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July 29, 2016

Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
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Washington, D.C. 20581
Telefacsimile: (202) 418-5521
Email to secretary@cftc.gov and electronically to <http://comments.cftc.gov>

Re: IECA Comments in Response to Solicitation of Comments Regarding *Amendment to Block Trade FAQ – Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6* by ICE Futures U.S., Inc.

Dear Mr. Kirkpatrick:

In response to a Notification of Stay and a Request for Public Comments¹ issued by the Division of Market Oversight (“DMO”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”), the International Energy Credit Association (“IECA”) respectfully provides these comments in support of the rule amendment certification filing by ICE Futures U.S., Inc. (“ICE”).

ICE filed its Submission No. 16-67, dated June 1, 2016, thereby certifying to the CFTC a rule amendment filing entitled *Amendments to Block Trade FAQ - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6* (“Block Trade FAQ Amendment”). ICE proposes to amend its Block Trade Frequently Asked Questions (“Block Trade FAQ”) by adding the following as new Question 24: “Is pre-hedging or anticipatory hedging of a block trade permitted?” This new Question 24 is provided in order to clarify the extent to which parties are permitted to engage in pre-hedging or anticipatory hedging related to the consummation of a block trade. The IECA fully supports ICE’s Block Trade FAQ Amendment.

¹ On June 14, 2016, the DMO issued its Notification of Stay: ICE Futures U.S. Submission No. 16-67 (June 1, 2016) (“Notification of Stay”), and a press release (Release: PR7390-16) requesting Public Comments on a Rule Amendment Certification Filing by ICE Futures U.S. (“Request for Public Comments”), which indicated that DMO had determined to stay ICE Futures U.S. Submission No. 16-67 pursuant to Section 5c(c)(2) of the Commodity Exchange Act (“CEA”) and Sections 40.6(c)(1) and 40.7(a)(2) of the CFTC’s regulations for 90 days until September 13, 2016, and requested comments be filed by July 14, 2016. On July 13, 2016, DMO issued a press release (Release: PR7406-16), which extended the stay until October 28, 2016 and the comment period until July 29, 2016.

Following the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“DFA”) and its amendments of the Commodity Exchange Act (“CEA”), the IECA has filed numerous comments with the Commission seeking to protect the rights and advance the interests of the commercial end-user community that makes up the majority of its membership. Many of the IECA’s members are representatives of commercial end-users that rely on futures contracts and swaps to help them mitigate and manage (i.e., hedge) the risks of energy commodity price volatility to their physical energy businesses, which millions of Americans rely on for safe, reliable and competitively-priced energy supplies.

Proposed New Question 24 to ICE’s Block Trade FAQ

ICE’s Submission No. 16-67 proposes to amend its Block Trade FAQ by adding the following new Question 24 and the corresponding answer as shown below:

Question 24. Is pre-hedging or anticipatory hedging of a block trade permitted?

Parties to a block trade may engage in pre-hedging or anticipatory hedging of the position that they believe in good faith will result from the consummation of the block trade, except for an intermediary that takes the opposite side of its own Customer order. In such instances, prior to the consummation of the block trade the intermediary is prohibited from offsetting the position established by the block trade in any account which is owned or controlled, or in which an ownership interest is held by the intermediary, or for the proprietary account of the employer of such intermediary. The intermediary may enter into transactions to offset the position only after the block has been consummated, which includes the period prior to it being publicly reported by the Exchange.

It shall be a violation of Exchange Rule 4.02(h) for a Person to engage in the front running of a block trade when acting on material non-public information regarding an impending transaction by another person, acting on non-public information obtained through a confidential employee/employer relationship, broker/customer relationship, or in breach of a fiduciary responsibility.

The Exchange may proceed with enforcement action when the facts and circumstances of pre-hedging suggest deceptive or manipulative conduct by any of the involved parties.

Issues Raised by ICE Submission No. 16-67

In its Submission No. 16-67, ICE has proposed certain amendments to its Block Trade FAQ in the form of new Question 24. On the one hand, the Block Trade FAQ Amendment helps commercial end-users seeking to hedge their genuine (bona fide) commercial risks by acknowledging that parties to a block trade may engage in market transactions to hedge positions which they believe in good faith will result from the consummation of a block trade which is under negotiation.

On the other hand, the Block Trade FAQ Amendment protects the integrity of the markets by making clear that (i) an intermediary may enter into transactions to offset such a block trade position only after the block trade has been consummated, which includes a prohibition during the period prior to the block trade being publicly reported by ICE, and (ii)

front running a block trade when acting on material non-public information regarding an impending transaction by another person, acting on non-public information obtained through a confidential employee/employer relationship, broker/customer relationship, or in breach of a fiduciary responsibility is a violation of Exchange Rule 4.02(h).

IECA Comments on ICE Submission No. 16-67

The IECA appreciates this opportunity, in response to the Request for Public Comments, to provide comments to the Commission and its DMO regarding ICE's proposed Block Trade FAQ Amendment. The IECA submits that in this clarification of a party's right to "engage in pre-hedging or anticipatory hedging related to the consummation of a block trade," ICE has achieved a proper balance of the different competing interests.

Allowing parties to a block trade to engage in pre-hedging or anticipatory hedging related to the consummation of a block trade, as set forth in the Block Trade FAQ Amendment, will allow commercial end-users to efficiently utilize the markets to manage and mitigate their genuine (bona fide) exposure to commercial risk. In fact, prohibiting such hedging until after the block trade is consummated and publicly reported by the exchange, in many instances, would make hedging the commercial risk of the block trade prohibitively expensive and potentially unobtainable to such parties.

At the same time, however, the prohibition of trades by intermediaries until after the block trade has been consummated and publicly reported by ICE and the clarification that front running a block trade based on non-public information regarding an impending transaction by another person is a violation of Exchange Rule 4.02(h) will protect the markets from inappropriate behavior and ensures market integrity.

The IECA submits that the balance achieved in ICE's proposed Block Trade FAQ Amendment will be good for the markets and for commercial end-users seeking to hedge their commercial risks.

CONCLUSION. On this basis, the IECA fully supports ICE's proposed Block Trade FAQ Amendment and encourages the Commission to allow ICE's Submission No. 16-67 to become effective on or before the end of the review period created by the Commission's Notification of Stay.

Please direct correspondence concerning these comments to:

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Yours truly,
INTERNATIONAL ENERGY CREDIT ASSOCIATION

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