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March 15, 2019

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, D.C. 20581

**Re: ICE Futures Rule 4.26 Order Execution (New Passive Order Protection Functionality);
Submission No. 19-119**

Dear Mr. Kirkpatrick:

Freepoint Commodities, LLC ("Freepoint") hereby submits this comment letter in response to the request for comment issued by the Commodity Futures Trading Commission ("CFTC" or "Commission") in connection with the filing by ICE Futures U.S., Inc. ("ICE Futures") to amend its Rule 4.26 on Order Execution (the "Rule Amendment").¹ The Rule Amendment would allow ICE Futures to implement passive order protection functionality ("POP functionality"), an asymmetric delay or "speed bump", at a delay speed and on futures contracts of its discretion.² Freepoint opposes approval of the Rule Amendment, supports the comments of the Managed Funds Association ("MFA") and requests that the Commission make an affirmative need finding before permitting POP functionality to extend beyond the Gold Daily and Silver Daily ICE Futures markets.

Freepoint is a physical commodity merchant headquartered in Stamford, CT. Founded in 2011, Freepoint has U.S. offices in Houston, Minneapolis, and Louisville, and international offices in London, Calgary, Beijing, Shanghai, Singapore, and Zug. Freepoint engages in physical and financial trading in energy, metals and agricultural commodities in North American, European, Asian and other global commodity markets.

Freepoint opposes approval of the Rule Amendment because we believe asymmetric speedbumps are bad for market quality, efficiency and fairness, as they:

- Deny traders access to the firm and reliable prices they expect on regulated markets;
- Introduce a "last look" functionality that has been denounced in other markets;
- Create the mere illusion of greater liquidity that is inaccessible when needed most; and

¹ See CFTC Requests Public Comment on a Rule Amendment Certification Filing by ICE Futures U.S., February 13, 2019, available at: <https://cftc.gov/PressRoom/PressReleases/7870-19>; and ICE Futures Submission No. 19-119, Amendments to Rule 4.26 Order Execution (hereinafter "ICE Futures Submission"), available at: <https://www.cftc.gov/sites/default/files/2019-02/ICEFuturesPassiveOrder020119.pdf>.

² *Id.*



- Provide advantages to sophisticated traders at the expense of regular traders by allowing sophisticated traders to cancel orders before they can be accessed.

If the CFTC approves the POP functionality, the Commission should alter the Rule Amendment to require that the Commission make an affirmative need finding before permitting POP functionality in markets other than Gold Daily and Silver Daily futures markets. Such a finding would be consistent with the purpose of the Commodity Exchange Act in promoting responsible innovation,³ would help to establish the nexus between the perceived problem and the novel and complex trading functionalities proposed as a solution to that problem, demonstrate the CFTC's cautious and deliberate approach in approving such solutions, and ensure consistency in the approach the CFTC has taken with respect to novel products in the past.⁴

Freepoint greatly appreciates the Commission's consideration of the issues raised in this letter. If the Commission or staff have questions or comments, please do not hesitate to contact me.

Respectfully submitted,

Mary Rose Morrison

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³ See 7 U.S.C. § 5.

⁴ See, e.g., CFTC Statement on Self-Certification of Bitcoin Products by CME, CFE and Cantor Exchange, CFTC Release No. 7654-17, December 1, 2017, available at: <https://cftc.gov/PressRoom/PressReleases/pr7654-17>.