

April 24, 2013

**VIA E-MAIL AND FEDERAL EXPRESS**

Ms. Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

**Re: File Nos. SR-NYSE-2013-13 and SR-NYSEMKT-2013-13**  
**– Response to Comment Letter (“Response”)**

Dear Ms. Murphy:

NYSE Euronext, on behalf of New York Stock Exchange LLC (“NYSE”) and NYSE MKT LLC (“NYSE MKT,” collectively with NYSE, the “Exchange”) submits this letter in response to the comment letter received by the Securities and Exchange Commission (the “SEC” or the “Commission”) in connection with the above-referenced filings, which proposed to relocate certain futures and options on futures trading conducted on ICE Futures U.S. (“IFUS”) from rented space at the New York Mercantile Exchange (“NYMEX”) to the Exchange’s facilities at 20 Broad Street and amend NYSE Rule 6A, which defines the terms “Trading Floor” and “NYSE Amex Options Trading Floor” (together, the “Proposal”).

Mr. Kermit Kubitz’s March 26, 2013 comment letter on the Proposal notes that providing rental space to IFUS traders is “generally acceptable” and proposes three enhancements to address what he perceives as the potential for “manipulation or inappropriate sharing of information or behavior”. As described more fully below, the Exchange does not believe that the proposed enhancements are necessary in light of the efforts already in place to address these concerns.

First, the comment letter proposes that, in addition to providing the names of the IFUS Traders to the Financial Industry Regulatory Authority (“FINRA”), the Exchange should also provide the names of Exchange Floor brokers located in booths near the IFUS Traders on a periodic basis. NYSE Euronext agrees with this suggestion and notes that FINRA presently receives the identification of all Floor Brokers, including those located near the IFUS Traders.

Second, the comment letter suggests that trading by the IFUS traders in Russell Index products be subject to periodic audit “with flags for sudden movement in volume or trading behavior compared to baseline activity.” As the Proposal notes, the Exchange believes that because of the broad-based nature of Russell Index products, pricing correlation between order flow in Russell Index products and securities traded on the Exchange is tenuous at best and it is extremely unlikely that information overheard by an equities Floor broker or an IFUS Trader could be used to benefit the broker’s or trader’s proprietary, personal or other customer trading in these products. In any event, the IFUS traders are subject to

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regular examination and surveillance by IFUS. Accordingly, NYSE Euronext believes that this suggestion is addressed.

Finally, the comment letter recommends that signs be posted in the Blue Room “indicating that use of information from other physically co-located markets or traders is prohibited; that the use of manipulative, deceptive, or fraudulent devices is prohibited both by exchange rules and SEC legal requirements, and that monitoring and audit of transactions to identify any violations, as well as self-reporting of violations on use of any data will be required.” Anticipating these concerns, NYSE Regulation, Inc., published a regulatory bulletin, which is the traditional method for communicating regulatory and other information to the Exchange’s members, reminding members and member organizations to protect the confidentiality of nonpublic order and trade information, and that members and employees of member organizations should not engage in any trading, order or market related communications with the IFUS traders or their clerical staff.<sup>1</sup> MEB 2013-5 also reminded members and employees of member organizations that initiating trades based on confidential order information could result in disciplinary action for violating, among other relevant rules, Exchange Rule 2020, which prohibits the use of manipulative, deceptive or other fraudulent devices or contrivances.<sup>2</sup> NYSE Amex Options published a similar regulatory bulletin for ATP holders and options floor-based employees.<sup>3</sup> These bulletins are available on the Exchange’s website and were distributed in hardcopy on the Exchange trading floor. IFUS also distributed a regulatory bulletin to its members and their staff transitioning to the Blue Room. The Exchange accordingly believes that physical signs in the Blue Room would be duplicative.

NYSE Euronext appreciates the opportunity to respond to the comment letter.

Sincerely,



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<sup>1</sup> See Member Education Bulletin (“MEB”) 2013-5 (March 20, 2013), available at [http://www.nyse.com/nyse/education-bulletins/detail?memo\\_id=2013-5](http://www.nyse.com/nyse/education-bulletins/detail?memo_id=2013-5).

<sup>2</sup> See *id.*

<sup>3</sup> See RBO-Amex-13-01 (March 20, 2013), available at [http://www.nysearca.com/content/regulation/reg/rbo/2013/NYSEAmex%20RBO-13-01%20IFUS\(2\).pdf](http://www.nysearca.com/content/regulation/reg/rbo/2013/NYSEAmex%20RBO-13-01%20IFUS(2).pdf).