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**ICE** FUTURES U.S.

World Financial Center  
One North End Avenue  
New York, New York 10282

**BY ELECTRONIC TRANSMISSION**

Submission No. 08-5

January 10, 2008

Mr. David Stawick  
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: **Amendments to Rules 21.03 and 21.08 and  
Waiver of Robusta Grading Fees -  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Mr. Stawick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, ICE Futures U.S., Inc. ("Exchange") submits, by written certification, amendments to Rules 21.03 and 21.08, attached as Exhibit A, and the waiver of grading fees for the Robusta futures contract.

**I. Amendments to Rules 21.03 and 21.08**

With the end of open outcry futures trading scheduled for February 29, 2008, the number of suitable candidates from the floor willing to serve on the Exchange's Business Conduct Committee ("BCC") will be greatly reduced. Accordingly, Rules 21.03 and 21.08 have been amended which change the composition and quorum requirements for BCC meetings and Hearing Panels. The proposed amendments, described in detail below, comply with CFTC Regulation 1.64 which governs the composition of exchange disciplinary committees and is similar to Rule 402A of the Chicago Mercantile Exchange.

**A. Rule 21.03 – Composition of Business Conduct Committee**

Currently, Rule 21.03 provides for two eight person BCC panels with each panel consisting of: (i) four individuals identified with the floor interest; (ii) three individuals identified with the FCM/trade interest; and (iii) one individual who is not a member.

The amendments to Rule 21.03 provide for a seven member panel selected from the pool of BCC members, eliminate the distinction between floor/FCM/trade/non-member interests and replace it with a member/non-member distinction. Each panel selected in accordance with the

proposed amendments will have four individuals who are members or employees of member firms and three individuals who are not members. In addition, at least one of the non-members selected will be required to be a member of the Regulatory Oversight Committee ("ROC").

#### B. Rule 21.08 – Selection of Hearing Panel

Rule 21.08 currently provides that the Chairman of the BCC may select either a three or five member Hearing Panel consisting of: (i) one (two, if a 5 person panel) individual from the floor interest; (ii) one (two, if a 5 person panel) individual from the FCM/Trade interest; and (iii) one individual who is a non-member.

The proposed amendments change the composition of both the three and five person Hearing Panels as follows: (i) two (four, if a 5 person panel) individuals who are members or employees of member firms; and (ii) one who is not a member or employee of a member firm.

#### II. Waiver of Robusta Grading Fees

In order to maintain the steady increase of trading by the Robusta coffee trade, the Board approved a Resolution to continue to waive the grading fees until either March 31, 2008 or when the number of bags submitted for grading reaches 300,000, whichever comes first.

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

The amendments and the resolution were adopted by the Exchange's Board of Directors by written unanimous consent in accordance with Bylaw Section 4.7 on January 7, 2008. No substantive opposing views were expressed by members or others with respect to the amendments. In addition, the amendments to the Disciplinary Rules were unanimously approved by the ROC. The amendments will become effective on January 11, 2008; and the resolution is effective for all Robusta coffee submitted for grading since January 1, 2008.

If you have any questions or need further information, please contact me at 212-748-4084 or at [jill.fassler@theice.com](mailto:jill.fassler@theice.com).

Sincerely,

Jill S. Fassler  
Vice President  
Associate General Counsel

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

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

**Rule 21.03. The Business Conduct Committee**

\* \* \*

(b) The Business Conduct Committee shall ~~[be divided into two (2)]~~ act through a subcommittee~~[s. One (1) subcommittee shall be]~~ chaired either by the Chairman or Vice Chairman of the Business Conduct Committee~~;~~ and the other shall be chaired by the ~~Vice Chairman of such Committee~~. Each subcommittee shall be comprised of no less than ~~[eight (8)]~~ seven (7) individuals, such that ~~[three]~~ four (4) are ~~[identified with the FCM/Trade participant interest]~~ Members or employees of Member Firms~~;~~ ~~four (4) are identified with the Floor participant interest and one (1) is]~~ and three are not [a] Members or employees of Member Firms, at least one (1) of whom is a member of the Regulatory Oversight Committee. Five (5) subcommittee members shall constitute a quorum so long as there are in attendance at least ~~[two (2) members identified with the Floor participant interest, two (2) members from the FCM/Trade participant interest]~~ three who are Members or employees of Member Firms and [one member] two (2) who [is] are not [a] Members or employees of Member Firms. Notwithstanding the provisions of this paragraph, each subcommittee shall be comprised of members who possess sufficiently diverse interests so as to ensure fairness in accordance with CFTC Regulation 1.64.

[REMAINDER OF RULE UNCHANGED]

**Rule 21.08. Selection of Hearing Panel**

(a) Formal hearings on any alleged Rule violation shall be conducted by a Hearing Panel selected by the Chairman of the Business Conduct Committee from ~~[the subcommittee]~~ members of the Business Conduct Committee wh~~ich~~o did not receive and review the written report concerning such alleged violation as provided for in Rule 21.03 (the "Hearing Panel"). Subject to the provisions of Rule 21.03, paragraphs (b) and (c), the Chairman of the Business Conduct Committee, in his sole discretion, shall appoint a Hearing Panel comprised of either three (3) or five (5) members as follows:

(i) a panel of three (3) members shall consist of ~~[one (1) who is identified with the Floor participant interest, one (1) who is identified with the FCM/Trade participant interest]~~ two (2) who are Members or employees of Member Firms and one (1) who is not a Member or employee of a Member Firm; or

(ii) a panel of five (5) members shall consist of ~~[two (2) who are identified with the Floor participant interest, two (2) who are identified with the FCM/Trade participant interest]~~ four who are Members or employees of Member Firms and one (1) who is not a Member or employee of a Member Firm.

Notwithstanding the provisions of subparagraphs (a)(i) and (a)(ii) of this Rule, each subcommittee shall be comprised of members who possess sufficiently diverse interests so as to ensure fairness in accordance with CFTC Regulation 1.64.

[REMAINDER OF RULE UNCHANGED]

**EXHIBIT A**