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BY ELECTRONIC TRANSMISSION

Submission No. 24-22
March 5, 2024

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: Amendments to Disciplinary Rule 21.12
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Mr. Kirkpatrick:

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”) hereby self certifies the amendments to Exchange Rule 21.12, set forth in Exhibit A, which will become effective on March 19, 2024.

The Exchange is amending Rule 12.21, to include a new subparagraph (c)(ii) that grants a Hearing Panel of the Business Conduct Committee the authority, upon written request, to (1) require any Person subject to the Exchange’s jurisdiction to appear as a witness and/or produce relevant evidence and/or (2) make reasonable efforts to secure the presence of all other relevant Persons listed as witnesses by the Respondent. The amendments further relocate the last sentence in current paragraph (c) to a new subparagraph (c)(i) for the purpose of grouping under one same paragraph those requests that should be made in written form.

The substantive amendments comply with requirements expressly set forth in Commission Regulation 38.707(a), which obligate a DCM to provide for certain procedures in disciplinary hearings conducted under its rules. Included in the list of such procedural requirements is the obligation that a DCM: (i) require persons within its jurisdiction who are called as witnesses in disciplinary hearings to participate in such hearing and to produce evidence; and (ii) make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.

The Exchange is not aware of any opposing views to the amendments and certifies that the amendments to Rule 21.12 comply with the Commodity Exchange Act and the rules promulgated thereunder. Specifically, the amendments comply with Core Principle 2 (Compliance with Rules) as these provide guidance and clarity to market participants on the Exchange’s enforcement and disciplinary procedures. The amendments further comply with Core Principle 7 (Availability of General Information) as the Exchange 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.ice.com/futures-us/regulation>. The amendments also

comply with Core Principle 12 (Protection of Markets and Market Participants) as these are designed to discipline market participants that engage in activities that violated Exchange Rules. Lastly, the amendments comply with Core Principle 13 (Disciplinary Procedures) as these are in furtherance of the Exchange's requirement to establish disciplinary procedures that authorize the Exchange to discipline, suspend, or expel members or market participants that violate the Exchange's rules.

If you have any questions or need further information, please contact me at (312) 836-6748 or frances.mendieta@ice.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frances M. Mendieta', written in a cursive style.

Frances M. Mendieta
Director, Enforcement Counsel
Market Regulation

cc: Division of Market Oversight
New York Regional Office

EXHIBIT A

(in the text of the amendment below, additions are underscored and deletions are bracketed and lined through.)

Rule 21.12. Hearing Procedures

Each Hearing Panel shall determine the procedures to be followed in any hearing before it, except that the following shall apply in every case:

- (a) The prosecution shall be conducted by the Market Regulation staff.
- (b) The Respondent shall be allowed to be represented by legal counsel or any other representative of their choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.
- (c) Upon written request:

(i) the Market Regulation staff shall provide the Respondent with access to all documents or other tangible evidence in the possession or under the control of the Exchange which are to be relied upon by the Market Regulation staff or which are relevant to the allegations contained in the Notice of Charges,

(ii) the Hearing Panel shall: (A) require any Person who is subject to the jurisdiction of the Exchange to participate in the hearing as a witness and/or produce evidence relevant to the allegations contained in the Notice of Charges; (B) and/or make reasonable efforts to secure the presence of all other Persons listed as witnesses by the Respondent whose testimony would be relevant to the allegations contained in the Notice of Charges.

~~[(e)]~~ (d) The Market Regulation staff and the Respondent shall deliver to each other and the Office of the General Counsel a statement listing the witnesses expected to be called and the documents expected to be introduced into evidence, together with copies of such documents, by such date prior to the hearing as the Hearing Panel may specify. Unless the Hearing Panel, in its discretion, waives compliance with this requirement, no witness may testify and no documentary evidence may be introduced into evidence unless listed in and, in the case of documents, furnished with such statement. ~~[On written request, the Market Regulation staff shall provide the Respondent with access to all books, documents or other tangible evidence in the possession or under the control of the Exchange which are to be relied upon by the Market Regulation staff or which are relevant to the allegations contained in the Notice of Charges.]~~

~~[(d)]~~ (e) No formal rules of evidence shall apply, and the Hearing Panel shall be free to accept or reject any and all evidence it considers proper.

~~[(e)]~~ (f) It shall constitute a violation of the Rules for any Person within the Exchange's jurisdiction to engage in conduct which may impede the progress of a hearing, and any such incident shall be reported to the BCC for appropriate action.

~~[(f)]~~ (g) Ex parte contacts by any of the parties with members of the Hearing Panel shall not be permitted.

~~[(g)]~~ (h) A substantially verbatim record capable of being accurately transcribed shall be made of the proceedings, provided, however, that such record need not be transcribed, unless the transcript is requested by the Respondent or the CFTC or the decision is reviewed by the CFTC.

~~[(h)]~~ (i) The Notice of Charges, the Answer, the Reply, any stenographic transcript of the hearing, the documentary evidence and any other material presented to the Hearing Panel by either party with notice to the other shall constitute the record of the hearing.

~~[(i)]~~ (j) The burden of proof shall be on the prosecution. A finding of guilt shall be made by majority vote based on the weight of the evidence contained in the record of the hearing.