

  
**ICE FUTURES U.S.**  
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New York, New York 10282

C.F.T.C.  
OFFICE OF THE SECRETARIAT

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**BY ELECTRONIC TRANSMISSION**

Submission No. 09-34  
July 13, 2009

Mr. David Stawick  
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 Rules 2.18 and 4.33 -  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Mr. Stawick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, ICE Futures U.S., Inc. ("Exchange") submits, by written certification, amendments to Rules 2.18 and 4.33, attached as Exhibit A.

Currently, Rules 2.18 and 4.33 require floor brokers and their clerks to attend a sexual harassment awareness course, sponsored by or acceptable to the Exchange, within three (3) months of being granted floor trading privileges or being registered as a clerk. The amendments will require that new floor brokers and clerks must attend the sexual harassment awareness course prior to being granted floor trading privileges or registration as a clerk.

In addition, the Exchange has had an outside consultant develop a sexual harassment awareness course to be offered on-line to floor brokers and their clerks. Today, some floor brokers fulfill the requirement to attend a sexual harassment awareness course in conjunction with satisfying their CFTC-mandated Ethics training requirement, because some (but not all) of the available Ethics courses include a segment on sexual harassment awareness. In the past, the Exchange had a separate lecture series on the subject, and, current experience has shown that a separate course would better serve the floor trading community. Therefore, the Exchange will be requiring all floor brokers and their clerks, who currently have access to the trading floor, to attend the Exchange-developed sexual harassment awareness course within three months from the effective date of the rule amendments.

The Exchange certifies that the amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The amendments were adopted by the Exchange's Board of Directors at its meeting on April 15, 2009 and will go into effect on July 27, 2009.

If you have any questions or need further information, please contact me at 212-748-4084 or [jill.fassler@theice.com](mailto:jill.fassler@theice.com).

Sincerely,

Jill S. Fassler  
Vice President  
Associate General Counsel

cc: Division of Market Oversight  
New York Regional Office

## EXHIBIT A

(In the text of the amendments below, additions are underlined and deletions are bracketed and lined out.)

### 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 or Lessee in good standing, and guaranteed by a Clearing Member in accordance with Rule 2.16; and

(ii) Comply with the application and approval procedures for the granting of floor trading privileges; and

(iii) Be sponsored by two (2) NYBOT Members who have been granted floor trading privileges and have been NYBOT Members for at least six (6) months preceding the date of the applicant's application for floor trading privileges; and

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

(v) Attend a sexual harassment awareness course sponsored by or acceptable to the Exchange as may be determined by the President, in his sole discretion [~~within three (3) months of admission to Membership~~]; and

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

~~[(b) The floor trading privileges of any Member who fails to attend the sexual harassment awareness course as prescribed in subparagraph (a)(v) of this Rule shall be automatically suspended until compliance with such requirement has been satisfied; provided, however, that the President in his sole discretion may extend the period of time to satisfy such requirement.]~~

### Rule 4.33. 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:

(a) Qualification Requirements: Unless otherwise provided under the Rules, clerical staff shall:

(i) include every Person a Member or Member Firm employs or wishes to employ on the Trading Floor of the Exchange, whether on a temporary or permanent basis, and regardless of whether such Person is a Member of another exchange;

(ii) be limited to runners, communication operators, telephone clerks, write-up clerks, TIPS clerks, supervisors, analysts and any other category which the President may specify from time to time;

(iii) attend a Sexual Harassment Awareness [~~and Ethics~~] Course sponsored by or acceptable to the Exchange as may be determined by the President, in his sole discretion [~~within three (3) months of being registered as a Clerk. Failure to attend such course within the prescribed time shall cause the automatic suspension of such registration until compliance with this provision of the Rule has been satisfied; provided, however, that the President may, in his sole discretion, extend such time to attend the course~~];

(iv) not consist of any other Member whose rights and privileges of Membership are suspended or any individual who has been expelled from Membership, where such employment or registration is in contravention of any term or condition of such suspension or expulsion which the Exchange, the

Board or any Committee may impose or to which the suspended Member or expelled Person may have agreed.

[REMAINDER OF RULE UNCHANGED]