

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

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

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**BY ELECTRONIC TRANSMISSION**

Submission No. 09-51  
November 17, 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: **Amendment to Russell Individual Fee Program -  
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, an amendment to the Russell Individual Fee Program. In Submission No. 09-42 dated October 13, 2009, the Exchange submitted two new programs for retaining liquidity in the Russell 2000 Mini Index futures and options contracts ("R2 Mini") and attracting liquidity to the Russell 1000 Mini Index futures and options contracts ("R1 Mini"). One of the submitted programs was the Russell Individual Fee Program (the "Program").

The Program has been 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 receive a discounted Exchange and Clearing fee ("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. The Program, however, does not allow for members of the Exchange to participate in the Program, which results in the unintended consequence of members of the Exchange being charged a higher Fee for their R2 Mini trades than Program participants, who are members of other exchanges. To remedy the unintended consequence, the Program has been amended to include individual members of the Exchange. A copy of the amended Agreement and Application is attached as Exhibit A.

The Exchange certifies that the amendment to the Program complies with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The amendment to the Program was adopted by the Exchange's Board of Directors by unanimous written consent in accordance with Bylaw Section 4.7 on November 16, 2009. The amendment to the Programs will go into effect on November 19, 2009. No substantive opposing views were expressed by members or others with respect to the amendment.

If you have any questions or need further information, please contact me at 212-748-4084 or at [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

**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     **ICE U.S.** 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](mailto:tracy.anzalone@theice.com). Please call Ted Doukas (312.214.2022) with questions about the program.