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## **BY ELECTRONIC TRANSMISSION**

Submission No. 18-518  
December 19, 2018

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

**Re: Amendments to Rule 23.04 (Cash Settlement Procedures for MSCI Index Futures Contracts - Unexpected Market Closure Event) - 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 self-certifies the amendments to Rule 23.04 set forth in Exhibit A. The amendments establish the procedure for determining the Final Settlement Value (“FSV”) for an expiring MSCI Index futures contract in the event of an unexpected market closure impacting an index constituent on the Last Trading Day (‘LTD’).

Earlier this year and as a result of client demand, MSCI put out a proposal and request for comment concerning a methodology that addresses unexpected market closures affecting the trading of underlying MSCI Index constituents on the LTD of an MSCI Index futures contract. MSCI subsequently adopted the proposed methodology, which is now reflected in the MSCI Unexpected Market Closures Index Methodology (“Methodology”) published on its website<sup>1</sup>. The Methodology only impacts the rules for FSV of futures contracts based on MSCI Indexes.

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[https://www.msci.com/eqb/methodology/meth\\_docs/MSCI\\_Unexpected\\_Market\\_Closure\\_Indexes\\_methodology\\_November\\_2018\\_2.pdf](https://www.msci.com/eqb/methodology/meth_docs/MSCI_Unexpected_Market_Closure_Indexes_methodology_November_2018_2.pdf)

In sum, the Methodology provides that, in the event of an “unexpected market closure” (for example, a typhoon resulting in a previously unscheduled Asian market closure) on the LTD of an expiring MSCI Index futures contract (which is typically the 3<sup>rd</sup> Friday of the expiry month), MSCI will:

- (1) declare that day as disrupted, and issue an announcement of the market disruption that includes a list of all MSCI indices that include that disrupted market; and
- (2) for each affected index, calculate an Adjusted Settlement Index level to be used by the relevant licensed exchanges for final settlement purposes. The Adjusted Settlement Index level for each affected index will be calculated by MSCI once trading resumes in the disrupted market; MSCI will allow a maximum of five business days after the LTD for trading to resume in the disrupted market, and if a market is still disrupted on the 5th business day after the LTD MSCI will use the most recent prior prices and FX rates from the LTD to calculate the Adjusted Settlement Index

In order to utilize the Adjusted Settlement Index for final settlement of an affected futures contract month, the relevant exchange would postpone the final settlement date for the impacted MSCI Index futures contract months for up to five business days.

To provide certainty and consistency to market participants, MSCI requested that all of the exchanges listing futures contracts based on its indexes adopt rules incorporating the use of Methodology. IFUS agrees with this goal and is amending Exchange Rule 23.04 to expressly incorporate the use of the Methodology when there is a disruption on the last trading day for an expiring contract. Specifically, this change is reflected in new paragraph (b) of Rule 23.4, which states that the final settlement value shall be “calculated by MSCI in accordance with the Unexpected Market Closures Index Methodology as published by MSCI” and provides for the FSV payment to be delayed applies to each MSCI Index futures contract listed by the Exchange.

In addition, paragraph (c) of that Rule is also being amended to provide that payment of the final settlement amount shall be made by ICUS on the second business day following LTD, rather than on the next business day, which is the current practice. This change is being made to provide the ability for ICE systems to timely defer the final settlement process for an expiring MSCI futures contract in the event of a market disruption. It should be noted that this change, payment being required on the 2<sup>nd</sup> business day after LTD rather than the first, will be applicable in all cases, whether or not there is an unexpected market closure that requires deferral to allow for calculation of an Adjusted Settlement Index level.

As part of our due diligence, IFUS put out a consultation notice and has been canvassing market participants. MSCI and other exchanges that trade MSCI Index products (ICE Futures Europe, CBOE, Eurex, HKEX, and SGX) have also conducted similar market research regarding the proposed changes. Feedback from market participants has been positive, and has included a strong preference that all Exchanges listing futures contracts based upon the MSCI Indexes should implement this methodology at the same time. Furthermore, based on feedback from IFUS/ICE Futures Europe and MSCI market participants, the Exchange has decided to make the amendments effective for the March 2019 expiries.

The Exchange is not aware of any opposing views and certifies that the amendments to Rule 23.04, which will become effective on January 7, 2019 for the March 2019 expiration, comply with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendments comply with core principle 2 (Compliance with Rules), core principle 4 (Prevention of Market Disruption) and core principle 7 (Availability of Information). The adoption of the Methodology provides markets participants with clear guidance, published in the Rules of the Exchange and available on the Exchange's website, regarding the FSV determination for MSCI Index futures contract in the event of an unexpected market closure. The Exchange believes that the availability of such clear guidance should minimize any disruption caused by an unexpected closure on LTD.

The Exchange further certifies that concurrent with this filing a copy of this submission was posted on the Exchange's website, which may be accessed at (<https://www.theice.com/futures-us/regulation#Rule-Filings>).

If you have any questions or need further information, please contact me at 212-748-4021 or at [jason.fusco@theice.com](mailto:jason.fusco@theice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Jason V. Fusco". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.  
cc: Division of Market Oversight

## EXHIBIT A

[In the text below, additions are underlined and deletions are struck through]

### CHAPTER 23

#### MSCI INDEX FUTURES AND OPTIONS

##### 23.1 Scope of Chapter

This chapter is limited in application to trading of MSCI Index Futures Contracts. The procedures for trading, clearing, settlement, and any other matters not specifically covered herein shall be governed by the general Rules of the Exchange.

Each MSCI Index referenced in this chapter is subject to change by MSCI, Inc. as set forth in the MSCI Global Investable Market Indices Methodology: *Index Construction Objectives, Guiding Principles and Methodology for the MSCI Global Investable Market Indices* as that document is amended, updated and replaced from time-to-time. Pursuant to the terms of the license granted by MSCI to the Exchange, under certain circumstances, the Exchanges may become responsible for maintaining, changing or amending the index upon which the Futures specified in this Chapter is valued.

The terms and conditions of the Futures Contracts specified in this Chapter are deemed to include any relevant governmental, regulatory or court decree or order as recognized by the Exchange in a Notice to Members.

##### 23.2 Months Traded

In the absence of any other provisions in the respective Sub-Chapter for a particular MSCI Index Futures Contract, trading in the MSCI Index Futures Contracts shall be conducted in March, June, September and December delivery months. The number of months open for trading at a given time shall be determined by the Exchange.

##### 23.3 Last Trading Day

In the absence of any other provisions in the respective Sub-Chapter for a particular MSCI Index Futures Contract, the last day of trading for each MSCI Index Futures Contract shall be the third Friday of the contract month.

##### 23.4 Cash Settlement Procedures

###### (a) Settlement

MSCI Index Futures Contracts open at the termination of trading shall be cash settled as set forth in paragraph (b) of this Rule using the Final Settlement Value for the respective MSCI Index Futures Contract. Unless provided otherwise in the Sub-Chapter for an MSCI Index Futures Contract, the Final Settlement Value for purposes of the contract's cash settlement shall be the relevant underlying MSCI Index as calculated by MSCI rounded to the nearest 1/100<sup>th</sup> of an index point. This value shall be based on the closing prices of the stocks at their respective primary exchanges on the third Friday of the contract month. Closing prices shall be converted from local currency to U.S. dollars based on the spot exchange rate provided by Reuters at 4:00 pm London time on the day of the Final Settlement Price calculation. If a component stock in the index does not trade on the day scheduled for determination of the Final Settlement Price while the primary market for that stock is open for trading, the price of that stock shall

be determined, for the purposes of calculating the Final Settlement Price, based on the most recent closing price of that stock. If one or more primary exchange(s) are not scheduled to be open for trading on the day of the final settlement calculation, the prices of those stocks shall all be based on the most recent closing prices. All closing prices will be converted from local currency to U.S. Dollars based on the spot exchange rate provided by Reuters at 4:00 pm London time on the day of Final Settlement Price calculation.

**(b) Unexpected Market Closure Event**

In the event of an Unexpected Market Closure Event (as defined in section 2.1 of the Rulebook for MSCI Unexpected Market Closure Indexes<sup>2</sup>) on the Last Trading Day of an expiring contract, the Final Settlement Value for the affected delivery month will not be calculated as stated in paragraph (a) above, but shall be calculated by MSCI in accordance with the MSCI Unexpected Market Closure Index Methodology or any subsequent methodology published by MSCI. In such an Unexpected Market Closure Event, the Final Settlement Payment referenced in paragraph (c) below may be delayed to a Business Day later than the second Business Day following the termination of trading.

**(c) Final Settlement Payment**

Payment in final settlement of an MSCI Index Futures Contract will be made in accordance with the Clearing Organization Rules on the second Business Day following the termination of trading by Clearing Members with open positions at the time of termination of trading of the MSCI Index Futures Contract. The amount of the final settlement payment to be made or received will be calculated based on the final settlement value as a normal variation payment.

**23.5 Notice Regarding MSCI**

The MSCI Index Futures are not sponsored, endorsed, sold or promoted by MSCI Inc. (“MSCI”), any affiliate of MSCI or any other party involved in, or related to, making or compiling any Indexes. The MSCI Index Futures have not been passed on by MSCI, any of its affiliates or any other party involved in, or related to, making or compiling any Indexes as to their legality or suitability with respect to any person or entity. MSCI, its affiliates and any other party involved in, or related to, making or compiling the MSCI Indexes do not guarantee the originality, accuracy and/or completeness of the MSCI Indexes or any data included therein. Neither MSCI, any of its affiliates nor any other party involved in, or related to, making or compiling the MSCI Indexes makes any express or implied warranties, and expressly disclaims all warranties of merchantability and fitness for a particular purpose or use with respect to the related Futures Contract, the MSCI Index or any data included therein. Without limiting any of the foregoing, in no event shall MSCI, any of its affiliates or any other party involved in, or related to, making or compiling the MSCI Indexes have any liability for any direct, special, punitive, indirect, or consequential damages, claims, losses or expenses relating to any futures or options contracts or caused by any errors or delays in calculating or disseminating the MSCI Indexes. Neither MSCI, any of its affiliates nor any other party involved in, or related to, making or compiling the MSCI Indexes has any obligation to take the needs of the issuers of the Contracts, the owners of the MSCI Index Futures or the Exchange into consideration in determining, composing or calculating any MSCI Indexes. Neither MSCI its affiliates nor any other party involved in, or related to, making or compiling the MSCI Indexes is responsible for or have participated in the determination of the timing of, prices at, or quantities of the MSCI Index Futures

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<sup>2</sup> The MSCI Unexpected Market Closure Index Methodology can be found at [https://www.msci.com/eqb/methodology/meth\\_docs/MSCI\\_Unexpected\\_Market\\_Closure\\_Indexes\\_methodology\\_November\\_2018\\_2.pdf](https://www.msci.com/eqb/methodology/meth_docs/MSCI_Unexpected_Market_Closure_Indexes_methodology_November_2018_2.pdf)

to be issued or in the determination or calculation of the equation by which the MSCI Index Futures are redeemable for cash.

Remainder Unchanged