

 **ICE** FUTURES U.S.
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New York, New York 10282

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September 12, 2007

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R.F.T.C.

Mr. David A. Stawick
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 Membership Rules 2.03 through 2.08, 2.10, 2.14, 2.16, 2.21, 2.28, 2.35 and Disciplinary Rule 21.35 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6

Dear Mr. Stawick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, ICE Futures U.S., Inc. ("Exchange") submits, by written certification, amendments to Rules 2.03 through 2.08, 2.10, 2.14, 2.16, 2.21, 2.28, 2.35 and 21.35, attached as Exhibit A.

Prior to the amendments, all membership applications were presented to a Membership Committee ("Committee") which met on a monthly basis to interview applicants, review the relevant background and other information compiled by the staff and make a determination whether to grant the application or refer it to the Board due to the existence of a condition for denial. If the Committee determined to grant an application, it was simply reported to the Board; if it recommended denial, the rules called for a committee of the Board to be appointed and the opportunity for a full hearing was extended to the applicant. In certain other cases, such as reinstatement of a suspended member, the matter automatically must come before the Board for a decision.

Amendments to Rules 2.03 through 2.08, 2.10, 2.14, 2.16, 2.21, 2.28, and 21.35 transfers: (i) the authority to act upon membership applications, guarantees, and leases from the Committee to Exchange staff; and (ii) the authority to act upon applications which receive a denial and the reinstatement of a suspended member from the Board to the Committee.

The amendments streamline the process by eliminating the need for monthly Committee meetings which eliminates the delay for those people who seek membership. The amendments also relieve the Board of the obligation to conduct a hearing and make a determination in those

cases where conditions for denial exist. At the same time, the expertise developed by the Committee members can be tapped into by the staff in those cases where conditions for denial exist, by referring the matter to the Committee (rather than the Board) for a determination.

Amendments to Rule 2.35 permit service of papers upon a member by express courier to accommodate the global nature of Exchange membership.

The amendments to Rules 2.03 through 2.08, 2.10, 2.14, 2.16, 2.21, 2.28, 2.35 and 21.35 were adopted by the Exchange's Board of Directors at its meeting on September 11, 2007 and will go into on Thursday, September 13, 2007. The Exchange certifies that the amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. No substantive opposing views were expressed by members or others with respect to the amendments.

If you have any questions or need further information, please contact me at jason.fusco@theice.com or (212)748-4021.

Sincerely,

Jason V. Fusco
Assistant General Counsel
& Market Regulation Counsel

cc: Riva Adriance
Allen Cooper
CFTC, New York Regional Office

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

Rule 2.03. Application

(a) An individual applying to be a NYBOT Member, NYBOT Permit Holder or Lessee must file with the Exchange an application for Membership in the form supplied by the Exchange, a non-refundable application fee in the amount specified by the Board, a confidential statement or report from two (2) different business references acceptable to the Membership Committee and such other documents as the Exchange may deem necessary or appropriate, including in the case of a NYBOT Membership, evidence that the individual owns or will acquire the Required Shares, or that the Required Shares will be owned by a Member Firm with which the Person has entered into an A-B-C Agreement approved by the Exchange.

(b) Unless the [~~Chairman of the Membership Committee~~] Exchange decides otherwise, [~~in his sole discretion,~~] an individual who had been a Member in good standing and who, following the transfer of his sole Membership, files an application for readmission to Membership, in the form prescribed by the Exchange, a non-refundable application fee in the amount specified by the Board and such other documents as the Exchange deems necessary or appropriate, shall be readmitted to Membership if such application, fee and other documents are filed within forty-five (45) calendar days following the date of transfer of the applicant's sole Membership.

(c) Incomplete applications shall be kept on file for two (2) months; thereafter, the application shall be deemed withdrawn and an applicant must submit a new application for Membership.

Rule 2.04. Notice of Application

The name of each applicant shall be posted on the Member Page of the Exchange's website or otherwise sent to all NYBOT Members at least ten (10) days prior to approval by the [~~Membership Committee meeting at which such application is to be reviewed~~] Exchange.

Rule 2.05. [~~Appearance of Applicant; Failure to Appear~~] Reserved

[~~The Membership Committee may, in its discretion, require the applicant to personally appear before it. Failure to appear, when so requested, shall constitute a withdrawal by the applicant of his application.~~]

Rule 2.06. Review of Application

(a) The [~~Membership Committee~~] Exchange may direct the applicant to supplement, or the Exchange [~~to~~] may investigate, any information supplied by the applicant, or which the [~~Committee~~] Exchange believes is appropriate.

(b) The [~~Membership Committee~~] Exchange shall review the application and may ask for and review any additional information it deems relevant; provided however, that review of all the requirements for and the granting of floor trading privileges shall be the exclusive responsibility of the Floor Trading Privileges Committee.

Rule 2.07. Election to Membership [~~by the Board~~]; Reinstatement; Rejection

(a) The [~~Membership Committee~~] Exchange shall, when it deems the application to be complete, either approve the application or refer the application to the [~~Board~~] Membership Committee for action with a recommendation either to approve or disapprove the same, provided that the [~~Committee~~] Exchange shall refer the application to the [~~Board~~] Membership Committee whenever (i) an application contains, or the [~~Committee~~] Exchange learns of, information of the type specified in the Rules as constituting a condition for denial, (ii) an application is filed by a

suspended Member seeking reinstatement[;] or (iii) an application is filed by an expelled Member [~~or (iv) a member of the Committee requests that such application be referred to the Board, provided that such request is made prior to the time at which the vote is taken~~].

(b) The [~~Board~~] Membership Committee shall consider each application referred to it by the [~~Membership Committee~~] Exchange and shall vote for or against election of the applicant to Membership. An applicant receiving affirmative votes of a majority of those [~~Board~~] members of the Membership Committee present at a duly convened meeting shall be elected to Membership; provided, however, that a suspended Member's application for reinstatement shall be treated in accordance with the Rules of the Exchange concerning the reinstatement of suspended Members, and an expelled Member's application for readmission:

(i) shall only be considered if notice thereof shall have been included in written notice of the meeting, which shall have been given at least three (3) days in advance thereof; and

(ii) shall require the affirmative votes of three-fourths of the [~~Board~~] members of the Membership Committee present to effect a readmission.

(c) In the event that the [~~Membership Committee~~] Exchange recommends to the [~~Board~~] Membership Committee denial of an application or the [~~Board~~] Membership Committee intends to deny such an applicant, the applicant shall be given notice thereof and an opportunity to be heard by the [~~Board~~] Membership Committee, or a [~~Special C~~] subcommittee of the Membership Committee designated for this purpose by the [~~Board~~] Chairman of the Membership Committee, to present evidence as to why the application should not be denied, provided that the Secretary of the Exchange receives a written request from the applicant for such a hearing within ten (10) days after the receipt of such notice by the applicant. If a hearing is held before a [~~Special C~~] subcommittee designated by the [~~Board~~] Chairman of the Membership Committee pursuant to this paragraph (c), such [~~Special C~~] subcommittee shall report its findings and conclusions to the [~~Board~~] Membership Committee. The Membership Committee decision shall be the final action of the Exchange.

(d) Any application rejected by the [~~Board~~] Membership Committee shall not be reconsidered for one (1) year.

Rule 2.08. Conditions for Denial

The Exchange may deny Membership or reinstatement to any applicant seeking approval as a NYBOT Member, NYBOT Permit Holder or Lessee who:

(a) does not meet any of the qualifications for Membership, or does not follow the procedures for application, set forth in these Rules;

(b) has been denied registration or whose registration has been revoked or is currently suspended by the CFTC or by the Securities and Exchange Commission;

(c) has been convicted of any felony or misdemeanor;

(d) has been enjoined by order, judgment or decree of any court of competent jurisdiction or of the CFTC or the Securities and Exchange Commission or of any state securities authority or agency from engaging in or continuing any conduct or practice in connection with the purchase or sale of any Commodity, security, option or similar instrument;

(e) is or has been subject to an order of the CFTC denying trading privileges on any contract market to the applicant, or suspending or expelling the applicant from membership on any contract market;

(f) has ever been or is suspended or expelled from any commodity or securities exchange, related clearing organization, the National Futures Association, the National Association of Securities Dealers, Inc., or any other self-regulatory organization or other business or professional association for violation of any rule of such organization;

(g) has accumulated a disciplinary or arbitration record at any exchange, association or similar tribunal which record is judged by the Exchange or the Membership Committee [~~or the Board~~] to be such that membership for the applicant would not be in the best interests of the Exchange;

(h) is subject to any material unsatisfied liens or judgments;

(i) has made any false statement in or in connection with any application filed with the Exchange;

(j) has been individually, or as a Principal of a Firm that has been, subject to any liquidation, arrangement, reorganization, receivership, assignment for the benefit of creditors or other bankruptcy or insolvency proceeding, under state or federal law, within the past ten (10) years;

(k) has engaged in an established pattern of failure to pay just debts; or

(l) fails to meet such other qualifications as the Board may from time to time determine are in the best interests of the Exchange.

Rule 2.10. Application for Member Firm Privileges

* * *

(b) The [~~Membership Committee~~] Exchange shall, when it deems the application to be complete, either approve the application or refer the application to the [~~Board~~] Membership Committee for action with a recommendation either to approve or disapprove the same.

Rule 2.14. Application and Qualification of Clearing Members

(a) Any Firm desiring to become a Clearing Member shall submit an application in the form prescribed by the Exchange. The [~~Membership Committee~~] Exchange shall, when it deems the application to be complete, either approve the application or refer the application to the [~~Board~~] Membership Committee for action with a recommendation either to approve or disapprove the application.

[REMAINDER OF RULE UNCHANGED]

Rule 2.16. Qualification for Guarantors, Procedure and Guarantee Termination

* * *

(b) The [~~Membership Committee~~] Exchange shall (when it deems the application to be complete) either approve the application or refer the application to the [~~Board~~] Membership Committee for action with a recommendation either to approve or disapprove the same. The Exchange and the Membership Committee [~~and the Board~~] may consider any factors which they deem in the best interests of the Exchange, including the number of Persons guaranteed by the applicant on other exchanges and any other factors set forth in the Rules which may be conditions for denial of an application for Membership.

* * *

(e) When a Guaranteed Member requests to change guarantors, the President or his designee (when he deems the application to be complete) may approve a new guarantor of such Guaranteed Member. [~~Any such approval shall only be effective until the next meeting of the~~

~~Membership Committee, at which time the Committee shall either ratify and approve the application or refer the application to the Board for action with a recommendation either to approve or disapprove the new guarantor of such Guaranteed Member.]~~ If for any reason the President or his designee does not approve the new guarantor, the Membership Committee shall review the request and either approve or disapprove the application for ~~[refer it to the Board for action with a recommendation either to approve or disapprove]~~ the new guarantor. The Exchange shall notify the existing guarantor, if any, of requests to change guarantor by its Guaranteed Member at least five (5) Business Days prior to the effective date of such request.

(f) The Exchange shall promptly give notice to the Members of any termination of guarantee.

Rule 2.21. Granting of Floor Trading Privileges

* * *

~~(f) [The Floor Trading Privileges Committee will report to the Board its decision regarding the applicant's application.~~

~~(g)~~ In the event the Committee grants the application, the six (6) month period following the effective date of said grant shall be deemed a probationary period. During said probationary period, the Executive Floor Committee may, extend said probationary period, or revoke or suspend such applicant's floor trading privileges.

~~(h)~~ None of the provisions of this Rule 2.21 shall apply to temporary floor traders' identification badges issued solely to authorize the effectuation of an "AA" or "EFP" Transaction.

~~(i)~~ A Member who has been granted floor trading privileges and is changing his type of Membership shall not be required to re-apply for floor trading privileges, but, if the Member's floor trading privileges are restricted or extended by virtue of the change in type of Membership, the Exchange will announce to the Trading Floor the change in floor trading privileges.

~~(j)~~ A Member, who had been granted floor trading privileges prior to transferring his sole Membership and is readmitted to Membership pursuant to Rule 2.03, shall have such floor trading privileges reinstated on the effective date of the Member's readmission.

Rule 2.28. Duties of All Members

* * *

(b) Each Member shall file with the Exchange (i) a written notice designating an office ~~within the County of New York~~ where papers may be served upon such Member; and (ii) if a partnership, corporation, limited liability company or other entity, a written notice designating an officer, employee, partner or member as the Exchange liaison, whom the Exchange may contact in order to obtain additional information or documentation in connection with any matter whatsoever provided in the Rules.

{REMAINDER OF RULE UNCHANGED}

Rule 2.35. Service of Papers

(a) The service of papers upon a Member, or any written notification to the Exchange from a Member in accordance with the Rules may be made as follows:

(i) By personal delivery to the Member or an officer of the Member or, in the case of a notification to the Exchange, by personal delivery to the Secretary or such other officer of the Exchange as may be specified in the Rules;

(ii) By first class mail, postage prepaid or express courier, delivery charges prepaid, in each case to the office or address on file with the Exchange or, in the case of a notification to the

Exchange, to the principal office of the Exchange addressed to the Secretary or such other officer of the Exchange as may be specified in the Rules; or

(iii) By facsimile message ("FAX") to a FAX number on file with the Exchange or, in the case of notification to the Exchange, to the FAX number from time to time published by the Exchange for the purpose.

(b) Service of papers and written notification in accordance with paragraph (a) of this Rule shall be complete upon delivery, in the case of personal service or express courier, or two (2) days after depositing in the U.S. mail or, in the case of a FAX, upon receipt of confirmation of successful transmission from the transmission device.

Disciplinary Rule 21.35. Reinstatement of Suspended Member

(a) Any suspended Member whose Membership has not been sold pursuant to this Chapter may apply for reinstatement at any time.

(b) When a Member applies for reinstatement, he shall furnish the President with a list of all creditors, a statement of the amounts owing, the nature of the settlement in each case, and such other information as the President may require.

(c) Upon satisfying the requirements of subparagraph (b) of this Rule, the suspended Member shall thereafter comply with Rules 2.05, 2.06, 2.07 and 2.08.

(d) Written notice of the time and place of the meeting of the [~~Board~~] Membership Committee at which the application for reinstatement is to be considered shall be sent to the applicant and to the Membership at least five (5) days prior to such meeting.

(e) At the meeting of the [~~Board~~] Membership Committee held to consider the application for reinstatement, the [~~Board~~] Committee shall vote by ballot on such Member's application, taking into consideration the conditions for denial set forth in Rule 2.08 and such other factors it deems relevant. The vote of a majority of those present and voting will be required to reinstate the suspended Member; except that, if such suspended Member failed to advise the Exchange pursuant to Rule 21.37 of any Emergency Event with respect to such Member, the vote of two-thirds of those present and voting will be required to reinstate the suspended Member.

(f) If any Member suspended pursuant to this Chapter is not reinstated within one (1) year after having been suspended, the [~~Board~~] Membership Committee may order any Memberships of said Member sold; provided, however, that the [~~Board~~] Membership Committee may, in its discretion and by two-thirds vote of those present and voting, extend said one-year period.