



Submission No. 22-79  
May 10, 2022

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

**Re: Amendment to ICE Futures U.S. Rule 4.34-Settlement Prices--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 Commission Regulation 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") hereby certifies the amendments to Exchange Rule 4.34 set forth in Exhibit A. Rule 4.34 currently sets out the process for determining the daily settlement price of a futures contract and provides special procedures for determining that price on the last trading day of certain contracts. The rule also allows the Exchange to delay publication of a final settlement price or substitute another reliable settlement price if the relevant index or other value on which final settlement of an Exchange contract is derived is not published, or if the Exchange believes there is an error in the calculation of that value. As explained further below, the Exchange has made certain amendments to clarify Rule 4.34, codify existing practices, strengthen the integrity of the final settlement price process and provide additional transparency to market participants.

1-New Paragraph (b)(v) has been added to codify the authority and existing practices of the Exchange to alter a settlement price at any time prior to the date on which final payment of an expiring contract is made if the Exchange determines, in accordance with its procedures, that the price is or was erroneous. For example, many power contracts have a final payment date that is several days following the last trading day and any open contracts continue to be margined during that period. Until final payment is made, it has been understood that corrections to the final settlement price do not require any special adjustments and they are handled directly between clearing members and the clearinghouse through the normal daily pays and collects process. Nonetheless, the Exchange believes that it is beneficial to codify its authority in these instances.

2- Paragraph (b)(vi) currently addresses delays in publishing a final settlement price and has been relied upon by the Exchange, from time to time, to delay final settlement during periods when a third-party reference price used to compute the final settlement price of an Exchange



futures contract was not available or temporarily delayed. The implication of the wording in the rule allowing the price to be published “the next Business Day or as soon thereafter as practicable” is that the delay will be very brief. While the Exchange endeavors to publish final settlement prices on a timely basis in accordance with the standards in Appendix C to Part 38 of the Commissions’ regulations, it has no control over third party price reporting entities or the timing of their actions. Therefore, to clarify what can reasonably be expected by market participants and enforced by the Exchange, the amendments delete the reference to “next Business Day” publication.

3- New paragraph (d) has been added to address the possibility of settlement price changes being made within 30 days following final settlement of a contract. Thirty days was chosen for this purpose in recognition of the structure of the U.S. power markets in particular. Many independent service operator’s (“ISO’s”) prices are subject to a 30- day window during which prices that are published by an ISO (and used by the Exchange for final settlement of a futures contract) can be revised by the ISO. In addition, calculation errors and minor corrections, whether made by a third party or the Exchange, sometimes come to light after settlement has occurred. The Exchange has established procedures to detect and respond to such price changes and seeks, by these amendments, to codify some of the common circumstances in which price changes may occur. Specifically, the amendments establish the following standards:

-Subparagraph (A) of paragraph (d) provides the general rule that changes within 30 days of final settlement can automatically be made by the Exchange in the event the Exchange discovers an error in, or an index provider or other third party revises, a price on which final settlement of an Exchange futures contract is based. There is a separate clause which covers the circumstance where, during the 30- day period, the relevant price reporting entity publicly indicates an intention to review a price it has already published. In that case, the rule would allow the Exchange to correct a price at the time at which the price reporting entity issues a corrected price, even if the revised price is issued beyond the applicable 30-day period. The Exchange believes it is important to make market participants aware, via codification in the rules, of potential repricing in such instances such that they can take appropriate action to hedge their exposure.

-Subparagraph (B) of paragraph (d) provides a special rule to address changes to the final settlement price of a daily futures contract that serves as a data point for another Exchange contract (e.g., a contract with a final settlement price that is a monthly average of daily prices), if the price of the daily contract is changed by the index provider at a point in time that would be outside of the daily contract’s 30-day period but is within the 30-day period of the other contract to which it is a data input. For example, if an index provider changes the price of an April 2<sup>nd</sup> daily contract on May 4<sup>th</sup>, the revised price would be timely for purposes of calculating the April monthly value ( which is the average of all of the April daily prices) but would be outside of the 30-day window applicable to the April 2<sup>nd</sup> daily contract. In this circumstance, the amendment allows the price change



to the daily contract to be recognized by the Exchange because it was made within the 30-day period applicable to the monthly contract for which it serves as a data input. This avoids having a disconnect between the monthly contract price and the prices of the component daily contracts.

-Subparagraph (C) of paragraph (d) allows price changes to contracts which expired with no open interest on the final settlement date, whether or not the change is made within 30 days of contract expiry. Such a change will not have any financial impact on Exchange contracts and will result only in a correction to the Exchange's historical files and regulatory reports.

-Subparagraph (D) of paragraph (d) codifies the existing practice between the Exchange and its clearing houses whereby the Exchange reports any changes to final settlement prices to the relevant clearinghouse, which then makes any required financial adjustments among the affected clearing members.

4- Additionally, the amendments reflect certain non-substantive changes that update the Rule. In particular, subparagraph (c)(iii) has been deleted because the Exchange no longer lists any cash settled currency futures contracts, and subparagraph (b)(iv) has been revised to correct a cross reference and make clear that if the methods specified in subparagraph (b) (i)-(iii) for calculating the settlement price, and the methods specified in subparagraph (c) for calculating that price on the last trading day would result in a price that is inconsistent with other prices or information known to the Exchange, those prices may be established on the alternative bases specified in subparagraph (b)(iv) of the Rule.

The Exchange certifies that the amendments to Rule 4.34 comply with the requirements of the Act and the CFTC 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-CORE PRINCIPLE 2**

The amended rules more accurately represent the Exchange's authority in calculating settlement prices as well as limitations in calculating final settlement prices with data provided by 3<sup>rd</sup> party index providers, and as such can be readily enforced by the Exchange in accordance with Core Principle 2.

**CONTRACTS NOT READILY SUBJECT TO MANIPULATION -CORE PRINCIPLE 3**

The amendments are consistent with Core principle 3 and Appendix C to Part 38 as they relate to the commercial acceptability, reliability and public availability of the settlement price.



#### **PREVENTION OF MARKET DISRUPTION - CORE PRINCIPLE 4**

The Exchange is codifying these procedures as a part of its core principle responsibility to monitor the continued appropriateness of the methodology for deriving cash settlement indices. As described above, the Exchange has procedures to monitor the validity of the prices to which its cash-settled contracts are settled at expiration and to correct errors that are discovered and adjustments made by third parties to the reference prices used for such settlement.

#### **AVAILABILITY OF INFORMATION-CORE PRINCIPLE 7**

As required by Core Principle 7, the text of the amended Rule will be codified in the Exchange's Rulebook and made available on the Exchange's Website. As such, the amendments provide transparency to market participants and alert them to the possibility of price changes in particular circumstances.

The Exchange, along with ICE Clear Europe, has consulted with industry representatives regarding the amendments. We are not aware of any substantive opposing views with regard to the amendments and further certify that, concurrent with this filing, a copy of this submission was posted on the Exchange's website at <https://www.theice.com/futures-us/regulation#rule-filings>

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

Audrey R. Hirschfeld

A handwritten signature in blue ink that reads 'Audrey R. Hirschfeld'.

SVP and General Counsel  
ICE Futures U.S., Inc.



## EXHIBIT A

### [Additions Underscored and Deletions Struck Out]

#### Rule 4.34. Settlement Prices

(a) Settlement Prices for all Exchange Futures Contracts except as otherwise specified in the terms of an Oil Contract described in Chapter 19 of the Rules, shall be determined in the manner specified in this Rule. All prices, bids and offers during the applicable closing period as defined in Rule 4.25(b) (the “close”) shall be used to determine the Settlement Price of a delivery or expiration period unless otherwise specified herein. For purposes of this Rule 4.34, the phrase “delivery or expiration period” shall refer to the particular contract in the listing cycle of the Exchange Futures Contract for which the Settlement Price is being determined.

(b) Except as specified in paragraph (c) with respect to the Last Trading Day of certain Exchange Futures Contracts, the Settlement Price of each delivery or expiration period of an Exchange Futures Contract shall be determined as follows:

(i) For the delivery or expiration period with the highest open interest (the “Lead Contract”), the Settlement Price shall be the weighted average of all prices for outright Trades traded during the close. When the average is a fraction, the weighted average shall be rounded to the nearest minimum permissible price fluctuation for all products other than the USDX, for which the weighted average shall be rounded to the nearest .001 of a USDX index point. For purposes of this Rule, weighted average shall mean the average by volume of all transactions executed in such delivery or expiration period during the close.

(ii) The Settlement Price for each delivery or expiration period other than the Lead Contract shall be either the weighted average or the prevailing differential depending on the nature of the trading volume in such delivery or expiration month during the close.

(iii) If no Trades have been executed during the close in a delivery or expiration period, the Settlement Price for such delivery or expiration period shall be either the average of the bids and offers made during the close or the prevailing differential between such delivery or expiration period and the nearest active delivery or expiration period during the trading day depending on the nature of the bids and offers and spread Trades involving such delivery or expiration period.

(iv) Notwithstanding subparagraphs (b)(i) through (iii) and paragraph (c) of this Rule, if the Exchange concludes that the Settlement Price determined in accordance with such provisions [~~subparagraphs (c)(i) through (iii) of this Rule~~] does not fairly represent the market value of the relevant delivery or expiration period relative to the Settlement Price of any other delivery or expiration period, or is inconsistent with market information known to the Exchange, it may establish the Settlement Price of such delivery or expiration period at a level consistent with such other Settlement Price(s) or market information including the settlement prices for similar contracts trading on other markets, trading activity in the spot, OTC and swap markets, forward prices, pricing data obtained from OTC and swap market participants, and any other pricing data from sources deemed reliable by the Exchange.



(v) If the Exchange concludes that the Settlement Price of any contract is or was erroneous, it may correct the Settlement Price in accordance with Exchange procedures at any time prior to final settlement.

(vi) If, for any reason, the relevant index or other value on which final settlement of any Futures Contract is based is not published, or the Exchange believes there is an error in the calculation of the index or other value, or the Exchange is otherwise unable to issue a final Settlement Price on such day as specified in the Rules, then the Exchange may, in its discretion, either (A) publish a final Settlement Price on such day using such pricing data as it deems reliable, or (B) delay issuing a final Settlement Price and shall publish a final Settlement Price [on the next Business Day or] as soon [thereafter] as practicable using such pricing data as it deems reliable [; unless otherwise specified in the Rules of the relevant Exchange Futures Contract].

(c) On the Last Trading Day the Settlement Price shall be determined as follows:

(i) in the expiring Cocoa delivery month, the Settlement Price shall be determined by the differential between the value of the expiring delivery month and the value of the next delivery month for the last minute of trading, and

(ii) in the expiring USDX contract month, the Settlement Price shall be determined as specified in Rule 15.06 ~~and~~

~~(iii) in any expiring cash settled Currency Futures Contract, the Settlement Price shall be determined as specified in Rule 26.04.]~~

(d) (i) After the final settlement of an Exchange Futures Contract, if the Exchange discovers an error in the final Settlement Price published by the Exchange, or if an index provider or other third party makes a revision to the relevant index or other value on which the final Settlement Price of an Exchange Futures Contract is based, then:

(A) If such error is discovered or revision is made within thirty (30) calendar days after the final settlement, the Exchange may correct the final Settlement Price in accordance with Exchange procedures and republish a revised final Settlement Price for the Exchange Futures Contract, *provided however*, that if during such 30-day period the Exchange becomes aware that an index provider or other third party which publishes the price on which final settlement of an Exchange Futures Contract is based has indicated that such a price is under review by it, the Exchange may correct the final Settlement Price and republish a revised final Settlement Price for the affected Exchange Futures Contract(s) when the index provider or other third party provides public notice of the corrected or revised price (even if after such 30-day period);

(B) If the final Settlement Price of a daily Exchange Futures Contract is used as a data point in determining the final Settlement Price of another Exchange Futures Contract pursuant to the contract terms and conditions of such other Exchange Futures Contract, the Exchange may, in accordance with its settlement price procedures, correct the final Settlement Price of the daily contract within thirty (30) calendar days of the final settlement



date of the related Exchange Futures Contract(s) to conform the final Settlement Price of the daily contract to the price used for such contract in the calculation of the final Settlement Price of the related Exchange Futures Contract;

(C) Notwithstanding the above, the Exchange may correct at any time the final Settlement Price for an Exchange Futures Contract which had no open interest at final settlement; and

(D) Any Settlement Price that is revised by the Exchange pursuant to this paragraph (d) shall be reported to, and applied by, the Clearing Organization in accordance with the Clearing Organization Rules.