



GUIDANCE

ICE Futures Europe Position Transfers

February 2019

ICE Futures Europe Guidance on Position Transfers

This Guidance updates and supersedes the Guidance previously published and contains details on Position Transfers; when they are permitted; when the ICE Futures Europe (“the Exchange”) Compliance department’s approval is required and the process Members should follow when requesting approval.

For clarity, this Guidance does not contain details on trades that have been cleared in the incorrect account or position account combination in the previous **THREE** Business days. To correct and adjust such errors, Members may use the ‘Previously Cleared Transactions’ screen in the ICE Clearing system; the position transfer screen must not be used in such cases.

Members must ensure that they manage positions promptly and with due care and diligence, whilst complying with Exchange Rules at all times. Failure to do so may render the Member liable to further investigation or disciplinary action by the Exchange.

1. Guidance

- i. The Position Transfer Facility available in the ICE Clearing systems allows users to create a position transfer from one Trading Member to another; or from one account to another account within the same Member, provided that the transfer is for the same customer. The circumstances in which a position transfer may or may not be accepted are described in detail in the ICE Futures Europe Regulations, Rule F.8. Members should also consult the ICE Clear Europe Clearing systems documentation for details on the facilities available to input a position transfer.
- ii. Generally, position transfers are acceptable, and approval will not be required, when the transfer is being made for the same beneficial owner of the position, provided that:
 - a. the transfer is not being made to correct an error in the execution of a client order;
 - b. the transfer is not being made to correct an error in the allocation of a client order made beyond the previous two business days; and/or
 - c. there is no resulting offset in a spot month Contract (“spot” is considered to be the period starting two days after options expiry in the Soft Commodity Contracts).

Members must ensure that when making position transfers in other contract months, the resulting change does not impact on the orderly functioning of the market.

- iii. Where there is a change in beneficial ownership, i.e. the position being moved will be from one legal entity to another, then this transfer would require ICE Futures Europe Compliance approval. To make such request, a form has been provided with this Guidance (Appendix 1), which includes information on what requires approval, and what information is needed by Compliance to inform their decision. The form can be emailed to Compliance-europe@theice.com.
- iv. As some of the transfers which involve a change in ownership may be complex in nature, the request for approval must be made at least one Business Day prior to the planned transfer date. The planned transfer date must also not occur in the 5 Business days prior to the expiry of the relevant contract month.
- v. The originating Member must ensure that the position to be transferred is open and available for transfer. The receiving Member has the responsibility to ensure compliance with Rule F.8.
- vi. All position transfers input for processing may be subject to review and authorisation by ICE Clear Europe for risk monitoring purposes and may be rejected if it is determined that unacceptable margin requirements or risk would be generated.
- vii. When authorised, ICE Futures Europe staff will inform the Member(s) and the Clearing House that the transfer may be submitted into the ICE Clearing systems. If there are conditions attached to the approval, this will also be notified to the Member(s).
- viii. No charge will be applied by the Exchange for the input or processing of position transfers.

- ix. When reviewing position transfer requests, the Exchange may seek further explanations or supporting documentation from Members in order to confirm the nature and legitimacy of the transfer, the events which gave rise to it and related actions by Member staff. Exchange authorisation of a position transfer request will not preclude it from commencing disciplinary proceedings in the event that it transpires that the request was not legitimate or that the transfer may have been in contravention of applicable Exchange Regulations or Guidance.
- x. Members are advised to contact the Exchange Compliance department if they are not clear on the detail relating to position transfers. For queries relating to the use of the ICE Clear Europe Clearing systems, Members are advised to contact ICE Clear Europe operations.

Appendix 1

ICE Futures Europe – Position Transfer Request Form Instructions

1. Exchange Rule F.8 requires prior approval for position transfers which do not comply with the requirements set forth below in Section A. Participants who wish to transact a transfer that does not comply with Section A must complete and submit the attached **Request Form**. Transfers which comply with Section A do not require prior approval or submission of the Request Form prior to transacting the transfer.
2. For clarity, trades from the previous **THREE BUSINESS DAYS** that were cleared in the incorrect account/position account combination may be managed through the 'Previously Cleared Transaction' screen in the ICE Clearing System and do not require Members to make a request using this form. Members must ensure however that when managing such trades they do not impact on the orderly functioning of the market.

The receiving Member has the responsibility to ensure compliance with this Rule.

- A. **Prior Approval Not Required** - Prior approval is not required for a transfer made using the ICE Clear Systems, provided the transfer;
- i. does not change the beneficial ownership of the contracts involved [for purposes of Rule F.8.1(g), a change in beneficial ownership shall not be deemed to have occurred with respect to (a) transfers between Firms which are 100% owned by the same Person and (b) transfers between any Person and any entity owned 100% by such Person]; and
 - ii. does not offset existing positions held in the spot month when the date of execution of the position being transferred is not the same as the transfer date; and
 - iii. does one of the following:
 - a. transfers open contracts from one Member to another Member made at the request of a client;
 - b. transfers open contracts from one account to another account on the books of the same Member made at the request of a client where no change in ownership is involved;
 - c. transfers open contracts necessitated by the death of the only Member of a firm who held Membership at the Exchange; or

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REQUEST FOR TRANSFER PURSUANT TO RULE F.8

1. Name of Member requesting a transfer

2. Nature of the Transfer

ICE Futures Europe Rule F.8.1 (g) requires Exchange approval for certain transfers of positions where beneficial ownership between the transferring parties is not identical. Please indicate below, which if any of the following permissible transactions adequately describes the basis on which the transfer of positions is occurring:

_____ Transfers made for the purpose of combining the Positions held by two or more funds which are operated by the same fund manager and traded by the same investment advisor, pursuant to the same strategy, into a single account so long as the transfers do not result in the liquidation of any open Positions, and the pro rata allocation of interests in the consolidating account does not result in more than a de minimis change in the value of the interest of any fund participant;

_____ Other transfer (*please specify below*) as the Exchange, in its discretion, shall exempt in connection with, or as a result of a:

_____ Merger

_____ Asset purchase

_____ Consolidation, or

_____ Similar non-recurring corporate transaction between two or more entities where one or several entities become the successor in interest of one or several other entities; or

_____ Transfers made where the situation so requires and such transfer is in the best interests of the Exchange or the marketplace.

3. Explanation of Transfer(s):

Enclose a summary describing the nature of the transfer, including but not limited to: the identities of the parties involved with the transfer, details about the merger, asset purchase, consolidation or other non-recurring event, fund managers involved, along with their general trading strategy, organizational charts, if applicable, and any other formal filings or documents relating to the event for which the transfer is being requested..

In addition, please provide specific details of the related positions (excel document will suffice) associated with the requested transfer.

4. Position(s) Transfer Price:

_____ Futures Contracts and Futures-style Options Contracts:

- _____ The prior day's Settlement Price; or
- _____ The original market price;
- _____ Options Contracts
- _____ The original market Premium; or
- _____ The premium of zero.

5. Transfer Date:

For all such transfers, the receiving Firm must hold the transferred contracts on its books at either the original dates or the transfer date.

Original/Trade Date(s): _____

Transfer Date(s): _____

6. Clearing Firm(s):

Originating Member:

Clearing Firm: _____

Account Name: _____

Account Number(s): _____

Receiving Member

Clearing Firm: _____

Account Name: _____

Account Number(s): _____

The receiving Firm has the responsibility to ensure compliance with Rule F.8.

You are reminded that Exchange staff, at their discretion, may initiate an inquiry to review this transfer.

The undersigned certifies that it is their belief, after evaluation of all the appropriate information and materials, that the requested transfer would be permissible under Exchange Rule F.8, and is seeking approval from the Exchange to permit such transfer.

Member Name: _____ Date: _____

Submitted by (Print Name): _____ Signed: _____

Position/Title: _____ Telephone #: _____

E-Mail: _____

This form must be submitted to the ICE Futures Europe Compliance Department at compliance-europe@theice.com

Any questions regarding the use of this form should be directed to:

ICE Futures Europe Compliance, at +44 (0) 20 7065 7797; compliance-europe@theice.com