



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

BY ELECTRONIC TRANSMISSION

Submission No. 12-57
September 28, 2012

Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Amendments to Exchange Rule 2.38 and Implementation of Permit Holder Incentive Program

Dear Sir or Madam:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the "CEA") and Commission Regulations 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") submits by written certification amendments to Rule 2.38 (Exchange Trading Permits) and the terms of an incentive program for permit holders, as described below and attached as Exhibit A.

The Exchange currently maintains three separate trading Permits: Option Permits, Finex Permits and Finex Europe Permits. Each Permit allows the holder to trade a different subset of Exchange products for themselves and for customers. Option Permits provide trading rights to all Exchange options but not the futures contracts themselves; Finex Permits provide trading rights to all Financial contracts; and Finex Europe Permits provide trading rights to USDX and currency pair contracts. Those members who owned their Permits as of the time of the acquisition of NYBOT by ICE are entitled to receive the lowest customer rate (excluding discount rates available to market makers and the former NYBOT equity members) for Exchange and Clearing fees for their proprietary trading of the products covered by their Permit. In practice, the Exchange has charged Permit Holders a rate lower than its customer rate.

In anticipation of the end of open outcry trading of Exchange products in October, the Exchange is recommending several changes to Permit Holder fees and trading rights, as follows: (1) effective the close of business on October 19, 2012, Option Permit Holders be allowed to trade soft futures contracts, for both customers and their own account; (2) effective November 1, 2012, Permit Holders will no longer receive a separate, discounted Exchange and Clearing fee for their proprietary trading in Exchange contracts; and (3) also effective November 1, 2012, all then-current Permit Holders will be enrolled in a Permit Holder Transition Fee Discount Program, which will entitle them to earn discounted Exchange and Clearing Fees for proprietary trading in Exchange contracts based upon achievement of specified monthly volume

thresholds, as outlined below. Permits would continue to be transferable pursuant to existing Exchange rules and procedures.

The Exchange has determined that the current restriction preventing Options Permit holders from trading the related futures contracts has become outdated; these Permits were created at a time when the options markets were new and were seen as a low-cost way to attract new traders to these products. As the options markets have grown and matured the futures and options markets have grown more and more integrated to the point where a significant portion of options orders and trades involve futures/options combination trades that were not even permitted under Exchange rules when the Permits were created. Therefore, the Exchange has concluded it is appropriate to end the options-only status of these Permits at this time.

Proposed Permit Holder Volume Transition Fee Discount Program

The Permit Holder Volume Transition Fee Discount Program will have the following provisions:

Eligibility – all active Permit Holders as of October 19, 2012 who held their Permit at the time of the NYBOT acquisition by ICE will be automatically enrolled in the program.

Term – the initial term of the program will begin on November 1, 2012 and will last for one year, with the President authorized to extend the term to no later than October 31, 2015.

Benefit – each participant is eligible to earn a discounted Exchange and Clearing fee in a calendar month based upon the participant's proprietary volume traded during the month in the electronic platform in the contracts covered by the Permit they held as of October 19, 2012 as follows:

Agricultural Products:

5,000 lots or more: \$1.00 per side

Less than 5,000 lots: \$1.25 per side

Financial Products:

1,000 lots or more: \$0.30 per side

Less than 1,000 lots: \$0.90 per side

Agricultural Products include soft futures and options (including Calendar Spread and Weekly option contracts). Financial Products include USDX, Russell Index, Currency Pair and ICE Millions currency contracts. EFP, EFS, EOO and Block Trade volume will not be included in the program.

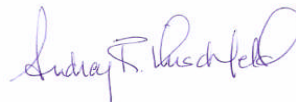
The Exchange has identified the following core principles as potentially being impacted by the Program: Monitoring of Trading, Execution of Transactions, Protection of Market Participants, Compliance with Rules and Recordkeeping. The Program will not impact the Exchange's ability to perform its trade practice and market surveillance obligations under the CEA. In addition, the Exchange has implemented systems to track Program participant's volume to ensure proper distribution of earned incentives and conducts real-time monitoring. The Program does not impact order execution priority or otherwise give participants any execution preference or advantage.

The Exchange certifies that the amendment and the Program comply with the requirements of the CEA and the rules and regulations promulgated thereunder.

The Exchange is not aware of any substantive opposing views expressed by members or others with respect to the amendments, which were adopted by a supermajority of the Board upon the recommendation of the Public Directors. 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 me at 212-748-4083 (Audrey.hirschfeld@theice.com).

Sincerely,

A handwritten signature in blue ink that reads "Audrey R. Hirschfeld". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Audrey R. Hirschfeld
Senior Vice President & General Counsel
ICE Futures U.S, Inc.

cc: Division of Market Oversight
NY Regional Office-CFTC

EXHIBIT A

Exhibit A

Rule 2.38. Exchange Trading Permits

(1) Authorization

(a) The Board of Directors may issue the following NYBOT Trading Permits:

(i) FINEX[®] Trading Permits, which authorize the Permit Holder to trade Financial Contracts and Index Contracts;

(ii) Option Trading Permits, which authorize the Permit Holder to trade all Exchange Options and Futures Contracts on Coffee, Sugar, Cocoa Cotton , and FCOJ.; and

(iii) FINEX-Europe Trading Permits, which authorize the Permit Holder to trade only those Commodity Contracts that are listed by the Exchange for trading in Dublin, Ireland.

(2) Trading Limitations

(a) A Trading Permit issued hereunder authorizes the Permit Holder to:

(i) enter into proprietary trades in those Commodity Contracts which are authorized by the particular type of Permit held; and

(ii) execute from the Floor of the Exchange, for the account of other Persons, those Commodity Contracts which are authorized by the particular type of Permit held.

(b) A Permit Holder shall not execute or attempt to execute, or participate in any manner in any activity on the Floor of the Exchange involving Commodity Contracts other than those Commodity Contracts that are authorized by the Trading Permit held by him.

(c) A Permit Holder shall not represent by word or conduct that he is a Trading Member.

(d) Notwithstanding the above, a Permit Holder, who is also registered with the CFTC as an associated person, may submit to the Exchange's electronic trading system trades for customer accounts in Commodity Contracts which are not authorized by the particular type of Permit held, subject to compliance by the associated person with all applicable law.

(e) Notwithstanding the above, a Permit Holder who is also registered with the CFTC as a floor broker, is authorized to submit to the Exchange's electronic trading system ,from the Trading Floor, trades for customer accounts in Cash Settled US Agricultural Futures and Options Contracts.

(3) Committee Membership

A Permit Holder may be elected or appointed to any Exchange committee as permitted by the Rules.

(4) Qualification for Trading Permit and Application Procedure

(a) Every applicant for a Trading Permit hereunder shall satisfy the qualifications specified in Rule 2.01.

(b) An applicant for a Trading Permit shall follow the application procedures specified in Membership Rules 2.03 through 2.08.

(5) Number of Authorized NYBOT Trading Permits

(a) The number of FINEX Trading Permits authorized hereunder is four hundred eighty-three (483).

(b) The number of Option Trading Permits authorized hereunder is one hundred thirty-nine (139).

(c) The number of FINEX-Europe permits authorized hereunder is one hundred twenty-five (125).

(6) Transfer of Trading Permit

Trading Permits may be transferred in accordance with the Rules regarding the transfer of Memberships (without reference to the Required Shares provisions).