions which are otherwise determined by the Exchange to be consistent with the purposes of hedging, and are approved in accordance with this Rule and CFTC Regulation 150.9, where applicable, (ii) spread positions, and (iii) risk management positions: (A) for excluded commodities or (B) beginning January 1, 2023, for those commodities that are subject to federal position limits under CFTC Regulation 150.2, for quantities up to, but not exceeding, the applicable federal position limit.

* * *

(d) Hedge Exemptions

(i) Requests for bona fide hedge exemptions must include information that demonstrates that the proposed positions are bona fide hedging positions, as defined in CFTC Regulation 150.1.

(ii) Requests for non-enumerated hedge exemptions must include information that demonstrates the positions are consistent with bona fide hedging strategies, which are consistent with the requirements of CFTC Regulation 150.1 and CFTC Regulation 150.9, where applicable.

(iii) Pass-Through Swap

When applying for a pass-through swap as defined in CFTC Regulation 150.1, the Person seeking such exemption must provide an explanation of the positions in the underlying cash market, related cash market, or related over-the-counter market where there exists a close linkage between the Futures or Options market and the underlying market in question, and a written representation that the pass-through swap qualifies as a bona fide hedging transaction as defined in CFTC Regulation 150.1. The Person may rely in good faith on such written representation, unless the Person has information that would cause a reasonable person to question the accuracy of the representation.

[REMAINDER OF RULE UNCHANGED]