



**BY ELECTRONIC TRANSMISSION**

Submission No. 21-26  
April 7, 2021

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

**Re: New Sugar Resolution No. 6 (Alternative Provisions for Presentation of Documents Required for Payment in Electronic Format) - 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 new Sugar Resolution No. 6 (the “Resolution”), which is set forth in Exhibit A. As discussed below, the Resolution provides an alternative procedure for the presentation of the documents required for delivery of sugar against the Exchange’s Sugar No. 11 futures contract.

The Sugar No. 11 futures contract calls for physical delivery of raw cane sugar free-on-board the Receiver’s vessel at a port within the country of origin of the sugar. Under the current Rules, the Deliverer is required to present original copies of the documents required to complete delivery (which are the invoice, the bills of lading, the weights and quality certificates and the certificate of origin) in New York; presentation of such original documents in New York triggers the requirement for timely payment of the invoice by the Receiver.

Requiring the original documents to be sent to New York, when delivered growths are usually outside the US and can be in locations on the other side of the world, such as India, Thailand and the Philippines, can slow down the process. Original documents must be shipped from the port where Exchange delivery takes place to New York and then to the port where the sugar is being shipped (note: original copies of the documents are still required in both commercial and Exchange practice; vessels typically cannot be unloaded at destination without the presence of the original bills of lading by the owner of the sugar). For example, if sugar is being delivered against the No. 11 futures contract to a vessel in Bangkok, Thailand which is destined for China, the original documents must travel from Thailand, to New York to China.

The Exchange is adopting the Resolution to make the process more efficient. In addition to the process set out above, the Receiver will now have the unilateral right to elect to pay based on receipt of complete electronic copies of the delivery documents under the Resolution. If the Receiver elects to pay based on electronic copies, then the Receiver becomes obligated to pick up the original documents at a location nominated by the Deliverer. If the Receiver doesn’t like the nominated location it has the right to



cancel its election to make payment on electronic copies and require delivery of the original documents in New York under the current process. In addition, the Resolution provides a detailed framework for how the Receiver must make such election; how the Deliverer must acknowledge and respond to such election; the time deadlines by which each party must take the steps necessary to complete the delivery process; and the process and deadlines by which the Deliverer must make the original copies of the delivery documents available to the Receiver.

Using the same example from above where sugar is being delivered to a vessel in Bangkok, Thailand which is destined for China, the Receiver could opt to pay on receipt of electronic copies of the delivery documents, and the Deliverer could nominate Bangkok, Thailand as the location where the original documents could be picked up. In such scenario the original delivery documents could flow directly from Bangkok to China, which in turn would potentially allow ships carrying sugar delivered against the No. 11 contract to be unloaded sooner at the destination.

In considering the proposed Resolution, members of the Exchange's World Sugar Committee ("Committee") opined that adding these provisions as an option for Receivers would provide additional flexibility to the delivery process without creating any undue burden on Receivers or Deliverers. No members opined in opposition to the proposed Resolution. In addition, the Committee recommendation to recommend adoption of the Resolution was unanimous, and included a determination that the amendment would not impact the value of the contract and therefore could and should be implemented upon contracts with outstanding open interest. Further, the Exchange's Board of Directors agreed with both the Committee's recommendation to adopt the Resolution and to implement it on contract months with outstanding open interest.

We note that the Resolution does not impact the time deadlines by which Receivers and Deliverers must take the actions necessary to complete an Exchange Delivery, and do not impose any undue burden on any delivery party. Finally, we note that the procedures allowed in the Resolution could alleviate potential issues around the ability of clearing members to support physical activity in their New York offices due to the current pandemic or other similar occurrences.

## **Certifications**

The Exchange certifies that the amendments the new Resolution which will become effective on April 26, 2021, for deliveries against May 2021 contract and later expirations, comply with the requirements of the Act and the rules and regulations promulgated thereunder. Specifically, the amendments comply with the following core principles:

### **Core Principles 3 (Contracts not Readily Subject to Manipulation) and 4 (Prevention of Market Disruptions)**

The Exchange believes that new Sugar Resolution No. 6 will make the process for delivering sugar more efficient. The amended Rule will facilitate process for payment and delivery of original delivery documents. This helps ensure good delivery and proper functioning of the contract. Further, the new Resolution will not impact the quality of goods to be delivered or alter the value of the futures contract.



**Core Principle 1 (Compliance with Rules)**

The Exchange will continue to establish, monitor, and enforce compliance with all rules and procedures, including amended Rule 4.37.

**Core Principle 7 (Availability of information)**

This submission and the amended Rule will be posted on the Exchange's Website.

The Exchange is not aware of any opposing views with regard to the new Resolution and further certifies that, concurrent with this filing, a redacted copy of this submission was posted on the Exchange's website 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](mailto:jason.fusco@theice.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason V. Fusco', written in a cursive style.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

Enc.



## EXHIBIT A

(in the text of the amendment below, additions are underscored.)

### **Sugar Resolution No. 6 - Alternative Provisions for Presentation of Documents Required for Payment in Electronic Format (EFFECTIVE FOR THE MAY 2021 CONTRACT AND LATER EXPIRATION MONTHS)**

Notwithstanding the provisions of Rule 11.08(3) which require presentation of the documents required for delivery in New York and in original form in order to require payment by the Receiver, Receiver may elect to pay the delivery invoice based upon receipt of complete electronic copies of the delivery documents, in which case the following provisions and procedures will apply:

- (1) Receiver's election to pay based upon receipt of complete electronic documents shall be made by email communication to the Deliverer and with a copy to the Exchange at such address as the Exchange shall instruct, prior to completion of loading of the nominated quantity;
- (2) Deliverer shall acknowledge receipt of such election by 5:00 P.M. Eastern Prevailing Time ("EPT") on the second Exchange Business Day following completion of loading of the nominated quantity. Such acknowledgement must include the location at which the Deliverer will hold the original delivery documents for subsequent pick up by the Receiver following payment and shall be made via electronic communication, with a copy to the Exchange at such address as the Exchange shall instruct;
- (3) Receiver shall have the right to cancel its election under these provisions by 5:00 p.m. EPT on the Exchange Business Day following receipt of a complete Deliverer's confirmation meeting the requirements of paragraph (2) of this Resolution. Any such cancellation shall be made via electronic communication with a copy to the Exchange at such address as the Exchange shall instruct. Such cancellation shall be effective when sent by the Receiver and the Receiver thereafter shall not have the right to submit another election for payment of the same sugar under this Resolution without the mutual agreement of the Deliverer;
- (4) Deliverer shall promptly, and in no event later than the deadline specified in Rule 11.08(4) for provision of the original delivery documents, present:
  - (i) complete electronic copies of the delivery documents referenced in Rule 11.08(3)(a); and
  - (ii) a statement that the complete electronic copies are final, the original documents are in the possession of or have been made available to the Deliverer at the location specified as per Paragraph 2 above and are available for pick up by the Receiver;
- (5) Upon presentation of complete electronic copies of the delivery documents and the statement referenced in Paragraph 4 above by the Deliverer, Receiver shall make payment of the delivery invoice amount in the manner and by the time deadlines as provided in Rule 11.08(3)(b);



- (6) Deliverer shall make the original delivery documents available for pick up by the Receiver at the location specified by the Deliverer in the acknowledgement described in paragraph (2) above, no later than the second Exchange Business Day following the date on which payment of the invoice amount is made by the Receiver pursuant to Paragraph 5 above.

All other obligations of the Deliverer and Receiver contained in the Rules that are not expressly provided for differently in this Resolution shall continue to apply as stated in the Rules. For the avoidance of doubt, as used herein the terms Deliverer and Receiver refer to the Clearing Member carrying the account of the seller and the Clearing Member carrying the account of the buyer, respectively.