

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

**BY ELECTRONIC TRANSMISSION**

Submission No. 13-29  
March 27, 2013

Ms. Melissa Jurgens  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Amendment to Rule 6.12 (Aggregation of Positions; Disaggregation in Spot Month)- Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)**

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6(a), ICE Futures U.S., Inc. ("Exchange") submits, by written certification, amendments to Rule 6.12 relating to the aggregation of positions for position limit purposes, as described below and attached as Exhibit A. The amendments will become effective on April 12, 2013.

Amendments have been made to Rule 6.12 to mirror CFTC regulations. Specifically, the amendments track the language of Regulation 150.4 with respect to the aggregation of positions and exemptions from aggregation. In addition, the Exchange has added a new paragraph (e) which provides that the Exchange has discretion to require that, commencing on the day prior to the business day on which a notice period or spot month limit becomes effective for a physically delivered Exchange contract, the positions of any person which would otherwise be aggregated under the rule be disaggregated and treated separately for purposes of compliance with position limits, if the positions are on opposite sides of the market. For example, a pair of affiliated firms might have a small aggregate position that is below the applicable spot month limit but each firm separately is carrying a large position well above the applicable spot month limit. Invoking the rule would require each of the firms either to obtain a hedge exemption or reduce its position to the applicable speculative limit before the notice period/spot month limit became effective. This provision will give the Exchange the flexibility to take action to avoid market disruptions that might otherwise occur in circumstances where, for example, supplies are tight or a firm has a dominant market position, thereby ensuring a more orderly liquidation of the expiring Exchange contract.

The Exchange certifies that the rule amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. The Exchange is not aware of any substantive opposing views expressed with respect to the amendments. 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/notices/Notices.shtml?regulatoryFilings>).

If you have any questions or need further information, please contact me at 212-748-4083 or [Audrey.hirschfeld@theice.com](mailto:Audrey.hirschfeld@theice.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "Audrey R. Hirschfeld". The signature is fluid and cursive, with the first name "Audrey" and last name "Hirschfeld" clearly legible.

Audrey R. Hirschfeld  
SVP & General Counsel

Enc.  
cc: Division of Market Oversight  
New York Regional Office

## EXHIBIT A

(In the text of the amendments below, additions are underlined and deletions are bracketed and lined out.)

### Rule 6.12. Aggregation of Positions; Disaggregation in Spot Month

(a) Positions to be Aggregated: The position limits and position accountability levels established by these Rules shall apply to all positions in accounts for which ~~[held by]~~ any Person, [including those positions in accounts for which such Person] by power of attorney or otherwise directly or indirectly owns the ~~[holds]~~ positions or controls trading of the positions. The positions limits and accountability levels shall also apply to; ~~and in the case of~~ positions held by two (2) or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if all of the positions were held by or the trading of the positions were done by, a single Person.

(b) ~~An ‘eligible entity’, as defined in CFTC Regulation 150.1(d) need not aggregate its positions with the eligible entity’s client positions or accounts carried by an authorized ‘independent account controller’, as defined in Regulation 150.1(e), provided that the positions are not held in the spot month during such time as a notice period or spot month position limit is in effect. If an independent account controller is affiliated with an eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements specified in CFTC Regulation 150.3(a)(4)(i)(A-D).~~

Ownership of Accounts: Except as set forth in paragraph (c) below, any Person holding positions in more than one account, or holding accounts or positions in which the Person, by power of attorney or otherwise, directly or indirectly has a 10% or greater ownership or equity interest, must aggregate all such accounts or positions unless such person is a limited partner, shareholder, member of a limited liability company, beneficiary or a trust or similar type of pool participant in a commodity pool. The foregoing exception for pool participants shall not apply if the Person is a commodity pool operator, controls the commodity pool’s trading decisions, or has an ownership or equity interest of 25% or more in a commodity pool whose operator is exempt from registration with the CFTC.

#### (c) Exceptions to Aggregation for Independently Controlled Positions

(i) Positions carried for an ‘eligible entity’, as defined in CFTC Regulation 150.1(d), in the separate account or accounts of independent account controllers, as such term is defined in CFTC Regulation 150.1(e), shall not be aggregated for position limit purposes, provided that the positions are not held in the spot month during such time as a notice period or spot month position limit is applicable. If an independent account controller is affiliated with an eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements specified in CFTC Regulation 150.3(a)(4)(i)(A-D).

(ii) Positions held by futures commission merchants or their separately organized affiliates in customer discretionary accounts or in guided account programs shall not be aggregated for position limit purposes, provided that the accounts are controlled by independent traders and meet the standards set forth in CFTC Regulation 150.4(d).

~~([e]d)~~ Positions held in Futures and Futures Equivalent Contracts will not be aggregated with positions held in Cleared Only Swaps for the same Commodity which are submitted to the Exchange for clearing pursuant to Chapter 23.

(e) Notwithstanding any provision of this Rule to the contrary, the Exchange may determine, in its sole discretion, that commencing at the close of business on the Business Day prior to the first Business Day that notice period or spot month position limits are in effect for a physical delivery Exchange futures contract, the positions of any Person which are on opposite sides of the market and otherwise would be aggregated pursuant to this Rule shall not be so aggregated and shall be considered separately for the purpose of applying the position limits established by these Rules.