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BY ELECTRONIC TRANSMISSION

Submission No. 21-10
January 14, 2021

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 Resolution No. 2 of Chapter 18 and Related Amendments -
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 amendments to Resolution No. 2 of Chapter 18 and Rule 6.20(c), “Position Limits, Conditional Limits and Position Accountability for Energy Contracts and Oil Contracts,” of the Exchange’s Rulebook, as set forth in Exhibits A and B.

The amendments to Resolution No. 2 of Chapter 18 increase spot month position limits for two Financial Gas futures contracts, the Henry LD1 Fixed Price Future (“H”) and the Henry LD1 Fixed Price Future 25K (“HHL”), and one option on futures contract, the Henry Cal 1X Fixed Price Options (“HHA”), to 8,000 contracts for H and HHA and 800 contracts for HHL. These contracts are referenced contracts as that term is defined in CFTC Regulation 150.1. The amended spot month position limits have been increased to levels consistent with new CFTC Regulation 150.5, which allows for equivalent exchange-set position limits up to the levels designated by the Commission in Regulation 150.2. In this instance, the levels are equivalent to the 2,000-contract spot month position limit for the core-referenced futures contract. The contracts and amended levels are listed in Exhibit A.

Additionally, the amendments to Resolution No. 2 of Chapter 18 increase the Conditional Limit for the Henry LD1 Fixed Price Future to align with the increases to spot month position limits noted above. Exchange Rule 6.20(c), “Position Limits, Conditional Limits and Position

Accountability for Energy Contracts and Oil Contracts,” which governs the Conditional Limit, currently provides for a Conditional Limit of up to five (5) times the spot month position limit of the Henry LD1 Fixed Price Future (“H”) while position limits are in effect. The Exchange will increase the Conditional Limit from 20,000 contracts to 40,000 contracts net long or short and preserve the existing ratio between the spot month position limit and the Conditional Limit. Further, amendments to Exchange Rule 6.20(c) align the Exchange rule with new CFTC Regulation 150.3(a)(4) to set a maximum Conditional Limit of 40,000 contracts. Lastly, the amendments make clear longstanding guidance that the requirements of the Conditional Limit will not be in effect unless the market participant holds a position in excess of the spot month position limit (8,000 contracts).¹ The amendments to the Conditional Limit and Exchange Rule 6.20(c) are consistent with recent CFTC rulemaking providing for a Conditional Limit of 10,000 NYMEX contract-equivalents while spot month position limits are in effect.² Amendments to Exchange Rule 6.20(c) are provided in Exhibit B and corresponding amendments to the Exchange’s Request for Conditional Limit form are provided in Exhibit C.

Lastly, the amendments provide for corresponding updates to the Exchange’s Guidance on Position Limits document to align the document with the amendments to the Conditional Limit provided herein. The amendments to the Guidance on Position Limits document are provided as Exhibit D.

The Exchange will implement the position limit changes, amendments to the Conditional Limit, and amendments to the Guidance on Position Limits document on the effective date of CFTC Regulation Part 150, “Position Limits on Derivatives,” March 15, 2021.³ The amendments will be effective for all expiration months, including those with open interest.

Certifications

The Exchange certifies that the amendments to spot month position limits and Conditional Limit comply with the requirements of the Act and the rules and regulations promulgated thereunder. The Exchange is not aware of any opposing views with respect to the position limit or Conditional Limit increases. 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 amended spot month position limits for the two Financial Gas futures contracts and one Financial Gas option on futures contract and the levels for the Conditional Limit are set forth in Resolution No. 2 of Chapter 18 and will be enforced by the Exchange. In addition, trading of these contracts is subject to all relevant Exchange rules which are enforced by the Market Regulation Department.

¹ 17 CFR 150.3(a)(4) (October 15, 2020).

² *Id.*

³ The Exchange understands the effective date of the final Part 150 regulation to be 60 calendar days after the final rule was published in the Federal Register, which occurred on January 14, 2021.

CONTRACTS NOT READILY SUBJECT TO MANIPULATION

The Exchange's Financial Gas futures and option on futures contracts are not readily subject to manipulation as they are based on established and liquid underlying cash markets and derivative contracts traded at other designated contract markets. In addition, trading of the contracts will be monitored by the Market Regulation Department.

POSITION LIMITS OR ACCOUNTABILITY

Positions in the two Financial Gas futures contracts and one Financial Gas options on futures contracts will continue to be subject to position limits and accountability levels set by the Exchange. Such position limits are based upon the deliverable supply in the cash market and have been deemed appropriate by the Commission in its rulemaking. All positions held in options on futures markets are aggregated with the relevant futures contracts underlying the option on futures for purposes of position limits and single and all-months-combined accountability.

FINANCIAL INTEGRITY OF CONTRACTS

The two Financial Gas futures contracts and one Financial Gas option on futures contract will continue to be cleared by ICE Clear Europe, a registered derivatives clearing organization subject to Commission regulation, and carried by registered futures commission merchants qualified to handle customer business.

The Exchange further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website. It may be accessed at: <https://www.theice.com/futures-us/regulation>. If you have any questions or need further information, please contact the undersigned at 312-836-6745 or at patrick.swartz@theice.com.

Sincerely,



Patrick Swartz
Director
Market Regulation

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

EXHIBIT A

Resolution No. 2 – Position Limit/Accountability Table

Rule	Contract Name	Commodity Code	Contract Size	Unit of Trading	Spot Month Limit	Spot Month Conditional Limit	Single Month Accountability Level	All Month Accountability Level	Aggregate 1 (Positive Correlation)	Exchange Reportable Level
18.A.139	Henry LD1 Fixed Price Future	H	2,500	MMBtu	[4,000] <u>8,000</u>	[20,000] <u>40,000</u>	24,000	48,000	H	200
18.A.172	Henry LD1 Fixed Price Future 25K	HHL	25,000	MMBtu	[400] <u>800</u>	[2,000] <u>4,000</u>	2,400	4,800	H	1
18.E.147	Henry Cal 1X Fixed Price Options	HHA	2,500	MMBtu	[4,000] <u>8,000</u>	[20,000] <u>40,000</u>	24,000	48,000	H	200

EXHIBIT B

Rule 6.20. Position Limits, Conditional Limits and Position Accountability for Energy Contracts and Oil Contracts

(a) Position limit and position accountability levels for Energy Contracts and for Oil Contracts are specified in the Tables contained in Resolutions 2 contained in Chapters 18 and 19 (the “Position Limit Tables”). A Person holding or controlling Exchange Futures Contracts and Futures Equivalent Contracts, net long or net short (calculated as specified in the Position Limit Table), in an amount equal to or greater than the accountability levels specified in such Table, (i) automatically consents not to increase further and automatically consents to decrease those positions when so ordered by the Exchange acting in its own discretion and (ii) shall provide, in a timely manner, information on the nature of that Person’s related cash position, Exchange Futures and Options position, trading strategy and/or hedging strategy and such other relevant information as the Exchange may require. Nothing in this Rule shall limit the authority of the Exchange to take action under Rules 6.11, 6.12 and 6.13 or to request and collect information regarding such Person’s related cash and Exchange Futures and Options positions.

(b) No Person may exceed the position limits specified in the Position Limit Tables for any Oil Contract or any Energy Contract unless an exemption has been granted by the Exchange in accordance with these Rules.

(c) A Conditional Limit in the Henry Hub LD1 Fixed Price Future of up to [~~five (5) times the spot month position limit~~] 40,000 contracts net long or short may be granted for the period that spot month position limits are in effect. To be eligible for a Conditional Limit under this Rule, a Person must submit an application, in the form specified by the Exchange, in which the applicant agrees:

(i) not to establish, hold or control a position in the corresponding CME/NYMEX Natural Gas Futures contract (CME/NYMEX contract code NG) during the last three days of trading of a contract month while holding a position in the Henry LD1 Fixed Price Future in excess of the contract’s spot month position limit;

(ii) upon request of the Exchange, to provide information on all positions related to Henry Hub Contracts, and such other information as the Exchange may request; and

(iii) to report to the Exchange any position established, whether by trading or otherwise, in the spot month CME/NYMEX Henry Hub Natural Gas Futures contract during the last three days of trading of a contract month.

An application for a Conditional Limit shall be effective upon receipt by the Exchange. A Conditional Limit will be effective each spot month until the expiration date specified in the application for such limit, which shall be no later than one year following the submission date. Nothing in this Rule shall in any way limit the Exchange from altering or revoking a Conditional Limit.

(d) The spot month position limits for the Henry LD1 Fixed Price Futures Contract shall be effective on the Last Trading Day and the two Business Days preceding the Last Trading Day of the Contract Period, as such term is defined in Chapter 18 of the Rules, or as otherwise determined by the Exchange to account for holidays.

(e) The spot month position limits for Natural Gas contracts (excluding the Henry LD1 Fixed Price Future and the EIA Index Futures) shall be effective during the last five Business Days of the calendar month that precedes the Contract Period, as such term is defined in Chapter 18 of the Rules, or as otherwise determined by the Exchange to account for holidays.

(f) The spot month position limit for the EIA Index Futures shall be effective on the Last Trading Day and the four Business Days preceding the Last Trading Day of the Contract Period, as such term is defined in Chapter 18 of the Rules, or as otherwise determined by the Exchange to account for holidays.

(g) The spot month position limits for Power and Physical Environmental contracts shall be effective on the first Business Day of the Contract Period (as such term is defined in Chapter 18 of the Rules) through the Last Trading Day.

(h) The spot month position limits for LNG contracts shall be effective at the close of business on the Business Day preceding the Last Trading Day of the Contract Period, as such term is defined in Chapter 18 of the Rules.

(i) The spot month position limits for Oil Contracts shall be effective on the Last Trading Day and the two Business Days preceding the Last Trading Day of the expiring contract, or as otherwise determined by the Exchange to account for holidays. Any Clearing Member which holds, controls or carries for any Customer a 'reportable position' (as such term is used in Rule 6.15) in any Oil Contract shall submit a report to the Exchange upon request, identifying positions which such Clearing Member or its Customer holds or controls in the corresponding contract month of any physically delivered futures contract to which the Exchange contract is linked, as of the open of trading and the close of trading on such Last Trading Day, and shall provide such other information as may be requested by the Exchange regarding transactions effected on such day by such Person in the linked contract, in such form and manner as may be specified by the Exchange.

EXHIBIT C

ICE FUTURES U.S., INC. ENERGY

REQUEST FOR CONDITIONAL LIMIT

The Applicant listed below hereby requests a Conditional Limit for the **ICE Henry LD1 Fixed Price Future (H)** during the period that spot month position limits are in effect and agrees: (1) not to establish, hold, or control a position in the corresponding CME/NYMEX Henry Hub Natural Gas Futures (NG) contract during the last three days of trading of a contract month while holding a position in the Henry LD1 Fixed Price Future in excess of the contract's spot month position limit; (2) upon request of the Exchange, to provide information on all positions related to Henry Hub Contracts, and such other information as may be requested by the Exchange; and (3) to report to the Exchange any positions established, whether by trading or otherwise, in the spot month CME/NYMEX Henry Hub Natural Gas Futures (NG) contract during the last three days of trading of a contract month. The Applicant acknowledges that positions in the H contract include positively aggregated futures-equivalent positions held in the Henry LD1 Fixed Price Future 25K (HHL) and Henry Cal 1X Fixed Price Options (HHA) contracts.

Applicant Information:

Applicant Name: _____ Date: _____

Requested Expiration Date: _____

Submitted by (Print Name): _____ Signed: _____

Position/Title: _____ Telephone #: _____

Address: _____

E-Mail: _____

The Conditional Limit will be effective upon receipt and should be submitted to ICE Futures U.S. Market Regulation at IFUSenergy@theice.com.

Any questions regarding this application should be directed to:

Patrick Swartzter, Director - Market Regulation, at (312) 836-6745 / Patrick.Swartzter@theice.com or IFUSenergy@theice.com.



Guidance on Position Limits

~~[March 2018]~~ March 2021

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Guidance on Position Limits

The ICE Futures U.S. (“Exchange”) Market Regulation Department (“MRD”) is issuing the following guidance on the Exchange rules pertaining to position limits and position accountability levels. Note that the Rules should always be consulted in conjunction with any guidance document, and supersede any information in this guidance document.

Position Limits and Position Accountability Levels

Position limits are levels that may not be exceeded on an intraday or end-of-day basis unless an exemption has been obtained from the MRD. If a position limit is exceeded without an exemption, it is considered to be a violation of Exchange Rule 6.13.⁴

Position accountability levels may be exceeded without an exemption and will not be deemed a violation of Rule 6.13. Market participants who hold a position in excess of an accountability level may be subject to a position accountability review and asked by the MRD to provide information regarding the trading and/or hedging strategy and purpose underlying the position. In addition, Exchange rules provide that a market participant holding or controlling a position in excess of a position accountability level automatically consents to not increase further and to decrease those positions when so ordered by the MRD. Generally, a market participant will be contacted by the MRD to obtain information about the position before such instructions are issued.

Depending on the product, position limits or position accountability levels may be implemented during the following periods:

1. **Spot Month:** a period of days prior to the expiry of the front month contract, or, for physically delivered contracts, during the notice period or a defined period of time prior to expiry.
2. **Single Month:** any single contract month outside of the period the spot month position limit is in effect.
3. **All Months Combined:** net open positions held in all contract months of a product, including the spot month.

The dates on which spot month position limits are in effect vary by contract and market participants should reference the definitions provided for each product in Chapter 6 of the Exchange Rulebook. Additionally, the Exchange publishes a notice each month with the upcoming compliance dates for spot month position limits, which may be found at <https://www.theice.com/futures-us/notices>.

For position limits and position accountability levels, the Exchange aggregates (i.e. combines and nets) positions held in certain energy contracts with positions in other contracts on a positive or negative basis. The Exchange Position Limit Table indicates whether a contract has a positive or negative aggregate. Options positions are aggregated with the underlying futures contract on a futures-equivalent basis using the delta ratio published by the Exchange.

Certain energy contracts are defined as diminishing balance contracts. Generally, diminishing balance contracts are those where the final settlement price is based on the average of daily index prices during the contract month. For those contracts, the front month position decreases by a proportionate amount each

⁴ There are limited circumstances when an exemption may be obtained after a position limit is exceeded. Such exemptions are available due to sudden unforeseen increases in bona fide hedging or risk management needs and require that an exemption be requested within one business day (unless the MRD has approved a later filing which may not exceed 5 business days) following the day on which the position limit was exceeded. If the exemption is approved, there is no rule violation.

day as the contract month nears expiration. Typically, the spot month position will begin to diminish prior to the date on which spot month position limits become effective.

Exchange position limits, accountability levels, aggregation codes, and diminishing balance identification can be found in the Exchange Position Limit Tables at:

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Position_Limit_Accountability_and_Reportable_Levels.xls

https://www.theice.com/publicdocs/futures_us_reports/all/IFUS_Position_Limits_Accountability_and_Reportable_Levels_for_Non-Energy_Products.xlsx

Aggregation of Positions

Position limits and position accountability levels apply to all positions in accounts under common ownership (ownership interest of 10% or greater) or control. In addition, where two or more participants trade pursuant to an expressed or implied agreement, the participants' positions will be aggregated as if the positions were held by a single person.

As provided in Exchange Rule 6.12, certain exemptions from aggregation are available. To obtain an exemption, a written request should be submitted to the MRD detailing the circumstances supporting the exemption. If a market participant has filed an exemption from aggregation request with the CFTC, a copy should be provided to the Exchange.

Exemptions from Position Limits

As provided in Exchange Rule 6.29, the Exchange may grant position limit exemptions for positions held for the purposes of (i) bona fide hedging as defined by the CFTC or non-enumerated hedging strategies which are determined by the Exchange to be consistent with the purposes of hedging, (ii) arbitrage, spread or straddle strategies, and (iii) risk management strategies. To request an exemption, an exemption request form must be completed and submitted to the MRD no later than five business days before the first day the position limit is in effect. The form for requesting exemptions for energy contracts may be found at the link below.

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Position_Limit_Exemption_Form.doc

Additionally, Exchange Rule 6.20(c) allows for a Conditional Limit in the Henry Hub LD1 Fixed Price Future that allows a market participant to hold up to ~~[five times the spot month position limit]~~ 40,000 contracts net long or short while position limits are in effect. The form for requesting a Conditional Limit for Henry Hub LD1 along with the corresponding requirements may be found at the link below.

https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Conditional_Limit_Form.doc

For exemption request forms for non-energy contracts, the MRD should be contacted using the information provided below.

FOR MORE INFORMATION

Agricultural, Financial and Metals Contact:

Susan Gallant
212-748-4030
Susan.Gallant@theice.com

Energy Contacts:

Patrick Swartzner
312-836-6745
Patrick.Swartzner@theice.com