

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

**BY ELECTRONIC TRANSMISSION**

Submission No. 12-46  
August 16, 2012

Mr. David A. 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: Delayed Open and Pre-Open of Electronic Markets**  
**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. (the "Exchange") submits, by written certification, notification to the Commission that the ICE electronic trading system experienced a technical issue on August 15<sup>th</sup> 2012 at approximately 7:20pm ET that caused an error with the matching engine reset and startup process. The cause of the issue was identified within 15 minutes by the ICE Operations team and an emergency workaround was implemented shortly thereafter to resolve the issue. Unfortunately, the OTC and Futures markets had to be in a closed state to correctly implement the fix.

ICE Operations suspended the active market session times, implemented the fix, and then reset the market pre-open/open times to approximately 40 minutes beyond their normal opening times. Markets opened correctly at the revised open times. Customers were alerted via standard broadcast means to the issues and again alerted when the issue was resolved and to the new market open times. The U.S. Dollar Index®, Russell Complex, Currency and Cash-Settled U.S. Agricultural markets were effected.

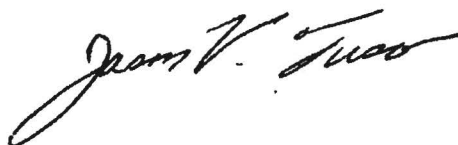
The technical issue that caused the problem has been identified and resolved through a software patch. ICE does not expect this issue to occur again.

The actions described above were taken in accordance with Rule 6.02(a), which provides that “[i]n the event the physical functions of the Exchange are . . . adversely affected by a ‘Physical Emergency’, such as. . . computer malfunction, screen-based trading system breakdown... the Vice President, Operations of ICE may take any action which, in the opinion of such officer is necessary or appropriate to deal with the computer malfunction or screen-based trading system disruption in accordance with Exchange procedures relating to such business disruptions. The Exchange’s conflict of interest rules were not invoked because no person with a position in Exchange contracts was involved in the decision making process.

The Exchange certifies that the delayed open and pre-open 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, which 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](mailto:jason.fusco@theice.com).

Sincerely,



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Assistant General Counsel  
Market Regulation

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