

  
**World Financial Center**  
**One North End Avenue**  
**New York, New York 10282**

**BY ELECTRONIC TRANSMISSION**

Submission No. 13-30  
April 1, 2013

Ms. Melissa Jurgens  
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 Exchange Rules 2.05, 2.18, 2.21, 3.18, 4.28, 21.03 and 21.25**  
**Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby submits amendments to Rules 2.05, 2.18, 2.21, 3.18, 4.28, 21.03 and 21.25 and to Resolution No. 2 of Chapter 21, as set forth in Exhibit A. The amendments rename and reconstitute the Exchange’s Executive Floor Committee (“EFC”) as the Trade Advisory Committee and conform the Exchange’s decorum, and attire requirements with the floor standards and dress code of the New York Stock Exchange (“NYSE”).

**Conversion of the Executive Floor Committee to the Trade Advisory Committee**

The EFC has served as both an advisory committee to the Exchange providing input on important trading issues and an administrative body with responsibilities tied to floor trading. Currently, the EFC has the authority to grant floor trading privileges, hear clerk registration matters, issue summary fines for violation of the Exchange’s decorum and attire requirements and temporarily remove individuals from the trading floor if their presence is determined not to be in the best interests of the Exchange. Since the end of open-outcry trading, many of the administrative functions performed by the EFC are no longer necessary or can be performed by staff or other Exchange committees that meet regularly, such as the Business Conduct Committee. The amendments to Rules 2.05, 2.18, 3.18, 2.21, 4.28, 21.03 and 21.25 and to Resolution No. 2 of Chapter 21 delete the administrative powers and duties delegated to the EFC, vest the Exchange staff and, in some cases, the BCC, with authority to carry out those responsibilities, and rename the committee as the Trade Advisory Committee. The new Trade Advisory Committee will serve in an advisory capacity on general trading issues and be comprised of various different trading interests beyond Floor Traders.

**Amendments to Decorum and Attire**

On March 25, 2013, the Exchange’s Trading Floor moved to the facilities of the NYSE at 12 Broad Street, New York, NY. Additional amendments to Rule 21.25 conform the Exchange’s decorum and attire requirements with the dress code and floor standards for the NYSE facility.

In addition, the Exchange is amending Rule 2.18 to allow persons with Energy Memberships to obtain for floor trading privileges. Energy Members are subject to the same fitness criteria as full members, permit holders and lessees (see ICE Futures U.S. Submission No. 12-49).

The amendments will become effective on April 16, 2013. The Exchange certifies that the amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. 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>). The Exchange is not aware of any opposing views.

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 large initial "J" and a long, sweeping underline.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

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

**EXHIBIT A**

**Rule 21.25. Summary Fines**

*(a) Imposition of Fines*

~~[Any member of the Executive Floor Committee]~~The President, ~~[or]~~any Vice President of the Exchange ~~or any of their delegates~~ may summarily impose a fine for each violation of any Rule regarding decorum or attire. Any such fine shall not exceed ten thousand dollars (\$10,000), except for a fine issued convened pursuant to subparagraph (d)(i) hereof for a violation of paragraph (b)(i)(A)(10) which shall not exceed twenty-five thousand dollars (\$25,000), and a fine issued for a violation of paragraph (b)(i)(B) of this Rule shall not be less than two hundred fifty dollars (\$250).

\* \* \*

**(i) Decorum:**

The conduct enumerated below, if committed on the Trading Floor, on premises occupied by the Exchange, or in the building in which such premises are located is deemed a breach of decorum and is prohibited. In addition, the conduct specified in paragraph (A)(10) hereof, if committed in the area immediately surrounding any building in which the Exchange occupies premises is deemed a breach of decorum and is prohibited if such conduct relates to, or impacts upon, the business of the Exchange.

*A. Conduct:*

\* \* \*

3. Smoking ~~[or eating [or drinking, except in areas specifically designated by the Exchange.]~~

\* \* \*

**(ii) Attire:** Failure to conform to the Exchange mandatory forms of dress and appearance.

A. For purposes of this Rule, the following forms of dress and appearance are mandatory.

1. All males must wear a suit jacket or trading jacket, conventional collared business shirts, neck ties, dress pants, socks and dress shoes~~[conventional footwear, which shall include black walking shoes].~~

2. All females must wear a suit jacket or trading jacket in addition to otherappropriate business attire, which shall include dresses, skirts, dress pants and blouses, socks, stockings and dress shoes~~[conventional footwear, which shall include black walking shoes].~~

3. Personal attire and appearance must be clean, neat and presentable.

~~[4. The business shirt requirement is suspended from Memorial Day to Labor Day during which time non-business shirts with soft or ribbed knit collars may be worn.]~~

~~[5. Clerks and Members must wear a trading jacket.]~~

B. The following forms of dress and appearance are not in conformity with Paragraph A of this section:

1. Clothing that is dirty, frayed, torn, badly wrinkled, ill-fitting, or which distracts from business atmosphere.

2. Pants shall not include: dungarees; jeans; jean-look-alikes; denim jeans of any color; fatigues; tie dyes; mid-calf; sweatpants; shorts; harem; spandex pants, cargo pants; or tight-fitting or stretch pants and leggings.

3. Collared business shirts and blouses shall not include; golf shirts; soft or ribbed-knit collars; tee shirts; athletic shirts; sweatshirts; turtlenecks for males; tank tops; midriffs; halters.

4. Conventional footwear shall not include: sneakers, walking shoes, sandals; thongs; slippers; and any shoes that have been altered or modified so as to increase an individual's height except in the case where a Floor Committee member determines that such alteration or modification is necessary to accommodate a physical disability.

5. Dresses and skirts shall not include: denim of any kind; culottes; skorts; split skirts; shorts; inappropriate length detracting from a business atmosphere.

6. Wearing of hats, head scarves or bandannas except those required by religious observance[, ~~except when exempted by the Executive Floor Committee.~~]

7. A general unkempt or ungroomed personal appearance or attire which does not lend itself to the proper business atmosphere.

### **Rule 3.18. [~~Executive Floor Committee~~] Trading Advisory Committee**

(a) The Trading Advisory Committee [~~Executive Floor Committee~~] shall be an Exchange Committee and shall consist of such number of Persons [~~Floor Committee members~~] as the Board shall determine from time to time who are representative of trading and brokerage interests for the products listed for trading by the Exchange [~~open outcry on the Trading Floor~~].

(b) The Trading Advisory Committee [~~Executive Floor Committee~~] shall serve as an advisory Committee to the Exchange and may make recommendations to the Board regarding trading practices. [~~have such powers and perform such duties as are specified by the Board or as are provided in the Rules, which shall include the administration of the policies and procedures pertaining to the Trading Floor.~~]

### **Rule 2.05. Review of Application**

(a) The Exchange may direct the applicant to supplement, or the Exchange may investigate, any information supplied by the applicant, or which the Exchange believes is appropriate.

(b) The Exchange shall review the application and may ask for and review any additional information it deems relevant. [~~provided however, that review of all the requirements for and the granting of floor trading privileges shall be the exclusive responsibility of the Executive Floor Committee.~~]

### **Rule 2.18. Qualifications and Requirements for Floor Trading Privileges**

(a) To be eligible to receive and hold floor trading privileges a Person must:

(i) Be an individual NYBOT Member, NYBOT Permit Holder, Energy Member or Lessee in good standing and (ii) comply with the application and approval procedures for the granting of floor trading privileges; and

(ii) Attend an ethics course as required by CFTC or National Futures Association regulations; and

(iii) Attend a sexual harassment awareness course sponsored by or acceptable to the Exchange as may be determined by the President, in his sole discretion; and

(iv) Prior to being granted floor trading privileges, successfully complete the Exchange's Floor Trading course. ~~[- provided, however, that the Executive Floor Committee may, in its sole discretion, waive any part, or all, of such training course for a particular Member.]~~

#### **Rule 2.21. Granting of Floor Trading Privileges**

(a) The ~~[Executive Floor Committee or the]~~ Exchange will review the information contained in the application to determine if the Person has met the requirements set forth in Rule 2.18.

#### **Rule 4.18. Clerk Qualification Requirements, Registration Procedures, and Trading Prohibitions**

The following Clerk qualification, registration procedures and trading prohibitions apply to all clerical staff of Members or Member Firms trading in Commodity Contracts on the Trading Floor of the Exchange:

\* \* \*

(b) Registration Procedure: All clerical staff must file with the Exchange an application for Clerk registration in the form supplied by the Exchange and consent to such background investigation as may be required from time to time. All applicants must be approved by the Exchange before they will be permitted on the Trading Floor. Each applicant shall furnish such additional information as the Exchange may request regarding any matter revealed in the background investigation or the application for registration as a Clerk. Applicants shall also be required to disclose, among other things, whether the applicant:

\* \* \*

An[y] application for registration as a Clerk, ~~[regardless of whether the applicant has been registered with the Exchange before shall be presented to the Executive Floor Committee and the President for their review within two (2) weeks following receipt of the results of the background investigation]~~ shall be presented to a subcommittee of the Business Conduct Committee if the application or background investigation discloses that any of the events contained in subparagraphs (b)(i) through (b)(v) of this Rule has occurred or otherwise discloses any information which the Exchange believes warrants further review. The subcommittee of the Business Conduct Committee shall determine whether to permit registration of the applicant, in accordance with the procedures specified in paragraph (d)(iv) of this Rule.] ~~[In the case of a previously registered applicant, the application shall only be presented to the Executive Floor Committee and the President if such information is disclosed in an application for re-registration. Upon review of such application or upon learning of facts and circumstances suggesting that the continued registration of a Clerk is contrary to the best interests of the Exchange, the Executive Floor Committee and the President in their sole discretion shall determine whether to permit registration of the applicant or, in the case of a registered Clerk, to permit the registration of the Clerk to continue, or to refer the matter to the Executive Floor Committee for a hearing and decision, in accordance with the procedures specified in paragraph (d) of this Rule.]~~

Members and Member Firms are required to advise the Exchange of any changes in status of registered clerical staff, including additions and deletions of clerical staff.

It shall be the responsibility of each Member and Member Firm employing clerical staff to assure that identification badges issued to clerical staff are withdrawn promptly upon termination of employment.

~~[Registration of all clerical staff will be in conjunction with NYMEX building Security Department requirements.]~~

(c) ~~[Registration Denial,]~~ Access Restrictions, Suspension and Termination of Registration: The ~~[Executive Floor Committee]~~ President or any Vice President of the Exchange may ~~[deny an application to be registered as a Clerk, ]~~ restrict a Clerks' access to the Exchange's premises for a specified period of time, and suspend and/or terminate the registration of any Clerk if it determines, in thier sole discretion, after notice and an opportunity to be heard, that the registration of such applicant or the continued registration of such Clerk is contrary to the best interests of the Exchange.

(d) Denial, Access Restriction, Suspension and Termination Procedures:

(i) Any action taken pursuant to paragraph (c) of this Rule shall be taken after notice to the applicant or Clerk against whom the action is taken and to the Member or Member Firm who or which seeks to register the applicant or has registered such Clerk on the Exchange and an opportunity for such applicant or Clerk to be heard.

(ii) ~~[The powers of the Executive Floor Committee pursuant to paragraph (c) of this Rule may be delegated to a subcommittee of at least three (3) members, as the Chairman of the Executive Floor Committee may decide in his sole discretion. The names of the members of the Executive Floor Committee or any subcommittee appointed to hear the matter shall be included in the written notice provided to the Clerk or applicant. Any objection to a member hearing the matter shall be made in writing to the Chairman of the Committee within three (3) Business Days of being so advised, and shall include the basis for the objection. The Committee Chairman shall rule on any such objections.]~~

(iii) The notice given to an applicant or Clerk shall state (A) the situation which it is believed may give rise to the need for action ~~[by the Executive Floor Committee]~~; and (B) the date, time and place of the hearing to be held before a subcommittee of the Business Conduct Committee. ~~[the Executive Floor Committee.]~~

(iv) ~~[At any]~~ A hearing conducted under this Rule shall be before a subcommittee of the Business Conduct Committee appointed in accordance with Rule 21.04(b). ~~[, -t]~~ ~~The [Executive Floor]~~ subcommittee of the Business Conduct Committee shall determine the procedures to be followed, except that the following shall apply in every case: (A) the case in support of the action or proposed action against the applicant or Clerk shall be presented by the Compliance staff; (B) the applicant or Clerk shall be allowed to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses; (C) no formal rules of evidence shall apply, and the~~[Executive Floor]~~ subcommittee of the Business Conduct Committee shall be free to accept or reject any and all evidence it considers proper; (D) a substantially verbatim record capable of being accurately transcribed shall be made of the hearing, provided, however that such record need not be transcribed unless the decision is appealed by the applicant or registrant to the CFTC; and (E) the notice of the hearing, any stenographic transcript of the hearing, the documentary evidence and any other material presented ~~[to the Executive Floor Committee]~~ by either party with notice to the other shall constitute the record of the hearing.

(v) Promptly following any hearing, the ~~[Executive Floor]~~ subcommittee of the Business Conduct Committee shall render a written decision based on the weight of the evidence contained in the record of the hearing and shall provide a copy of the decision to the applicant or Clerk and the Member who or which sought to register or has registered such Person with the Exchange. The decision shall include: (A) a brief summary of the evidence produced at the hearing; (B) the findings and conclusions of the hearing body; and (C) a declaration of any action to be taken pursuant to the determination referred to in clause (B), hereof, the effective date and duration of such action and the date upon which such decision becomes final.

(vi) Any action taken by the ~~[Executive Floor]~~ subcommittee of the Business Conduct Committee pursuant to paragraph (c) shall become effective and final fifteen (15) days after notice of the action

taken is given to the applicant or Clerk. The decision of the ~~[Executive Floor]~~ subcommittee of the Business Conduct Committee shall constitute the final action of the Exchange.

**[REMAINDER OF RULE UNCHANGED]**

**Rule 21.03. The Business Conduct Committee**

(a) The Business Conduct Committee shall have the power to direct that an investigation of any suspected violation of the Rules be conducted by the Compliance staff, pursuant to Rule 21.02, shall have the authority to hear any summary denial of access pursuant to Rule 21.02, and shall have the authority to hear actions to register, suspend or terminate Clerks pursuant to Rule 4.19 ~~[any matter referred to it by the Executive Floor Committee]~~.

(b) The Business Conduct Committee shall act through a subcommittee chaired by a Public Committee Member. Each subcommittee shall be comprised of no less than five (5) individuals, such that at least two are Members or employees of Member Firms and at least two (2) are not Members or employees of Member Firms. Three (3) subcommittee members shall constitute a quorum so long as the subcommittee chair and at least one (1) Member or employee of a Member Firm is in attendance. Any committee member who has previously participated in a matter pursuant to ~~[Exchange Rule 21.25 or]~~ paragraph (f) of this Rule shall be disqualified from serving on a subcommittee hearing such matter.

**~~[No. 2. Summary Action Fine Schedule~~**

~~RESOLVED, that the Board of Directors hereby establishes the following schedule of minimum sanctions to be imposed pursuant to Rule 21.25:~~

~~For Non-Conformity to Dress Code [Rule 21.25(b)(ii)] and Breach of Decorum [Rule 26.25(b)(i)(A)]:~~

<del>First Offense</del>	<del>Minimum \$100</del>
<del>Second Offense within six (6) months</del>	<del>Minimum \$250</del>
<del>Third Offense within six (6) months</del>	<del>Minimum \$500</del>
<del>Fourth Offense within six (6) months</del>	<del>Mandatory Review by Executive Floor Committee</del>

~~For a Trade Practice Violation [Rule 21.25(b)(i)(B)]:~~

<del>First Offense</del>	<del>Minimum \$250</del>
<del>Second Offense within six (6) months</del>	<del>Minimum \$500</del>
<del>Third Offense within six (6) months</del>	<del>Minimum \$1000</del>
<del>Fourth Offense within six (6) months</del>	<del>Mandatory Review by Executive Floor Committee</del>