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**BY ELECTRONIC TRANSMISSION**

Submission No. 20-4  
January 10, 2020

Mr. Christopher J. Kirkpatrick  
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 Rule 4.07 and the Block Trade FAQ  
Submission Pursuant to Section 5c(C)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby self-certifies the amendments set forth in Exhibit A to IFUS Rule 4.07 and the Exchange’s guidance on block trades, which is reflected in the Exchange’s Block Trade Frequently Asked Question (“Block Trade FAQ”). As described below, the amendments: (i) relieve Exchange Clearing Members of the obligation to exercise “due diligence” to determine if their customers are eligible to participate in block transactions; and (ii) add language clarifying what information may be disclosed by a broker during and after a block trade negotiation.

In accordance with Exchange Rules and procedures, each party to a block trade must be an eligible contract participant (“ECP”)<sup>1</sup>, meet specified financial and portfolio requirements, or be a non-United States person. Exchange Rule 4.07(d) currently requires Exchange Clearing Members to exercise “due diligence” to determine if their customers meet the foregoing requirements and are eligible to participate in block trades. The Exchange is amending Rule 4.07(d) to replace the due diligence standard with a requirement that Clearing Members take appropriate action when they have actual or constructive knowledge that a customer is not eligible to participate in block trades. This mirrors the Exchange’s requirement for Clearing Member oversight of Exchange for Related Position Transactions (see ICE Futures U.S. Submission No. 17-202 and Exchange Rule 4.06).

Block Trade FAQ Question 22 codifies the type of information which may be disclosed by a broker that is acting as an intermediary in the negotiation of a block trade. The amendments to Question 22 clarify that a broker may only disclose the identity of a customer involved in a block trade negotiation if: (i) the broker has such customer’s “express” consent; and (ii) the disclosure is made to another party involved in the block negotiation. The language is intended to make clear that express affirmative consent is required from each customer. Brokers may not rely on implied consent, negative consent or

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<sup>1</sup> The term ‘eligible contract participant’ is defined in Section 1(a)18 of the Commodity Exchange Act.

any representation in a disclosures statement. Such are insufficient for the purpose of this obligation. In addition, the language is intended to make clear that the identity of a customer may not be disclosed to another party that is not involved in the block negotiation.

In addition, the amendments to Question 22 also clarify that a broker may only disclose to persons that are involved in the negotiation (but who are not the ultimate parties to the trade) that the block trade negotiation has ended. The Exchange is not attempting to mandate the exact language that must be used. Rather, the intent of the amendment is to make clear that a broker may not disclose any specific details about a block transaction, such as price or quantity. This change merely codifies the way the Department has always enforced the Rule and does not present any new interpretation.

The amendments to Rules 4.07 and the Block Trade FAQ are being adopted to address recommendations from the Division of Market Oversight. The Exchange is not aware of any opposing views and certifies that the amendments, which will become effective on January 27, 2020, comply with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, as described above, the amendments comply with Core Principle 9 and CFTC Regulation 1.38, which allow designated contract markets (“DCMs”) to authorize transactions, such as block trades, that are executed away from the DCM’s centralized marketplace, on terms specified by the Exchange and submitted to the Commission. The Exchange’s compliance program includes regular review of block trades for conformance with the requirements of Rule 4.07 and violations are subject to disciplinary action. These procedures will continue to be applicable to amended Rule 4.07 consistent with the requirements of Core Principle 2. The Exchange further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange’s website, which may be accessed at (<https://www.theice.com/futures-us/regulation#rule-filings>).

If you have any questions or need further information, please contact me at 212-748-4021 or at [jason.fusco@theice.com](mailto:jason.fusco@theice.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Jason V. Fusco". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.

## EXHIBIT A

### Rule 4.07. Block Trading

(d) ~~A Clearing Member carrying an account for which a Block Trade is executed is responsible for exercising due diligence to determine that the requirements of paragraph (a)(i) of this rule are satisfied.~~ If a Clearing Member has actual or constructive knowledge that an account it carries does not meet the requirements of paragraph (a)(i) of this Rule and fails to take appropriate action, the Clearing Member may be found to have committed an act detrimental to the best interests of the Exchange. Upon request from the Exchange, a Clearing Member carrying an account for which a Block Trade has been executed shall verify that the account holder meets the requirements of paragraph (a)(i) of this Rule and shall advise the Exchange of the basis of such determination.

### ICE Futures U.S. Block Trade FAQ - Question 22

#### 22. What restrictions are in place regarding the disclosure of block trade details?

A broker negotiating a potential block trade for a customer may, with the customer's express consent, disclose the customer's identity ~~and whether the negotiation has ended,~~ to one or more parties involved in the negotiation of a block trade. Parties involved in the solicitation or negotiation of a block trade may not disclose the terms of a block trade to non-involved parties prior to the block trade being publicly reported by the Exchange. However, a broker may communicate to one or more of the parties involved in negotiating the block trade whether the negotiation of the trade has ended, prior to the block trade being publicly reported by the Exchange. A broker may not communicate any additional information beyond the fact that the negotiation ended. Parties receiving such notification may not trade on that information, or disclose such information to any other party, prior to the block trade being publicly posted.