


ICE FUTURES U.S.
55 East 52nd Street
New York, NY 10055

BY ELECTRONIC TRANSMISSION

Submission No. 23-107
July 5, 2023

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 the Exchange’s Chapter 21 “Disciplinary Rules” - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), ICE Futures U.S., Inc. (“Exchange”) hereby certifies the amendments to Chapter 21 set forth in Exhibit A.

Pursuant to the Commodity Exchange Act (“CEA”) and the CFTC Regulations, the Exchange must maintain an affirmative compliance program to enforce Exchange rules and discipline market participants who violate those rules. Chapter 21 of the Exchange’s rulebook sets forth the Exchange’s enforcement and disciplinary process. While the Chapter has been amended in discrete ways over the years, the Exchange’s Market Regulation Department (the “Department”) determined that the Chapter was due for a comprehensive revision that delivers a more streamlined and effective process without contravening the requirements of the CEA and the CFTC Regulations. The amendments to the Chapter further consolidate various rules, modernize processes, reword text for clarity, and delete several obsolete provisions. Material substantive changes to the disciplinary procedures are discussed below.

Rule 21.02(e): Rule 21.02(e) allows the Chief Regulatory Officer (“CRO”) to issue summary fines for minor infractions of certain Exchange Rules, which are readily discernible. The Department is recommending an amendment to the Rule that will increase the maximum amount of a summary fine, which has been set at the current level since 2009, from \$10,000 to \$25,000. This amendment will afford the CRO the requisite authority to directly impose meaningful penalties on participants who violate Exchange Rules.

Rule 21.02(e)(ii): Proposed new Rule 21.02(e)(ii) provides for the addition of certain trading activity that could be subject to a summary fine. The activity noted concerns market participants who violate Rule 4.02(c) by executing trades between the accounts of affiliated

entities to effect a position transfer (as defined in the Exchange's Wash Trade FAQ #11) or by failing to comply with the Exchange's requirements for block or EFRP transactions between affiliated entities (as defined in the Exchange's Wash Trade FAQ #15). The goal of the new Rule is to include certain wash trading scenarios that the Department perceives to represent relatively minor violations with no malicious intent and thus should be included in the list of activities that could be subject to a summary fine instead of being referred to the BCC in every instance. This will free up Department resources that would otherwise be dedicated to prosecuting such minor self-evident trading infractions.

Rule 21.02(f): Rule 21.02(f) sets forth the procedures for a summary access denial, which may only be invoked when necessary to protect the best interests of the Exchange. Such summary access denial is temporary (currently limited to 60 days), as it is intended to stop egregious conduct immediately while the Department simultaneously pursues action in accordance with the normal disciplinary procedures. A proposed amendment to the Rule extends the time that a person may be denied access from 60 days to 180 days. This extension will provide the Department with the needed time to review the activity, request the appropriate information, interview subject(s) if applicable and, if needed, complete prosecution before an access denial expires. While the maximum time period is being extended, it is important to note that Participants will retain the right to immediately challenge the summary access denial by requesting an expedited hearing before the BCC within 10 days of receipt of notice of such access denial.

Rule 21.03(f)(i): Proposed new Rule 21.03(f)(i) states that in instances where a Respondent fails to participate in the Exchange's disciplinary process, or fails to advise the Department of an intent to participate in the Exchange's disciplinary process, or otherwise advises the Department that they do not intend to participate in the disciplinary process, the rule violations alleged in the Department's investigation report against the Respondent shall be deemed admitted by the Respondent and subject to a guilty finding and penalties by a subcommittee of the BCC. Under the current language of Chapter 21, matters where the Respondent is unresponsive after receiving the Department's investigation report need to be presented before a BCC twice: first before a subcommittee of the BCC, and second before a Hearing Panel of the BCC that has the power to render a final decision on the matter. The goal of the new Rule is to afford the BCC subcommittee with the authority to render a final decision on such matters and avoid the duplicative nature of the current process, which only serves to delay the resolution of cases and divert resources from the Department.

Rule 21.03(f)(ii): Proposed new Rule 21.03(f)(ii) states, among other things, that should a Respondent be issued with a penalty pursuant to proposed new Rule 21.03(f)(i) (described above), the Respondent may request a hearing on such penalty and must do so within two (2) Business Days following receipt of the BCC's decision in the matter. The Respondent may only present evidence as to why the penalty should be modified and failure to request the hearing will be deemed an acceptance of the penalty. The rule amendment affords the Respondent with additional due process in the Exchange's disciplinary procedures.

Rules 21.10(a)&(b): Proposed new Rules 21.10(a) and(b), which amend current Rule 21.10, remove the 10-day period afforded to a Respondent to request a hearing on penalties imposed by a Hearing Panel of the BCC where the Hearing Panel found the Respondent guilty of alleged rule violations—and imposed penalties as a result—following Respondent's failure to answer the Department's allegations, admission of the allegations, or failure to deny the allegations. The proposed new Rules afford the Respondent only two (2) Business Days to

request such hearing on penalties. The amendments proposed advance the resolution of matters for unresponsive Respondents or Respondents who admit to the Department’s allegations at the BCC Hearing Panel stage of the enforcement process.

Rule 21.16: Proposed new Rule 21.16 consolidates and simplifies the description of penalties that the BCC may issue upon, or approve for, a Respondent and increases the monetary penalty the CRO may negotiate with a Respondent as part of a settlement agreement from \$100,000 per rule violation alleged to \$1,000,000 per rule violation alleged. All current references to penalties throughout the Chapter have been deleted and replaced with an instruction to refer to new Rule 21.16; hence, new Rule 21.16 further consolidates the universe of penalties available into one rule. With the inclusion of the new Rule and the deletion of the same list of penalties in other locations in the Chapter, the Department aims for a more concise reading of Chapter 21.

Rule 21.17(b): Amendments to new Rule 21.17(b) incorporate decisions issued by a BCC subcommittee under proposed new Rule 21.03(f) (described above).

Rule 21.18: The amendment to current Rule 21.18 removes the Rule in its entirety. Presently, Rule 21.18 describes the summary fine program for violations of decorum and attire by individuals who work on a trading floor. Because the Exchange does not have a trading floor, the deletion of the Rule removes language from the Chapter that has no current applicability.

Other Amendments: In addition to the foregoing, the Department further includes minor amendments as follows: (1) rewording of certain processes throughout the Chapter for clarity and succinctness; (2) the addition of the definition for “Business Conduct Committee” and its abbreviation to “BCC” throughout the Chapter; (3) the replacement of “Member or non-Member market participant” (who is the subject of a disciplinary proceeding) with the simpler term “Respondent”; (4) the replacement of “Compliance Department” for the more suitable term “Market Regulation Department”; (5) the deletion of other references to the trading floor as the one included in current Rule 21.19; among other small revisions, including grammatical enhancements.

The rule amendments will be effective trade date July 20, 2023, or such other date as the Exchange may determine, which shall be no sooner than 10 business days after receipt of this submission by the Commission.

Certifications

The Exchange certifies that the Chapter amendments comply with the requirements of the Act and the rules and regulations promulgated thereunder. The Exchange has reviewed the designated contract market core principles ("Core Principles") as set forth in the Act and has determined that the amendments comply with the following relevant Core Principles:

COMPLIANCE WITH RULES

The Exchange’s amended Chapter 21 provides guidance and clarity to market participants related to the Exchange’s enforcement and disciplinary procedures.

AVAILABILITY OF GENERAL INFORMATION

The Exchange is publicly posting the amended Chapter to ensure that market participants have updated guidance and information related to the Exchange’s enforcement and

disciplinary procedures. The Chapter will also be available on the ICE Futures U.S. website.

PROTECTION OF MARKETS AND MARKET PARTICIPANTS

The amended Chapter provides the Exchange with a framework for enforcing rules designed to promote fair and equitable trading and disciplining market participants that engage in activity that violates Exchange Rules.

DISCIPLINARY PROCEDURES

The amended Chapter is 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. Specifically, we note that the amendments to Rule 21.02(f) relating to summary access denials comply with the guidance relating to emergency disciplinary action set forth in Appendix B to Part 38 allowing the Exchange to take immediate action when necessary to protect the best interests of its marketplace, while providing the respondent with the right to a prompt hearing. Other amendments, such as proposed new Rules 21.02(e)(ii), 21.03(f)(i)&(ii), and 21.10(a)&(b), further balance Core Principle 13's objective to provide respondents with adequate notice of acts in which the respondent is alleged to have engaged, the rules alleged to have been violated, and their rights to a hearing, with the objective to have the Exchange manage its resources effectively, promptly prosecute rule violations within its disciplinary jurisdiction, and impose sanctions that are commensurate with the violations committed to sufficiently deter recidivism. Furthermore, we note that the new and amended rules which allow the Exchange to impose sanctions when a respondent has failed to appear or participate in a matter or has failed to deny charges are consistent with the guidance set forth in Appendix B to Part 38. Notably, in each instance the Exchange will promptly notify the respondent of the sanction and afford such respondent the opportunity to request a hearing on that sanction.

The Exchange is not aware of any substantive opposing views expressed by members or others with respect to the rule amendments and certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website and may be accessed at (<https://www.theice.com/futures-us/regulation>).

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

Sincerely,



Frances M. Mendieta
Director, Enforcement Counsel
Market Regulation

Enc.

cc: Division of Market Oversight
New York Regional Office

EXHIBIT A

(Additions are underlined and deletions are [~~struck through~~].)

ICE Futures U.S.[®], Inc. DISCIPLINARY RULES

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ICE FUTURES U.S.[®], INC.

DISCIPLINARY RULES

Rule 21.00. Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

(a) Business Conduct Committee

The term "Business Conduct Committee" ("BCC") shall refer to the committee designated by Rule 3.06 and having the powers and duties specified in Rule 21.03.

(b) ~~(a)~~ Emergency Event

The term "Emergency Event" shall mean, with respect to any Member:

- (i) the filing of a petition, answer or other document, or the taking of any other action, by a Member with respect to itself, or against such Member, seeking a liquidation, arrangement, reorganization or other or similar relief under the provisions of the Federal Bankruptcy Act or of any other state or federal law for the relief of insolvent debtors;
- (ii) the dissolution of such Member;
- (iii) the insolvency (as defined under any applicable state or federal law) of such Member;
- (iv) the failure of such Member to meet the applicable financial requirements of the Exchange, the Clearing Organization or any governmental agency or self-regulatory body;
- (v) the failure of such Member to meet when due any Margin call issued by any Clearing Organization or other Person, the default by such Member under any Commodity Contracts on this or any other exchange, or the failure or inability for financial reasons of such Member to comply with any of his contracts; or
- (vi) the imposition of any injunction or other restraint by any government agency, court or arbitrator which may affect the ability of such Member to perform its contracts or otherwise to engage in business.

(c) ~~(b)~~ Financial Emergency

The term "Financial Emergency" shall mean, with respect to any Member, any situation in which the financial or operational condition of such Member, or the business conduct of such Member, is such that it would not be in the best interests of the marketplace for such Member to continue in business on the Exchange.

(d) ~~(c)~~ Marketplace

The term "marketplace" shall mean the Exchange, its Members, or any market on which commodities underlying Commodity Contracts are traded.

(e) ~~(d)~~ Public Committee Member

The term "Public Committee Member" shall mean an individual who would qualify as a public director as that term is defined in CFTC Regulations.

Amended by the Board September 20, 2012; effective October 17, 2012.

~~(f) (e)~~ Respondent

The term "Respondent" shall mean a ~~[Member or non-member market participant]~~ Person who is the subject of a disciplinary proceeding commenced in accordance with this Chapter.

~~(f) Service~~

~~The term "service" on any Person shall mean delivery in person, or by first class mail postage prepaid, or by facsimile message ("FAX") to, in the case of a member, an address or a FAX number on file with the Exchange in accordance with Rule 21.01(b) or, in the case of a nonmember market participant, to the last known address or FAX number. Service shall be complete upon such delivery or facsimile transmission or upon mailing.]~~

Amended by the Board March 17, 2010; effective March 22, 2010 [¶¶ (e) through (g)].

Rule 21.01. Jurisdiction

(a) The ~~{Compliance}~~ Market Regulation Department shall have the authority to initiate and conduct investigations and to prosecute Rule violations committed by any Person subject to Rule 4.00 ~~[Members and by non-member market participants].~~

(b) ~~[Each Member shall file with the Membership Department a written notice designating an office within the County of New York for receiving service of documents. If a Member shall fail to designate such an office, service at his or its address on file with the Exchange shall be good service, and delivery thereof shall be deemed to have occurred as of the date of such mailing.]~~ Service to a Person shall be made in a manner which the Chief Regulatory Officer or his designee reasonably believes, in good faith, will achieve actual notice.

~~{(c) Service to a non-member market participant at an address which the Chief Regulatory Officer or his designee reasonably believes, in good faith, will achieve actual notice shall be good service. Service upon a non-member market participant may be made via any of the methods specified in Rule 2.23.}~~

Amended by the Board August 3, 2012; effective August 20, 2012 [¶¶ (a) and (c)].

Amended by the Board March 18, 2020; effective March 23, 2020 [¶ (c)].

Rule 21.02. ~~{Compliance}~~ Market Regulation Staff — Powers and Duties

(a) The ~~{Compliance}~~ Market Regulation staff of the Exchange shall consist of Exchange employees, including officers, and such other individuals as the Exchange may hire on a contract basis.

(b) The ~~{Compliance}~~ Market Regulation staff shall conduct investigations of possible violations of the Rules, prepare reports respecting such investigations, furnish such reports to the ~~[Business Conduct Committee]~~ BCC when applicable, and conduct the prosecution of such violations.

(c) ~~{The Compliance staff shall provide the Member or non-member market participant who or which is the subject of any investigation with a copy of the written report and an opportunity to submit written comments regarding the report no less than five (5) Business Days prior to distribution of the report to a subcommittee of the Business Conduct Committee. Any written comments received from the Member or non-member market participant shall either accompany distribution of the report to the subcommittee of the Business Conduct Committee or shall be furnished to the subcommittee at the time of its meeting, depending on the date on which the Member's or non-member market participant's comments are received by the Compliance staff.}~~ The Market Regulation staff shall provide the Respondent with a copy of the investigation report no less than fifteen (15) Business Days prior to the meeting of a subcommittee of the BCC. The investigation report submitted to the Respondent shall exclude information that Market Regulation staff deems appropriate, including but not limited to, third party information and investigatory techniques and methods.

(d) If, in any case, the Chief Regulatory Officer concludes that a Rule violation may have occurred, ~~{he}~~ such officer may:

(i) refer the matter to a subcommittee of the BCC for disciplinary action;

~~{(i)}~~(ii) issue a warning letter to the {Member or non-member market participant} Respondent informing {him} them that there may have been a Rule violation and that such continued activity may result in disciplinary sanctions; such warning letter is neither a penalty nor a finding of a violation, provided the warning letter is not issued more than once per 12-month cycle for the same rule violation; or

~~{(ii)}~~(iii) negotiate and enter into a written settlement agreement with the {Member or non-member market participant} Respondent, subject to the presentation and approval of such settlement agreement to a subcommittee of the BCC in accordance with Rule 21.03(e)(i), whereby the {Member or non-member market participant} Respondent, with or without admitting guilt, may agree to any of the penalties set forth in Rule 21.16.

~~{(1)}~~ a cease and desist order or a reprimand;

~~{(2)}~~ a fine of up to one hundred thousand dollars (\$100,000) for each rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;

~~{(3)}~~ a voluntary suspension of up to three (3) months for each violation alleged;

~~{(4)}~~ expulsion; and/or

~~{(5)}~~ as part of a suspension or expulsion, the term or condition that the Member may not be employed by another Member, or any combination thereof; or

~~{(6)}~~ in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and the issuance of a notice directing all Members to deny access to such non-member market participant to the Exchange's markets for such period of time;

provided, however, in any case in which it is concluded that the Member may have violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, the Chief Regulatory Officer shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Member, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties. Any such written settlement shall be subject to the approval of a subcommittee of the Business Conduct Committee and shall become final and effective pursuant to Rule 21.16(a).] **21-4**

(e) Notwithstanding the provisions of paragraph (d) of this Rule, the Chief Regulatory Officer or his designee may ~~issue a warning letter or~~ impose a summary fine of no more than ~~ten~~ twenty-five thousand dollars (~~10~~ 25,000) upon a ~~Member or other market participant~~ Respondent in any case in which it is concluded that there ~~may~~ haves been a violation of:

- (i) any record keeping rule;
- (ii) Rule 4.02(c) by executing trades between the accounts of affiliated entities to effect a position transfer (Wash Trade FAQ #11); or by failing to comply with the Exchange's requirements for block or EFRP transactions between affiliated entities (Wash Trade FAQ #15)."
- ~~(ii)~~(iii) Rule 4.02(g)(2), (3), (4) or (5);
- ~~(iii)~~(iv) Rule 4.02(k)(2)(A) or (D)
- ~~(iv)~~(v) Rule 4.07 (a), (b) or (c);
- ~~(v)~~(vi) Rule 6.15~~(a), (b), (d)(1), (d)(2), (d)(3) or (d)(4)~~;
- ~~(vi)~~(vii) Rule 2.22 or Rule 18.05(a) or (d);
- ~~(vii)~~(viii) Rule 4.37;
- ~~(viii)~~(ix) ~~paragraph (a), (b) or (c) of~~ Rule 4.15(a), (b) or (c);
- ~~(ix)~~(x) Rule 21.04, by failing to produce documents, books or records, within the time period prescribed by the Exchange;
- ~~(x)~~(xi) Rule 4.19; or
- ~~(xi)~~(xii) Appendix III to Chapter 4.

The authority to impose such ~~a warning letter or~~ summary fine does not limit the Chief Regulatory Officer's authority to refer the matter to the BCC instead of imposing such sanction. A summary fine imposed in accordance with this paragraph shall become final and effective and payment shall become effective fifteen (15) calendar days after receipt. A ~~Member or non-member market participant~~ Respondent may not merely contest the issuance of a summary fine but may present new evidence to the Market Regulation Department to request the summary fine be rescinded or reduced during the fifteen (15) calendar day period until the fine has become effective. The decision to cancel, modify or affirm a summary fine imposed in accordance with this paragraph shall be made at the sole and absolute discretion of the Chief Regulatory Officer or his designee.

(f) The Chief Regulatory Officer or his ~~delegate~~ designee, upon a good faith determination that there are substantial reasons to believe that ~~such~~ immediate action is necessary to protect the best interests of the Exchange, may order that any Person be denied access to ~~the Trading Floor,~~ any or all Exchange Markets and/or denied access to the Exchange's electronic trading system for a period not to exceed ~~60~~ 180 days. Notice shall promptly be given to the Person subject to the access denial. Such notice shall state the reasons for the denial, the effective date, time and the duration of the denial and advise the Person of ~~his~~ their right to an expedited hearing before the Exchange's ~~Business Conduct Committee~~ BCC in accordance with the procedures set forth in Rule 21.03~~(f)~~(h) by filing a request with the Chief Regulatory Officer within 10 Business Days after receiving the notice.

Amended by the Board November 14, 2007; effective November 19, 2007 [¶ (e)].
 Amended by the Board May 1, 2008; effective May 13, 2008 [¶ (e)].
 Amended by the Board September 17, 2009; effective September 21, 2009 [¶(e)].
 Amended by the Board June 13, 2012; effective July 9, 2012 [¶¶ (e)(i) through (e)(iv)].
 Amended by the Board September 20, 2012; effective October 17, 2012 [¶ (f)].
 Amended by the Board December 10, 2013; effective January 28, 2014 [¶ (e)].
 Amended by the Board April 9, 2014; effective May 7, 2014 [¶ (e)].
 Amended by the Board September 10, 2014; effective October 2, 2014 [¶ (e)(vi)].
 Amended by the Board July 15, 2015; effective August 17, 2015 [¶ (d)(ii)(2)].
 Amended by the Board March 24, 2016; effective April 12, 2016 [¶ (e)(i)].
 Amended by the Board December 2, 2016; effective December 19, 2016 [¶ (e)(v)].
 Amended by the Board March 23, 2017; effective April 11, 2017 [¶(e)].
 Amended by the Board March 22, 2018; effective April 23, 2018 [¶¶ (e)(iii)].
 Amended by the Board June 21, 2018; effective July 13, 2018 [¶¶(e)(ii)]
 Amended by the Board March 18, 2020; effective March 23, 2020 [¶¶ (d), (e) and (f)].
 Amended by the Board June 22, 2022; effective August 12, 2022 [¶¶ (e)(viii), (e)(xi) and (e)].

Rule 21.03. The Business Conduct Committee

(a) The ~~{Business Conduct Committee}~~ BCC shall have such powers and perform such duties as are specified by the Board or in the Rules.

(b) The ~~{Business Conduct Committee}~~ BCC shall act through a subcommittee chaired by a Public Committee Member. Each subcommittee shall be comprised of no less than five (5) individuals, such that at least two are Members or employees of Member Firms and at least two (2) are not Members or employees of Member Firms. Three (3) subcommittee members shall constitute a quorum so long as the subcommittee chair and at least one (1) Member or employee of a Member Firm is in attendance. Any committee member who has previously participated in a matter pursuant to paragraph ~~{(f)}~~(h) of this Rule shall be disqualified from serving on a subcommittee hearing such matter.

(c) The ~~{Business Conduct Committee}~~ BCC shall periodically receive and review the ~~{written}~~ investigation reports concerning possible Rule violations reported by the ~~{Compliance}~~ Market Regulation staff pursuant to Rule 21.02(b). ~~{A subcommittee of the Business Conduct Committee shall conduct any review of a possible violation under this Rule.}~~ Notwithstanding anything to the contrary in this Rule, the BCC may refer or return a matter to Market Regulation staff with instructions for additional action prior to review.

(d) Respondent shall have an opportunity to submit written comments regarding the alleged conduct and/or rule violations noted in the report. Any written comments received from the Respondent shall be furnished to the subcommittee prior to or at the time of the meeting, depending on the date on which Respondent's comments are received by the Market Regulation staff. In addition, {A}at the time of the initial review of an investigative report the ~~{Member or non-member market participant}~~ Respondent named in ~~{an}~~ the investigative report shall have an opportunity to appear and present evidence before the subcommittee. Such a presentation shall be conducted informally with no transcript taken. Ex parte contacts by the Respondent with members of the subcommittee are prohibited.

(e) In any case where a subcommittee of the ~~{Business Conduct Committee}~~ BCC concludes that a Rule violation may have occurred, the Market Regulation staff shall be authorized to issue a Notice of Charges pursuant to Rule 21.05 and commence a formal hearing. In addition, such subcommittee ~~{Business Conduct Committee}~~ shall advise the ~~{Member or non-member market participant}~~ Respondent of that fact and may ~~{:}~~ resolve the matter by negotiating, entering into or approving a written settlement agreement with the Respondent whereby the Respondent, with or without admitting guilt, may agree to any of the penalties set forth in Rule 21.16.

~~{(i) refer or return the matter to the Compliance staff with instructions for further action;~~

~~(ii) enter into[or approve a settlement agreement with said Member or non-member market participant which may provide for a penalty other than that recommended by the Compliance staff, subject to the limitations set forth in subparagraph (e)(iv) of this Rule;~~

~~(iii) refer the matter to a formal hearing; or~~

~~(iv) negotiate, and enter into, a written settlement agreement with the Member or nonmember market participant, whereby the Member or non-member market participant, with or without admitting guilt, may agree to:~~

~~(1) a cease and desist order or a reprimand;~~

~~(2) a fine of up to one million dollars (\$1,000,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;~~

~~(3) a voluntary suspension of up to one (1) year for each Rule violation alleged;~~

~~(4) expulsion;~~

~~(5) a prohibition against executing any Customer orders; and/or~~

~~(6) as part of a suspension or expulsion, the term or condition that the Member may not be employed by another Member as a Trading Floor employee, or any combination thereof; or~~

~~(7) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and the issuance of a notice directing all Members to deny access to such non-member market participant to the Exchange's markets for such period of time;}~~

(f) (i) Notwithstanding anything to the contrary in this Chapter, a Respondent that fails to appear at the BCC meeting shall forfeit the right to contest the facts set forth in the investigation report if, prior to such BCC meeting the Respondent also: (A) failed to participate or advise the Market Regulation Department, in writing, of an intent to participate in the disciplinary process set forth in this chapter; or (B) advised the Market Regulation Department that the Respondent did not intend to participate in the disciplinary process set forth in this Chapter. In such event, the rule violations alleged in the investigation report shall be deemed admitted by the Respondent. The BCC subcommittee shall find the Respondent guilty of each such violation and may impose any of the penalties set forth in Rule 21.16. Except as provided below in Paragraph (ii) of this Rule, such decision shall become final in accordance with Rule 21.17.

(ii) The BCC shall promptly issue a written decision in accordance with Paragraph (g) of this Rule and inform the Respondent of their right to request a hearing on any penalty imposed pursuant to Paragraph (f)(i) of this Rule. The Respondent must request such hearing within two (2) Business Days of service of the decision. Such hearing shall be conducted before the same BCC subcommittee and the Respondent may only present evidence as to why the penalty should be modified. The BCC subcommittee shall have the absolute discretion to modify or affirm the penalty, such decision shall promptly be communicated to the Respondent in writing and become final in accordance with Rule 21.17. The failure to request a hearing on the penalty in a timely manner shall be deemed to be acceptance of the penalty.

(g) ~~{(v)}~~ ~~{if}~~ If a settlement agreement is approved, or penalties have been issued pursuant to paragraph (f) of this Rule, the subcommittee of the ~~{Business Conduct Committee}~~ BCC shall issue a written decision, signed by the subcommittee chair or the Exchange's legal counsel on behalf of the subcommittee chair, specifying the rule violations ~~{if}~~ the subcommittee has reason to believe may have been or were committed, including the basis or reasons for the subcommittee's conclusions, and any sanction to be imposed

~~provided, however, in any case in which it is concluded that the Member may have violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, the subcommittee of the Business Conduct Committee shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Member, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties.~~

(h) ~~{(f)}~~(i) Any hearing to review a summary access denial pursuant to Rule 21.02(f) shall be conducted by a subcommittee of the ~~{Business Conduct Committee}~~ BCC within 10 days of receipt of a hearing request.

(ii) The subcommittee shall conduct a de novo review solely on the issue of the denial of access and shall determine the procedures to be followed, except that the following shall apply in every case: (1) at the hearing, the ~~{Compliance}~~ Market Regulation staff shall present such evidence and considerations as it deems relevant to show that the continued denial of access is necessary to protect the best interest of the Exchange; (2) the Person denied access shall be allowed to appear personally and/or to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses; (3) the formal rules of evidence shall not apply, and the subcommittee shall be free to accept or reject any and all evidence as it considers proper; and (4) a substantially verbatim record capable of being transcribed shall be made of the proceeding, provided, however, that such record need not be transcribed unless the Person denied access requests such transcript or the Exchange so determines.

(iii) The subcommittee may affirm, rescind or modify the summary access denial, provided, however, under no circumstances may a summary denial of access pursuant to Rule 21.02(f) exceed 120 days.

(iv) Promptly following any hearing the subcommittee shall render a written decision based on the weight of the evidence contained in the record of the proceeding and shall provide a copy of the decision to the Person. The decision shall include (i) a summary of the charges; (ii) a summary of the answer or other response; (iii) a brief summary of the evidence produced at the hearing; (iv) a statement of findings and conclusions with respect to each charge, including any specific rules found to have been violated; and (v) a declaration of the subcommittee's findings and order. The decision of the hearing panel shall constitute the final action of the Exchange with respect to the summary access denial.

Amended by the Board January 7, 2008; effective January 10, 2008 [¶ (b)].

Amended by the Board April 9, 2008; effective April 14, 2008 [¶ (b)].

Amended by the Board November 11, 2009; effective November 16, 2009 [¶ (e)(iv)(2)].

Amended by the Board March 17, 2010; effective March 22, 2010 [¶ (b)].

Amended by the Board September 20, 2012; effective October 17, 2012 [¶¶ (a), (b) and (f)(i) through (f)(iv)]

Amended by the Board September 20, 2012; effective October 22, 2012 [¶ (e)(iv)(6)]. Amended by the Board March 25, 2013; effective April 16, 2013 [¶¶ (a) and (b)]. Amended by the Board July 15, 2015; effective August 17, 2015 [¶(e)(iv)(2)]. Amended by the Board December 4, 2015; effective December 23, 2015 [¶¶ (d) and (e)(v)]. Amended by the Board June 21, 2018; effective July 30, 2018 [¶ (a)].

Amended by the Board September 22, 2022; effective November 1, 2022 [¶ (a)].

Rule 21.04. Power to Compel Testimony and Production of Documents

The President, the Board, the Chief Regulatory Officer, the ~~{Compliance}~~ Market Regulation staff, any committee or subcommittee and any panel of any committee or subcommittee, engaged in any investigation of, examination into, or hearing involving any matter pursuant to the Rules shall have the power to summon any ~~{Member, any employee of any Member and any non-member market participant to appear before him or it}~~ Person subject to Rule 4.00(a), to give testimony under oath or in any other manner required by [him or it] them and to produce any documents, books or records. A Firm so summoned shall appear by a partner, officer or responsible employee fully acquainted with the relevant facts. If any ~~{Member, any employee of any Member, or non-member market participant}~~ Person subject to Rule 4.00(a) fails to obey any such summons or to give any such testimony, or fails to produce, in part or in full, any such documents, books or records in a timely fashion, or at all, such failure shall constitute a violation of this Rule and shall be reported to the ~~{Business Conduct Committee}~~ BCC for appropriate action or shall be subject to a summary fine in accordance with Rule 21.02(e).

Amended by the Board September 20, 2012; effective October 17, 2012.

Amended by the Board March 18, 2020; effective March 23, 2020.

Rule 21.05. Notice of Charges

In any case in which a subcommittee of the ~~{Business Conduct Committee}~~ BCC ~~{refers a matter to}~~ has authorized a formal hearing, the ~~{Compliance}~~ Market Regulation staff shall serve a Notice of Charges ("Notice") on the Respondent, the Chair~~man~~person of the ~~{Business Conduct Committee}~~ BCC and the Office of the General Counsel. Such Notice shall state:

- (a) the acts, practices or conduct in which the Respondent is alleged to have engaged;

- (b) the Rule(s) which is alleged to have been violated as a result of such acts, practices or conduct;
- (c) that the Respondent is entitled, upon written request filed with the ~~{Compliance}~~ Market Regulation staff and the Office of the General Counsel within twenty (20) days of service of the Notice, to a formal hearing on the charges;
- (d) that the failure of the Respondent to request a hearing within twenty (20) days of service of the Notice, except for good cause shown, shall be deemed a waiver of his right to a hearing;
- (e) that the failure of the Respondent to file an answer with the ~~{Compliance}~~ Market Regulation staff and the Office of the General Counsel within twenty (20) days of service of the Notice shall be deemed an admission of all of the allegations contained in the Notice; and
- (f) that the failure of the Respondent to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation.

Rule 21.06. Answer; Request for Hearing; Failure to Answer or Deny Charges

- (a) The Respondent shall serve on the ~~{Compliance}~~ Market Regulation staff and the Office of the General Counsel a written Answer to the Notice of Charges and a written request for a hearing on the charges within twenty (20) days of the date of service of the Notice of Charges.
- (b) The Respondent's failure to file an Answer within such twenty (20) days shall be deemed an admission of all of the allegations contained in the Notice.
- (c) The Respondent's failure to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation.
- (d) The Respondent's failure to request a hearing within such twenty (20) days shall be deemed a waiver of Respondent's right to a hearing.

Rule 21.07. Reply

The ~~{Compliance}~~ Market Regulation staff may serve on the Respondent and the Office of the General Counsel a Reply within five (5) days of the date of service of the Respondent's Answer. The reply must be limited to the matters set forth in the Answer.

Rule 21.08. Selection of Hearing Panel

- (a) Formal hearings on any alleged Rule violation shall be conducted by a Hearing Panel selected by the Chair~~{man}~~person of the ~~{Business Conduct Committee}~~ BCC from members of the ~~{Business Conduct Committee}~~ BCC who did not receive and review the written report concerning such alleged violation as provided for in Rule 21.03 (the "Hearing Panel"). ~~{Subject to the provisions of Rule 21.03, paragraphs (b) and (c),}~~ ~~{The Chair{man}person of the {Business Conduct Committee} BCC, in {his} their sole discretion, shall appoint a Hearing Panel comprised of three (3) individuals which shall be chaired by a Public Committee Member. At least one (1) individual on each Hearing Panel shall be a Member or employee of a Member Firm.~~
- (b) The Chair~~{man}~~person of the ~~{Business Conduct Committee}~~ BCC shall notify the ~~{Compliance}~~ Market Regulation staff and the Respondent of the names of the members selected to hear the matter at least fifteen (15) days prior to the hearing date.

(c) No member of the Hearing Panel shall hear a case in which that member has a direct financial, personal or other interest in the matter under consideration.

Amended by the Board January 7, 2008; effective January 10, 2008 [¶ (a)(i) and (ii)].

Amended by the Board March 17, 2010; effective March 22, 2010 [¶ (a)(i) and (ii)].

Amended by the Board September 20, 2012; effective October 17, 2012 [¶ (a)].

Rule 21.09. Challenge to Members of the Hearing Panel

Within ten (10) days after service on the Respondent of the names of the members of the Hearing Panel, the Respondent may challenge, in writing, any member of the Hearing Panel for cause. The merits of such challenge shall be finally decided by the Chair~~man~~person of the ~~Business Conduct Committee~~ BCC in ~~his~~ their sole discretion. If said written challenge is not received within such ten (10) days, any such right to challenge is deemed waived.

Rule 21.10. Hearing on Penalty in the Event of Failure to Deny Charges; Failure to Request Hearing Deemed Acceptance of Penalty

~~[In the event] (a) If the Respondent fails to file an Answer or admits the allegations or fails to deny the allegations in support of a charge of a Rule violation contained in the Notice, the Hearing Panel shall find the Respondent guilty of each such violation and may impose a penalty for each such violation subject to the limitations set forth in Rule 21.13(b)(v)16. [The Hearing Panel shall promptly notify the Respondent of any such penalty and of the Respondent's right to a hearing on the penalty within ten (10) days, or such longer period as the Hearing Panel may determine, after the imposition of such penalty. Failure to request a hearing on the penalty in a timely manner shall be deemed to be acceptance of the penalty.]~~ Except as provided in Paragraph (b) of this Rule, such decision shall become final in accordance with Rule 21.17.

(b) The Hearing Panel shall promptly issue a written decision which incorporates the facts and allegations from the Notice, sets forth any penalty to be imposed and inform the Respondent of their right to request a hearing on any penalty issued pursuant to Paragraph (a) of this Rule. Respondent must request the hearing within two (2) Business Days of service of the decision. Such hearing shall be conducted before the same Hearing Panel. The Respondent may only present evidence as to why the penalty should be modified. The Hearing Panel shall have the absolute discretion to modify or affirm the penalty, such decision shall promptly be communicated to the Respondent in writing and become final in accordance with Rule 21.17. The failure to request a hearing on the penalty in a timely manner shall be deemed to be acceptance of the penalty.

Rule 21.11. Settlement Prior to Commencement of Hearing

Prior to the commencement of the hearing, the BCC subcommittee to which the investigation report was presented, or the Hearing Panel, may approve the entry into a settlement agreement with the Respondent, whereby the Respondent, with or without admitting guilt, may agree to any of the penalties set forth in Rule 21.16:

~~{(a) — a cease and desist order or a reprimand;~~

~~(b) — a fine of up to one million dollars (\$1,000,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;~~

- (c) — a voluntary suspension of up to one (1) year for each Rule violation alleged;
- (d) — a prohibition against executing any Customer orders;
- (e) — expulsion; and/or
- (f) — as part of a suspension or expulsion, the term or condition that the Respondent may not be employed by another Member as a Trading Floor employee, or any combination thereof; or

~~in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and directing all Members to deny access to such non-member market participant to the Exchange's markets; provided, however, in any case in which it is concluded that the Respondent may have violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, the Hearing Panel shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Respondent, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties. The Hearing Panel shall also issue a written decision, specifying the rule violations it has reason to believe may have been committed, including the basis or reasons for the Hearing Panel's conclusions, and any sanction to be imposed.]~~

Amended by the Board November 11, 2009; effective November 16, 2009 [¶(b)].

Amended by the Board September 20, 2012; effective October 22, 2012 [¶ (f)].

Amended by the Board July 15, 2015; effective August 17, 2015 [¶ (b)].

Amended by the Board December 4, 2015; effective December 23, 2015 [¶ (g)].

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 ~~{Compliance}~~ Market Regulation staff.
- (b) The Respondent shall be allowed to be represented by legal counsel or any other representative of ~~his~~ their choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.
- (c) The ~~{Compliance}~~ 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 ~~{Compliance}~~ 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 ~~{Compliance}~~ Market Regulation staff or which are relevant to the allegations contained in the Notice of Charges.
- (d) 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) 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 ~~{Business Conduct Committee}~~ BCC for appropriate action.

(f) Ex ~~{P}~~parte contacts by any of the parties with members of the Hearing Panel shall not be permitted.

(g) 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) 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) 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.

Rule 21.13. Written Decision of Hearing Panel

(a) If the Hearing Panel finds the Respondent not guilty of any Rule violation charged, it shall render a written decision to that effect, and the Respondent shall not be subject to any further proceedings with respect to the Rule violation charged. The written decision shall include:

- (i) a summary of the allegations contained in the Notice of Charges;
- (ii) a summary of the Answer;
- (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
- (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge.

(b) If the Hearing Panel finds the Respondent guilty of any Rule violation charged, it shall render a written decision to that effect. The written decision shall include:

- (i) a summary of the allegations contained in the Notice of Charges;
- (ii) a summary of the Answer;
- (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
- (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge, including the specific Rule which the Respondent is found to have violated; provided, however, that in any case in which the Respondent is found to have violated a Rule involving the execution of a ~~{C}~~customer Transaction, the Hearing Panel shall make a specific finding whether the ~~{C}~~customer has incurred any financial harm as a result of said violation; and
- (v) an order stating any penalty imposed and the effective date of such penalty; the penalty which may be imposed on the Respondent shall be one or more of the ~~following~~ penalties set forth in Rule 21.16[-].

- ~~(B) — a fine of up to one million dollars (\$1,000,000) for each Rule violation plus the monetary value of any benefit received as a result of the alleged violation;~~
- ~~(C) — a suspension of up to one (1) year for each Rule violation;~~
- ~~(D) — an expulsion from the Exchange;~~
- ~~(E) — a prohibition against executing any Customer orders; and/or~~
- ~~(F) — as part of a suspension or expulsion, the term or condition that the Respondent may not be employed by another Member as a Trading Floor employee;~~
- ~~(G) — in the case of a Respondent who is a non-member market participant, denial of future access, either directly or indirectly, to any or all of the Exchange's markets for such period as the Hearing Panel may determine.~~

~~(vi) in the case of a penalty imposed in accordance with subparagraph (b)(v)(G) of this Rule, an order directing the Exchange to issue a notice directing all Members to deny access to the Respondent to the Exchange's markets.~~

~~provided, however, in any case in which the Respondent is found guilty of having violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, an order that restitution be made to the Customer in an amount equal to the financial harm incurred by such Customer.~~

Amended by the Board September 20, 2012; effective October 20, 2012 [¶ (F)].

Amended by the Board July 15, 2015; effective August 17, 2015 [¶¶ (b)(v)(B)].

Rule 21.14. Liability for Expenses

~~{Any Member or market participant}~~ A Respondent who or which, after notice and opportunity for hearing, has been found to have violated any Rule or Clearing Organization Rule may, in the discretion of the Hearing Panel appointed in the matter, be required to pay to the Exchange an amount equal to any and all expenses incurred by the Exchange in connection with the prosecution of such violations, in addition to any penalty which may be imposed upon ~~{such Person}~~ the Respondent by virtue of the violations found by the Hearing Panel.

Amended by the Board June 22, 2017; effective July 12, 2017.

Rule 21.15. Extension of Time Limits

~~{(a)}~~ Any time limit provided for in Rules 21.03(h)(i), 21.05, 21.06, 21.07, 21.08, 21.09, and 21.10 ~~{and 21.12}~~ may be extended by mutual consent of the parties, by the Chair~~{man}~~person of the ~~{Business Conduct Committee}~~ BCC, or, if a Hearing Panel has been appointed, by the Chair~~{man}~~person of the Hearing Panel.

Rule 21.16. Penalties

In any matter in which a BCC subcommittee approves or enters into a settlement agreement with a Respondent or concludes that a Respondent violated an Exchange Rule pursuant to Rule 21.03(f), or a Hearing Panel determines that a Respondent has violated an Exchange Rule, the following penalties may be imposed:

- (a) a cease-and-desist order or a reprimand;

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- (b) a fine of up to one million dollars (\$1,000,000) for each rule violation alleged plus the disgorgement of monetary value of any benefit received as a result of the alleged violation;

- (c) a suspension;
- (d) an expulsion and/or a denial of access; and
- (e) restitution to any customer if financial harm was incurred by such customer.

Rule 21.1[6]7. Effective Date of Penalties

(a) If a ~~Member or non-member market participant~~ Respondent enters into a settlement agreement with the ~~Compliance~~ Market Regulation staff, the terms of which have been approved by a subcommittee of the ~~Business Conduct Committee~~ BCC or a Hearing Panel, the settlement agreement shall become final and effective on the date the settlement agreement is executed by the Exchange.

(b) Any decision (including any penalty) by a subcommittee of the BCC pursuant to Rule 21.03(f) or by a Hearing Panel shall be the final decision of the Exchange and shall become effective fifteen (15) days, or such longer time as the Hearing Panel may specify, after a copy of the written decision of the Hearing Panel has been served on the Respondent provided, however, that, in any case where the Respondent has consented to the action taken and to the timing of its effectiveness, the Hearing Panel may cause the decision involving any disciplinary action (including any penalty) to become effective prior to the fifteen (15) day period.

(c) Any fine imposed by a subcommittee of the BCC or Hearing Panel shall be due and payable on the effective date of the decision imposing such fine, or on such later date as the Hearing Panel may specify.

(d) If a ~~Member or non-member market participant~~ Respondent fails to pay any fine within 30 days of the date on which such fine becomes due and payable, such ~~Member or non-member market participant~~ Respondent shall be barred from directly or indirectly trading automatically without further action by the Exchange and shall remain barred until such fine is paid in full, however, that on written application received prior to such date, the Exchange, in its sole discretion, may postpone the date when payment is due.

Amended by the Board December 4, 2015; effective December 23, 2015 [(a)].

Amended by the Board June 22, 2017; effective July 12, 2017 [(a), (b) and (d)].

Rule 21.1[7]8. Publication and Written Notice of Disciplinary Action

(a) Records of the disposition of each investigation by the President or the ~~Business Conduct Committee~~ BCC, each hearing and each imposition of any penalty, shall be kept in accordance with CFTC Regulations. The record of any hearing, together with all of the papers shall be retained for a period of at least five (5) years.

(b) All proceedings conducted by or before the President, the ~~{Business Conduct Committee}~~ BCC and the Board or a subcommittee of the Board pursuant to this Chapter shall be confidential and shall not be disclosed to any Person except:

- (i) as required by law or by the Rules;
- (ii) in any action or proceeding brought by or against the Exchange; or
- (iii) as may be determined from time to time by the Board.

(c) In any case where:

(i) a ~~{Member or non-member market participant}~~ Respondent enters into any settlement agreement with the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof) or with the Chief Regulatory Officer which settlement agreement is approved by the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof); or

(ii) the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof) renders a decision finding a ~~{Member or non-member market participant}~~ Respondent guilty of any Rule violation; or

(iii) the Chief Regulatory Officer or his designee has imposed a summary fine on Respondent; or

(iv) {(iii)} the Board, a subcommittee of the Board or the President takes action or renders a decision against a Member pursuant to this Chapter;

the Exchange shall make public its findings and the reason for its action, including any action taken or penalty ordered.

(d) Written notice of any suspension, expulsion, disciplinary action or denial of access shall be given in accordance with CFTC Regulations.

(e) In any case in which:

(i) a ~~{Member or non-member market participant}~~ Respondent enters into any settlement agreement with the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof) or with the Chief Regulatory Officer of Market Regulation which settlement agreement is approved by the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof); or

(ii) the ~~{Business Conduct Committee}~~ BCC (or any subcommittee thereof) renders a decision finding a ~~{Member or non-member market participant}~~ Respondent guilty of any Rule violation;

for a violation of the Rules involving the execution of, or the failure to execute, a ~~{C}~~customer Transaction which results in financial harm to such ~~{C}~~customer, the Exchange shall promptly inform the FCM identified on the records of the Exchange or the Clearing Organization as having cleared such Transaction. Upon such notification, the FCM shall promptly inform the Person identified on its records as the owner of the account for which the Transaction was executed of the disciplinary action and the principal facts thereof.

Amended by the Board March 18, 2020; effective March 23, 2020 [¶¶] (c)(i), and (e)(i).

Amended by the Board June 22, 2017; effective July 12, 2017 [¶¶] (a) through (e)].

(a) Imposition of Fines

The President, the Chief Regulatory Officer of the Exchange or any of their delegees may summarily impose a fine for each violation of any Rule regarding decorum or attire. Any such fine shall not exceed ten thousand dollars (\$10,000), except for a fine issued for a violation of paragraph (b)(i)(A)(10) which shall not exceed twenty five thousand dollars (\$25,000).

Any fine issued under this Rule shall be due and payable, and shall be deemed imposed, fifteen (15) calendar days after notice of such action is given to the Member.

An individual who violates paragraph (b)(i)(A)(11) may be summarily removed from the Exchange premises for the remainder of the trading day, or such shorter period of time as determine.

(b) Conduct Subject to Summary Action

It shall be a violation of the Rules regarding decorum, attire, or timely submission of accurate records for a Member to engage in the following practices:

(i) Decorum:

The conduct enumerated below, if committed on the Trading Floor, on premises occupied by the Exchange, or in the building in which such premises are located is deemed a breach of decorum and is prohibited. In addition, the conduct specified in paragraph (A)(10) hereof, if committed in the area immediately surrounding any building in which the Exchange occupies premises is deemed a breach of decorum and is prohibited if such conduct relates to, or impacts upon, the business of the Exchange.

A. Conduct:

1. Running on the Trading Floor or adjacent corridors.
2. The use of profane, vulgar or indecorous language.
3. Smoking or eating.
4. Leaving or throwing refuse on the furniture, fixtures or floor.
5. The defacing or damaging of walls or other facilities.
6. Using computer equipment or wireless communication devices not certified or authorized for use on the Trading Floor by the Exchange's Department of Technology.
7. Betting or offering to bet or presenting offers to others to bet.
8. Carrying firearms, mace or other toxic substance.
9. Possession of an unsealed bottle(s) or container(s) of alcohol (which shall include beer, wine or liquor) or a controlled substance.
10. Acts which interfere with the personal comfort or safety of others.
11. The use of photographic equipment on the Trading Floor.
12. Otherwise causing a disruption on the Trading Floor.
13. Any threatening, abusive, harassing or intimidating speech or conduct.
14. Accessing or attempting to access the designated Exchange Trading Floor located at the New York Stock Exchange trading premises using unauthorized entrances and/ or turnstiles.

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(ii) Attire: Failure to conform to the Exchange mandatory forms of dress and appearance.

A. For purposes of this Rule, the following forms of dress and appearance are mandatory.

1. ~~All males must wear a suit jacket or trading jacket, conventional collared business shirts, neck ties, dress pants, socks and dress shoes.~~
2. ~~All females must wear a suit jacket or trading jacket in addition to other appropriate business attire, which shall include dresses, skirts, dress pants and blouses, socks, stockings and dress shoes.~~
3. ~~Personal attire and appearance must be clean, neat and presentable.~~

~~B. The following forms of dress and appearance are not in conformity with Paragraph A of this section:~~

1. ~~Clothing that is dirty, frayed, torn, badly wrinkled, ill fitting, or which distracts from business atmosphere.~~
2. ~~Pants shall not include: dungarees; jeans; jean look alike; denim jeans of any color; fatigues; tie dyes; mid calf; sweatpants; shorts; harem; spandex pants; or tight fitting or stretch pants and leggings.~~
3. ~~Collared business shirts and blouses shall not include; golf shirts; soft or ribbed knit collars; tee shirts; athletic shirts; sweatshirts; turtlenecks for males; tank tops; midriffs; halters.~~
4. ~~Conventional footwear shall not include: sneakers, walking shoes, sandals; thongs; slippers; and any shoes that have been altered or modified so as to increase an individual's height except in the case where a Floor Committee member determines that such alteration or modification is necessary to accommodate a physical disability.~~
5. ~~Dresses and skirts shall not include: denim of any kind; culottes; skorts; split skirts; shorts; inappropriate length detracting from a business atmosphere.~~
6. ~~Wearing of hats, head scarves or bandannas except those required by religious observance.~~
7. ~~A general unkempt or ungroomed personal appearance or attire which does not lend itself to the proper business atmosphere.~~

~~Amended by the Board February 7, 2007; effective February 8, 2007 [¶¶ (b)(i)(A)(17) and (22) and (b)(i)(B)(12)].~~

~~Amended by the Board June 10, 2009; effective June 15, 2009 [¶ (c)].~~

~~Amended by the Board July 8, 2009; effective July 13, 2009 [¶¶ (a) and (d)(iii)].~~

~~Amended by the Board September 20, 2012; effective October 22, 2012 [¶¶ (a), (b)(i)(A)].~~

~~Amended by the Board March 25, 2013; effective April 16, 2013 [¶¶ (a)(i)(A), (a)(ii)(A) and (a)(ii)(B)].~~

~~Amended by the Board May 29, 2013; effective May 30, 2013 [¶¶ (b)(i)(A)].~~

~~Amended by the Board March 18, 2020; effective March 23, 2020 [¶ (a)].~~

If an Emergency Event shall occur with respect to any Member, such Member shall advise the Exchange of the occurrence thereof by the fastest available means of communication and shall immediately deliver written notice to the Exchange specifying (a) the nature of such Emergency Event, (b) the time when such Emergency Event occurred, and (c) whether such Member consents to a summary suspension pursuant to this Rule and Rule 21.20 and, if so, whether such Member waives a hearing with respect thereto. ~~[, and whether such Member consents to a term of suspension to the effect that he may not be employed by another Member as a floor employee.]~~

Rule 21.20. Summary Suspension

~~[In the event that]~~ If a Member advises the Exchange as provided in Rule 21.19 and consents to a summary suspension, either orally or in writing, the President shall immediately suspend such Member in accordance with the terms of such consent.

Rule 21.21. Action Concerning a Financial Emergency

If at any time, the Board or a subcommittee of the Board appointed by the Chair ~~[man]~~ person and comprised of the CEO of ICE, the Chair ~~[man]~~ person and President of the Exchange and any two (2) Public Directors of the Exchange (“Subcommittee”), in its sole discretion, determines that there is a substantial question as to whether a Financial Emergency exists with respect to any Member, the Board or the Subcommittee may suspend, or take any other action against such Member, any Member enjoying privileges through such Member, and/or any Members or other Persons provided access to the Exchange by or through such Member, as it may deem necessary or appropriate to protect the best interests of the marketplace. The Board or the Subcommittee may take such action against any Member regardless of whether or not such Member has advised the Exchange of the occurrence of an Emergency Event pursuant to Rule 21.19, and whether or not such Member has consented to a suspension or waived a hearing.

**Amended by the Board February 7, 2007; effective February 9, 2007.
Amended by the Board September 30, 2015; effective January 1, 2016.**

Rule 21.22. Notice to Member

(a) Any notice given to a Member before action is taken against him pursuant to Rule 21.21 shall state:

- (i) the Financial Emergency or other situation which it is believed may give rise to the need for action by the Board or the Subcommittee; and
- (ii) the date, time and place of the hearing to be held before the Board or the Subcommittee.

(b) Any notice given to a Member after action has been taken against him pursuant to Rule 21.21 shall:

- (i) state the action taken;
- (ii) briefly state the reasons for the action; and
- (iii) state the effective time, date and duration of the action.

Amended by the Board February 7, 2007; effective February 9, 2007.

Rule 21.23. Hearing

At any hearing conducted under this Rule, the Board or the Subcommittee shall determine the procedures to be followed, except that the following shall apply in every case:

- (i) The case in support of the summary action shall be presented by the President, who may be represented by legal counsel.
- (ii) The Member shall be allowed to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.
- (iii) No formal rules of evidence shall apply, and the Board or the Subcommittee shall be free to accept or reject any and all evidence it considers proper.
- (iv) A stenographic transcript shall be made of the proceedings.
- (v) The notice of the hearing, the stenographic transcript, the documentary evidence and any other material presented to the Board or the Subcommittee by either party with notice to the other shall constitute the record of the hearing.

Amended by the Board February 7, 2007; effective February 9, 2007.

Rule 21.24. Decision

(a) Promptly following any hearing pursuant to Rule 21.23, the Board or the Subcommittee shall render a written decision based on the weight of the evidence contained in the record of the hearing and shall provide a copy of the decision to the Member. The decision shall include:

- (i) a description of any action taken without a hearing;
- (ii) the reasons for any action taken without a hearing;
- (iii) a brief summary of the evidence produced at the hearing;
- (iv) the findings and conclusions of the hearing body;
- (v) a determination that any action previously taken should be affirmed, modified or reversed; and
- (vi) a declaration of any action to be taken pursuant to the determination made in subparagraph (v) of this Rule, the effective date and duration of such action and the date upon which such decision becomes final.

Notwithstanding the foregoing, the Board or the Subcommittee may take action pursuant to Rule 21.21 prior to the rendering of the written decision, if the Board or the Subcommittee in its sole discretion deems it necessary or appropriate to do so.

(b) Any action taken by the Board or the Subcommittee under Rule 21.21 shall become effective and final fifteen (15) days after notice of the action taken is given to the Member, or such other time as the Board or the Subcommittee may specify, provided that the Board or the Subcommittee reasonably believes, and so states in its written decision, that action at or within such other time is necessary to protect the best interests of the marketplace. The decision of the Board or the Subcommittee shall not be subject to appeal.