



EXCHANGE NOTICE

January 13, 2017

RULE AMENDMENT NOTICE #111

Please amend your ICE Futures Canada Rulebook on the basis set out in this Rule Amendment Notice. You may wish to keep the Amendment Notice with your Rulebook. The Rules and Annexures are also available on the website at:

<https://www.theice.com/futures-canada/regulation##rulebook>

Please note that ICE Futures Canada Rules and Annexures are only available in pdf format.

Rule Amendments follow on the next page.

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The amendments as below are effective Trade Date January 16, 2017.

Also see web notices distributed on March 29, 2016; May 17, 2016 and November 28, 2016.

https://www.theice.com/publicdocs/futures_canada/member_notices/2016_03_29_Request_for_Comment_Administrative_Penalty_Provisions.pdf

https://www.theice.com/publicdocs/futures_canada/member_notices/2016_05_17_Reminder_Administrative_Penalty_RFC.pdf

https://www.theice.com/publicdocs/futures_canada/member_notices/2016_11_28_Admin_Penalties.pdf

RULES

RULE 1 - GENERAL ADMINISTRATION AND DEFINITIONS

1.02 Definitions - Add new definition as follows:

“Administrative Penalty” - has the meaning provided for in Rule 10.

RULE 4 - PARTICIPANTS

4D.12 Failure to Pay

- c. Disciplinary penalties assessed by the Exchange, including Administrative Penalties, are due and payable to the Exchange on the date noted. Failure to pay all monies owing within this time period shall result in immediate suspension of Participant status. Any Participant who has not paid such monies within two (2) calendar months will be terminated and be required to re-apply for Participant status.

RULE 10 - INSPECTIONS, INVESTIGATIONS AND HEARING PROCEDURES

Add to the Table of Contents:

Part 10L - Administrative Penalty Provisions

<u>10L.01</u>	<u>Rule Violations Subject to an Administrative Penalty</u>
<u>10L.02</u>	<u>Administrative Penalties</u>
<u>10L.03</u>	<u>Issuance of Administrative Penalty</u>
<u>10L.04</u>	<u>Appeal Procedures</u>
<u>10L.05</u>	<u>Findings of the Special Regulatory Committee member on appeal</u>
<u>10L.06</u>	<u>Costs</u>

10D.08 Conclusion of Investigation or Inspection

- a. Upon concluding an inspection, if the Regulatory Division determines, in its sole discretion, that the Participant or Market Participant has or may have failed to comply with any Requirement, the Regulatory Division may conduct an investigation into the conduct

or business of the Participant or Market Participant and/or may at any time issue an Originating Notice.

b. Upon concluding an investigation, the Regulatory Division shall either;

(1) take no further action in relation to the complaint if, in its sole discretion, it determines that there is not a *prima facie* case to justify disciplinary proceedings under this Rule; or

~~(+)(2)~~ issue an Administrative Penalty in accordance with this Rule; or

~~(3)~~ issue an Originating Notice in accordance with this Rule.

c. Upon concluding an inspection or investigation, if the Regulatory Division determines to proceed under either subsection b.(1) or b.(3) above, it the Regulatory Division shall submit a written report to the Vice-President, Market Regulation detailing all relevant facts and particulars in relation to the inspection or investigation. The Vice-President, Market Regulation may seek advice in relation to the report, where he or she deems it appropriate, from a member of the Special Regulatory Committee. The report of the Regulatory Division and any advice obtained by the Vice-President, Market Regulation is and shall remain strictly confidential and shall not be disclosed to any other person for any purpose whatsoever. If the Vice-President, Market Regulation obtains advice from any member of the Special Regulatory Committee with respect to an inspection or investigation, the member of the Special Regulatory Committee who gave the advice shall not participate in any subsequent hearing of the matter.

Part 10E Proceedings

10E.01

Responsibilities of the Corporate Administrator

a. The Office of the Corporate Administrator shall be responsible for:

- (1) organizing and scheduling all meetings, hearings, and communications concerning any panel of a disciplinary hearing;
- (2) all communications with the independent board member and/or the President, in accordance with Rule 10G.02 pertaining to the appointment of a panel of the Disciplinary Committee;
- (3) maintaining files concerning each hearing held pursuant to these Rules, which files are to maintain original copies of all pleadings and copies of all correspondence;
- (4) the exchange of all correspondence between counsel for the parties to a hearing and the disciplinary panel appointed to hear the matter;
- (5) accepting for filing all pleadings pertaining to a hearing as required by these Rules, and the service of same where required by the Rules; and
- (6) such ancillary matters as are necessary to properly carry out the obligations set out in sub paragraphs (1) to (5) above.

These duties shall include appeals of an Administrative Penalty as set out in Part 10L to these Rules.

Part 10G
Procedures for Hearings at First Instance

10G.02 Hearing Panel

After an Originating Notice has been served, the Independent Board Member appointee to the Special Regulatory Committee SRG, or in the event of a conflict or in his absence, the President, shall select a panel of at least three (3) individuals from amongst the members of the disciplinary committee to hold a hearing.

10G.03 Contested Hearings Public

Contested hearings, excluding appeals from Administrative Penalties, shall be held in public.

The Discipline Committee hearing the matter may, at its own initiative, or upon request, order that parts of a hearing shall be held in-camera, or may order the prohibition of the publication or disclosure of specific information, vive-voce evidence, or documents, where there is reason to protect and/or preserve information or communications of a confidential, proprietary, privileged, or intimate nature, or to protect and/or preserve an individual's right to privacy.

10J.06 Publication of Information

The office of the Corporate Administrator shall cause to be published on the Website the following information at the following times:

- a. Notices of Hearings, no less than 2 business days prior to the date of hearing. In the event that a hearing is called for a disciplinary panel to determine whether or not to accept a joint settlement proposal, a notification shall be placed in the Notice of Hearing that settlement hearings are not public.
- b. Notices of all decisions of disciplinary committees, whether contested hearings or settlement hearings, on or after the date that such decision is effective and the appeal period has expired.

Matters involving Administrative Penalties will not be published on the Website.

Part 10L
Administrative Penalty Provisions

This Part 10L applies when the Regulatory Division determines to proceed, with respect to an inspection and/or investigation, in accordance with Rule 10D.08 b.(2)

10L.01 Rule Violations Subject to an Administrative Penalty

Violations of the following Rules are subject to an Administrative Penalty:

- a. Rule 8D.14;

- b. Rule 8B.04 and Appendix C to Rule 8;
- c. Rule 8A.08 b.;
- d. Rule 12 reporting requirements, including those pertaining to Annexures 12.A, 12.B, and 12.C;
- e. Rule 7 reporting requirements including those pertaining to financial filings;
- f. Rule 8B.14 recording and reporting requirements;
- g. Rule 8C.03 (EFP) and 8C.04 (EFS/EOO) requirements;
- h. Failure to adhere to the nomination requirements in Rules 14.17 c., 15.17 c., 16.17 c., and 17.17 c.

10L.02 Administrative Penalties

One or more of the following sanctions may be included in an Administrative Penalty;

- a. a letter, including but not limited to a warning letter with cease and desist directions, which requires that the Respondent to the said letter acknowledge the directions set out in the letter and that it will adhere to same; and
- b. a fine of up to Cdn \$5,000.00 per Rule violation.

For greater clarity, an Administrative Penalty Letter can include more than one sanction per violation.

10L.03 Issuance of Administrative Penalty

- a. The Regulatory Division may issue an Administrative Penalty where it determines that there may have been a violation of one or more of the Rules set out in Rule 10L.01.
- b. The Regulatory Division shall issue an Administrative Penalty Letter by service in the method provided for in this Rule. The sanctions provided for will take effect on the tenth (10th) business day following the date that the Administrative Penalty Letter was served, unless the Respondent files an appeal in accordance with this Rule.
- c. If an appeal is not filed by the Respondent(s) within the time frame permitted, the sanctions are deemed to be effective and the Exchange can proceed to enforce the sanctions in any way permitted by these Rules or under law.

10L.04 Appeal Procedures

Appeals from the issuance of an Administrative Penalty Letter are to be made as follows:

- ~~b.~~a. the Respondent must file a written appeal in the form set out in Annex 10.F with the Corporate Administrator within ten (10) business days of service of the Administrative Penalty Letter.
- ~~a.~~b. the Corporate Administrator will contact the Independent Board Member who will appoint one member of the Special Regulatory Committee, not including either the Independent Board Member or the President.
- c. the Corporate Administrator will set up a hearing date within thirty (30) days of the service of the appeal and will advise the Regulatory Division and the Respondent(s) by email.

- d. if any of the parties intend to rely on documentation at the appeal hearing other than the Administrative Penalty Letter and the Annex 10.F submitted by the Respondent, that party shall provide the Corporate Administrator with such documentation by electronic means no later than four (4) business days in advance of the date of the appeal hearing.
- e. the appointed member of the Special Regulatory Committee will be provided with a copy of the Administrative Penalty Letter, the Respondent's appeal, and any documentation provided by the parties prior to the hearing date.
- f. the appeal hearing is a hearing at first instance. The Special Regulatory Committee member shall not be bound by the provisions set out in Part 10G of these Rules. The hearing shall be conducted by the Special Regulatory Committee member in a manner that is fair to both parties. At a minimum this is to include the following:
 - e-(1) oral evidence of witnesses shall be given under oath or affirmation;
 - d-(2) parties shall have the right to call witnesses and tender evidence;
 - e-(3) parties shall have the opportunity to make a closing statement;
 - f-(4) the burden of proof on the Regulatory Division is the civil standard "the balance of probabilities"; and
 - g-(5) if one or more of the Respondents fail to attend the appeal hearing, the Special Regulatory Committee member may proceed with the appeal.

10L.05 Findings of Special Regulatory Committee member on appeal

- a. The decision of the Special Regulatory Committee member can be provided orally at the conclusion of the hearing or the matter can be adjourned and the Special Regulatory Committee member may provide his/her decision orally or in writing, provided that the decision must be issued no later than ten (10) business days after the hearing is concluded.
- b. In the event that the appeal is not fully successful, the Special Regulatory Committee member may not impose a higher penalty than was initially set out in the Administrative Penalty Letter, but may impose a penalty that is the same as or lower than the penalty provided for in the Administrative Penalty Letter.
- c. No appeal lies from any decision or order made by the Special Regulatory Committee member under this Rule.

10L.06 Costs

In addition to the penalty(ies) imposed by the Special Regulatory Committee member in Rule 10L.05 above, the Special Regulatory Committee member may order that the Respondent pay to the Exchange, within a specified period of time, the costs of the time spent on the appeal by the Special Regulatory Committee member. These costs will be calculated on the basis that each half day spent by the Special Regulatory Committee member on the appeal will be paid at the same rate that is in effect and paid for meetings of the Special Regulatory Committee. No other costs may be awarded for appeals from Administrative Penalty Letters.

ANNEXURES

Table of Contents - add: Annex 10.F Notice of Appeal of Administrative Penalty

Annex 10.F - A new Annex has been added as follows:

Annex 10.F

**NOTICE OF APPEAL
OF ADMINISTRATIVE PENALTY**

IN THE MATTER OF:

Regulatory Division of
ICE Futures Canada, Inc.
and
"name(s) of Respondent(s)"

To:
The Corporate Administrator
ICE Futures Canada, Inc.
850A Pembina Highway
Winnipeg, Manitoba R3M 2M7

TAKE NOTICE THAT _____ hereby appeals from
(type full legal name of Respondent)

the Administrative Penalty Letter dated _____.

The grounds for the appeal are; (state fully all grounds for appeal)

The Respondent does/does not (cross out what is inapplicable) intend to rely on documentation at the appeal hearing, other than the Administrative Penalty Letter and this Notice of Appeal. This documentation includes the following (set out below if applicable):

which will be provided to the Corporate Administrator no later than four (4) business days in advance of the date of the appeal hearing.

Rule 10L provides that a Notice of Appeal must be filed within ten (10) business days of service of an Administrative Penalty Letter failing which the sanctions set out in the Administrative Penalty Letter take effect.

Dated at the city of _____ Province of _____

this _____ day of _____, 20__.

Full legal name of Respondent

Signature of Respondent