



55 East 52nd Street
New York, NY 10055

AMSTERDAM ATLANTA CALGARY CHICAGO HOUSTON LONDON NEW YORK SINGAPORE WINNIPEG

BY ELECTRONIC TRANSMISSION

Submission No. 20-10
January 14, 2020

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: Amendment to Rule 9.18(b) - Grading Cocoa for Exchange Delivery
Submission Pursuant to Section 5c(C)(1) of the Act and Regulation 40.6(a)**

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”) and Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), ICE Futures U.S., Inc. (“IFUS” or “Exchange”) hereby self-certifies the amendments to Exchange Rule 9.18 set forth in Exhibit A. As described below, the amendments make changes to the origin/growth descriptions and premiums for cocoa delivered against the Exchanges futures contract. In addition, amendments to the Rule also change procedures for sampling and grading of cocoa.

Amendments to Cocoa Origin/Descriptions and Premiums

Exchange Rule 9.18(b) sets forth the growth/origin premiums for cocoa delivered against the Exchange’s futures contract. Upon recommendation from the IFUS Cocoa Committee (“Committee”), the Exchange is amending Rule 9.18(b)(i) to: (i) change the premium for three origins/growths; (ii) collapse multiple descriptions for a single country/region into a single description; (iii) remove obsolete description designations from the rule; and (iv) update references to several listed cocoa origins and/or descriptions

Cocoa that is submitted for Exchange grading is assigned to one of three groups based on the origin/growth of the beans, Group A, which receives a \$160 per metric ton premium, Group B which receives a \$80 per metric ton premium or Group C which receives no premium in delivery. The origins of Tanzania, Uganda and “Para (Brazil)” are being moved from Group C to Group B. Tanzania and Uganda are not currently identified in Group C, but are deliverable in that Group under the catchall clause which captures all growths not expressly identified in Groups A, B or C. Para (Brazil), which is expressly identified in Group C, will be moved to Group B via removal of the origin from Group C and the creation of the new “Brazil” origin in Group B (as discussed below). As a result of these amendments, the delivery value of beans from each of these origins will increase by \$80 per metric ton.

As mentioned above, the amendments also collapse the separate origins/descriptions of “Para (Brazil),” previously in Group C, with “Bahia (Brazil)” and “Victoria (Brazil)” in to a single origin to be shown as “Brazil” in Group B. The separate origins/descriptions of Chiapas (Mexico) and Tabasco (Mexico), both in Group B, are also being combined into a single origin to be shown as “Mexico,” which will remain in Group B.

In addition, the descriptions “Main Crop,” “Mid Crop” and “Light Crop” are being deleted from Rule 9.18(b)(i). In the past, for the Origins of Ghana, Ivory Coast, Liberia, Lome, Nigeria and Sierra Leone, commercial practice recognized a distinction between beans that were processed and exported during the core of the season in the Origin (the “Main Crop”) and the typically smaller volume of beans that were processed and exported from the Origin later in the season (the “Mid Crop” or “Light Crop”). For these Origins, Main Crop beans were typically larger in size and given this typically carried a premium to Mid or Light Crop beans from that origin. Over time processing and export practices in these Origins have evolved, blurring the calendar-based distinction between the two seasons and often leading to exports of mixed lots of beans that in earlier seasons would have included only Main or Mid Crop beans. Consequently, the use of Main and Mid/Light Crop as identifiers of beans from these Origins has diminished in commercial practice.

Finally, non-substantive amendments to Rule 9.18(b)(i) change the name of nine listed cocoa origins to conform to the current legal name of the respective country:

<u>Current Origin Name</u>	<u>Revised Origin Name</u>
Lome	Togo
Masie Nguema (Fernando Poo)	Equatorial Guinea
New Guinea	Papua New Guinea
New Hebrides	Vanuatu
Salvador	El Salvador
Sao Tome	Sao Tome and Principe
Surinam	Suriname
Trinidad	Trinidad and Tobago
Zaire	Democratic Republic of the Congo

Each of the foregoing amendments was adopted by the IFUS Board of Directors (“Board”) upon recommendation from the product Committee. The Committee opined that the changes would cause the contract terms to better reflect current commercial practices. Specifically, with respect to moving the three origins from Group C to Group B, it was the opinion of the Committee that the change reflects current commercial pricing and they voted to recommend the amendment to the Board by a vote of ten in favor, one opposed, one abstention. The Committee member who was opposed didn’t see a need for the change. The Exchange is not aware of any other opposing views with respect to the amendments.

The amendments to Rule 9.18(b)(i) will become effective on January 30, 2020 for all contract months, including the March 2020 Cocoa futures contract expiration. Although the amendments increase the delivery value of beans from each of the three impacted origins being moved from Group C to Group B by \$80 per ton, the Board and the Committee determined that it was consistent with Bylaw Section 17.1¹ to make the amendments effective for contract months with open interest, because the increase

¹ The Bylaw provides in relevant part that: “Unless otherwise provided in the Rules, any alteration of the Rules relating to Commodity Contracts, may, if the Board of Directors so decides, be binding on Commodity Contracts

would not have a material effect on the amount of money to be paid or the quality of the merchandise to be received under a Cocoa contract. That decision was based on the small volume of production and exports from each of the three origins, which would not have any meaningful impact on the value of the futures contract. Furthermore, the \$80 per metric ton delivery premium for Group B origins only represents about 3% of the current futures price; and there have been no deliveries and only 1 lot of certified stocks from any of the three affected origins over the past three calendar years.

Amendments to Sampling and Grading Procedures

Under the current provisions of Cocoa Rule 9.18(b)(iii), Cocoa sample orders submitted for Exchange certification require the submitter to designate the Growth and Description of the lot, and to also indicate whether grading is sought under the Count provisions for Group A, B or C. The bean count results arrived at by the panel grading the cocoa must then meet the maximum bean count of the Group indicated on the sample order for the submitter to receive the Exchange certification for delivery and premiums associated with the counts below.

Group	Delivery value	STANDARD COUNT	MAXIMUM COUNT
A	Premium \$160/MT	1000 per kg	1200
B	Premium \$ 80/MT	1100	1300
C	PAR	1200	1400

When a lot of Cocoa is graded with a Bean count that exceeds the Maximum Count for the Group designated in the sample order, the lot is rejected. The submitter then has the option to submit a new sample request for Exchange certification designating a lower Group and incur an additional fee to draw a new sample and submit the new sample for grading. (This is referred to colloquially as “Grading Down”.)

For example a lot of Ivory Coast Main Crop that is submitted for grading as Group A which is graded at a Count of 1210 (and passes all other grading criteria) would be rejected (since the Count exceeds the 1200 Maximum Count for Group A). The submitter then has the option to submit a new sample request for certification as a Group B or Group C lot.

When a lot of Cocoa from an Origin and Description that is included in Group A is submitted for grading against the Group B Maximum Count is graded with a Bean count that meets the Maximum Count for both Group A and B (and which passes all other grading criteria), the lot will receive a certificate that provides for delivery at the Group B premium (since that was the Group indicated in the sample order). In such instances the submitter has the option to submit a new sample request for Exchange certification designating the higher Group (in this case, Group A) in order to obtain the higher premium for the higher Group. Electing this option requires the submitter to cancel the original certificate and to incur an additional fee to draw a new sample and submit the new sample for grading. (This is referred to colloquially as “Grading Up”.)

For example, a lot of Nigeria Main Crop that is submitted for grading as Group B which is graded at a count of 1100 will receive a certificate for delivery, despite the fact that the count also meets the Group A maximum count.

entered into before as well as after its adoption, provided such alteration does not materially affect the amount of money to be paid, or the quality of the merchandise to be received, under such Commodity Contracts, in which case such alteration may only apply with respect to the first delivery or expiration month following the last delivery or expiration month in which there is an open position at the time such alteration becomes effective;...”

The Exchange is eliminating the requirement for the Group to be designated in the sample order request for certification. The amendments to Rule 9.18(b)(iii) streamline the grading process by allowing the certificate Group to be determined based on the results for Count, as described below:

For a lot of an Origin and Description that is in Group C only, if the count is within the 1400 Maximum Count for Group C it will receive a Group C certificate.

For a lot of an Origin and Description that is in Group B, if the count is within the Group B Maximum Count it will receive a Group B certificate, and if it exceeds the Group B Maximum Count but is within the Group C Maximum Count it will receive a Group C certificate.

For a lot of an Origin and Description that is in Group A, if the count is within the Group A Maximum Count it will receive a Group A certificate; if the count exceeds the Group A Maximum count but is within the Group B Maximum Count it will receive a Group B certificate; and if the count exceeds the Group B Maximum Count but is within the Group C Maximum Count it will receive a Group C certificate.

Any lot with a Count in excess of the 1400 Maximum will not be deliverable (as is the case today).

The certificate Group will be arrived at based on the actual Count results of the initial grading function/panel, eliminating the need to submit a new sample order and undergo another grading process in order to accomplish “Grading Down” or “Grading Up” as described below.

In order to accommodate necessary Exchange system changes, the amendments to Rule 9.18(b)(iii) will become effective on April 1, 2020 for all contract months, beginning with the May 2020 Cocoa futures contract expiration. The amendments will not change the grading standards or have any impact on contract value. They simply make grading procedures more efficient. The Exchange certifies that it is not aware of any views opposing the amendments.

Certifications

The Exchange certifies that the increase complies with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendments comply with core principle 3 (Contracts not Readily Subject to Manipulation) and core principle 7 (Availability of information). As stated above, the amendments to Rule 9.18(b)(i) reflect current industry practices and better align the contract with prevailing commercial prices. Similarly, the amendments to Rule 9.18(b)(iii) will improve the efficiency of grading cocoa for physically delivery against the futures contract. All amendments will be codified in Rule 9.18 and available on the Exchange’s website. In addition, the Exchange has issued a notice advising participants of the change, which is available on the Exchange’s website. The Exchange further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange’s website, which may be accessed at (<https://www.theice.com/futures-us/regulation#rule-filings>).

If you have any questions or need further information, please contact me at 212-748-4021 or at jason.fusco@theice.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason V. Fusco". The signature is written in a cursive style with a large, sweeping initial "J".

Jason V. Fusco
Assistant General Counsel
Market Regulation

Enc.

EXHIBIT A

(In the text of the amendments below, additions are shown underscored and deletions are bracketed and lined through.)

Rule 9.18. Grading Cocoa for Exchange Delivery

(a) All Cocoa to be delivered in Exchange-Segregated Lots must be certified as deliverable with respect to Growth, Description, Condition, Count, Waste and Grade in accordance with the provisions of this Rule.

(b) The Growth, Description, Condition, Count, Waste and Grade of Cocoa which may be delivered on an Exchange Futures Contract are as follows:

(i) *Growth and Description*

The following Growths and Descriptions of Cocoa, as such Growths and Descriptions may from time to time be known in the trade, may be delivered at the premiums or at par as indicated below:

Group A—Addition of \$160—per metric ton

Ghana [Main Crop]	Nigeria—[Main Crop]
Ivory Coast—[Main Crop]	Sierra Leone—[Main Crop]
[Lome] <u>Togo</u> —[Main Crop]	

Group B—Addition of \$80—per metric ton

Arriba (Ecuador)	[Ivory Coast]	<u>El Salvador</u>
[Bahia] (Brazil)	Jamaica	Samoa
Cameroon	Indonesia-Java	Sanchez (Dominican Republic)
Ecuador	Liberia[Main Crop]	Sao Tomé <u>and Principe</u>
	<u>Equatorial New Guinea</u>	
[Chiapas] (Mexico)	[Masic Nguema	Sri Lanka
Colombia	(Fernando Poo)]	Suriname
Costa Rica	New Guinea	[Tabasco] (Mexico)
[Ghana—Mid Crop]	[New Hebrides] <u>Vanuatu</u>	Trinidad <u>and Tobago</u>
Grenada	Nicaragua	Venezuela
Guatemala	[Nigeria—Light Crop]	[Victoria] (Brazil)
Hispaniolas (Dominican Republic)	Panama	[Zaire] <u>Democratic Republic of Congo</u>
Honduras	Peru	<u>Tanzania</u>
<u>Uganda</u>		

Group C—At Par

Bolivia
Haiti
Indonesia-Sulawesi
Malaysia
[~~Para~~] (~~Brazil~~)

All other growths not presently specified in Groups A, B or C.

(ii) Condition

Cocoa which is smoky or hammy is not deliverable.

(iii) Count

(1) The standard Count and the maximum Count of each group of Cocoa shall be as follows:

<i>Class</i>	<i>STANDARD COUNT</i>	<i>MAXIMUM COUNT</i>
<i>A</i>	<i>1000 per kg</i>	<i>1200</i>
<i>B</i>	<i>1100</i>	<i>1300</i>
<i>C</i>	<i>1200</i>	<i>1400</i>

~~[Cocoa exceeding the maximum of its class to be deliverable at the next lower class premium and count requirement.]~~

Cocoa exceeding 1400 beans per kilo shall not be deliverable.

(2) The following variations of Count may be delivered at the discounts noted below, with such discounts to be applied as a reduction to the invoice weight:

<u>Bean Count Above Standard</u>	<u>Discount Percentage:</u>
1 to 25 beans	0.5%
26 to 50 beans	1.0%
51 to 75 beans	1.5%
76 to 100 beans	2.0%
101 to 125 beans	2.5%
126 to 150 beans	3.0%
151 to 175 beans	3.5%
176 to 200 beans	4.0%

~~(3) [When a Lot of cocoa does not meet the Count requirement for the class set forth in its Sampling Order, the Lot shall be rejected, the grading process stopped, and the submitter advised of the rejection and the reason for such rejection. Thereafter, the submitter may present another Sampling Order to the Exchange noting the next lower (or higher) class and payment of the appropriate fee, whereupon the cocoa shall be graded in accordance with the Rules.]~~

A Lot of cocoa from a Class A Growth and Description which does not meet the maximum Count requirement for Class A but which does meet the maximum Count requirement for Class B shall be deliverable at the Class B premium and count provision. A Lot of cocoa from a Class A or Class B Growth and Description which does not meet the maximum Count requirement for Class B but which does meet the maximum Count requirement for Class C shall be deliverable at the Class C par price and count provisions.

[Remainder of Rule Unchanged]