



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

BY ELECTRONIC TRANSMISSION

Submission No. 13-83
September 16, 2013

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

**Re: Rule 4.06 Advisory (EFRP Trading)
Submission Pursuant to Commission Regulation 40.6(a) Self-Certification**

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “CEA”) and Commission Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby submits by self-certification the Exchange Notice (“Notice”) attached as Exhibit A, which clarifies certain aspects of the IFUS Exchange for Related Position (“EFRP”) rule.

Rule 4.06 codifies the circumstances under which an EFRP in IFUS contracts may be executed and submitted to the Exchange. Among other requirements, the rule specifies that such trades must be “privately negotiated transactions”. The purpose of the Notice is to clarify the “privately negotiated” standard in the context of electronic trade matching systems. Specifically, the use of a system or facility that allows for the electronic matching, or electronic acceptance, of anonymous bids and offers to facilitate the execution of EFRP trades does not meet the privately negotiated standard of the Exchange’s Rule. The Notice also makes clear that the use of communication technologies to bilaterally request EFRP quotes from multiple parties and to conduct privately negotiated EFRP trades does meet the standard of Rule 4.06. In addition, the Notice makes clear that parties may use technologies supported by third parties which allow for the electronic posting of indicative EFRP quotes that are displayed to multiple parties, however, EFRP transactions executed between parties on the basis of such electronically displayed indicative markets may be transacted only through direct bilateral communications involving a broker (where applicable) and the parties to the trade.

The Notice will become effective for trade date October 1, 2013.

The Exchange certifies that the Notice interpreting Rule 4.06 complies with the requirements of the CEA and the rules and regulations promulgated thereunder. In particular, Core Principle 9 provides that the rules of a contract market may authorize, for bona fide business purposes, transactions that are executed away from the central marketplace of the contract market. The Notice provides market participants with guidance on the “privately negotiated” element of the Exchange Rule permitting EFRP transactions in its contracts. There were no substantive opposing views to the Notice.

The Exchange further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange’s website at <https://www.theice.com/notices/RegulatoryFilings.shtml>).

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

Sincerely,



Jason V. Fusco
Assistant General Counsel
ICE Futures U.S, Inc.

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

NOTICE

September 16, 2013

Summary of content

Guidance on private negotiation requirement for EFRP transactions under Rule 4.06

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GUIDANCE ON THE PRIVATE NEGOTIATION REQUIREMENT APPLICABLE TO EFRP TRANSACTIONS UNDER RULE 4.06

Market Regulation is issuing this Exchange Notice, effective October 1, 2013, to provide guidance on the use of electronic systems in connection with Exchange for Related Position ("EFRP") transactions. Rule 4.06 permits the execution of **privately negotiated EFRP transactions** which meet all requirements set out in the Rule regarding the simultaneous exchange of a futures position for a corresponding related position. It is inconsistent with Rule 4.06 and therefore impermissible to facilitate the execution of EFRP transactions in Exchange-traded products on a system or facility accessible to multiple parties that allows for the electronic matching or the electronic acceptance of anonymous bids and offers; EFRP transactions executed in such manner do not satisfy the privately negotiated standard. Parties may use communication technologies to bilaterally request EFRP quotes from one or more participants and to conduct privately negotiated EFRP transactions. Parties may also utilize technologies supported by third parties which allow for the electronic posting of indicative EFRP markets displayed to multiple market participants. However, EFRP transactions executed between parties on the basis of such electronically displayed indicative markets may be transacted only through direct bilateral communications involving the broker, where applicable, and the parties to the transaction. For EFRP transactions involving swaps, the swap legs of such transactions must be reported as required under Parts 43 and 45 of Commodity Futures Trading Commission Regulations. In connection with EFRP reviews, the Exchange's Market Regulation Department may require market participants to produce documents and records verifying compliance with CFTC swap reporting requirements.

Additional Guidance

Additional guidance on EFRP transactions may be found in Rule 4.06

https://www.theice.com/publicdocs/rulebooks/futures_us/4_Trading.pdf

