

-----Original Message-----

From: Leppard, Marc [mailto:marc.leppard@theipe.com]

Sent: Tuesday, February 17, 2004 12:14 PM

To: Adriance, Riva

Cc: Raislerk@Sullcrom.com

Subject: FW: ICE ECE Petition

Dear Riva,

I am sorry for the delay in responding to your comments of 13 February. As we discussed previously, there are certain areas of difference between the two categories in the rules: floor and electronic membership. These arise either because of the different issues posed by electronic v floor-based trading or changes in emphasis as we introduced the electronic membership rules alongside the new electronic membership structure in late summer 2003. Some of the applicable rules are also covered in other parts of the rulebook.

On your point i):

- All members are required to have the appropriate authorisation or licence or benefit from the relevant exclusions. As a Floor member, this is contained in rule C.1.(a) as by their nature all UK floor members conducting broking business will be authorised by the FSA. As for the electronic side, there is the possibility of membership outside of the UK and hence we require firms to demonstrate that they have the necessary licences. In addition, there is a more explicit fitness and properness test on the electronic side because of the possibility that a prospective member may be outside the UK (or in a jurisdiction with an equivalent regulatory regime).
- All members are required to have well-defined compliance procedures (rule A.2.1.d);
- All members are required to observe, interpret and give effect to the rules and regulations of the Exchange in a manner designed to promote and maintain the recognition of the IPE as an UK RIE and the good reputation of the exchange and its members; to promote and maintain an orderly market, free of undesirable situations or practices; and to promote and maintain high standards of integrity and fair dealing in accordance with the FSA Statements of Principle.

On your point ii):

- Floor traders are required to sit a Registered Floor Trader Examination whereas electronic traders are not. However, an Individual Participant (IP) would need to ensure that it appointed a Responsible Individual (if he wanted to trade electronically) and that RI has to be adequately trained. The IP and RI has to be one and same person.
- The statements above in relation to licences/exclusions and observing the rules and regulations apply equally to locals and IPs

I hope that this explanation is helpful. Should you require any further information, please do not hesitate to contact Ken or myself.

Kind regards,

Marc

-----Original Message-----

From: Adriance, Riva [mailto:radriance@CFTC.gov]

Sent: 13 February 2004 00:02
To: 'Raisler, Kenneth'
Cc: Leppard, Marc
Subject: RE: ICE ECE Petition

Ken and Marc,

I have received a copy of ICE's petition to the Commission requesting further expansion of the definition of eligible commercial entities dated February 9, which includes expanded information in response to my questions. As I preparing the Federal Register release regarding the petition, I find that the descriptions of IPE Floor Members to differ from that of IPE General Participants in ways that do not seem to totally correlate to status as to trading on the floor vs. trading on the platform. Furthermore, similarly, the descriptions of IPE Local Members seem to differ from that of Individual Participants in ways that do not seem to totally correlate to status as to trading on the floor vs. trading on the platform.

Below is my paraphrasing, from the petition, of what applicants must demonstrate to become members: (I have only included the points that I would want to include in the Federal Register release.)

I. IPE Broker:

- a) An applicant for Floor Member of the IPE must:
- control its internal affairs in a responsible manner,
 - maintain adequate internal records,
 - put in place adequate arrangements in order to ensure that staff and directors are fit, proper, adequately trained and properly supervised, and
 - implement well-designed procedures to ensure compliance with the regulations;
 - the a minimum net worth requirement;
 - be a clearing member or be accepted for such membership, or be a party to or satisfy the IPE that it will become a party to a clearing agreement;
- b) An applicant for General Participant membership of the IPE must:
- be able to demonstrate, to the satisfaction of the IPE, that the applicant is fit and proper to be a Member;
 - that it has sufficient systems and controls in place to ensure that all employees, agents and representatives who may act on its behalf or in its name in the conduct of business on the IPE are fit and proper with suitable qualifications and experience and adequately trained and properly supervised to perform such functions;
 - satisfy the minimum financial standing requirements;
 - be a clearing member or be accepted for such membership, or be a party to, or satisfy the IPE that it will become a party to a clearing agreement with a clearing member;
 - hold all necessary licenses, authorizations and consents or benefits from available exclusions, so as to allow such person to carry on business as a Participant on the Platform in accordance with all applicable laws and regulation

Therefore, it seems that the only points in common as described above is:
To become IPE broker, an the applicant must be able to demonstrate that it has adequate arrangements to ensure that its employees, agents and representatives acting on its behalf or in its name are fit and proper and adequately trained and properly supervised; maintain minimum financial standards and be a clearing member or become a party to a clearing agreement.

1. Please explain if, of the other points listed, there is actual overlap that was not apparent to me.

II. IPE Local Member

- a) An applicant for IPE Local Member must satisfy the Directors:
- that the applicant is fit, proper, adequately trained, and will comply with the regulations,
 - meets the minimum financial requirements and
 - must be registered with the IPE and have passed the Registered Floor Trader (RFT) examination.
- b) An applicant for Individual Participant membership of the IPE must :
- be able to demonstrate, to the satisfaction of the IPE that the applicant is fit and proper to be a Member;
 - satisfy the IPE that it will become a party to a clearing agreement with a clearing member.

Therefore, it seems that the only points in common as described above is:

To become IPE local traders, an IPE local trader must be able to demonstrate that the applicant is fit and proper and is a party to a clearing agreement.

2. Please explain if, of the other points listed, there is actual overlap that was not apparent to me.

Regards,
Riva

-----Original Message-----

From: Raisler, Kenneth [mailto:Raislerk@sullcrom.com]

Sent: Monday, February 09, 2004 2:56 PM

To: jwebb@cftc.gov

Cc: gay.hueyevans@fsa.gov.uk; richard.spencer@theice.com; David Goone; Leppard, Marc; radriance@cftc.gov

Subject: ICE ECE Petition

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