



November 13, 2015

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

RE: Aggregation of Positions  
RIN 3038-AD82

Dear Mr. Kirkpatrick,

ICE Futures U.S., Inc. (“ICE Futures” or the “Exchange”) appreciates the opportunity to submit comments on the supplemental notice of proposed rulemaking issued by the Commodity Futures Trading Commission (“CFTC” or “Commission”) setting forth new rules on the aggregation of positions. ICE Futures is a U.S. designated contract market owned by Intercontinental Exchange, Inc. which is the leading global network of regulated exchanges and central counterparty clearing houses for financial and commodity markets. This letter supplements comments submitted by the Exchange on February 10, 2014, August 4, 2014, January 22, 2015 and March 30, 2015.

As background, the Exchange lists contracts in a broad array of international, soft agricultural commodities including sugar, coffee, and cocoa, contracts in legacy commodities such as cotton, as well as contracts involving energy, metals, currencies and equity indexes. ICE Futures and its predecessor exchanges, which date back to 1870, have a strong history of overseeing position limits, accountability levels and exemption requests for the Coffee “C”<sup>®</sup>, Cocoa, Sugar No. 11<sup>®</sup>, FCOJ-A and Sugar No. 16 futures and options contracts. This extensive, direct experience has informed the Exchange’s evaluation of the proposed rulemakings and their implications to the orderly maintenance and oversight of these markets by ICE Futures.

The Exchange commends the Commission for making important modifications to the proposed rules issued in November 2013 and recognizes that the new proposal addresses some of the comments submitted by the Exchange and others. In particular, the Exchange supports the recent changes concerning the mechanism for obtaining an exemption from aggregation for entities with common ownership in excess of 50 percent. However, the Exchange believes that the supplemental notice includes provisions that will be difficult to comply with for a number of the commonly owned, but separately controlled, entities which the Exchange currently disaggregates, and will force firms to forego disaggregation.

Specifically, one of the eligibility standards for disaggregation contained in the proposed rule is the requirement that the commonly owned entities do not have risk management systems that permit the sharing of trades or trading strategies. It is counterproductive to require global firms to choose between having prudent risk safeguards in place and being eligible for disaggregation. As Commissioner

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ICE Futures US, Inc., a designated contract market  
under the Commodity Exchange Act, as amended.

Giancarlo noted in his statement on the proposed changes to aggregation rules, owners and their affiliates may need to share trading information for a variety of legitimate risk management and compliance purposes. Restricting companies with independently controlled affiliates from using risk management systems which share trades or trading strategies misses the point. It is not the nature of the risk management system that should be the Commission's focus, but rather, the accessibility of the trading information within the system to the individuals who develop or execute trading strategies. If there is no such access by individuals involved in the trading decisions, disaggregation should be available to commonly owned firms. There are obvious alternatives which do not force firms to choose between justifiable disaggregation and effective risk management. We urge the Commission to modify the proposed rules to permit disaggregation in circumstances where the sharing of trading information is limited to those employees involved in risk-management and compliance functions which are conducted pursuant to written procedures and firewalls which protect the information from access by individuals involved in trading decisions.

The Exchange also suggests that the Commission provide clarification regarding permitted uses of, and access to, trading systems for other purposes. Specifically, the rules should make clear that back office and middle office execution and recordkeeping systems may utilize a common system in which trades are recorded and maintained, as this would not involve the sharing of trading information and strategies by those who are involved in developing and executing those strategies.

The Exchange firmly believes that aggregation should be based on ownership and control, not solely on ownership. We support a facts and circumstances approach that permits disaggregation of commonly owned affiliates that is conditioned on independence of control over the trading decisions of the affiliated companies. Should the Commission determine to move forward with aspects of the proposed rules, it should do so with a long transition period following adoption of final rules and in a manner that does not compromise positions which market participants have established in good faith reliance on the current rules and Exchange procedures. Otherwise, implementation is likely to be highly disruptive to the marketplace.

ICE Futures appreciates the opportunity to further comment on the proposed regulations and encourages the Commission to carefully consider the additional comments it receives before moving forward with any final rulemaking. Please do not hesitate to contact the undersigned at 212.748.4030, if you have any questions or would like to discuss our comments in any respect.

Sincerely,



Susan Gallant  
Managing Director, Market Surveillance,  
IFUS Aqs/Financials

cc: Stephen Sherrod  
Riva Spear Adriance