



Submission No. 22-237  
December 1, 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: Amendment to ICE Futures U.S. Rule 6.40: Service on Exchange Board and  
Certain Committees  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the "Act") and Commodity Futures Trading Commission ("Commission") Regulation 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") hereby certifies the amendments to Exchange Rule 6.40 which are set forth in Exhibit A. The amendments were made to codify the Exchange's existing procedures for determining the fitness and qualifications of individuals to serve on the governing board and certain committees of the Exchange. They provide for disqualification from service of any person if any of the bases specified in Section 8a(2) of the Act as grounds for the Commission to refuse registration exists with respect to such person.

The Exchange certifies that the amendments to Rule 6.40 comply with the requirements of the Act and the regulations promulgated thereunder, in particular, Core Principle 15, CFTC Regulation 38.800 and associated CFTC Guidance. The Exchange is not aware of any opposing views with regard to the amendments and further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website at <https://www.theice.com/futures-us/regulation#rule-filings>

If you have any questions or need further information, please contact me at 212-748-4083 or at [audrey.hirschfeld@ice.com](mailto:audrey.hirschfeld@ice.com) .

Sincerely,

Audrey R. Hirschfeld  
SVP and General Counsel



## EXHIBIT A

(In the text of the amendments below, additions are shown underscored and deletions are bracketed and struck through.)

### Rule 6.40. Service on Exchange Board and Certain Committees

(a) Definitions. For purposes of the Rule:

(1) "Self-Regulatory Organization" means a "Self-Regulatory Organization" as defined in CFTC regulation 1.3(e), and includes a "Clearing Organization" as defined in CFTC regulation 1.3(d), except as defined in subparagraph (b)(6) of this Rule.

(2) "Disciplinary Committee" means any Person or panel empowered by a Self-Regulatory Organization to bring disciplinary proceedings, to impose sanctions or to hear appeals thereof.

(3) "Arbitration Panel" means any Person or panel empowered to arbitrate disputes under the Exchange's Arbitration Rules.

(4) "Disciplinary Offense" means:

(i) any violation of the rules of a Self-Regulatory Organization except those rules related to (A) decorum or attire, (B) financial requirements, or (C) reporting or record keeping unless resulting in fines aggregating more than five thousand dollars (\$5,000) within any calendar year;

(ii) any rule violation described in subparagraphs (a)(4)(i)(A) through (C) of this Rule which involves fraud, deceit or conversion or results in a suspension from membership or expulsion which (a) in the case of violations of the Rules, is imposed pursuant to a Settlement Agreement approved, or Final Decision of the Exchange rendered, by the Business Conduct Committee, the Executive Committee or the Board of Governors, and (b) in the case of violations of the rules of any other Self-Regulatory Organization, is imposed pursuant to a Settlement Agreement approved, or Final Decision rendered, by any Disciplinary Committee thereof;

(iii) any violation of the Act or the regulations promulgated thereunder; or,

(iv) any failure to exercise supervisory responsibility with respect to acts described in subparagraphs (a)(4)(i) through (iii) of this Rule when such failure is itself a violation of either the rules of a Self-Regulatory Organization, the Act or the regulations promulgated thereunder.

(5) "Final Decision" means:

(i) a decision of a Self-Regulatory Organization which cannot be further appealed within the Self-Regulatory Organization, is not subject to the stay of the CFTC or a court of



competent jurisdiction, and has not been reversed by the CFTC or any court of competent jurisdiction; or,

(ii) any decision by an administrative law judge, a court of competent jurisdiction or the CFTC which has not been stayed or reversed.

(6) "Settlement Agreement" means any agreement whereby a ~~Member~~ Person consents to the imposition of sanctions by a court of competent jurisdiction, the CFTC, a Self-Regulatory Organization other than the Exchange and, in the case of the Exchange, any such agreement approved by the Business Conduct Committee or the Executive Committee.

(b) A Person shall be ineligible to serve on the Board, any Disciplinary Committees, and any Arbitration Panels of the Exchange if any of the bases specified in Section 8a(2) of the Act as grounds for the Commission to refuse registration exists with respect to such Person. In addition, a Person shall be ineligible to serve on the Board, any Disciplinary Committees and any Arbitration Panels if such Person ~~Member~~:

(1) was found within the prior three (3) years by a Final Decision of a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or the CFTC to have committed a Disciplinary Offense;

(2) entered into a Settlement Agreement within the prior three (3) years in which any of the findings or, in the absence of such findings, any of the acts charged included a Disciplinary Offense;

(3) currently is suspended from trading on any contract market, is suspended or expelled from membership with any Self-Regulatory Organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:

(i) a finding by a Final Decision of a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or the CFTC that such Person committed a Disciplinary Offense; or,

(ii) a Settlement Agreement in which any of the findings or, in the absence of such findings, any of the acts charged included a Disciplinary Offense;

(4) currently is subject to an agreement with the CFTC or any Self-Regulatory Organization not to apply for registration with the CFTC or membership in any Self-Regulatory Organization;

(5) currently is subject to, or has had imposed on him within the prior three (3) years, a CFTC registration revocation or suspension in any capacity for any reason, or has been convicted within the prior three (3) years of any of the felonies listed in section 8a(2)(D) (ii) through (iv) of the Commodity Exchange Act; or

(6) currently is subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934.



(c) Unless otherwise exempted by the Board, a ~~Member~~ Person shall be ineligible to serve on any Exchange Committee not listed in (b) above, for a period of three (3) years from the date the ~~Member~~ Person has been found guilty of rule violations or has settled charges related to, or arising from, Transactions on or subject to the Rules which have resulted in an expulsion, suspension, or a fine which equals or exceeds the maximum fine which may be imposed by the Business Conduct Committee or \$25,000, whichever is less, except for rule violations related to decorum and attire.