ICE FUTURES U.S.
55 East 52nd Street
New York, NY 10055

BY ELECTRONIC TRANSMISSION

Submission No. 21-151
December 10, 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. Rules 6.13 and 6.29, Guidance on Position Limits and Related Amendments - 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 amendments to Exchange Rules 6.29 and 6.13, as set forth in Exhibits A and B, respectively. The amendments adopt new rules to align existing Exchange rules with the requirements of new Part 150 of the Commission's Regulations. Additionally, related amendments to the Guidance on Position Limits document provide additional guidance and interpretations on the subject matter covered by the amendments to the Exchange rules, and are provided in Exhibit C. Further, the Exchange has provided its Position Limit Exemption Request forms, which supplement the rules and rule amendments described herein, set forth in Exhibits D. The Exchange is not certifying the forms in this submission, but they are provided as context and at the request of the Commission. Lastly, the Exchange is certifying non-substantive amendments to its Request for Conditional Limit, set forth in Exhibit E, which assist market participants in remaining in compliance with the Conditional Limit and provide clarity surrounding the positions that are covered pursuant to a Conditional Limit. For context and visibility of concurrent amendments to the Exchange rules, subject to Commission approval under CFTC Regulation 40.5, the Exchange has indicated in each exhibit the amendments that are subject to approval and which are not. For the avoidance of doubt, the provisions and amendments not subject to Commission approval under CFTC Regulation 40.5 are the subject of this self-certification.

Amendments to Exchange Rule 6.29 (Exhibit A)

Exchange Rule 6.29 governs exemptions from Exchange-set position limits and sets forth the recognized exemptions and the process to obtain exemptions. The amendments provided in Exhibit A align the rule with new Part 150 of the CFTC's Regulations. Specifically, the references in paragraph (a) and (d)(i) of the rule which reference the enumerated bona fide hedges have been changed to refer to new Regulation 150.1 and remove references to outdated Regulation 1.3(z)(1). Further, the amendments make clear the availability of the risk management exemption for the Exchange's products, specifically: (i) for excluded commodities, risk management exemptions will continue to be available, and (ii) beginning January 1, 2023, for those commodities subject to federal position limits under Regulation 150.2, risk management exemptions will only be available for quantities up to, but not in excess of, the applicable federal position limit. Lastly, the amendments remove the distinction between legacy spread, straddle, and arbitrage exemptions, and instead classify these three exemption types solely as "spread" exemptions, which is consistent with new CFTC Regulation 150.3(a)(2).

Amendments to paragraphs (b) and (c) of Rule 6.29 provide additional flexibility for the Exchange's Market Regulation Department to process exemptions, by removing the requirement to process an exemption within five (5) business days of the submission of the required information and statements. Further, the amendments add clarification of the requirements for requesting exemptions from Exchange-set position limits and provide that each applicant requesting a new exemption or renewal of an existing exemption from the position limits specified in Chapter 6 of the Exchange's rulebook must submit a written request in the form specified by the Exchange, any additional information requested by the Exchange, and receive approval from the Market Regulation Department prior to exceeding such limits, except as otherwise provided in Chapter 6 of the Exchange's rulebook. For contracts subject to physical delivery, the applicant should endeavor to submit such requests to the Exchange no later than five (5) Business Days prior to the first (1st) day such position limit is in effect. Failure to file a position limit exemption request on a timely basis may subject the Person seeking an exemption to disciplinary action pursuant to the Exchange's Rules.

Additional amendments add new paragraph (d)(iii) and provide the requirements for market participants seeking "pass-through swap" exemptions. A pass-through swap is a swap position entered into by one person for which the swap would qualify as a bona fide hedging transaction or position, as defined in CFTC Regulation 150.1, that is opposite another counterparty, typically a swap dealer or other sophisticated counterparty. In order to offset the risks stemming from such pass-through swaps, the counterparty may establish offsetting futures or options positions on the Exchange. The amendment allows the Exchange to recognize such futures and options positions established by the counterparty, which are intended to offset the risks of the pass-through swap, as justification for a bona fide hedge exemption. The new paragraph provides that the counterparty (the applicant requesting the exemption) must prove a close linkage between the over-the-counter market underlying the pass-through swap and the Exchange futures or options market for which the exemption is requested. Additionally, the applicant must provide a written representation that the pass-through swap qualifies as a bona fide hedging transaction, as defined in CFTC Regulation 150.1. The Exchange will honor the representation so long as the counterparty has relied on it in good faith and the counterparty does not possess information that would cause a reasonable person to question the accuracy of such representation.

Amendments to Exchange Rule 6.13 (Exhibit B)

Amendments to paragraph (a) of Exchange Rule 6.13 provide that a market participant will not be permitted an additional business day to bring positions within position limits if the overage is related to the exercise or assignment of an options position if the overage occurs as of the last trading day for the corresponding futures contract, consistent with CFTC Regulation 150.1.

Further, the amendments to paragraph (c) of the Rule align the Rule with the requirements for requesting retroactive relief from Exchange-set position limits with CFTC Regulation 150. Specifically, a market participant will not be in violation of an Exchange-set position limit if it requests an exemption within one business day, but no later than five business days, following the day on which the position limit was exceeded and provides additional information to the Exchange substantiating its need for an exemption and subject to the following provisions: (i) for Commodities subject to CFTC Regulation 150.2, the overage is tied to sudden unforeseen increases in its bona fide hedging needs, and such Person provides a detailed explanation of the circumstances warranting the sudden or unforeseen increases to its bona fide hedging needs, subject to CFTC Regulations 150.1; (ii) for Commodities subject to position limits under CFTC Regulation 150.2, the overage is tied bona fide hedging or risk management needs for positions up to, but not in excess of, the applicable federal position limit; and (iii) for Commodities not subject to position limits under CFTC Regulation 150.2, the overage is tied to bona fide hedging, spread, or risk management position needs.

Amendments to Guidance on Position Limits (Exhibit C)

Amendments to the Exchange's Guidance on Position Limits provide guidance on the amendments noted above that are the result of the CFTC rulemaking. The amendments to the Guidance on Position Limits mirror the amendments previously described above, however, the document goes further to provide answers to frequently asked questions and to those which the Exchange deems relevant for compliance with the Exchange's position limits. As such, Exhibit C provides various amendments to the document to include relevant information related to the Exchange's position limits and accountability levels, processes for obtaining relief from position limits, and guidance specific to position limits for core-referenced and referenced contracts. Specifically, FAQs #1-6 provide guidance related to the time periods when position limits are in effect, how to calculate a position subject to position limits and the consequences of exceeding an Exchange-set position limit. FAQs #7 and #11-13 explain generally what exemptions are available to market participants and the process and requirements for requesting such exemptions, including enumerated bona fide hedge, spread, risk management and pass-through swap exemptions. While certain of the FAQs are specific to the changes related to the rulemaking, many codify longstanding guidance that Market Regulation has offered to market participants. The Exchange believes that the amendments to the document will aid the market in remaining in compliance with the Exchange's rules as participants navigate the new federal position limits regime. Lastly, the Exchange certifies other amendments to the Exchange Rules and Guidance on Position Limits FAQ, which are non-substantive in nature to align the rules and document with the related amendments.

<u>Amendments to the Request for Conditional Limit (Exhibit E)</u>

Amendments to the Exchange's Request for Conditional Limit provide clarity to market participants requesting the Conditional Limit as to which products are aggregated with the Henry LD1 Fixed Price Future and are subject to the terms of the Conditional Limit.

The Exchange intends to implement the changes to Exchange Rules 6.13 and 6.29, the amendments to the Exchange's Guidance on Position Limits FAQ, and Request for Conditional Limit on January 1, 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 amendments to Exchange Rules 6.13 and 6.29, the Exchange's Guidance on Position Limits FAQ, and Request for Conditional Limit 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 Rules 6.13 and 6.29, the Exchange's Guidance on Position Limits FAQ, and Request for Conditional Limit are set forth in the Exchange Rulebook, the FAQ, and the Request form, and will be enforced by the Exchange. The amendments to the Exchange's Guidance on Position Limits FAQ are provided to give market participants updated guidance on the requirements related to the Exchange's position limits, accountability levels, and position limit exemptions. The additional guidance included in the FAQ is intended to assist market participants in remaining in compliance with Exchange Rules, including Exchange Rules 6.13 and 6.29. In addition, trading of the relevant contracts is subject to all relevant Exchange rules which are enforced by the Market Regulation Department.

CONTRACTS NOT READILY SUBJECT TO MANIPULATION
The Exchange's futures and option on futures contracts are not readily subject to manipulation as they are based on established and liquid underlying cash markets and derivative contracts traded at other designated contract markets, in compliance with CFTC Regulation 38.200. In addition, trading of the contracts will be monitored by the Market Regulation Department.

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, such 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 Rules and Guidance on Position Limits FAQ to ensure that market participants have updated guidance and information related to the Exchange's position limits, accountability levels, and exemptions from position limits, in furtherance of CFTC Regulation 38.401. The FAQ and Request for Conditional Limit will also be available on the ICE Futures U.S. website.

PROTECTION OF MARKETS AND MARKET PARTICIPANTS

The amendments to the above-referenced Exchange Rules, FAQ, and Request form comply with Core Principle 12 and CFTC Regulation 38.650, as the rules and document are provided in furtherance of the Exchange's promotion of fair and equitable trading and to protect markets and market participants from abusive practices by any market participant and their agents.

FINANCIAL INTEGRITY OF CONTRACTS

The Exchange's futures and option on futures contracts will continue to be cleared by ICE Clear U.S. and ICE Clear Europe, registered derivatives clearing organizations subject to Commission regulation, and carried by registered futures commission merchants qualified to handle customer business.

The Exchange is not aware of any substantive opposing views expressed by members or others with respect to the amended Exchange Rules 6.13 and 6.29, the Exchange's Guidance on Position Limits FAQ, and Request for Conditional Limit 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.swartzer@ice.com.

Sincerely,

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 6.29. Exemptions

* * *

(c) [~~Written requests for exemptions to the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1st) day such position limits are in effect. Failure to file a position limit exemption request on a timely basis shall subject the Person seeking an exemption to disciplinary action pursuant to the Rules.~~] Each Person requesting a new exemption or renewal of an existing exemption from the position limits specified in this Chapter must submit a written request in the form specified by the Exchange, any additional information requested by the Exchange, and receive approval from the Market Regulation Department prior to exceeding such limits, except as otherwise provided in this Chapter. For contracts subject to physical delivery, the Person should endeavor to submit such requests to the Exchange no later than five (5) Business Days prior to the first (1^{st}) day such position limit is in effect. Failure to file a position limit exemption request on a timely basis may subject the Person seeking an exemption to disciplinary action pursuant to the Rules.

(d) Hedge Exemptions

(i) Requests for enumerated bona fide hedge exemptions must include information that demonstrates that the proposed positions are bona fide hedging positions, consistent with the definition of "bona fide hedging transaction or position" in CFTC Regulation 150.1 and qualifies as an enumerated bona fide hedging transaction or position listed in Appendix A to Part 150 of the CFTC's Regulations.

* * *

(iii) Pass-Through Swap

When applying for a pass-through swap exemption, as defined in CFTC Regulation 150.1, the Person seeking such exemption must provide an explanation of such Person's bona fide hedging counterparty's (as such term is defined in CFTC Regulation 150.1) 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 from the bona fide hedging counterparty that the pass-through swap qualifies as a bona fide hedging transaction or position 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.

(e) [~~Arbitrage,~~]Spread[~~ and Straddle~~] Exemptions

Exemptions may be granted for strategies consistent with the definition of *spread transaction* in CFTC Regulation 150.1 and/or, for those commodities subject to federal position limits under CFTC Regulation 150.2, for spread positions and strategies consistent with CFTC Regulation 150.3(a)(2)[~~arbitrage, intercommodity spread, intracommodity spread, and eligible option/option or option/futures spread or straddle positions~~].

([~~ii~~]A) When applying for a cash and carry exemption, the Person seeking the exemption must provide the cost of carrying the physical commodity, the minimum spread differential at which it will enter into a straddle position in order to obtain profit, and the quantity of stocks currently owned in Exchange licensed warehouses or tank facilities.

([~~iii~~]B) When granted a cash and carry exemption, the Person receiving the exemption shall agree that, before the price of the nearby contract month rises to a premium to the second (2nd) contract month, it will liquidate all long positions in the nearby contract month.

([~~iv~~]C) Block Trades may not be used to establish positions upon which a cash and carry exemption request is based.

(f) Risk Management Exemptions

When applying for a risk management exemption, 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, or, where applicable, an explanation of the corresponding commodity index being replicated.

[REMAINDER OF RULE UNCHANGED]

EXHIBIT B

(Additions are underlined and deletions are [~~struck through~~]; amendments included in Exchange Submission No. 21-152 subject to Commission approval have been highlighted in red and are not self-certified in this submission.)

Rule 6.13. Enforcement of Position Limits and Position Accountability Levels

(a) No Person may for itself or any Customer maintain a combination of Futures Contracts and Futures Equivalent Contracts which is, or which when aggregated in accordance with Rule 6.12 is, in excess of the limits established by this Chapter. For the purpose of the Rules contained in this Chapter:

(i) the futures equivalent of each Option Contract is the delta ratio published daily by the Exchange;

(ii) a long Futures Contract, a long Call Option and a short Put Option are on the same side of the market; similarly, a short Futures Contract, a short Call Option and a long Put Option are on the same side of the market;

(iii) in calculating a Futures Equivalent Contract position, all serial and regular Options for the Underlying Futures Contract shall be combined;

(iv) if a Person exceeds its position limit on any given Business Day due to changes in the deltas of the Options, or as the result of an Option assignment, the Person holding or controlling such position shall have one (1) Business Day to bring the position within the limit;

(v) in accordance with CFTC Regulation 150.1, paragraph (a)(iv) of this Rule shall not apply to contracts subject to federal limits under CFTC Regulation 150.2 on the last trading day for the corresponding futures contract.

(vi) All Persons are responsible for maintaining their position and their Customers' positions within the limits contained in this Chapter on both an intraday and end-of-day basis.

[~~All Persons are responsible for maintaining their position and their Customers' positions within the limits contained in this Chapter on both an intraday and end-of-day basis. If, however, a Person exceeds its position limit on any given Business Day due to changes in the deltas of the Options, or as the result of an Option assignment, the Person holding or controlling such position shall have one (1) Business Day to bring the position within the limits.~~]

(b) In the event the Exchange learns that any Person maintains positions in accounts with more than one Clearing Member such that the aggregate position in all such accounts exceeds the position limits or position accountability levels established by this Chapter, the Exchange may notify all Clearing Members maintaining or carrying such accounts of the total positions of such accounts. Such notice may also instruct each such Clearing Member to reduce the positions in such accounts twenty-four (24) hours after receipt of the notice, proportionately or otherwise so that the aggregate positions of such accounts at all such Clearing Members does not exceed the position limits and position accountability levels established by this Chapter, unless as provided by paragraph (c) below, a request for an exemption is made and granted by the Exchange pursuant to this Chapter. Any Clearing Member receiving such notice shall immediately take such steps as may be necessary to liquidate such number of Commodity Contracts as shall be determined by the Exchange in order to cause the aggregate positions of such accounts at such Clearing Members to comply with the position limits and position accountability levels established by this Chapter. Notwithstanding the foregoing, the Clearing Members may reduce the positions of such accounts by a different number of Commodity Contracts so long as after all reductions have been accomplished at all Clearing Members carrying such accounts, the positions at all such Clearing Members complies with the position limits and position accountability levels established by this Chapter.

(c) [~~In the event any Person exceeds its position limit due to sudden unforeseen increases in its bona fide hedging or risk management needs, such Person shall not be considered in violation of the Rules provided that such Person requests an exemption to carry such increased position within one (1) Business Day (unless the Market Surveillance Department has expressly approved a later filing which may not exceed five (5) Business Days), in each case following the day on which the position limit was exceeded and provided further that such exemption is granted by the Exchange.~~] In the event any Person exceeds its position limit such Person shall not be considered in violation of the Rules provided that such person requests an exemption to hold such increased position within one (1) Business Day, but no later than five (5) Business Days, in each case following the day on which the position limit was exceeded and provided further that such exemption is granted by the Exchange, subject to the following provisions:

(i) For Commodity Contracts subject to CFTC Regulation 150.2, the overage is tied to sudden unforeseen increases in its bona fide hedging needs, and such Person provides a detailed explanation of the circumstances warranting the sudden or unforeseen increases to its bona fide hedging needs, subject to CFTC Regulations 150.5 and 150.9, where applicable;

(ii) For Commodities subject to position limits under CFTC Regulation 150.2, the overage is tied bona fide hedging or risk management needs for positions up to, but not in excess of, the applicable federal position limit; or

(iii) For Commodities not subject to position limits under CFTC Regulation 150.2, the overage is tied to bona fide hedging, spread, or risk management position needs; and

(iv) If an application filed pursuant to this paragraph is denied, the applicant must bring its position within the Exchange's speculative position limits within a commercially reasonable time, as determined by the Exchange.

(d) Subject to the foregoing provisions of this Rule, in the event that a Person's position exceeds the position limits or position accountability levels established by this Chapter or ordered by the Exchange such Person shall liquidate such number of Contracts as the Exchange shall direct in order to eliminate the excess within such time as the Exchange may prescribe and shall report to the Exchange when such liquidations have been completed. If a Person fails to liquidate Contracts within the time prescribed by the Exchange, then, in addition to any other actions the Exchange may take, the Exchange may take such steps as it may deem necessary or appropriate to liquidate such Contracts on behalf and at the expense of such Person to the extent necessary to eliminate such excess. Without limiting the generality of the foregoing, if such Person is a Clearing Member, the Exchange may direct the Clearing Organization to effect such liquidation in accordance with the [~~Rule 803of the~~] Clearing Organization Rules. In addition, the Exchange in its discretion may require any Clearing Member carrying an account for such Person to obtain and hold additional original Margin from such Person in such amount and form and by such time as the Exchange shall specify until such excess has been eliminated.

EXHIBIT C

(Additions are underlined and deletions are [~~struck through~~]; amendments included in Exchange Submission No. 21-152 subject to Commission approval have been highlighted in red and are not self-certified in this submission.)

Guidance on Position Limits

[~~March 2021~~] January 2022

Guidance on Position Limits

The ICE Futures U.S. ("Exchange") Market Regulation Department ("MRD") is issuing the following guidance on the Exchange rules pertaining to position limits and position accountability levels. Note that the Rules should always be consulted in conjunction with any guidance document [~~,~~] and supersede any information in this guidance document.

Position Limits and Position Accountability Levels

Position limits are levels that may not be exceeded on an intraday or end-of-day basis unless an exemption has been obtained from the MRD. If a position limit is exceeded without an exemption, it is considered to be a violation of Exchange Rule 6.13 or 6.20.[1]

Position accountability levels may be exceeded without an exemption and will not be deemed a violation of Rule 6.13. Market participants who hold a position in excess of an accountability level may be subject to a position accountability review and asked by the MRD to provide information regarding the trading and/or hedging strategy and purpose underlying the position. In addition, Exchange rules provide that a market participant holding or controlling a position in excess of a position accountability level automatically consents to not increase further and to decrease those positions when so ordered by the MRD. Generally, a market participant will be contacted by the MRD to obtain information about the position before such instructions are issued.

Depending on the product, position limits or position accountability levels may be implemented during the following periods:

1. **Spot Month:** a period of days prior to the expiry of the front month contract, or, for physically delivered contracts, during the notice period or a defined period of time prior to expiry.
2. **Single Month:** any single contract month outside of the period the spot month position limit is in effect.
3. **All Months Combined:** net open positions held in all contract months of a product, including the spot month.

The dates on which spot month position limits are in effect vary by contract and market participants should reference the definitions provided for each product in Chapter 6 of the Exchange Rulebook. Additionally, the Exchange publishes a notice each month with the upcoming compliance dates for spot month position limits, which may be found at **https://www.theice.com/futures-us/notices**.

For position limits and position accountability levels, the Exchange aggregates (i.e. combines and nets) positions held in certain energy contracts with positions in other contracts on a positive or negative basis. The Exchange Position Limit Table indicates whether a contract has a positive or negative aggregate. Options positions are aggregated with the underlying futures contract on a futures-equivalent basis using the delta ratio published by the Exchange.

Certain energy contracts are defined as diminishing balance contracts. Generally, diminishing balance contracts are those where the final settlement price is based on the average of daily index prices during the contract month. For those contracts, the front month position decreases by a proportionate amount

[1] There are limited circumstances when an exemption may be obtained after a position limit is exceeded. Further information is provided in the Exchange Rule 6.29 and the FAQs that follow.

each day as the contract month nears expiration. Typically, the spot month position will begin to diminish prior to the date on which spot month position limits become effective.

Exchange position limits, accountability levels, aggregation codes, and diminishing balance identification can be found in the Exchange Position Limit Tables at:

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Position_Limit_Accountability_and_Reportable_Levels.xls

https://www.theice.com/publicdocs/futures_us_reports/all/IFUS_Position_Limits_Accountability_and_Reportable_Levels_for_Non-Energy_Products.xlsx

Aggregation of Positions

Position limits and position accountability levels apply to all positions in accounts under common ownership (ownership interest of 10% or greater) or control. In addition, where two or more participants trade pursuant to an expressed or implied agreement, the participants' positions will be aggregated as if the positions were held by a single person.

As provided in Exchange Rule 6.12, certain exemptions from aggregation are available. To obtain an exemption, a written request should be submitted to the MRD detailing the circumstances supporting the exemption. If a market participant has filed an exemption from aggregation request with the CFTC, a copy should be provided to the Exchange.

Exemptions from Position Limits

[~~As provided in Exchange Rule 6.29, the Exchange may grant position limit exemptions for positions held for the purposes of (i) bona fide hedging as defined by the CFTC or non-enumerated hedging strategies which are determined by the Exchange to be consistent with the purposes of hedging, (ii) arbitrage, spread or straddle strategies, and (iii) risk management strategies. To request an exemption, an exemption request form must be completed and submitted to the MRD no later than five business days before the first day the position limit is in effect. The form for requesting exemptions for energy contracts may be found at the link below.~~] As provided in Exchange Rule 6.29, the Exchange may grant position limit exemptions for positions held for the purposes of (i) bona fide hedging, as defined in CFTC Regulation 150.1, non-enumerated hedging strategies which are determined by the Exchange to be consistent with the purposes of hedging and are approved in accordance with Exchange rules and CFTC Regulations 150.1 and 150.9, where applicable, and pass-through swaps, (ii) spread positions, and (iii) risk management strategies. For those contracts subject to CFTC Regulation 150.2, exemptions from position limits for risk management strategies may only be provided for positions up to, but not in excess of, the applicable federal position limit, as defined in CFTC Regulation 150.2. To request an exemption for contracts not subject to CFTC Regulation 150.2, an exemption request form should be completed and submitted to the MRD no later than five business days before the first day the position limit is in effect. To request an exemption for contracts subject to CFTC Regulation 150.2, a completed exemption request form must be submitted to and approved by the MRD prior to exceeding the applicable position limit. The form for requesting annual exemptions for energy, foreign exchange, and certain agricultural contracts may be found at the link below.

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Position_Limit_Exemption_Form.doc

Additionally, Exchange Rule 6.20(c) allows for a Conditional Limit in the Henry Hub LD1 Fixed Price Future that allows a market participant to hold up to 40,000 contracts net long or short while position limits are in effect. The form for requesting a Conditional Limit for Henry Hub LD1 along with the corresponding requirements may be found at the link below.

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Conditional_Limit_Form.doc

For exemption request forms for non-energy contracts, the MRD should be contacted using the information provided below.

QUESTIONS

1. **Is it a violation of Exchange rules if a market participant exceeds position limits as a result of changes in option delta(s) or as a result of an option assignment?**

   The Exchange will allow a one-day grace period to bring a position within position limits in connection with position limit overages resulting from delta change(s) based on the price movement of the underlying futures contract or the assignment of an option position, provided the applicable futures equivalent position does not exceed position limits when evaluated under the previous business day's delta(s).

   For contracts subject to federal limits, this grace period does not apply on the last day of the spot month for the corresponding referenced futures contract for either changes in delta(s) or option assignments.

2. **If a market participant currently holds a position limit exemption, do they need to refile under the new rules, and if so, when?**

   Market participants currently holding a position limit exemption may continue to rely on that exemption until the expiration date noted in their approval letter, which will not exceed one year from the date of such approval. Risk management exemptions held in contracts subject to CFTC Regulation 150.2, held in excess of the applicable federal position limit, will expire on the earlier of the exemption's expiration date or December 31, 2022. Market participants looking to hedge using strategies not previously allowed or approved by the Exchange must file a new position limit exemption application.

3. **Are position limits effective intraday?**

   Yes, any positions, including positions established intraday, in excess of those permitted under the rules are deemed to be position limit violations.

4. **What happens if a market participant 1) exceeds a position limit and does not qualify for an exemption or 2) reduces the elevated position (while limits are in effect) to at or below the applicable position limit, but does not apply for an exemption?**

   MRD would consider any of the above circumstances to be a violation of the Exchange's applicable position limit Rules. The Department will consider a number of factors in determining the appropriate regulatory action, including, but not limited to, the size of the position in excess of the limit, previous violations, length of the violation, the circumstances that resulted in the violation and profitability.

5. **How is a market participant able to identify what Exchange contracts are deemed core-referenced or referenced futures contracts for federal position limits (150.2)?**

   Please refer to the Exchange's position limit Excel table(s) located on the **Market Resources** page, which identify whether a futures or options contract is deemed a core-referenced or referenced futures contract for federal position limits (CFTC Regulation 150.2). For the avoidance of doubt, contracts deemed referenced contracts will have position limits in effect during the same time periods as the core-referenced futures contracts, or as otherwise determined by the Exchange.

6. **How are positions in multiple contracts aggregated for purposes of position limits?**

   For position limits, the Exchange aggregates (i.e. combines and nets) positions held in certain energy contracts with positions in other contracts on a positive or negative basis. The Exchange Position Limit

Table indicates whether a contract has a positive or negative aggregate. Positions held in aggregated contracts are converted to a futures-equivalent position in the parent contract, which is identified by commodity code in the Position Limit Table. Options positions are aggregated with the underlying futures contract on a futures-equivalent basis using the delta ratio published by the Exchange and subsequently aggregated with positions held in the parent contract. Compliance with Exchange position limits for the aggregated position is assessed with relation to the parent contract's position limit.

Equivalent spot month position limits are provided as a courtesy in the Position Limit Table using the relevant commodity's contract size.

At this time, IFUS contracts subject to federal position limits will maintain the current aggregation as provided in the position limit table. Changes to position aggregation as a result of the new CFTC position limit regulations will become effective as of the CFTC compliance date of January 1, 2022.

7. **What information is required to be provided to the Exchange to support an enumerated bona fide hedge exemption?**

The applicant must provide: (1) an explanation or description of the hedging strategy including any information needed to enable MRD to determine whether the facts and circumstances demonstrate that it may grant an exemption, such as a description of the applicant's activity in the cash markets and swaps markets for the commodity underlying the position for which the application is submitted, which includes, but is not limited to, information regarding the offsetting cash positions; (2) a statement that the strategy complies with the bona fide hedge definition requirements; and (3) the relevant information that shows why or how the strategy meets the bona fide hedge definition requirements.

8. **Is the fixed-price cash market information currently submitted on Form 304 to the Commission required to be submitted to the Exchange?**

Yes, the Commission requires the Exchange to collect month-by-month fixed-price cash market positions in cotton in connection with bona fide hedging applications at least annually. This information will be shared with the Commission upon request and, as a result, is not required to be submitted to the Commission by such market participants. The requirement to submit Unfixed-Price Cotton "On Call" data to the Commission under CFTC Part 19 still exists.

9. **What is an allowable retroactive exemption?**

There are certain sudden or unforeseen circumstances in which a market participant may have to exceed the speculative limit or the level of a previously granted exemption prior to filing for exemptive relief with the Exchange. In those circumstances, the market participant may apply for a retroactive exemption within five (5) business days after it established such position. The applicant, must include, in its filing a detailed explanation of the circumstances warranting the sudden or unforeseen increases to its bona fide hedging needs.

For contracts subject to CFTC Regulation 150.2, such retroactive exemptions are not available for spread exemptions or inadvertent overages and may only be provided for unforeseen increases in bona fide hedging and, for risk management needs for positions up to, but not in excess of the federal position limit defined in CFTC Regulation 150.2. If the retroactive exemption is requested due to unforeseen bona fide hedging needs subject to CFTC Regulation 150.9, an approval by the Exchange will be subject to a 2-day review period by the CFTC before being considered approved for purposes of federal position limits.

However, for contracts **not** subject to federal limits, the Exchange will continue to recognize retroactive exemptions for bona fide hedge, spread positions or risk management strategies, provided the applicant applies within the prescribed period noted above and such exemption is ultimately approved by the Exchange.

10. What if the retroactive exemption is denied by the Exchange?

If MRD ultimately denies the request for a retroactive exemption, the applicant must bring its position under the speculative limit within a commercially reasonable time and in an orderly manner that does not cause disruption to the market. The Exchange, in its discretion and based on the facts and circumstances, may determine whether to impose a position limit violation for any retroactive exemption request for Exchange-set limits that the Exchange ultimately denies.

In accordance with CFTC Rule 150.9, the CFTC has a 2-day review process for a request for a retroactive exemption during which they can deny the request.

11. May a market participant request a spread exemption related to positions held pursuant to an arbitrage strategy?

Yes, an arbitrage strategy that is carried out and executed *simultaneously* or *contemporaneously* in two steps would be considered an allowable spread exemption. If the Exchange approves such requested exemption, it should be noted that the size of each “leg” of the arbitrage would have to be similar in size and must represent a correlated market.

For example, positions held as a result of the purchase (sale) of an ICE Henry Hub futures contract and the simultaneous sale (purchase) of a NYMEX Natural Gas futures contract would be deemed an allowable spread position.

12. For what markets may a market participant request a risk management exemption?

The Exchange will recognize risk management exemptions for all futures or options contracts until December 31, 2022. After that date, the Exchange will not recognize risk management exemptions *above* the federal position limit levels prescribed in CFTC Regulation 150.2 for contracts subject to federal limits. A market participant could, if applicable, request a pass-through swap exemption from the Exchange, provided it complies with CFTC Regulations.

For futures or options contracts that are **not** subject to federal position limits, the Exchange will continue to recognize risk management exemptions. A market participant must file an application and receive approval from MRD on at least a yearly basis.

13. What documentation is required for a pass-through swap to qualify as a bona fide hedge?

The pass-through swap counterparty must receive from the bona fide hedging swap counterparty a “written representation” that the pass-through swap qualifies as a bona fide hedging transaction as defined in CFTC Regulation 150.1. The pass-through swap counterparty may rely in good faith on such written representation, unless the pass-through swap counterparty has information that would cause a reasonable person to question the accuracy of the representation. This written representation must be accessible and maintained in accordance with CFTC recordkeeping requirements.

Although the Exchange does not require a prescribed form or manner by which the pass-through swap counterparty obtains the written representation, the pass-through swap counterparty may not rely solely upon the fact that the counterparty is a commercial end user.

14. **May a market participant request an exemption related to positions held pursuant to a non-enumerated bona fide hedge?**

Yes, provided that the positions meet the definition of bona fide hedge in CFTC Regulation 150.1 and, for those contracts subject to federal position limits under CFTC Regulation 150.2, are requested in accordance with CFTC Regulation 150.9 and Exchange rules. Regulation 150.9 was intended to streamline the process by which non-enumerated bona fide hedge exemption applications are addressed. Once the Exchange receives a request for exemptive relief in accordance with CFTC Regulation 150.9, it will internally review the application, request additional information if needed and then determine whether to recognize and approve, partially-approve, or deny the non-enumerated bona fide hedging strategy.

For those contracts **not** subject to federal position limits, a market participant may request a non-enumerated bona fide hedge exemption from the Exchange, in accordance with Exchange Rule 6.29.

16. **What's the Exchange's process once it approves a non-enumerated bona fide exemption**?

For those contracts subject to federal position limits under CFTC Regulation 150.2, the Exchange will, in parallel, send the approval letter to both the market participant and the CFTC. At which point, the CFTC will have 10 business days (or 2 business days, if deemed a retroactive exemption associated with sudden or unforeseen increases in its bona fide hedging needs) to review the exemption.

For those contracts **not** subject to federal position limits, the exemption is effective at the time of approval by the Exchange.

FOR MORE INFORMATION

Agricultural, Financial and Metals Contact:

Susan Gallant
212-748-4030
Susan.Gallant@ice.com

Energy Contact:

Patrick Swartzer
312-836-6745
Patrick.Swartzer@ice.com

EXHIBIT D

(For context, these forms have been included in Exchange Submission No. 21-152 subject to Commission approval and are not self-certified in this submission.)

ICE FUTURES U.S.
ENERGY, SUGAR #16, AND FOREIGN EXCHANGE

ANNUAL SPOT MONTH EXEMPTION REQUEST FORM

Questions related to this form should be directed to:

FOR ENERGY:

Patrick Swartzer, Director or Ryan McArthur, Senior Analyst
+1 (312) 836-6745 +1 (312) 836-6746
Patrick.Swartzer@ice.com Ryan.McArthur@ice.com

FOR SUGAR #16 / FOREIGN EXCHANGE:

Susan Gallant, Managing Director
+1 (212) 748-4030
Susan.Gallant@ice.com

Generally, this form should be submitted prior to exceeding a position limit by email to ICEFuturesUS-energylimits@theice.com, for energy contracts, or MarketSurveillance-US@theice.com, for Sugar #16 and Foreign Exchange contracts, or by mail to:

ICE Futures U.S.
Market Regulation
353 North Clark St, Suite 3100
Chicago, IL, 60654

Information for Applicant:

A. The Person this application is submitted on behalf of shall be deemed to be the "Applicant."

B. To request an exemption for contracts not subject to CFTC Regulation 150.2, an exemption request form should be completed and submitted to the Exchange no later than five business days before the first day the position limit is in effect. To request an exemption for contracts subject to CFTC Regulation 150.2, a completed exemption request form must be submitted to and approved by the Exchange prior to exceeding the applicable position limit. An Exemption shall not be deemed valid until the Applicant has received confirmation of approval from the Market Regulation Department for ICE Futures U.S. ("Market Regulation" or "Exchange").

C. Please refer to the Energy Position Limit, Accountability and Reportable Levels and Ag, Metal and Financial Products Position Limits tables for a complete listing of position limits, accountability levels and contract codes.

D. Position limits are effective during the periods detailed in IFUS Rules 6.20(d–i), 6.23, and 6.24.

E. Limits are effective on both an inter-day and intra-day basis. When position limits are in effect, a Person may not hold a position above the limit at any time without having an exemption.

F. The Exchange retains the right to limit exemption-eligible positions that it determines are not in accord with sound commercial practices or exceed an amount which may be established and liquidated in an orderly fashion.

G. In accordance with IFUS Rule 6.12, Aggregation of Positions, the accounts of a single person or group of entities under common ownership or control will be aggregated for position limit monitoring, unless an exemption from aggregation is requested and approved.

ICE FUTURES U.S.
ENERGY, SUGAR #16, AND FOREIGN EXCHANGE

REQUEST FOR ANNUAL EXEMPTION FROM SPOT MONTH POSITION LIMITS

1. Name of Applicant: ____

2. Address: ____

   City: ______________________ State: ______________________

   Zip Code: ______________________ Country: ______________________

   Tel #: (____)______________________ Fax #: (____)______________________

   E-Mail: ____

3. Clearing Member(s) where accounts will be maintained (if necessary, attach an additional sheet to list all Clearing Accounts):

   Name: ____

   Account Executive: ______________________ Tel #: (____)______________________

   Clearing Account Number(s): ____

4. Applicant's Position Monitoring and Risk Management Controls:

   Attach a statement documenting the policies and procedures currently implemented to monitor and ensure compliance with Exchange rules related to position limits and exempted levels. Please detail the systems used to monitor firm positions, any early warning tools, reports or alerts and the respective thresholds. Provide the most recent date of any position limit training provided to firm traders.

5. Nature of Applicant's Business and Justification for Exemption:

   a. Enclose a summary describing the nature of the applicant's business. Be specific as to exposure associated with different segments of the business. A reference to these details in an annual report, if applicable, may be used to satisfy this requirement. If an annual report is provided, please provide references to the descriptions of the relevant business segments.

   b. With respect to any application for an exemption from position limits, please provide:

      (i) a description of the exemption sought, including whether the exemption is for bona fide hedging transactions or positions as defined in CFTC Regulation 150.1 (bona fide hedging transaction or position), non-enumerated bona fide hedging transactions or positions, spread positions, or risk management positions;

      (ii) a complete and accurate explanation of the underlying exposure related to the exemption request that includes a description of the activity in the cash markets and swaps markets for the commodity underlying the position for which the application is submitted, including, but not limited to, information regarding any offsetting cash position(s);

(iii) a statement that the Person seeking the exemption agrees to comply with any restrictions, limitations, or denials imposed by the Exchange with regard to said positions;

(iv) a representation that any applicable Federal requirements relating to the proposed positions have been complied with and that any necessary approvals of the Commission have been obtained;

(v) a statement that the Person seeking the exemption is in compliance with all other applicable Rules and requirements;

(vi) a statement that the Person seeking the exemption agrees to submit immediately a supplemental statement to the Exchange explaining any change in circumstances affecting the positions;

(vii) a statement that such positions will be initiated and liquidated in an orderly manner; and

(viii) such further information as the Exchange may request.

Please note that for any exemption(s) renewal, the Exchange requires the applicant to provide the most updated information in satisfaction of a-e above, as well as the most recent applicable exposures that justify the exemptions requested. The applicant should not provide prior year(s) exposures or information if no longer relevant. Lastly, if an applicant requests multiple exemptions in one filing, it must ensure all the information is accurate and complete. Exemptions that are incomplete or fail to contain sufficient information will delay the approval process or may result in a denial of a request.

6. Bona Fide Hedge Exemption

Complete sections 6.a., 6.b., 6.c., and 6.d. (when applicable) for each Futures Contract as described below:

Section 6.a.: For each Futures Contract report the actual cash commodity, products, or by-products and spot location(s) hedged; and the Long and/or Short exemption level requested.

Section 6.b.: For each Futures Contract, indicate whether the position is established for principle ownership or as an agent.

Section 6.c.: For each Futures Contract for which an exemption is requested, please report any exposures supporting the request for the exemption in the categories listed in the section below. For each exposure enter the quantity and time period (daily, monthly, annually) and the units in which the exposure is measured.

For all applications for exemption(s) from position limits related to a bona fide hedging transaction or position, such transaction or position must:

(i) represent a substitute for transactions made or to be made, or positions taken or to be taken, at a later time in a physical marketing channel;

(ii) the position is economically appropriate to the reduction of price risks in the conduct and management of a commercial enterprise; and arises from the potential change in the value of any of the exposures provided in CFTC Regulation 150.1, or is otherwise consistent with the definition of *bona fide hedging transaction or position* in CFTC Regulation 150.1. This description should include a factual and legal analysis that justifies the pursuit of the exemption requested.

(iii) For applications based on hedges of anticipatory exposures: the exemption(s) requested must not exceed the amount of the applicable anticipated exposures of the cash commodity.

6.a. Futures Contract: ____________________

Cash Commodity Hedged: ____________________

Long Exemption Level Requested (in Lots*): ____________________

Short Exemption Level Requested (in Lots*): ____________________

The level requested above should be inclusive of the applicable spot month limit. For example, if an applicant is requesting a long and short exemption for 4,000 lots in the ICE Henry LD1 Fixed Price Futures contract, it should denote 12,000 lots on the long and short lines above.

6.b. Position established as Principal (Y/N) ______
Position established as Agent (Y/N) ______

6.c. Inventory (i.e. 10 Bcf): ____

Fixed-price sale commitment of cash commodity:_______________________________________

Fixed-price purchase commitment of cash commodity: __________________________________

Unfixed-price sale of cash commodity: ____

Unfixed-price purchase of cash commodity: ____

Unfilled anticipated requirements of the cash commodity: ________________________________

Unsold anticipated production of the cash commodity: __________________________________

Anticipated merchandising positions (limited to 12 months current or anticipated)[2]: ____________

Anticipated services: ____

[2] For applications based on hedges of anticipated merchandising: the position requested must not exceed 12 months of current or anticipated purchase or sale requirements of the same cash commodity that is anticipated to be purchased or sold. The applicant seeking such exemption is a merchant handling the underlying commodity that is subject to the anticipatory merchandising hedge, and such merchant must be entering into the position solely for purposes related to its merchandising business, for which it has a demonstrated history of buying and selling the underlying commodity pursuant to such business' operations.

Pass-through swap positions: ____

(Y/N) ______ The applicant has provided a written representation that the swap of the pass-through swap counterparty qualifies as a bona fide hedging transaction in accordance with CFTC Regulation 150.1 to the Exchange.

Please provide a description of the activity in the cash markets and swaps markets for the commodity underlying the position for which the application is submitted, including, but not limited to, information regarding any offsetting cash position(s).

____

____

6.d. Non-enumerated bona fide hedge positions - CFTC Regulation 150.9:

Please provide the following information for each of the components below:

A description of position in the relevant contract, which includes the name of the underlying commodity, size of the position in such commodity, and size of the position in the relevant contract:

____

____

An explanation of the hedging strategy, including a statement and information to support that the position complies with Exchange Rule 6.29, CFTC Regulation 150.1, and section 4a(c)(2) of the Act, where applicable:

____

____

A statement concerning the maximum size of all gross positions in commodity derivative contracts for the relevant contract:

____

____

A description of the applicant's activity in the cash markets and the swaps markets for the commodity underlying the position for which the request is submitted, including, but not limited to, information regarding the offsetting cash positions:

____

____

For those contracts subject to federal position limits under CFTC Regulation 150.2 and exemptions approved under CFTC Regulation 150.9, the Exchange will, in parallel, send the

approval letter to both the market participant and the CFTC. At which point, the CFTC will have 10 business days (or 2 business days, if deemed a retroactive exemption associated with sudden or unforeseen increases in its bona fide hedging needs) to review the exemption. Additional guidance and expectations are provided in IFUS's Guidance on Position Limits document.

7. Spread Exemption:

Complete the applicable section below and enclose a summary describing the size and nature of the strategy. Be specific as to the methodology employed to establish the positions of the strategy (i.e. manual, automated), units of conversion and existing or past offsetting risks/exposures. The application must include information to support that the legs of the spread have a material economic relationship. Exemptable spread strategies must conform to those strategies described in CFTC Regulation 150.1 and Appendix G to CFTC Part 150.

7.a. Spread Exemption

Futures Contract: ____________________

Long Exemption Level Requested (in Lots*): ____________________

Short Exemption Level Requested (in Lots*): ____________________

****The level requested above should be inclusive of the applicable spot month limit. For example, if an applicant is requesting a long and short exemption for 4,000 lots in the ICE Henry LD1 Fixed Price Futures contract, it should denote 12,000 lots on the long and short lines above.***

Explanation of strategy:

____

____

8. Risk Management Exemption:

Risk management exemptions may be granted by the Exchange those commodities not subject to CFTC Regulation 150.2 (e.g. excluded commodities), and beginning January 1, 2023, for those commodities subject to federal position limits under CFTC Regulation 150.2, for quantities up to, but not in excess of, the applicable federal limit. An applicant seeking such exemption shall complete Section 8.a. and enclose an explanation of the positions or risk/exposure in the underlying cash market, related cash market, related over-the-counter market, or commodity index being replicated and explain the linkage between the futures or options contract. Please include the gross long and/or short exposures.

8.a. Futures Contract: ____________________

Long Exemption Level Requested (in Lots*): ____________________

Short Exemption Level Requested (in Lots*): ____________________

****The level requested above should be inclusive of the applicable spot month limit. For example, if an applicant is requesting a long and short exemption for 4,000 lots in the ICE***

Henry LD1 Fixed Price Futures contract, it should denote 12,000 lots on the long and short lines above.

This exemption shall not be effective unless approved in writing by the Exchange and expires pending renewal one year after the date of approval. The approval of this application shall not in any way limit the authority of the Exchange to take emergency or discretionary non-emergency action. The Exchange may condition or revoke an exemption based on the applicant's business needs, financial status and integrity, or on the liquidity, depth and volume of the market for which the exemption is requested.

Applicant agrees to comply with all other Rules and requirements of the Exchange. Additionally, the applicant agrees to immediately inform the Exchange of any material changes to the information provided in this application and provide documentation of such material changes, pursuant to Exchange Rule 6.29.

Applicant attests that the positions held pursuant to this application comply with the requirements of section 4a(c)(2) of the Act and the relevant definitions in CFTC Regulation 150, where applicable.

Applicant agrees to initiate and liquidate its positions in an orderly manner and to not cause undue burden on the market.

The undersigned certifies that this application is executed by an officer of the Applicant, or by one of its duly authorized representatives, as of the date shown below.

Name: ______________________________ (Please Print)

Date: ______________________________

Signed: ______________________________

Position/Title: ______________________________

Tel #: ______________________________

E-Mail: ______________________________

ICE FUTURES U.S.

SINGLE AND NET OVERALL MONTHS*

EXEMPTION REQUEST FORM

Information for Applicant

a. The position limits for Exchange Futures and Options contracts specified in Chapter 6 of the Exchange Rules shall not apply to (i) enumerated bona fide hedging positions or non-enumerated hedging positions which are otherwise determined by the Exchange to be consistent with the purposes of hedging, as defined in and subject to CFTC Regulations 150.1 and 150.3(a)(1)(i), and are approved in accordance with Rule 6.29, (ii) spread positions, as defined in CFTC Regulation 150.1, 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 for which an exemption has been granted by the Exchange.

b. To be eligible for an exemption to the position limit rules of the Exchange, a written request, in the form provided by the Exchange, must be submitted to the Market Surveillance Department.

c. To apply for an exemption for a position which may include a combination of hedge and spread and risk management positions, please be aware that the position limits which are requested in answer to question 2 below should reflect the total position limit which the Applicant may require. In answering question 3, please provide details regarding what portion of the position may include spread and/or risk management positions.

d. Position limits are effective on both an inter-day and intra-day basis and a Person may not hold a position above the limit at any time without having an exemption.

e. For a pass-through swap to qualify as a bona fide hedge, the pass-through swap counterparty must receive from the bona fide hedging swap counterparty a "written representation" that the pass-through swap qualifies as a bona fide hedging transaction as defined in CFTC Regulation 150.1. The pass-through swap counterparty may rely in good faith on such written representation, unless the pass-through swap counterparty has information that would cause a reasonable person to question the accuracy of the representation. This written representation must be accessible and maintained in accordance with CFTC recordkeeping requirements.

   Although the Exchange does not require a prescribed form or manner by which the pass-through swap counterparty obtains the written representation, the pass-through swap counterparty may not rely solely upon the fact that the counterparty is a commercial end user.

f. The Person submitting this application shall be deemed to be the “Applicant”.

* Please use the Notice Period or Spot Month exemption form when applying for exemptions that fall in those categories. Forms are available upon request from the Market Surveillance Department at (212) 748-4030 or marketsurveillance-us@ice.com

ICE FUTURES U.S.
REQUEST FOR EXEMPTION FROM POSITION LIMITS FOR SINGLE AND NET OVERALL MONTHS

1. Name of Applicant: ____

   Street: ____

   City: ______________________ State/Country: ______________________

   Zip/Postal Code: ______________________

   Phone: ____

   E-mail Address: ____

2. What position limits are needed for this firm's hedging, spread and/or risk management requirements?

   Commodity: ____

   Long position in any single month: ______________________________

   Short position in any single month: ______________________________
   *includes futures equivalent of options positions

   Long position net overall months: ______________________________

   Short position net overall months: ______________________________
   *includes futures equivalent of options positions

   *Futures equivalents of options are the number of options multiplied by their corresponding deltas, long calls (+), short calls (-), long puts (-), short puts (+).

3 (a) <u>Exemption for Bona Fide Hedge</u>

Please provide specific information which will demonstrate that the proposed positions are bona fide hedging positions as defined in CFTC Regulation 150.1 and consistent with hedging strategies for the relevant commercial market. In particular, describe the size and nature of the offsetting cash transactions, physical positions and swaps to be hedged including information about the pricing structure of the cash transactions. The definitions of each category may be found in CFTC Regulation 150.1. For Cotton No. 2, please include a 12-month history of month-by-month fixed-price cash market positions, including inventory, purchases and sales. (Attach separate sheet, as necessary.)

Inventory : ____

Fixed-price sale commitment of cash commodity:____________________ ____________________________

Fixed-price purchase commitment of cash commodity: ____

Unfixed-price sale of cash commodity: ____

Unfixed-price purchase of cash commodity: ____

Unfilled anticipated requirements of the cash commodity for manufacturing: ___________________________

Unsold anticipated production of the cash commodity: ____

Anticipated merchandising positions (limited to 12 months current or anticipated)[3]: ____

Anticipated services: ____

Pass-through swap positions: ____

(Y/N) ______ The applicant has provided a written representation that the swap of the pass-through swap counterparty qualifies as a bona fide hedging transaction in accordance with CFTC Regulation 150.1 to the Exchange.

[3] For applications based on hedges of anticipated merchandising: the position requested must not exceed 12 months of current or anticipated purchase or sale requirements of the same cash commodity that is anticipated to be purchased or sold. The applicant seeking such exemption is a merchant handling the underlying commodity that is subject to the anticipatory merchandising hedge, and such merchant must be entering into the position solely for purposes related to its merchandising business, for which it has a demonstrated history of buying and selling the underlying commodity pursuant to such business' operations.

b) Exemption for Spread

Provide specific information that will demonstrate that the proposed transactions are spread positions as defined in CFTC Regulation 150.1 and Appendix G to CFTC Part 150. (Attach separate sheet, if necessary.)

c) Exemption for Risk Management Exposure

Risk management exemptions may be granted by the Exchange for those commodities not subject to CFTC Regulation 150.2 (e.g. excluded commodities), and beginning January 1, 2023, for those commodities subject to federal position limits under CFTC Regulation 150.2, for quantities up to, but not in excess of, the applicable federal limit. Please provide an explanation of the positions or risk/exposure in the underlying cash market, related cash market, related over-the-counter market, or commodity index being replicated and explain the linkage between the futures or options contract. Please include the gross long and/or short exposures. (Attach separate sheet, if necessary.)

d) Non-enumerated bona fide hedge positions - CFTC Regulation 150.9:

Please provide the following information for each of the components below:

A description of position in the relevant contract, which includes the name of the underlying commodity, size of the position in such commodity, and size of the position in the relevant contract:

An explanation of the hedging strategy, including a statement and information to support that the position complies with Exchange Rule 6.29, CFTC Regulation 150.1, and section 4a(c)(2) of the Act, where applicable:

____

____

A statement concerning the maximum size of all gross positions in commodity derivative contracts for the relevant contract:

____

____

A description of the applicant's activity in the cash markets and the swaps markets for the commodity underlying the position for which the request is submitted, including, but not limited to, information regarding the offsetting cash positions:

____

____

For those contracts subject to federal position limits under CFTC Regulation 150.2 and exemptions approved under CFTC Regulation 150.9, the Exchange will, in parallel, send the approval letter to both the market participant and the CFTC. At which point, the CFTC will have 10 business days (or 2 business days, if deemed a retroactive exemption associated with sudden or unforeseen increases in its bona fide hedging needs) to review the exemption. Additional guidance and expectations are provided in IFUS's Guidance on Position Limits document.

The exemption shall not be effective unless approved in writing by the Exchange. Single month and net overall month exemptions expire pending renewal one year after the date of approval. .

Approval of this application shall not in any way limit the authority of the Exchange to take emergency or discretionary non-emergency action.

The Exchange may condition or revoke an exemption based on the Applicant's business needs, financial status and integrity, or on the liquidity, depth and volume of the market for which the exemption is sought.

4. Please provide the names of all firms where the Applicant maintains accounts trading the futures and/or options market for which an exemption is requested:

____

____ -

5. The Applicant agrees to the following:

    a. That the intended transactions are bona fide hedge transactions or non-enumerated transactions which are otherwise determined by the Exchange to be consistent with the purposes of hedging and/or spread transactions and/or risk management positions;
    b. That the Applicant will comply with whatever restrictions or limitations are imposed by the Exchange with regard to said positions;
    c. That the proposed positions comply with any applicable Federal requirements;
    d. For requests involving pass-through swaps, that "written representation" has been received from the pass-through swap counterparty that the pass-through swap qualifies as a bona fide hedging transaction as defined in CFTC Regulation 150.1.
    e. That the Applicant is in compliance with all applicable Exchange rules and requirements;
    f. That the Applicant will immediately submit a supplemental statement to the Exchange explaining any change in circumstances affecting the positions and
    g. That such positions will be initiated and liquidated in an orderly manner.

Signature: ________________________________

Name: ____________________________________

Title: _____________________________________

Date: _____________________________________

Phone: ____________________________________

E-Mail Address: ____________________________

Please designate a person to be contacted regarding questions on this request if other than above:

Name: ___________________________________

Phone: ___________________________________

E-Mail Address: ____________________________

Please return completed forms to:

Susan Gallant or Sasha Herlihy
(212) 748-4030 (212) 748-4047
susan.gallant@ice.com sasha.herlihy@ice.com

ICE FUTURES U.S.

NOTICE PERIOD OR SPOT MONTH*

EXEMPTION REQUEST FORM

Information for Applicant

a. The position limits for Exchange Futures and Options contracts specified in Chapter 6 of the Exchange Rules shall not apply to (i) enumerated bona fide hedging positions or non-enumerated hedging positions which are otherwise determined by the Exchange to be consistent with the purposes of hedging, as defined in and subject to CFTC Regulations 150.1 and 150.3(a)(1)(i), and are approved in accordance with Rule 6.29, (ii) spread positions, as defined in CFTC Regulation 150.1, 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 for which an exemption has been granted by the Exchange.

g. To be eligible for an exemption to the position limit rules of the Exchange, a written request, in the form provided by the Exchange, must be submitted to the Market Surveillance Department.

h. To apply for an exemption for a position which may include a combination of hedge and spread positions, please be aware that the position limits which are requested in answer to question 2 below should reflect the total position limit which the Applicant may require. In answering question 3, please provide details regarding what portion of the position may include spread positions.

i. Position limits are effective on both an inter-day and intra-day basis and a Person may not hold a position above the limit at any time without having an exemption.

j. The Person submitting this application shall be deemed to be the "Applicant".

* Please use the Single and Net Overall Months exemption form when applying for exemptions that fall in those categories. Forms are available upon request from the Market Surveillance Department at (212) 748-4030 or marketsurveillance-us@ice.com.

ICE FUTURES U.S.
REQUEST FOR EXEMPTION FROM POSITION LIMITS FOR NOTICE PERIOD OR SPOT MONTH

1. Name of Applicant: ____

   Street: ____

   City: ___________________________ State/Country: ______________________

   Zip/Postal Code: ______________________

   Phone: ____

   E-mail Address: ____

2. What notice period or spot month position limits are needed for the Applicant's bona fide hedging and spread requirements?

   Commodity and Contract Month: _____________________________________

   Long position during upcoming period: _________________________________

   Short position during upcoming period: ________________________________

3 (a) Exemption for Bona Fide Hedge

Please provide specific information which will demonstrate that the proposed positions are bona fide hedging positions as defined in CFTC Regulation 150.1 and consistent with hedging strategies for the relevant commercial market. In particular, describe the size and nature of the offsetting cash transactions, physical positions and swaps to be hedged including information about the pricing structure of the cash transactions. Also include information about delivery intentions and capability. (Attach separate sheet, if necessary.)

____

____

____

____

____

Are the cash market transactions described above to take place during the delivery period for which the hedge exemption is required?
Yes ______ No ______

If the answer to the above question is no, explain why the exemption is required for this period.

____

____

____

In addition, for exemption requests for quantities in excess of the applicable CFTC spot month position limit[4], please provide any exposures for the upcoming delivery period supporting the request for the exemption in the categories listed in the section below.

Inventory: ____

Fixed-price sale commitment of cash commodity:________________________________

Fixed-price purchase commitment of cash commodity: ___________________________

Unfixed-price sale of cash commodity: _______________________________________

Unfixed-price purchase of cash commodity: ___________________________________

Unfilled anticipated requirements of the cash commodity: _________________________

Unsold anticipated production of the cash commodity: ____________________________

Anticipated merchandising positions[5]: _______________________________________

Anticipated services: ____

Pass-through swap positions: ____

[4] CFTC spot month position limits: Cocoa--4,900 contracts. Coffee “C”--1,700 contracts, Cotton No. 2--900 contracts, FCOJ-A--2,200 contracts and Sugar No. 11--25,800 contracts.

[5] For applications based on hedges of anticipated merchandising: CFTC requirements provide that the position requested must not exceed 12 months of current or anticipated purchase or sale requirements of the same cash commodity that is anticipated to be purchased or sold. The applicant seeking such exemption is a merchant handling the underlying commodity that is subject to the anticipatory merchandising hedge, and such merchant must be entering into the position solely for purposes related to its merchandising business, for which it has a demonstrated history of buying and selling the underlying commodity pursuant to such business’ operations.

(Y/N) ______ The applicant has provided a written representation that the swap of the pass-through swap counterparty qualifies as a bona fide hedging transaction in accordance with CFTC Regulation 150.1 to the Exchange.

e) Exemption for Spread

For a cash and carry spread exemption, provide the Applicant's cost of carry (in points per pound or metric ton) ____________, which includes financing, warehousing, insurance and, for coffee "C", expected aging discounts. Also provide the minimum price level of the spread (points) at which the Applicant will enter into a spread position and which would result in an economic profit for the Applicant:

____

Finally, provide the quantity of stocks owned by the Applicant that currently are stored in warehouses of storage companies licensed by the Exchange:

____

For a cash and carry exemption, all long positions in the nearest futures month must be liquidated prior to the nearest futures month rising to a premium with respect to the second futures month.

f) Non-enumerated bona fide hedge positions - CFTC Regulation 150.9:

Please provide the following information for each of the components below:

A description of position in the relevant contract, which includes the name of the underlying commodity, size of the position in such commodity, and size of the position in the relevant contract:

____

____

An explanation of the hedging strategy, including a statement and information to support that the position complies with Exchange Rule 6.29, CFTC Regulation 150.1, and section 4a(c)(2) of the Act, where applicable:

____

____

A statement concerning the maximum size of all gross positions in commodity derivative contracts for the relevant contract:

____

____

A description of the applicant's activity in the cash markets and the swaps markets for the commodity underlying the position for which the request is submitted, including, but not limited to, information regarding the offsetting cash positions:

____

____

For those contracts subject to federal position limits under CFTC Regulation 150.2 and exemptions approved under CFTC Regulation 150.9, the Exchange will, in parallel, send the approval letter to both the market participant and the CFTC. At which point, the CFTC will have 10 business days (or 2 business days, if deemed a retroactive exemption associated with sudden or unforeseen increases in its bona fide hedging needs) to review the exemption. Additional guidance and expectations are provided in IFUS's Guidance on Position Limits document.

The exemption shall not be effective unless approved in writing by the Exchange and expires on the last trading day of the notice period or spot month to which it applies.

Approval of this application shall not in any way limit the authority of the Exchange to take emergency or discretionary non-emergency action.

The Exchange may condition or revoke an exemption based on the Applicant's business needs, financial status and integrity, or on the liquidity, depth and volume of the market for which the exemption is sought.

4. Please provide the names of all firms where the Applicant maintains accounts trading the futures and/or options market for which an exemption is requested.

____

____

6. The Applicant agrees to the following:

   a. That the intended transactions are bona fide hedging transactions or non-enumerated transactions which are determined to be consistent with bona fide hedging strategies and are approved in accordance with Exchange Rule 6.29 and CFTC Regulation 150.9, where applicable,and/or spread transactions;

b. That the Applicant will comply with whatever restrictions or limitations are imposed by the Exchange with regard to said positions;
c. That the proposed positions comply with any applicable Federal requirements;
d. That the Applicant is in compliance with all applicable Exchange rules and requirements;
e. That the Applicant will immediately submit a supplemental statement to the Exchange explaining any change in circumstances affecting the positions and
f. That such positions will be initiated and liquidated in an orderly manner.

Signature: ______________________________

Name: __________________________________

Title: __________________________________

Date: __________________________________

Phone: _________________________________

E-Mail Address: __________________________

Please designate a person to be contacted regarding questions on this request if other than above:

Name: _______________________________

Phone: _______________________________

E-Mail Address: ________________________

Please return completed forms to:

Susan Gallant or Sasha Herlihy

Susan Gallant
(212) 748-4030
susan.gallant@ice.com

or

Sasha Herlihy
(212) 748-4047
sasha.herlihy@ice.com

EXHIBIT E

ICE FUTURES U.S., INC.
ENERGY

REQUEST FOR CONDITIONAL LIMIT

The Applicant listed below hereby requests a Conditional Limit for the **ICE Henry LD1 Fixed Price Future (H)** during the period that spot month position limits are in effect and agrees: (1) not to establish, hold, or control a position in the corresponding CME/NYMEX Henry Hub Natural Gas Futures (NG) contract during the last three days of trading of a contract month while holding a position in the Henry LD1 Fixed Price Future in excess of the contract's spot month position limit; (2) upon request of the Exchange, to provide information on all positions related to Henry Hub Contracts, and such other information as may be requested by the Exchange; and (3) to report to the Exchange any positions established, whether by trading or otherwise, in the spot month CME/NYMEX Henry Hub Natural Gas Futures (NG) contract during the last three days of trading of a contract month. The Applicant acknowledges that positions in the H contract include positively aggregated futures and options positions defined in Resolution No. 2 to Chapter 18.[~~-equivalent positions held in the Henry LD1 Fixed Price Future 25K (HHL) and Henry Cal 1X Fixed Price Options (HHA) contract.~~]

Applicant Information:

Applicant Name: ______________________________ Date: ____________________

Requested Expiration Date: ______________________________

Submitted by (Print Name): ____________________ Signed: ____________________

Position/Title: ______________________________ Telephone #: ____________________

Address: ______________________________

E-Mail: ______________________________

The Conditional Limit will be effective upon receipt and should be submitted to ICE Futures U.S. Market Regulation at IFUSenergy@theice.com.

Any questions regarding this application should be directed to:

Patrick Swartzer, Director - Market Regulation, at (312) 836-6745 / Patrick.Swartzer@ice.com or IFUSenergy@theice.com.