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 **NEW YORK**
BOARD OF TRADE*
World Financial Center
One North End Avenue
New York, New York 10282

BY ELECTRONIC TRANSMISSION

05-36
September 15, 2005

Ms. Jean A. Webb
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: **Amendments to Rules 3.40, 4.11(b), 4.09, 4.03(a)(ii) and 21.25 -
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Ms. Webb:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, the Board of Trade of the City of New York, Inc. ("Exchange") submits, by written certification, New Rule 3.40, attached as Exhibit A; amendments to Rule 4.11(b), attached as Exhibit B; amendments to Rule 4.09, attached as Exhibit C; and amendments to Rules 4.03(a)(ii) and 21.25, attached as Exhibit D.

A. New Rule 3.40

New Rule 3.40 establishes the Regulatory Oversight Committee which is charged with overseeing the fulfillment of the Exchange's regulatory obligations.

B. Rule 4.11(b)

Rule 4.11(b) prescribes the price at which transfer transactions may be effected. Transfer transactions in Cocoa, Coffee, Ethanol, Pulp, and Sugar may be effected at (i) the current market price; (ii) the prior day's Settlement Price; (iii) the current day's Settlement Price; or (iv) the original market price. Regardless of which price the transactions are transferred, the firm taking the transferred trades must carry them at the original execution dates and prices. Transfer

transactions in Cotton, FCOJ, Financial and Index contracts, however, may only be effected at the original price. Since there is no apparent reason to differentiate transfers done in one

-2-

contract from transfers done in another and it is easier for firms and the Clearing Corporation to have one procedure for all of the Exchange's contracts, Rule 4.11(b) was amended so that transfer transactions in Cotton, FCOJ, Financial and Index contracts can be effected at any of the prices permitted for Cocoa, Coffee, Ethanol, Pulp and Sugar.

C. Rule 4.09

Currently, Rule 4.09 provides that the trade price for a spread executed during the post close is limited to the spread price(s) that actually traded during the closing period. For example, if the October/March spread trades during the close at differentials of 51, 53 and 54, it may not trade on the post close at a differential of 52, even though it is within the closing range. One of the amendments to Rule 4.09 will permit the post close trade price for spread transactions to include any price within the closing range, rather than specific prices that had traded on the close.

The other proposed amendment to Rule 4.09 will allow a floor broker to cross customers' orders when there is a flat market. Cross Trade Rule 4.19 requires a floor broker to announce the cross trade at a point where the offer exceeds the bid by the minimum price fluctuation or tick. At times during the post close, a floor broker will have buy and sell customer orders, but, if only one price traded during the close, the floor broker cannot not make a one tick market and legitimately cross the customer orders. The amendment will allow the floor broker to cross his customer orders when there is a flat market, i.e., the single price that traded on the close, if there are no other market participants bidding or offering and both orders are for public customers. Those opposing the amendment expressed the view that, since new orders may be executed on the post close, post close transactions should be subject to the same restrictions as trading during normal trading hours. In addition, they felt that the exception is a further expansion of trading that should be limited to error correction only.

D. Rules 4.03(a)(ii) and 21.25

It is a violation of Rules 4.03(a)(ii) and 21.25(b)(i)(B)13 if a floor broker in either the FCOJ or Financial Contracts trading ring fails to state a quantity and does not take a minimum of ten (10) contracts. The amendments will make the failure to state a quantity and take ten (10) contracts a violation in all of the trading rings except for the Cocoa trading rings. The purpose of the amendments is to prevent situations where it appears that a floor broker may be trading size, but, in fact, only intends to trade one (1) or two (2) contracts. The ten (10) contract protocol has curtailed such conduct in the FCOJ and Financial Contracts rings. Those opposing the amendments trade in the Cocoa futures trading ring and expressed the view that Floor Trading Rule 4.03(a)(ii) currently states that each bid and offer is understood to be for one (1) contract where no quantity is specified and that this has always been the understanding on the floor. A floor broker should not now be required to take ten (10) contracts when not stating a quantity as

it is contrary to the common understanding in the rings. In order to accommodate the Cocoa floor brokers, the Cocoa trading rings are exempted from the amendments to the Rules.

-3-

The Exchange certifies that the new rule and the amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The new rule and the amendments were adopted by the Exchange's Board of Governors on September 14, 2005. The new rule will become effective on September 16, 2005, and the amendments will become effective on September 19, 2005.

If you have any questions or need further information, please contact me at jfassler@nybot.com or 212-748-4084.

Sincerely,

Jill S. Fassler
Vice President
Associate General Counsel

cc: Riva Adriance
CFTC, Division of Market Oversight
Allen Cooper
CFTC, New York Regional Office

(In the text of the amendments below, additions are underlined.)

Rule 3.40. Regulatory Oversight Committee

(a) The Regulatory Oversight Committee shall be a Standing Committee and shall consist of the Public Governors.

(b) The Committee shall oversee fulfillment of the Exchange's compliance self-regulatory obligations and advise the Board on all such matters.

(c) In furtherance of its responsibility to oversee the fulfillment of the Exchange's self-regulatory function, the Regulatory Oversight Committee shall, among other things:

(i) review and make recommendations with respect to the responsibilities, budget and staffing, of the Market Regulation Department so that it is able to fulfill its self-regulatory responsibilities;

(ii) review the functioning of the Market Regulation Department to determine whether it is able to implement its self-regulatory responsibilities independent of any improper influence, interference or other factors that could interfere with the ability to fulfill its responsibilities;

(iii) review the Exchange's compliance with its self-regulatory responsibilities as prescribed by law and the Rules; and

(iv) review changes and proposed changes, as appropriate, to the Rules to the extent that such Rules are likely to impact significantly the self-regulatory functions of the Exchange.

EXHIBIT A

(In the text of the amendments below, deletions are bracketed and lined out.)

Rule 4.11. Transfer Transactions Not Required to Be Made by Open Outcry

(a) Notwithstanding the requirements of Rule 4.03, the following transfer Transactions need not be made by open outcry:

(i) transfers of open contracts from one (1) Member to another Member made at the request of a client;

(ii) transfers of open contracts made at the request of the original Carrying Member to another Member;

(iii) transfers of open contracts from one (1) 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;

(iv) transfers of open contracts necessitated by the death of the only Member of a firm who held Membership in the Exchange; and

(v) transfers of open contracts following the close of trading on the Last Trading Day of a particular delivery month, as provided in paragraph (e) of this Rule.

Unless specifically authorized by the President with the concurrence of the Chairman, a Vice Chairman or the Treasurer of the Board, Cocoa, Coffee "C", Ethanol, Pulp, Sugar No. 11 and Sugar No. 14 transfers referred to in subparagraph (a)(i) through (iv) may not occur on or after the first (1st) notice day of the delivery month for the contracts involved. FCOJ and Cotton No. 2 transfers referred to in subparagraphs (a)(i) through (iv), which offset existing Positions in the spot month and where there is no change of ownership, may not occur on or after the first (1st) notice day of the delivery month when the date of execution of the position being transferred is not the same as the transfer date. The receiving Firm has the responsibility to assure compliance with this Rule.

(b) All [~~Cocoa, Coffee "C", Ethanol, Pulp, Sugar No. 11 and Sugar No. 14~~] Transactions referred to in subparagraphs (a)(i)-(iv) may be effected at (i) the then current market price, (ii) the prior day's Settlement Price, (iii) the current day's Settlement Price, or (iv) at the original market price; provided, however, that the transferee must carry the transferred contracts on his or its books at the original dates and prices. [~~Cotton No. 2, FCOJ, Financial Contracts and Index Contracts Transactions referred to in subparagraphs (a)(i) (iv) may only be effected at the original price.~~]

[REMAINDER OF RULE UNCHANGED]

EXHIBIT B

(In the text of the amendments below, additions are underlined and deletions are bracketed and lined out.)

Rule 4.09. Post Close Trading Session

The Exchange will conduct a post close trading session for each Exchange Futures Contract and for each Exchange Options Contract if the particular Strike Price traded during the day as follows:

* * *

(c) Price

* * *

(iii) Spreads – The Trade price of all Exchange Spread Transactions executed during the post close trading session shall be limited as follows:

(A) if a spread trades during the closing period, the spread price is limited to the range of [~~prices traded during~~] the closing period;

(B) if a spread does not trade during the closing period, the spread may not trade during the post close trading session.

(d) Notwithstanding the provisions of Rule 4.19(b)(i), if during the post close trading session, there are no other Floor Brokers bidding or offering and the post close trading session Trade price is limited to a single price, a Floor Broker may cross a Customer's order against another Customer's order at the single Trade price as long as such Transaction is crossed in accordance with the other applicable provisions of Rule 4.19.

~~(d)~~e) Except as otherwise specifically set forth in this Rule, all Transactions executed during the post close trading session shall be done in accordance with all applicable Rules.

EXHIBIT C

(In the text of the amendments below, additions are underlined and deletions are bracketed and lined out.)

Rule 4.03. Transactions, Bids and Offers

(a) Unless otherwise provided in the Rules, each Transaction, bid and offer for Commodity Contracts shall be:

* * *

(ii) understood to be for [~~one (1)~~] ten (10) Commodity Contracts where no quantity is specified; ~~provided, however, that with respect to FCOJ and Financial Contracts,~~ and a Floor Broker who fails to specify a quantity is obligated to accept a minimum of ten (10) Commodity Contracts; provided, however, that with respect to Cocoa Contracts a Floor Broker who fails to specify a quantity is obligated to accept only one (1) Commodity Contract; and provided, further, that with respect to Cotton No. 2, FCOJ, Financial and Index Contracts, a Floor Broker showing two (2) hands is obligated to accept a minimum of ten (10) contracts;

[REMAINDER OF RULE UNCHANGED]

Rule 21.25. Floor Committee Summary Action

* * *

(b) *Conduct Subject to Summary Action*

It shall be a violation of the Rules regarding decorum, attire, or timely submission of accurate records for a Member to engage in the following practices:

(i) **Decorum:**

* * *

B. *Trading Practices:*

* * *

13. except in the [~~FCOJ and Financial~~] Cocoa Contracts trading rings, failing to state a quantity and not taking a minimum of ten (10) contracts.

[REMAINDER OF RULE UNCHANGED]

EXHIBIT D