



April 22, 2024

Via Electronic Submission

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

Re: Notice of Proposed Rulemaking: Foreign Boards of Trade (RIN 3038–AF37)

Dear Mr. Kirkpatrick:

Intercontinental Exchange Inc., on behalf of itself and its subsidiaries (collectively “ICE”), appreciates the opportunity to comment on the Commodity Futures Trading Commission’s (“CFTC” or “Commission”) notice of proposed rulemaking relating to Foreign Boards of Trade (“FBOT”) (“Proposal”).¹

ICE operates regulated marketplaces for the listing, trading and clearing of a broad array of derivatives contracts and financial instruments, such as commodities, interest rates, foreign exchange and equities as well as corporate and exchange-traded funds, or ETFs. We operate multiple trading venues, including 13 regulated exchanges and six clearing houses, which are strategically positioned in major market centers around the world, including the U.S., U.K., European Union, or EU, Canada, Asia Pacific and the Middle East. The following ICE Foreign Boards of Trade (“FBOT”) are registered with the CFTC:

- In the U.K., ICE Futures Europe is a Recognized Investment Exchange by the U.K. Financial Conduct Authority and is also subject to regulation by the CFTC as an FBOT under the Commodity Exchange Act (“CEA”).
- In Canada, ICE NGX Canada Inc. is recognized as an exchange and clearing house by the Alberta Securities Commission and is also registered with the CFTC as an FBOT and derivatives clearing organization (“DCO”).
- In Singapore, ICE Futures Singapore is an Approved Exchange supervised by the Monetary Authority of Singapore and is also regulated by the CFTC as an FBOT under the CEA.

¹ Foreign Boards of Trade (RIN 3038–AF37) 17 CFR Part 48, 89 Fed. Reg. 15083 (March 1, 2024).



- In the Netherlands, ICE Endex is a regulated market and is licensed by the Dutch Ministry of Finance and supervised by the Netherlands Authority for the Financial Markets and the Dutch Central Bank and is also regulated by the CFTC as an FBOT under the CEA.
- In Abu Dhabi, ICE Futures Abu Dhabi is a Recognized Investment Exchange supervised by the Financial Services Regulatory Authority and is also regulated by the CFTC as an FBOT under the CEA.

ICE strongly supports the Commission's proposed amendments to Regulation 48.4 which would permit an FBOT to allow direct electronic access to introducing brokers ("IB") located in the U.S. to enter orders directly into an FBOT's trading and order matching system on behalf of its U.S. customers. Regulation 48.4 currently permits futures commission merchants (FCMs), commodity pool operators (CPOs), and commodity trading advisors (CTAs) to enter orders on behalf of customers or commodity pools via direct access on a registered FBOT. The Commission is proposing to permit IBs to submit customer orders via direct access to FBOTs by adding IBs to the list of permissible intermediaries. This proposed change would establish a similar structure that is already in place on designated contract markets (DCMs) whereby IBs submit customer orders via direct electronic access.

ICE believes the proposed changes would enable additional types of market participants to access FBOTs which would improve liquidity and reduce fragmentation while promoting competitiveness in the derivatives markets. The proposed amendments would also ensure that customer protections are in place, as currently contemplated under FBOT requirements for FCMs, CPOs, and CTAs. ICE does not believe the proposed changes would increase risks for U.S. markets.

ICE also agrees with the Commission's proposal that trades executed on an FBOT by an IB on behalf of U.S. customers can be cleared either through an FCM or a firm with a Rule 30.10 exemption, consistent with the approach currently taken in Part 48 for trades submitted by CPOs and CTAs. This approach reflects the different ways U.S. customers access clearing and avoids unnecessary limitations on customers trading through FBOTs. In response to the Commission's questions in the release,² ICE does not believe the Commission needs to impose additional registration requirements or conditions for access to FBOTs through IBs beyond those proposed.

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ICE appreciates the opportunity to comment on the Proposal and supports the Commission's goals to promote liquidity and access to derivatives markets.

² Proposal at 15085-86.



Sincerely,

A handwritten signature in black ink, appearing to read "Kara Dutta".

Kara Dutta
Vice President, Head of Legal, US Futures & Clearing
Intercontinental Exchange, Inc.

cc: Honorable Chairman Rostin Benham
Honorable Commissioner Christy Goldsmith Romero
Honorable Commissioner Kristen N. Johnson
Honorable Commissioner Summer Mersinger
Honorable Commissioner Caroline D. Pham