



MARKET REGULATION BULLETIN #2

July 2023

Purpose

In this Bulletin, ICE Futures Europe (the “Exchange”) reminds members of the importance of retaining pre-execution communication records for transactions agreed away from and subsequently registered on the Exchange.

The Exchange also reminds members of the importance of ensuring they have all required data feeds to enable them to undertake appropriate market abuse surveillance and monitoring.

Record-keeping: Expectations and Requirements

Members' record-keeping systems and controls are vital in maintaining market integrity. Retaining clear and orderly records of transactions allows members, exchanges and regulators to review historical transactions and associated communications and identify potential misconduct. Members will be aware of regulatory action resulting in significant fines against institutions that failed to retain required electronic records and adequately monitor the use of unapproved messaging applications by members of staff.¹

The Exchange frequently audits transactions negotiated away from the central order book (e.g. Block Trades, EFPs) to ensure members' ongoing adherence to Exchange rules, including those relating to record-keeping. As part of these audits, the Exchange may request details about a member's record-keeping policies, procedures and arrangements.

Members should clearly define approved communication applications and mediums in their policies and should monitor for adherence by staff. This should be supplemented by appropriate training and reminders to all relevant staff on a periodic basis, and to any new staff prior to them transacting on the Exchange.

The Exchange has observed weaknesses in monitoring capabilities at members; in some instances, this has been due to limitations in software used for recording and retaining communications. For example, where recording software has not covered applications utilised by staff to communicate with clients, members in such instances have provided to the Exchange screenshots obtained from the trader's company (or even personal) phones. The Exchange expects that members utilise software that stores records in a tamper-proof format, i.e., so that records cannot later be altered or deleted. On this basis, records should be stored centrally at company level, and not locally or on personal devices. Members are expected to prohibit, in relevant internal policies, the use of personal devices where these cannot be recorded.

When requested to provide copies of communication records, the Exchange expects members to provide records in a clear, digestible format and include timestamps. Record retrieval should

¹ The SEC charged 16 firms with widespread record-keeping failures with penalties totalling more than \$1.1. billion, see [here](#).



be efficient and timely for both internal monitoring and Exchange investigation purposes. Electronic records of the order along with telephone recordings must be stored for seven years.

The Exchange is aware that clients of members from different regions may have varying preferences in relation to the communication applications they use; however, members and their staff should ensure that all communications can be recorded prior to undertaking client business on new mediums. Members should keep under review the applications it is able to record and thus permits (or prohibits) staff using; where changes occur, policies should be updated and staff training delivered accordingly.

The Exchange has observed good practices at some members, in particular where routine monitoring of communications is undertaken to ensure employees are adhering to internal policies and Exchange rules, with any issues identified promptly remediated. The Exchange has also observed members providing regular training and reminders to staff about the importance of adhering to communication policies.

Market Surveillance: Data Feeds

Members have a responsibility to monitor all trading activity under their membership, including for signs of potential market manipulation. To do this, members must ensure that their market surveillance software is appropriately configured to consume all relevant order and trade data - for their own firm and for all their clients - for each trading session. Members should have processes in place to routinely monitor these data feed connections.

The Exchange has taken disciplinary action against members who were found to be undertaking inadequate monitoring of their DEA clients' activity due to incomplete or missing data connections. This will continue to be a focus in future Exchange investigations in order to protect the integrity and orderliness of ICE Futures Europe markets.

Members should contact their software vendors or icehelpdesk@ice.com if they have any questions relating to their data connections.

Next steps

Members should consider the points raised in this document and as necessary update their policies, procedures and arrangements. The Exchange encourages members to circulate this document within their organisations to individuals that deal with clients or are in roles relating to market surveillance and electronic record retention.



Relevant Exchange Rules

[Rule A.11.1\(a\), \(b\)](#) - Systems and Controls

[Rule A.11A.2\(f\)](#) - Systems and Controls (Firms Engaging in Algorithmic Trading)

[Rule B.3A.4](#) - Membership Criteria for DEA Providers

[Rule F.3](#) - Transaction Records

[Rule G.16](#) - Order Receipt and Order Entry Records

[Trading Procedure 3.1](#) - Order Slips and Records of Trades

Contact Information

For any questions regarding the topics covered in this Bulletin, please contact the Exchange Market Regulation team on: MarketRegulation-Europe@ice.com.



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