


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

C.F.T.C.
OFFICE OF THE SECRETARIAT
2009 OCT 13 PM 2 58

BY ELECTRONIC TRANSMISSION

Submission No. 09-42
October 13, 2009

Mr. David Stawick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: **USDX[®] Member Firm Fee Program, New Softs Market Maker Program, and New Russell 1000 Mini and Russell 2000 Mini Fee Programs - 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, a USDX Member Firm Fee Program, a new Softs Market Maker Program and new Russell 1000 Mini and Russell 2000 Mini Fee Programs.

USDX Contract Member Firm Fee Program

On December 31, 2009, the Exchange will be terminating its program under which members of the major U.S. futures and options exchanges receive a discounted rate on certain Exchange contracts (including the USDX) traded for their own accounts (the "Fee Program") (See Submission No. 09-32). The USDX was added to the Fee Program in June 2009 and, based on the limited experience of these few months, the Exchange has determined to establish a separate USDX fee program for member firms of one or more of the major U.S. futures or options exchanges listed below, (the "USDX Member Firm Fee Program"), which essentially mirrors the original Fee Program. The USDX Member Firm Fee Program will be available to member firms of the following exchanges: CME, CBOT, CBOE, NYMEX and ISE and will entitle the member firm to a discounted Exchange and Clearing Fee ("Fee") of \$0.30 per side on all USDX futures and options contracts traded during the month for the participant's proprietary account. The USDX Member Firm Fee Program's initial term will be until January 30, 2010, but it may be extended by the President for a period of time not to exceed three (3) years. A copy of the application is attached as Exhibit A.

Because Annex B of the Bylaws provides for certain discounts to be afforded to persons defined therein as NYBOT Members, NYBOT Member Firms, NYBOT Permit Holders and Lessees in relation to the rates charged to persons not included within the scope of such definitions, the Exchange will reduce the USDX Fee as follows: (i) the NYBOT Member rate for USDX futures and options contracts will be reduced to \$0.24, from the current \$0.50, (ii) the NYBOT Member Firm rate for USDX futures and options contracts will be reduced to \$0.24, from the current \$0.95, (iii) the NYBOT Permit Holder rate for futures contracts will be reduced to \$0.30, from the current \$0.63, and (iv) the Lessee rate for futures contracts will be reduced to \$0.30, from the current \$0.65.¹ The reduced Fees will be implemented at the same time as the USDX Fee Program.

New Softs Market Maker Program ("Softs MMP")

Since the inception of electronic trading in soft futures contracts, the Exchange has operated a softs market maker program designed to support electronic markets for these products (see Submission No. 07-2). The Program was put in place to ensure that electronic markets at launch would be robust and two-sided; participants who agreed to make markets in one or more products received a full rebate of the Fee for all platform volume executed for their proprietary accounts in the participant's designated product(s). The Program was critical to the successful launch of electronic trading in these products, and has been a key element in maintaining and growing the liquidity and trading volumes.

Despite the success of the Program in supporting electronic trading of the softs, the old Program will be terminated at the close of business October 31, 2009, and the new Softs MMP will go into effect on November 1, 2009. (Current participants in the old Program have been, or are being, informed of its termination.) The new Softs MMP was created to generate increased competition among participants to ensure tighter and more liquid markets on the platform. The terms of the new Softs MMP are:

Eligibility: Open to as many as 20 proprietary trading participants, who must agree to make two-sided markets in one or more agricultural futures contract on the electronic trading platform for a substantial part of the trading day. Applicants will be approved based upon their demonstrated track record in trading and market making in products traded at the Exchange and other exchanges.

Threshold and Discounts: Approved participants will receive a discounted Fee for all volume executed by them in their market maker products on the electronic platform for their proprietary accounts. At the end of each calendar month, all participants will be ranked based upon their market maker trading volumes for the month, with the highest-volume participant ranked Number 1, the second highest ranked Number 2, and so on. The Fee for each participant for that calendar month will be determined as follows:

Tier 1 - Participants Nos. 1 to 5 By Monthly Volume: \$0.25 per side

¹ Section 4(a) of Annex B of the Bylaws entitles NYBOT Members and NYBOT Member Firms to a Fee reduction of no less than 20% with respect to certain products off the lowest Fees charged to individuals or firms who are not NYBOT Members or NYBOT Member Firms. Section 4(c) of Annex B of the Bylaws entitles NYBOT Permit Holders and Lessees to pay the lowest Fees for electronic transactions in the USDX futures contracts.

Tier 2 - Participants Nos. 6 to 10 By Monthly Volume: \$0.50 per side
Tier 3 - All Other Participants: \$0.75 per side

New participants, who are added after a 3-month term has begun, will receive the Tier 1 Fee for the remainder of that term, after which, if the new Softs MMP continues, they will be included in the monthly ranking of all participants and will receive the appropriate fee based upon their ranking.

Term: The proposed program would have an initial term of three (3) months, starting on November 1, 2009. The Exchange will reserve the right to extend the Softs MMP at the end of the initial term and each successive three (3) month term (not to exceed three years) based upon an assessment of the benefits of the Softs MMP to date. At the end of the initial and each successive three (3) month term, participants will be renewed based upon their Softs MMP volume during such term.

A copy of the program Application and agreement is attached as Exhibit B.

New Russell 1000 Mini and Russell 2000 Mini Fee Programs

Since August 2007, the Exchange has included the Russell Indexes in its Fee Program in order to attract exchange members who traded the Russell Indexes at the CME, CBOE, CBOT, NYMEX and ISE to trade these products at the Exchange. Enrolled participants received a discounted fee of \$0.30 instead of the customer rate of \$0.94. As noted above, the Fee Program will terminate on December 31, 2009. The Fee Program has been successful in building and maintaining volume in the Russell 2000 Mini Index futures and options contracts ("R2 Mini"), but has had only a limited effect in attracting volume to the Russell 1000 Mini Index futures and options contracts ("R1 Mini"). In order to retain the incentive for R2 Mini trading and create a new incentive for R1 Mini trading, the Exchange has created two (2) new Fee Programs as outlined below:

New Russell Contract Individual Member Fee Program ("Individual Fee Program"):

The Individual Fee Program would be open to any individual trader who owns or leases a membership or trading rights instrument in any of the following exchanges: CME, CBOT, CBOE, NYMEX and ISE. Qualified participants would receive a discounted fee of \$0.30, and those participants who trade 100 or more R1 Minis (futures and/or options) during a calendar month would receive a further discounted fee of \$0.12 per side for all R1 Minis and R2 Minis traded that month for the trader's proprietary account. A copy of the proposed application form is attached as Exhibit C.

In order to ensure that the Individual Fee Program is consistent with the Exchange's Bylaws, the NYBOT Member rate for R1 Minis will be reduced to \$0.09, from the current \$0.24 rate. The change to the NYBOT Member rate will be implemented at the same time as the Individual Fee Program goes into effect.

New Russell Contract Member Firm Fee Program ("Member Firm Fee Program"):

The Member Firm Fee Program will be open to any firm which maintains membership status in any of the following exchanges: CME, CBOT, CBOE, NYMEX and ISE. Qualified participants would receive a discounted fee of \$0.60, and those participants who trade 100 or more R1 Minis during a calendar month would receive a further discounted rate of \$0.30 per side for all R1 Minis and R2 Minis traded that month for the participant's proprietary account. A copy of the proposed application form is attached as Exhibit D.

In order to ensure that the new Member Firm Fee Program is consistent with the Exchange's Bylaws, the NYBOT Member Firm rate for R1 Minis will be reduced to \$0.24, from the current \$0.30 rate. The change to the NYBOT Member Firm rate will be implemented at the same time as the Member Firm Fee Program goes into effect.

Both Programs will have an initial term that would commence on November 1, 2009 and continue through April 30, 2010, with extensions beyond that period to be permitted at the discretion of the President based upon an analysis of the benefits of each of the Programs during the initial term.

The Exchange certifies that the USDX Fee Program, the Softs MMP and the Russell Individual Fee and Member Firm Fee Programs comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The Russell Individual Fee and Member Firm Fee Programs and the Softs MMP were adopted by the Exchange's Board of Directors on September 17, 2009 and then amended by the Board on October 8, 2009. The USDX Fee Program was adopted by the Board on October 8, 2009. All of the Programs will go into effect on November 1, 2009. No substantive opposing views were expressed by members or others with respect to any of the Programs.

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

Sincerely,

Jill S. Fassler
Vice President
Associate General Counsel

cc: Division of Market Oversight
New York Regional Office

EXHIBIT A

ICE FUTURES U.S.®, Inc.
USDX® CONTRACT MEMBER FIRM FEE PROGRAM

The program offers entities that are corporate members from a number of qualifying U.S. derivatives exchanges a rate of \$0.30/side for all ICE Futures U.S. U.S. Dollar Index® (“USDX”) futures and options contracts executed in that calendar month. The fee reduction is rebated to the participant's clearing member, and passed on to the participant.

Participant Name: _____

Type of Membership (check one):

CME Corporate Member **CBOT** Corporate Member **CBOE** Corporate Member

NYMEX Corporate Member **ISE** Corporate Member

NFA Registration ID (if applicable): _____

Please identify the proprietary account you will be using for trading ICE Futures U.S. USDX futures and options contracts (only trades in identified accounts are eligible for program rates).

ICE Futures U.S. Clearing Member	Proprietary Trading Account Number

Clearing Member Contact _____ Phone _____ email _____

From the effective date through trade date January 30, 2010, ICE Futures U.S. will charge participants in the USDX Contract Member Firm Fee Program a rate of \$0.30/contract side in the ICE Futures U.S. USDX futures and options contracts. Only trades executed by the participants in their proprietary accounts are eligible for reduced fees. The difference between the rate charged participants in the USDX Contract Member Firm Fee Program and the standard non-member fees for USDX transactions in these contracts will be rebated to the Program participant through the participant's clearing member. The USDX Contract Member Firm Fee Program will continue through trade date January 30, 2010 or until further notice, but in no case for a period to exceed three (3) years. ICE Futures U.S. reserves the right to remove any participant from the Program at its discretion.

As a qualified representative of the member firm applying to participate in the Program, I hereby certify that the information provided above is true and correct. I hereby acknowledge and understand that ICE Futures U.S., including but not limited to the Market Regulation Department, will be reviewing the trading in the proprietary account(s) listed above in order to determine whether the firm is continuing to meet the requirements of the USDX Contract Member Firm Fee Program and if the firm should continue or be renewed as a participant in the Member Firm Fee Program. I authorize ICE Futures U.S. to contact my clearing member from time to time to confirm my continued eligibility for the program and authorize my clearing member to release all trading information related to the proprietary account(s) listed above to ICE Futures U.S.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Firm: _____

Telephone Number: _____

E-Mail Address: _____

The application should be returned to Tracy Anzalone, IntercontinentalExchange, fax number 312.214.2001, or tracy.anzalone@theice.com. Please call Ted Doukas (312.214.2022) with questions about the program.

EXHIBIT B

**ICE Futures U. S. Inc. Softs Market Maker Program
Application and Agreement**

This Application and Agreement is submitted by _____ ("Market Maker") to become a Market Maker for ICE Futures U.S., Inc. ("ICE Futures") in order to provide a liquid and orderly marketplace for the ICE Futures and/or Options Contracts traded on the ICE electronic trading system (the "Designated Contracts").

The Market Maker understands and agrees that:

1. It will execute all documents and agreements required by ICE Futures in order that the Market Maker is able to input orders into the ICE electronic trading system and will use its best efforts to continuously maintain in the appropriate Designated Contracts a current bid and offer as specified in Schedule A, which is attached and made a part of this Application, for the hours specified in Schedule A.

2. It will make and conduct all Program trading activity as a Market Maker through the Market Maker's proprietary account(s), and will identify the clearing member which carries such proprietary account(s), the account number(s) and the traders authorized to trade for the account to appropriate ICE Futures personnel. It will authorize the identified clearing member to release all trading information related to the identified proprietary account(s) to ICE Futures and authorize ICE Futures, including but not limited to the Market Regulation Department, to review the trading in the identified proprietary accounts and its conduct as a Market Maker in order to determine whether its obligations as a Market Maker are being fulfilled and should continue or be renewed as a Market Maker.

3. At the end of each calendar month, all participant Market Makers in this Program will be ranked by traded Program volume executed by the Market Maker during the calendar month, with the highest-volume participant ranked Number One, the second-highest participant ranked Number Two, and so on. Each Market Maker will be charged an Exchange transaction fee for their Program volume for that calendar month that is determined based upon their rank as shown below:

- Tier 1 - Participants Ranked Nos. 1 to 5: \$0.25 per side
- Tier 2 - Participants Ranked Nos. 6 to 10: \$0.50 per side
- Tier 3 - All Other Participants: \$0.75 per side

New Market Makers added during a three-month term of the Program will be charged the Tier 1 rate above for each month of that term and will not be included in the monthly ranking of participants for that term.

4. The initial term of this Agreement shall commence on the Effective Date below and end on December 31, 2009. ICE Futures, in its sole discretion, may extend the term of the Agreement for a period not to exceed three years in total. The Market Maker further acknowledges that ICE Futures, in its sole discretion, retains the right to alter and amend the terms of this Agreement at any time, or terminate any market maker program, in its entirety, upon written notice to the Market Maker. ICE Futures may revoke the Market Maker's status if ICE Futures concludes from its review that the Market Maker is not complying with the obligations of the Market Maker under this Agreement.

Effective Date: _____
ICE Futures U.S.

(Market Maker)

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A

Product: _____

	Front Month	Second Month	Third Month	Calendar Spread
Bid/Offer Spread				
Size				
Trading Hours				

Product: _____

	Front Month	Second Month	Third Month	Calendar Spread
Bid/Offer Spread				
Size				
Trading Hours				

Product: _____

	Front Month	Second Month	Third Month	Calendar Spread
Bid/Offer Spread				
Size				
Trading Hours				

Product: _____

	Front Month	Second Month	Third Month	Calendar Spread
Bid/Offer Spread				
Size				
Trading Hours				

The undersigned Market Maker hereby agrees that it will use its best efforts to maintain the above bid/offer spreads during the specified trading hours in accordance with the Market Maker's obligations under paragraph 2 of the Market Maker Application and Agreement.

Date: _____

By: _____

Name: _____

Title: _____

Phone: _____

Email: _____

Clearing Member Information:

Name: _____

Acct #: _____

CM Contact: _____

Phone or email: _____

EXHIBIT C

ICE FUTURES U.S.® RUSSELL CONTRACT INDIVIDUAL MEMBER FEE PROGRAM

The program offers individual members of a number of qualifying US derivatives exchanges who execute at least 100 Russell 1000® Mini Index futures and/or options sides each calendar month a rate of \$0.12/side for all Russell 1000 Mini Index and Russell 2000® Mini Index futures and options contracts executed in that calendar month during the term of the program. The fee reduction is rebated to the participant's clearing member, and passed on to the participant.

Participant Name: _____

Type of Membership (check one):

CME Individual Member **CBOT** Individual Member **CBOE** Individual Member

NYMEX Individual Member **ISE** Individual Member

NFA Registration ID (if applicable): _____

Please identify the proprietary account you will be using for trading ICE Futures U.S. Russell Index products (only trades in identified accounts will be eligible for program rates).

ICE Futures U.S. Clearing Member	Proprietary Trading Account Number

Clearing Member Contact _____ Phone _____ email _____

From the effective date through trade date April 30, 2010, for each month that an individual participant meets the required Russell 1000 Mini Index volume of 100 futures and/or options contract sides, ICE Futures U.S. will charge the participant at a rate of \$0.12/contract side for transactions in the Russell 1000 Mini Index and Russell 2000 Mini Index futures and options contracts. Only transactions in said Russell contracts executed by the participant in his/her proprietary account(s) are eligible for reduced fees. The difference between the rate charged the participant in the Individual Member Fee Program and the standard non-member fees for Russell transactions in these contracts is rebated to the Program participant through the participant's clearing member. If in any calendar month the participant fails to

meet the Program's volume requirement for the Russell 1000 Mini Index, the participant will be charged at a rate of \$.30 a contract side for transactions in the Russell 1000 Mini Index and Russell 2000 Mini Index futures and options contracts for that month.

The Individual Member Fee Program continues through trade date April 30, 2010 or until further notice, but in no case for a period to exceed three years. ICE Futures U.S. reserves the right to remove any participant from the Program at its discretion.

I hereby certify that the information provided above is true and correct. I hereby acknowledge and understand that ICE Futures U.S., including but not limited to the Market Regulation Department, will be reviewing trading in my proprietary account(s) listed above in order to determine whether I am continuing to meet the requirements of the Individual Member Fee Program and if I should continue or be renewed as a participant in the Individual Member Fee Program. I authorize ICE Futures U.S. to contact my clearing member from time to time to confirm my continued eligibility for the program and authorize my clearing member to release all trading information related to my proprietary account(s) listed above to ICE Futures U.S.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Firm: _____

Telephone Number: _____

E-Mail Address: _____

The application should be returned to Tracy Anzalone, IntercontinentalExchange, fax number 312.214.2001, or tracy.anzalone@theice.com. Please call Ted Doukas (312.214.2022) with questions about the program.

EXHIBIT D

ICE FUTURES U.S.® RUSSELL CONTRACT MEMBER FIRM FEE PROGRAM

The program offers entities that are corporate members of a number of qualifying US derivatives exchanges that execute at least 100 Russell 1000® Mini Index futures and/or options sides each calendar month a rate of \$0.30/side for all Russell 1000 Mini Index and Russell 2000® Mini Index futures and options contracts executed in that calendar month. The fee reduction is rebated to the participant's clearing member and passed on to the participant.

Participant Name: _____

Type of Membership (check one):

CME Corporate Member **CBOT** Corporate Member **CBOE** Corporate Member

NYMEX Corporate Member **ISE** Corporate Member

NFA Registration ID (if applicable): _____

Please identify the proprietary account you will be using for trading ICE Futures U.S. Russell Index products (only trades in identified accounts are eligible for program rates).

ICE Futures U.S. Clearing Member	Proprietary Trading Account Number

Clearing Member Contact _____ Phone _____ email _____

From the effective date through trade date April 30, 2010, for each month that a participating firm meets the required Russell 1000 Mini Index volume of 100 futures and/or options contract sides, ICE Futures U.S. will charge the participating firm at a rate of \$0.30/contract side for transactions in the Russell 1000 Mini Index and Russell 2000 Mini Index futures and options contracts. Only transactions in said Russell contracts executed by the participating firm in its proprietary account(s) are eligible for reduced fees. The difference between the rate charged the participating firm in the Member Firm Fee Program and the standard non-member fees for Russell transactions in these contracts is rebated to the Program participating firm through the participating firm's clearing member. If in any calendar month the

participating firm fails to meet the Program's volume requirement for the Russell 1000 Mini Index, the participating firm will be charged at a rate of \$.60 a contract side for transactions in the Russell 1000 Mini Index and Russell 2000 Mini Index futures and options contracts for that month.

The Member Firm Fee Program continues through trade date April 30, 2010 or until further notice, but in no case for a period to exceed three years. ICE Futures U.S. reserves the right to remove any participant from the Program at its discretion.

As a qualified representative of the member firm applying to participate in the Program, I hereby certify that the information provided above is true and correct. I hereby acknowledge and understand that ICE Futures U.S., including but not limited to the Market Regulation Department, will be reviewing trading in the proprietary account(s) listed above to determine whether the firm continues to meet the requirements of the Member Firm Fee Program and whether the firm should continue or be renewed as a participant in the Member Firm Fee Program. I authorize ICE Futures U.S. to contact the clearing member of the participating firm from time to time to confirm its continued eligibility for the program and authorize its clearing member to release all trading information related to the proprietary account(s) listed above to ICE Futures U.S.

Signature: _____ Date: _____

Printed Name: _____

Title: _____ Firm: _____

Telephone Number: _____

E-Mail Address: _____

The application should be returned to Tracy Anzalone, IntercontinentalExchange, fax number 312.214.2001, or tracy.anzalone@theice.com. Please call Ted Doukas (312.214.2022) with questions about the program.

HoustonStreet Exchange, Inc.

Bilateral Swaps submitted to CME Clearport Q3-2009 Totals

	<u>Q3 Total (Barrels)</u>	<u>Average Daily Volume (Barrels)</u>
ME - (ME-Platts)-Gulf Coast Jet vs. New York Harbor No. 2 Heating Oil Spread Swap (PLATTS GC 54 JET PIPELINE VS NYMEX HO)	3,375,000	51,923
LT - (LT-Platts)-Up-Down Gulf Coast ULSD vs. NYMEX HO Spread (PLATTS GC ULSD PIPELINE VS NYMEX HO)	2,095,000	32,231
UT - No. 2 Heating Oil Up-Down Spread Calendar Swap (PLATTS GC NO 2 PIPELINE VS NYMEX HO)	125,000	1,923
JU - (JU-Argus)-Gulf Coast Jet vs New York Harbor No. 2 Heating Oil Spread Swap (Argus GC 54 Jet Pipeline vs NYMEX HO)	50,000	769
JC - European Jet CIF NWE vs. Gasoil Futures Swap (Volume is in Metric Tons)	40,000	615
7U - Gulf Coast Heating Oil (Argus) vs. Heating Oil Spread Swap Futures	25,000	385
RV - RBOB Up-Down Calendar Swap (GC 87 VS NYMEX RBOB)	20,000	308