

September 04, 2017

Via Electronic Submittal LCFSworkshop@arb.ca.gov

Mr. Sam Wade
Branch Chief
California Air Resources Board
1001 I Street Sacramento, California 95814

Re: ICE Comments on Alternatives Relating to LCFS Program Economic Impacts

Dear Mr. Wade,

ICE Futures U.S., Inc. (“ICE Futures US or IFUS”) and ICE Clear Europe Ltd. (ICE Clear Europe or “ICEU”) welcome the opportunity to provide feedback and recommendations in response to the request for comment from the California Air Resources Board (“ARB”) at the August 7, 2017 stakeholder meeting concerning the: (1) proposed verification program; and (2) the impact and feasibility of exchange participation in the Low Carbon Fuel Standard (LCFS) program. As described in detail below, we support the proposed verification program and believe two additional changes will make futures and options on LCFS credits a reality.

As you may know, ICE Futures US and ICE Clear Europe are wholly-owned subsidiaries of Intercontinental Exchange, Inc. (“ICE”), which operates a global network of exchanges, clearing houses and data providers. ICE Futures US is a leading global futures and options exchange for electronic trading in a broad array of commodities and financial instruments, including carbon emissions contracts. For well over a century, ICE Futures US and its predecessors have provided marketplaces that bring together industry representatives, traders and investors to engage in price discovery, price risk transfer and price dissemination for their commodities. ICE Futures US is supported by ICE Clear Europe one of its designated clearing houses, which clears and eliminates counterparty risk management for numerous carbon emissions futures and options contracts.

We believe that listing of futures and options on LCFS credits would be a significant boon to the development of both the program and the market for credits. Fundamentally, futures and options exchanges provide scalable risk management opportunities for market participants. More specifically, the exchange and clearing house provide a centralized venue where parties can source liquidity to buy and sell a known commodity for future delivery. Transactions on the exchange are based on standardized rules and contract terms and the success of any given market is predicated on certainty. The role of the clearing house is to centralize the financial elements of transactions and results in the removal of specific counterparty credit risk (i.e. any participant can trade with any other since the clearing house is the buyer to all sellers and the seller to all buyers) and assuring settlement finality (i.e. delivery and payment). As a result of these features, sellers (e.g. biofuel developers, farmers) can use futures exchanges to lock in sales prices of product (e.g. biofuels, LCFS credits) for subsequent delivery.

Similarly, this allows the buyer to know the price and amount of a product they will take delivery of in the future freeing up capital that might have otherwise been reserved for price changes.

This process is fundamental to most of the well developed markets in world. The impact of a properly functioning futures market for LCFS credits would significantly improve access to capital markets for biofuels developers and their investors. This in turn would bring more producers to the market and likely reduce inefficiency in biofuel and LCFS credits markets.

Given our experience and success with numerous state and federal carbon emission and alternative energy credit futures and options contracts, which includes growing California Carbon Allowance futures and options markets, IFUS and ICEU can offer practical guidance concerning the development of LCFS futures contracts. While we believe that third party verification is a useful and necessary step, we believe it provides the opportunity to implement two other critical changes necessary to support futures and options on LCFS credits. As discussed in detail below, LCFS credits need to be irrevocable after third party verification is performed; and traditional commodity market participants need to be able to hold LCFS credits to facilitate expanded risk management and hedging for biofuel developers.

Irrevocable Credits

In order for any standardized futures or options contract to be successful, there needs to be certainty. Exchanges define the attributes of a commodity that must exist at the time it is delivered. For example, in corn futures contracts the seller must delivery corn that meets the U.S. No. 2 standard as published by the US Department of Agriculture. The standard specifies minimum weight per bushel, allowable percentage of damaged kernels and foreign material. Once corn is presented for delivery in satisfaction of the futures contract it is inspected against the defined standard. The buyer has certainty as to what they are purchasing.

Similarly, there needs to be certainty for LCFS futures and options to be successful. The credits being traded cannot be revocable. A robust futures and options market cannot develop where the very goods being bought and sold can be made worthless after the transaction has been consummated. As such we believe the credits need to be irrevocable. Further, we believe that adding third party verification to the process provides a legitimate opportunity to eliminate the risk of, or at least the consequences of, invalidation of the LCFS credits after issuance and sale. In many respects, it is natural that with the additional inspection and review of the LCFS credits that ARB would gain greater comfort and create an irrevocable commodity in the process.

Even as we state the required condition above, we also understand that ARB has a mandate to maintain the environmental integrity of the program. We believe there are a variety of proven mechanisms in similar markets, which effectively address the concern of environmental integrity that the ARB could utilize. Those mechanisms include the addition of third party verification and ex ante set asides, etc. We'd be happy to discuss other mechanisms with ARB should you feel we can assist on that topic.

Broad Market Access:

By providing conditions critical to biofuel developers, ARB will incentivize significantly greater investment in biofuels development. Specifically, it is primarily important to allow firms with risk capital to enter the market and hold LCFS credits. It is similarly important for an exchange/clearing house to properly participate. For trades to occur on an exchange, it is fundamental that futures commission

merchants (i.e. clearing firms) and their customers be allowed to make and take delivery of LCFS credits in the registry. These firms very often access the market directly on behalf of their customers (e.g. biofuels developers, farmers) for various reasons. Additionally, to support the proper functioning of a market it is critical that banks and other trading entities be allowed to hold LCFS credits in the registry. These firms traditionally are buyers to biofuel developer output and absorb price risk that developers cannot and, conversely, they act as the sellers to compliance entities and absorb the risk of future price appreciation. All of these types of firms actively participate in the ARB Cap and Trade market. We believe that ARB properly addressed market participation in the Cap and Trade program and we encourage the LCFS program to use that as a model.

We appreciate the opportunity to comment on the LCFS regulations and ARBs consideration of our comments. If you or your staff have any questions, or would like to discuss our comments further, please do not hesitate to contact Stephen McComb at 312-836-6727 or Stephen.McComb@theice.com

Respectfully submitted,



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