ICE FUTURES U.S.
**World Financial Center**
**One North End Avenue**
**New York, New York 10282**

Submission No. 13-23
March 6, 2013

Ms. Melissa Jurgens
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: New Emissions Futures and Options Contracts**
**Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.2**

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act (the "Act"), as amended, and Commission Regulation 40.2, ICE Futures U.S., Inc. ("Exchange") submits, by written certification, amendments to Rules 18.D.001, 18.D.011, 18.E.040 and 18.E.047 and Resolution 2 of Chapter 18, as set forth in Exhibit A. The amendments provide for the listing of Regional Greenhouse Gas Initiative ("RGGI") Vintage 2013 futures and options contracts and California Carbon Allowance ("CCA") Vintage 2016 futures and options contracts.

Both the RGGI and CCA are carbon emission allowance contracts. The Exchange currently lists both RGGI and CCA futures and options contracts which deliver prior year vintages. The term "vintage" identifies the compliance year for which an allowance is designated. Annual vintages for the years 2009-2012 are currently listed for the RGGI contract and annual vintages for the years 2013 – 2015 are currently listed for the CCA contract.

Generally, vintage allowances may be used for compliance in the year for which they are designated or carried forward for use in future compliance periods; they are bankable. While the CCA contracts follow this practice, the RGGI contracts currently listed by the Exchange require delivery of a vintage which corresponds to the specific vintage-year of the contracts. Prior year vintages are not deliverable. Amendments to Rule 18.D.011 will also allow delivery of prior vintage years for the new RGGI Vintage 2016 Contract being listed, similar to the CCA Contract and cash market practices.

Most other significant contract specifications for the new emissions contracts, such as the contract size, listing cycle, quotation basis, minimum price fluctuation, no-cancellation range (RGGI futures - $0.10, RGGI options - 20% of FMV to max of $0.10, CCA futures - $0.50, CCA options 20% of FMV to max of $0.50) and trading hours (7:50PM to 6:05PM the next day) match those for the CCA and RGGI vintages currently listed by the Exchange. Position limits for the new CCA 2016 Vintage are set at the same levels as prior vintages currently listed for trading. The position limits for the new RGGI 2013 Vintage are being increased as prior-year vintage allowances may be delivered on the contract, thereby increasing the cash market supply. A detailed deliverable supply analysis is attached hereto as Exhibit B.

The Exchange Block Trade Procedures currently provide minimum block sizes for RGGI (10 contracts) and CCA (10 contracts) futures and options.

The rule amendments will become effective with the listing of the new emissions contracts on March 25, 2013. The Exchange is not aware of any substantive opposing views to the new emissions contracts. The Exchange certifies that the rule amendments 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 listing of the contract complies with the following relevant Core Principles:

**COMPLIANCE WITH RULES**
The terms and conditions of the new emissions contracts are set forth in Rules 18.D.001, 18.D.011, 18.E.040 and 18.E.047, Rule 27.18 and Resolution 2 of Chapter 18 and will be enforced by the Exchange. In addition, trading of the new vintages is subject to all relevant Exchange rules which are enforced by the Market Regulation Department

**CONTRACTS NOT READILY SUBJECT TO MANIPULATION**
The new emissions contracts are not readily subject to manipulation as they are based on established and liquid underlying cash markets. In addition, trading of the new contracts will be monitored by the Market Regulation Department.

**POSITION LIMITS OR ACCOUNTABILITY**
Positions in the CCA 2016 Vintage Futures and Options Contracts will be subject to the position limits currently in place for existing prior CCA vintages listed by the Exchange. The position limits for the RGGI 2013 Vintage are being increased as prior-year vintage allowances may be delivered on the contract increasing the cash market supply. A detailed deliverable supply analysis is attached hereto as Exhibit B.

**FINANCIAL INTEGRITY OF CONTRACTS**
The new emissions contracts will be cleared by ICE Clear Europe, a registered derivatives clearing organization subject to Commission regulation, and carried by registered futures commission merchants qualified to handle customer business.

The Exchange further 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/notices/RegulatoryFilings.shtml).

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

Sincerely,

Jason V. Fusco
Assistant General Counsel
Market Regulation

Enc.
cc: Division of Market Oversight
New York Regional Office

## EXHIBIT A

**18.D.001 California Carbon Allowance Future**

**Contract Description:** Physically delivered California Greenhouse Gas Emissions Allowances ("California Carbon Allowances") where each is an allowance issued by the California Air Resources Board representing one metric ton of $CO_2$ equivalent under California Assembly Bill 32 "California Global Warming Solutions Act of 2006" and its associated regulations, rules and amendments, all together known as the "California Cap and Trade Program".

**Contract Symbol:** Vintage 2013: CAL, Vintage 2014: CAM, Vintage 2015: CAN, Vintage 2016: CAO

**Settlement Method:** Physical delivery

**Contract Size:** 1,000 California Carbon Allowances

**Currency:** USD

**Minimum Price Fluctuation:** The price quotation convention shall be One cent ($0.01) per California Carbon Allowance; minimum price fluctuation may vary by trade type. Please see Table in Resolution 1 to this Chapter 18.

**Listing Cycle:** 1. Standard-cycle contract listings: Monthly contract sets for the current year + 3 years.

2. Annual December contract sets through 2020

3. The Exchange may list any other calendar month contract sets off the standard-cycle listing schedule through the last expiring contract set.

**Last Trading Day:** Three Business Days prior to the last Business Day of the delivery month

**Deliverable Instruments:** The deliverable instruments are California Carbon Allowances equal to the contract size delivered through the California MTS.

California Carbon Allowances acceptable for delivery are those issued as a limited authorization to emit up to one metric ton of $CO_2$ or $CO_2$ equivalent in the California Cap and Trade Program having a vintage corresponding to the specified vintage year and allowances having a vintage of any year prior to the specified vintage-year.

If the specified vintage year allowances do not exist in the California MTS at contract expiry, allowances of any prior vintage year or allowances of the earliest vintage year available in the California MTS shall be delivered.

If the California MTS is not operational and capable of transferring allowances at the expiration of contracts in 2012, all open positions in the expiring contract will roll forward one (1) calendar year based on a value determined by multiplying the final settlement price of the expired contract times the sum of one (1) plus the interest rate on 12-month U.S. Treasury notes that is prevailing at the time of contract expiration.

If the California MTS is not operational and capable of transferring allowances at the expiration of contracts in 2013 and later, all open positions in the expiring contract will settle at the Auction Reserve

Price (ARP) as defined in the California Cap and Trade Program. Where the ARP is not defined within the California Cap and Trade Program, for 2013 the ARP shall be $10 per allowance. For expiries beyond 2013, the ARP will increase by 5% per year plus the rate of inflation as measured by the Consumer Price Index for All Urban Consumers published by the U.S. Bureau of Labor Statistics.

**Registry:** California MTS

**18.D.011 Regional Greenhouse Gas Initiative Future**

**Contract Description:** Monthly physically delivered contract on Regional Greenhouse Gas Initiative ("RGGI") $CO_2$ allowances ("RGGI $CO_2$ Allowances").

**Contract Symbol:** Vintage 2009: RGH, Vintage 2010: RGI, Vintage 2011: RGJ, Vintage 2012: RGK, Vintage 2013: RGL

**Settlement Method:** Physical delivery

**Contract Size:** 1,000 RGGI $CO_2$ Allowances

**Currency:** USD

**Minimum Price Fluctuation:** The price quotation convention shall be One cent ($0.01) per RGGI $CO_2$ Allowance; minimum price fluctuation may vary by trade type. Please see Table in Resolution 1 to this Chapter 18.

**Listing Cycle:** 1. Standard-cycle contract listings: a. Monthly contract sets for the current and coming calendar year; b. December contracts for up to forward 5 years.

2. The Exchange may list any other calendar month contract set off the standard-cycle listing schedule through the last annual December contract set.

**Last Trading Day:** Three Business Days prior to the last Business Day of the delivery month

**Deliverable Instruments:** The deliverable instruments are RGGI $CO_2$ Allowances equal to the contract size delivered through the RGGI $CO_2$ Allowance Tracking System ("RGGI-COATS").

1. Contracts with a control period specific vintage: RGGI $CO_2$ Allowances acceptable for delivery are those having a vintage usable for compliance in the control period associated with the calendar year of the contract expiration or RGGI $CO_2$ Allowances having a vintage usable for compliance in any prior control period.

2. [~~Contracts with a specified vintage-year~~ ] For vintages 2009, 2010, 2011, and 2012: RGGI $CO_2$ Allowances acceptable for delivery are RGGI $CO_2$ Allowances having a vintage corresponding to the specified vintage-year.

For Vintage 2013 and later vintages, RGGI $CO_2$ Allowances acceptable for delivery are RGGI $CO_2$ Allowances having a vintage corresponding to the specified vintage-year and allowances having a vintage of any year prior to the specified vintage-year.

**Registry:** RGGI-COATS

**Rule 18.E.040 Option on California Carbon Allowance Future**

**Contract Description:** An Option on the corresponding month of the California Carbon Allowance Future.

**Contract Symbol:** Vintage 2013: CAL, Vintage 2014: CAM, Vintage 2015: CAN, Vintage 2016: CAO

**Settlement Method:** Exercise into Underlying Futures Contract

**Contract Size:** 1 California Carbon Allowance Futures Contract

**Currency:** USD

**Minimum Price Fluctuation:** The price quotation convention shall be One cent ($0.01) per California Carbon Allowance; minimum price fluctuation may vary by trade type. Please see Table in Resolution 1 to this Chapter 18.

**Listing Cycle:** 1. Standard-cycle contract listings: Monthly contract sets for the current year and forward three years.

2. Annual December contract sets through 2020.

3. The Exchange may list any other calendar month contract sets off the standard-cycle listing schedule through the last expiring contract set.

**Strike Price Intervals:** A minimum of ten Strike Prices in increments of $0.25 above and below the at-the-money Strike Price. Strike Price boundaries are adjusted according to futures price movements. User-defined Strike Prices are allowed in $0.25 increments.

**Last Trading Day:** At 4:00pm EPT on the 15th calendar day of the delivery month. Where the 15th calendar day is not a Business Day, the Last Trading Day shall be the first Business Day following the 15th calendar day of the delivery month.

**Option Style:** European

**Exercise Method:** Automatic

**Exercise Procedure:** Clearing Members shall provide exercise and abandon instructions to the Clearing Organization in accordance with the Clearing Organization rules

**Exercise Time:** 4:30 pm EPT on the Last Trading Day

**Rule 18.E.047 Option on Regional Greenhouse Gas Initiative Future**

**Contract Description:** An Option on the corresponding month of the Regional Greenhouse Gas Initiative Future.

**Contract Symbol:** Vintage 2009: RGH, Vintage 2010: RGI, Vintage 2011: RGJ, Vintage 2012: RGK, Vintage 2013: RGL

**Settlement Method:** Exercise into Underlying Futures Contract

**Contract Size:** 1 Regional Greenhouse Gas Initiative Futures Contract

**Currency:** USD

**Minimum Price Fluctuation:** The price quotation convention shall be One cent ($0.01) per RGGI allowance; minimum price fluctuation may vary by trade type. Please see Table in Resolution 1 to this Chapter 18.

**Listing Cycle:** 1. Standard-cycle contract listings: a. Monthly contract set for the current and coming calendar year; b. December contract sets for up to forward 5 years.

2. The Exchange may list any other calendar month contract set off the standard-cycle listing schedule through the last annual December contract set.

**Strike Price Intervals:** A minimum of ten Strike Prices in increments of $0.25 above and below the at-the-money Strike Price. Strike Price boundaries are adjusted according to futures price movements. User-defined Strike Prices are allowed in $0.25 increments.

**Last Trading Day:** At 4:00pm EPT on the 15th calendar day of the delivery month. Where the 15th calendar day is not a Business Day, the Last Trading Day shall be the first Business Day following the 15th calendar day of the delivery month.

**Option Style:** European

**Exercise Method:** Automatic

**Exercise Procedure:** Clearing Members shall provide exercise and abandon instructions to the Clearing Organization in accordance with the Clearing Organization rules

**Exercise Time:** 4:30 pm EPT on the Last Trading Day

## Resolution No. 2 – Position Limit/Accountability Table

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| Rule | Contract Name | Commodity Code | Spot Month Limit | Single Month Accountability Level | All Month Accountability Level | Aggregate 1 (Positive Correlation) | Aggregate 2 (Negative Correlation) | Exchange Reportable Level |
|---|---|---|---|---|---|---|---|---|
| * * * | | | | | | | | |
| ***Physical Environmental*** | | | | | | | | |
| 18.D.011 | Regional Greenhouse Gas Initiative Vintage 2009 Future | RGL | 5,000 | 10,000 | 20,000 | RGL | | 25 |
| 18.E.047 | Option on Regional Greenhouse Gas Initiative Vintage 2009 Future | RGL | 5,000 | 10,000 | 20,000 | RGL | | 25 |
| 18.D.001 | California Carbon Allowance Vintage 2015 Future | CAO | 5,000 | 15,000 | 30,000 | CAO | | 25 |
| 18.E.040 | Option on California Carbon Allowance Vintage 2015 Future | CAO | 5,000 | 15,000 | 30,000 | CA) | | 25 |

## EXHIBIT B

## DELIVERABLE SUPPLY ANALYSIS

This document is prepared in support of the new emissions contracts being listed by ICE Futures US Inc. (“Exchange”). The new emissions contracts are additional like instruments for two existing environmental products, California Carbon Allowance (CCA) and the Regional Greenhouse Gas Initiative (RGGI) futures and options Contracts. An analysis for the CCA and RGGI markets was prepared and included with Exchange’s filing to CFTC during its transition from an over the counter market to futures (see Submission No. 12-45). The following is a supplement to that analysis with a specific focus on deliverable supply and the appropriate speculative position limits for the additional vintages being listed.

### California Carbon Allowance Vintage 2016

As of January of 2013 environmental regulators in California require that any large emitter of $CO_2$ hold, and eventually turn in for compliance, an allowance for each metric ton of $CO_2$ they emit into the atmosphere. CCAs have been and continue to be made available to the market via direct allocation (given to emitters for free) and at auctions where participants buy allowances through a state administered process. The first allocations and auctions occurred in the second half of 2012. Beginning in 2013, auctions are scheduled to occur four times per year mid way through the second month of each quarter.

Deliverable Supply

ICE proposes to list for trade a Vintage 2016 contract, complementing the existing vintage 2013, 2014 and 2015 CCA futures and options. The contract specification for the CCA product defines the deliverable instrument as an allowance with a vintage that matches the one specified or any earlier vintage allowance. As a result, deliverable supply for the proposed CCA Vintage 2016 contract consists of the supply of 2016 vintages and all earlier vintages (e.g. Vintage 2013, Vintage 2014 and Vintage 2015). ICE estimates that approximately 77 million allowances have been directly allocated to compliance entities in each vintage. For the sake of conservatism, these allocated allowances are excluded from this supply analysis. The table below outlines the supply of allowances that have been auctioned.

| | Vintage 2013 | Vintage 2014 | Vintage 2015 | Vintage 2016 |
|---|---|---|---|---|
| Auction 1 (11/14/12) | 23,126,110 | | 39,450,000 available<br>5,576,000 sold | |
| Auction 2 (2/19/13) | 12,924,822 | | | 9,560,000 available<br>4,440,000 sold |
| Deliverable Supply into the Specified Listed Contract | 36,050,932 | 36,050,932 | 41,626,932 | 46,066,932 |

In the most recent allowance auction on February 19, 2013, a total of 12.9 million vintage 2013 and 4.4 million vintage 2016 allowances were sold. In spite of the limited supply of vintage 2016 allowances specifically, deliverable supply consists of the cumulative total of all allowances (Vintage 2016 and earlier) in the market at the time of contract expiry. This amount is currently 46.07 million (Vintage 2013, 2015 and 2016). Additional auctions in following quarters will increase supply.

Speculative Position Limit

The current speculative position limit for the CCA products for each Vintage is 5,000 contracts in the spot month, 15,000 contracts in any one month and 30,000 contracts in all months combined. We believe that this amount is also appropriate for the Vintage 2016 contract.

**Regional Greenhouse Gas Initiative Vintage 2013**

The Regional Greenhouse Gas Initiative (RGGI) is the first mandatory, market-based program in the United States to reduce greenhouse gas emissions. Nine Northeastern and Mid-Atlantic states will cap and then reduce $CO_2$ emissions from the power sector by 10% by 2018 compared to a year 2005 baseline. Supply of allowances enters the market via regularly scheduled quarterly auctions. There have been 18 auctions to date, dating back to 2008.

Amendment to Deliverable Vintages

Currently the Exchange lists for trade four RGGI futures contracts which call delivery of 2009 through 2012 allowances, specifically. By specification, the Exchange contracts require delivery of allowances that match the year specified in the contract. For example, if you have a position in a RGGI 2012 Vintage contract, the only instrument that will satisfy delivery is a 2012 year RGGI allowance. As a result, the pool of deliverable supply for the current RGGI futures contracts is limited to allowances of that year.
While the Exchange contracts require that allowances delivered match the specified year, the RGGI program itself groups compliance into years (e.g. 2009-2011 and 2012-2014), allows for unrestricted use of allowances within a group of years (Compliance Periods) and allows for forward banking of allowances to later Compliance Periods. What this means is that there are no use restrictions on Vintage 2009 through 2012 allowances as they may be used for compliance for the first Compliance Period or any later Compliance Period. Additionally, since the first Compliance Period has now passed and compliance has been satisfied by all the affected parties, all excess allowances from 2009-2012 may be used for compliance with the 2012-2014 and later Compliance Periods.

More in line with what the RGGI program allows for compliance, amendments to the RGGI contracts of Vintage 2013 or later, allowances deliverable in satisfaction with the contract are those of the specified vintage year or earlier. Thus parties that are short a RGGI Vintage 2013 contract at delivery could satisfy their obligation with a 2013 or any earlier vintage. The primary benefits of this change are that it consolidates the underlying RGGI allowance market, pool liquidity and increases deliverable supply significantly.

Deliverable Supply

Deliverable supply to the ICE RGGI contracts is a function of what has been sold at auction and what has been used for compliance. To date the program has held 18 auctions where a total of 512.2 million allowances have been sold. Of these 386.4 million were from the 2009-2011 vintage. Of the 2009-2011 vintage allowances auctioned, 371.9 million have been surrendered for compliance and are no longer a portion of deliverable supply, leaving a balance of 14.4 million Vintage 2009-2011 allowances. Assuming the unused supply of allowances is evenly distributed amongst the vintages, there would be approximately 4.8 million allowances available for each of the vintages from 2009 to 2011.

For the RGGI 2012 Vintage contract, the surrender of allowances will not occur until 2015. As such, the entire pool of allowances is available for delivery. Specifically, 90.2 million allowances are available for the 2012 Vintage contract.

With the proposed change and creation of the 2013 Vintage RGGI Contract, the supply of allowances would be those unretired for the year in question and all previously unretired allowances. For 2013 the supply of allowances would be 14.4 million from the 2009-2011 pool, 90.2 million from the 2012 pool and 6.8 million from the 2013 pool, for a total of 111.4 million allowances.   The Exchange expects to list additional vintage contracts (e.g. 2014) based on this same determination of deliverable supply.

Speculative Position Limit

For the 2013 Vintage, with a total supply of 111.4 million tons (111,400 lots), an appropriate speculative position limit which will ensure a properly functioning market is 5,000 contracts in the spot month, 10,000 contracts in any one month and 20,000 contracts in all months combined. These levels are thought to be conservative and ICE does not expect any supply constraints in these contracts.