

  
**ICE** FUTURES U.S.  
World Financial Center  
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New York, New York 10282

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**BY ELECTRONIC TRANSMISSION**

Submission No. 09-14  
March 19, 2009

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 2.01, 2.03, 2.04, 2.08, 4.09, 4.07 and 27.18 and Bylaw Sections 2.1 and 16.1, Sections 1(c), 4(d), (e) and (f), 9(a)-(f) of Annex A, Sections 1, 2 and 4 of Annex B, Annex D and Annex F of the Bylaws, Floor Trading Resolution No. 1 and definition of "Exchange"; Extension of Exchange Fee Program - 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 Rule 4.09, attached as Exhibit A, amendments to Bylaw Sections 2.1 and 16.1, Sections 1(c), 4(d), (e) and (f), 9(a)-(f) of Annex A, Sections 1, 2 and 4 of Annex B, Annex D and Annex F of the Bylaws, Rules 2.10, 2.03, 2.04, 2.08, Floor Trading Resolution No. 1 and the definition of "Exchange, attached as Exhibit B, amendments to Rules 4.07 and 27.18, attached as Exhibit C, and notice of the extension of the Exchange Fee Program.

Rule 4.09

The Exchange's Options Contracts trade primarily on the trading floor by open outcry and close prior to the end of the electronic trading session on which the underlying futures contracts are traded. After the close of the Options Contracts on the trading floor, a post close trading session ("Session") may be conducted at which time floor brokers are able to correct trading errors and execute new customer business. Options trades executed during the Session are subject to two pricing limitations – prices may not be outside of the established daily price range and, if a daily price range wasn't established for a particular Option's strike price, that particular Option strike price may not be traded during the Session.

Depending on the Commodity Option, the post close trading session is conducted either five (5) or fifteen (15) minutes after the close. Because of the Session's pricing limitations, the Session's prices for a particular Options Contract may not reflect the current value of its underlying futures contract. The amendments to Rule 4.09 remove these pricing limitations and allow Session prices to accurately reflect the value of the underlying futures contract. By removing the price limitations, a new high or low for an Options Contract may be created during the Session. Therefore, the amendments also require the floor brokers to report all prices traded during the Session. The prices will be reported on Time & Sales and disseminated to the public.

Bylaw Sections 2.1 and 16.1, Sections 1(c), 4(d), (e) and (f), 9(a) –(f) of Annex A, Sections 1, 2 and 4 of Annex B, Annex D and Annex F of the Bylaws, Rules 2.10, 2.03, 2.04, 2.08, Floor Trading Resolution No. 1 and the definition of "Exchange"

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At the time of the Exchange's merger with ICE, the corporate name of the Exchange was Board of Trade of the City of New York, Inc., New York Board of Trade or NYBOT. In September 2007, the Exchange changed its corporate name to ICE Futures U.S., Inc. Currently, the Exchange's Bylaws and Rules define the term "Corporation" or "Exchange" to mean NYBOT and contain out-dated references to NYBOT. Likewise, the clearinghouse was defined as "NYBOT Clearing Corporation". The amendments change these definitions to incorporate the ICE name or otherwise use defined terms, such as the "Clearing Organization", and make conforming changes to the Membership Rules. In addition, the Board authorized counsel to make similar conforming amendments to such other Rules as the General Counsel deems necessary. For example, in Cotton Rule 10.04 there is a form for the Cotton No. 2 futures delivery contract which references New York Board of Trade. The General Counsel is authorized to change such reference to either ICE Futures U.S., Inc. or Exchange.

#### Extension of Exchange Fee Program

In Submission Nos. 07-43, 07-47, 08-30, 08-33 and 08-48 and Supplemental Submission No. 08-48, the Exchange submitted the "Exchange Fee Program" which was designed to attract CME, CBOE CBOT, NYMEX and ISE members and member firms who traded the Russell Indexes when the Russell Indexes were listed at the CME as well as at the Exchange (the "Fee Program") and when the Russell Indexes were solely listed at the Exchange. CME, CBOE, CBOT, NYMEX and ISE traders accepted into the Exchange Fee Program are being charged an Exchange fee of 30¢ instead of the customer rate of 94¢.

The Exchange Fee Program is set to expire at the end of March 2009. Based on a review of market activity and conversations with market participants, many of whom have expressed concern that the reduced fee offered by the Fee Program could be removed by the Exchange on short notice, the Exchange has extended the Fee Program for nine months, through December 31, 2009. The certainty provided to participants that the Fee Program will be in place for the balance of this year will assist in maintaining volumes in the Russell Indexes.

Amendments to Rules 4.07 and 27.18 and changes to Trading Hours

The Exchange has amended Rules 4.07 and 27.18 to reflect changes in trading hours for the Exchange's agricultural products. The changes are as follows:

Cocoa – electronic closing time from 2:45 p.m. to 2:00 p.m. New York time (“NYT”);  
Coffee “C”<sup>®</sup> - electronic trading opening time from 2:30 a.m. to 3:30 a.m. NYT and electronic trading closing time from 2:45 p.m. to 2:00 p.m. NYT;  
Cotton No. 2<sup>®</sup> – electronic opening time from 2:30 a.m. to 9:00 p.m. NYT (the night before) and electronic closing time from 2:45 p.m. to 2:30 p.m. NYT the following day; floor trading opening time for Cotton No. 2 Options from 8:15 a.m. to 10:30 a.m. NYT;  
FCOJ – electronic opening time from 7:00 a.m. to 8:00 a.m. NYT and electronic closing time from 2:45 p.m. to 2:00 p.m. NYT;  
Sugar No. 11<sup>®</sup> - electronic trading opening time from 2:30 a.m. to 3:30 a.m. NYT and electronic trading closing time from 2:45 p.m. to 2:00 p.m. NYT;  
Sugar No. 14 and Sugar No. 16 - electronic trading closing time from 2:45 p.m. to 2:00 p.m. NYT, electronic closing time on the Last Trading Day from 2:30 p.m. to 1:45 p.m. NYT and the settlement time period from 2:44 p.m. -2:45 p.m. to 1:29 p.m. – 2:00 p.m. NYT.

The purpose of the change in trading hours is to accommodate customers and market participants trading the Exchange's agricultural products.

The Exchange certifies that the amendments and the extension of the Fee Program complies with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

All of the amendments and the extension of the Fee Program were adopted by the Exchange's Board of Directors on March 18, 2009. The amendments to Rules 4.09, 4.07 and 27.18 and the trading hours will become effective on March 30, 2009; the amendments to the Bylaws and Rules concerning the references to NYBOT and the extension of the Fee Program will become effective on March 20, 2009. No substantive opposing views were expressed by members or others with respect to the amendments and the extension of the Fee Program.

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

Sincerely,

Jill S. Fassler  
Vice President  
Associate General Counsel

cc: Division of Market Oversight  
New York Regional Office

## EXHIBIT A

(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~~] to the extent the particular Strike Price traded during the day as follows:

(a) Commencement

(i) Cocoa – The post close trading session will begin five (5) minutes following the close or closing period for each Cocoa [~~Futures and~~] Options Contract.

(ii) Coffee “C” [~~Robusta (Options only)~~] and Sugar No. 11 - The post close trading session will begin fifteen (15) minutes following the close or closing period for each such [~~futures and~~] Options contract.

(iii) Cotton No. 2, FCOJ, [~~NFC,~~] the Financial and Index Contracts - The post close trading session will begin five (5) minutes following the determination of the Settlement Prices for each such futures or Options contract.

~~[(iv) Ethanol—Upon request made by a Floor Member within five (5) minutes after the completion of the close or closing period, there shall be a post close trading session which will begin within a reasonable time but not later than fifteen (15) minutes following the close or closing period for each such futures and Options contract.]~~

(b) Length of Session - Each post close trading session will be for a period of three (3) minutes.

(c) Price [-]

~~(i) The Trade price of all Exchange Futures[~~Options and Spread~~] Transactions executed during the post close trading session shall be limited as follows:~~

~~[(i)A] if a daily price range has been established for a particular expiration or delivery month, [~~Strike Price or spread,~~] the prices are limited to the daily price range for that particular expiration or delivery month[~~Strike Price or spread~~]; or~~

~~[(i)B] if a daily price range has not been established for a particular expiration or delivery month, [~~Strike Price or spread,~~] that particular expiration or delivery month[~~Strike Price or spread~~] may not trade during the post close trading session.~~

(ii) The Trade price of all Exchange Options Transactions executed during the post close trading session may create a new high or low for the trading day and shall not be subject to any price limitations.

(iii) The prices of all Transactions executed during the post close trading session must be reported in accordance with Rule 4.25(a).

(d) Notwithstanding the provisions of Rule 4.19(b)(i), if the post close trading session Trade price is limited to a single price, a Floor Broker may execute a cross trade at such single Trade price as long as such Transaction is executed in accordance with all of the other provisions of Rule 4.19.

(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 B

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

### BYLAWS

**Section 2.1.** The registered office of [~~Board of Trade of the City of New York,~~] ICE Futures U.S.®, Inc. (the “Corporation” [~~or “NYBOT”~~]) shall be in the City of Wilmington, County of New Castle, State of Delaware. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of directors of the Corporation (the “Board of Directors”) may from time to time determine or the business of the Corporation may require.

**Section 16.1.** The Board of Directors and the stockholders may adopt additional Bylaws, and may amend or repeal any Bylaws, whether or not adopted by them, at any time; provided, however, that:

Notwithstanding anything herein to the contrary, until July 1, 2013, the provisions described on Annex F and this Section 16.1 (the “Core Rights”) shall not be amended or repealed, and no Bylaw that violates the Core Rights shall be adopted (a “Core Rights Amendment”) unless (i) the Public Directors, by a Required Public Director Vote, determine that a Core Rights Amendment should be adopted and recommend the same to the Board of Directors and (ii) the Core Rights Amendment is approved by a vote of at least two-thirds of the entire Board of Directors, determined as if there were no vacancies; provided, however, that the size of the entire Board of Directors for purposes of calculating the two-thirds vote required by (ii) shall exclude the number of Public Directors, if any, that are barred from voting on such matter due to the [~~that~~] fact that such Public Director or a member of such Public Director’s immediate family, directly or indirectly, has a financial interest in such matter; provided, further, however, that for this purpose compensation paid by ICE to such Public Director for serving as a director of the Exchange [~~NYBOT~~] shall not be deemed to be a financial interest. For the avoidance of doubt, notwithstanding any provision of these Bylaws or the Annexes to these Bylaws, any action permitted to be taken under these Bylaws and taken in accordance with these Bylaws shall not be deemed to be a Core Right Amendment. The Board of Directors shall not adopt, alter or amend these Bylaws in a manner that violates this Article XVI.

### ANNEX A

#### Section 1. Issuance of Trading Memberships and Trading Permits

\* \* \*

(c) Trading Members, Permit Holders, Member Firms and Lessees shall have only such rights and privileges as are set forth in these Bylaws, the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. Trading Members, Permit Holders, Member Firms and Lessees shall not constitute stockholders within the meaning of the Delaware General Corporation Law, the Certificate of Incorporation, these Bylaws or the Rules, shall not have any of the rights and privileges of stockholders and shall have only such rights and privileges as are set forth in the Rules or as prescribed by the Board of Directors, which rights will exist as a matter of contract only. No director or officer of [~~NYBOT~~] the Exchange shall have any fiduciary duty, obligation or responsibility of any nature to Trading Members, Permit Holders, Member Firms or Lessees by virtue of such contractual rights. Without limiting the generality of the foregoing, Trading Members, Permit Holders, Member Firms and

Lessees will not have any voting rights in the Corporation or any rights to receive any distributions of cash, securities or other property, whether on dissolution, liquidation, merger, consolidation or otherwise.

#### Section 4. Transaction Fees.

\* \* \*

(d) Subject to the other provisions of the Bylaws, the Exchange will trade any derivative of a contract for a Core Product (such as a Mini or Maxi Contract) proposed by ICE, unless the trading or clearance of such new contract would violate applicable laws or regulations, and no such new contract shall be subject to the \$1.00 amount specified in paragraph (b) above. ICE may determine that any such Mini or Maxi Contracts are to be fungible and treated equivalently with Core Products. ~~[NYBOT]~~ The Exchange shall make all rule changes necessary to permit such new contracts to be traded and cleared, and shall cause ~~[NYBOT]~~ the Clearing Organization ~~[Company]~~ to clear such derivative contracts in accordance with customary risk practices.

(e) Subject to the other provisions of the Bylaws, the Exchange will trade any new contract proposed by ICE that is not a derivative contract for a Core Product, unless the trading or clearance of such new contract would violate applicable laws or regulations or the Board of Directors determines that trading or clearing such new contract would materially and adversely affect the long-term business of the Corporation, without regard to how it may affect any other contract. The Exchange ~~[NYBOT]~~ shall make all rule changes necessary to permit such new contracts to be traded and cleared, and shall cause the ~~[NYBOT]~~ Clearing Organization ~~[Company]~~ to clear such new contracts in accordance with customary risk practices.

(f) Upon the request of ICE, the Exchange will trade all contracts traded by ICE or ICE Futures as of September 14, 2006 and all contracts for energy products traded by ICE or ICE Futures thereafter, unless the trading or clearance of such contracts would violate applicable laws or regulations, or violate any contract that the Exchange was a party to as of September 14, 2006, and which the Exchange remains subject to at the time such products are to be traded. The Exchange ~~[NYBOT]~~ shall make all rule changes necessary to permit such contracts to be traded and cleared, and shall cause ~~[NYBOT]~~ the ~~Clearing~~ Organization ~~[Corporation]~~ to clear such new contracts in accordance with customary risk practices.

#### Section 9. Clearing.

(a) ICE Clear US, Inc. ~~[The NYBOT Clearing Corporation]~~ is hereby designated as the Clearing Organization authorized to clear Transactions. The Board of Directors may from time to time designate one (1) or more additional clearing organizations as being authorized to clear any or all Transactions.

(b) In order to be eligible to be a member of ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ (a "Clearing Member") after the Effective Time, a firm shall satisfy the requirements for Clearing Members set forth in the Rules.

(c) Subject to applicable law and CFTC requirements, the Corporation shall take such actions as are reasonably necessary to cause the organizational documents of ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ not to be inconsistent with these Bylaws.

(d) Subject to the other provisions of these Bylaws, the Corporation shall take such actions as are reasonably necessary to cause ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ to clear any derivative of a contract for a Core Product (such as a Mini or Maxi Contract) proposed by ICE, unless the trading or clearance of such new contract would violate applicable laws or regulations. ICE may determine that any

such Mini or Maxi Contract is to be fungible and treated equivalently with Core Products. ~~[NYBOT]~~ The Exchange shall make, and shall cause ~~[NYBOT Clearing Corporation]~~ ICE Clear US, Inc. to make, all rule changes necessary to permit such derivative contracts to be cleared by ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ in accordance with customary risk practices.

(e) Subject to the other provisions of the Bylaws, the Corporation shall take such actions as are reasonably necessary to cause ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ to clear any new contract proposed by ICE that is not a derivative contract for a Core Product, unless the clearance of such new contract would violate applicable laws or regulations or the Board of Directors determines that clearing such new contract would materially and adversely affect the long-term business of the Corporation, without regard to how it may affect any other contract. The Corporation shall make, and shall cause ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ to make, all rule changes necessary to permit such new contracts to be cleared by ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ in accordance with customary risk practices and to admit as Clearing Members all entities that then clear any such contracts.

(f) The Corporation shall take such actions as are reasonably necessary to cause ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ to clear all contracts traded by ICE or ICE Futures as of September 14, 2006 and all contracts for energy products traded by ICE or ICE Futures thereafter, unless the trading or clearance of such contracts would violate applicable laws or regulations. The Corporation shall make, and shall cause ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ to make, all rule changes necessary to permit such contracts to be cleared by ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~ in accordance with customary risk practices and to admit as Clearing Members all entities that then clear any such contracts.

## ANNEX B

The Corporation may conduct, or arrange for the conduct, of electronic trading on the Exchange as set forth in this Annex B, subject to the express limitations set forth herein.

### **Section 1. Side-by-Side and After-Hours Trading of Commodity Contracts.**

At any time, the Chief Executive Officer of the Corporation shall have the authority to cause the Corporation to implement side-by-side electronic trading (including after-hours electronic trading) with respect to any Commodity Contracts (other than any Commodity Contracts that have the same contract terms as Core Products except that they are cash-settled). In the event that the Corporation lists one of its Core Products for side-by-side electronic and open-outcry trading, the Corporation shall take all steps reasonably necessary to ensure that its settlement prices take full account of trades executed electronically with respect to such Core Product during relevant settlement periods. In the event that either (i) the Chicago Mercantile Exchange, Inc., the Board of Trade of the City of Chicago, Inc., the New York Mercantile Exchange, Inc., Eurex Frankfurt AG/Eurex Zurich AG or Euronext.LIFFE, or in any such case one of their affiliates or successors, introduces a "cash-settled" contract after September 14, 2006 (and if such contract has been introduced prior to the Effective Time, such contract was not terminated or withdrawn prior to the Effective Time) that has the same contract terms as a Core Product except that it is cash-settled (other than immaterially different terms) or (ii) the Board of Directors of ICE requests that the Public Directors determine whether the introduction of a "cash-settled" contract by another exchange is a Competitive Contract (as defined in this Annex B) with respect to a Core Product and the Public Directors, by a Required Public Director Vote, determine that such contract is a Competitive Contract, at the request of ICE, the Corporation will (a) implement side-by-side electronic trading (including after-hours electronic trading) with respect to such cash-settled version of a Core Product and/or (b) if such cash-settled contract is settled using ~~[NYBOT]~~ Exchange prices, eliminate the \$1.00 amount specified in Section 4(b) of Annex A to the Bylaws with respect to the "physically-settled" contract for such Core

Product and adjust the electronic trading fee; provided, however, with respect to clause (i) only, the Public Directors may reinstate such \$1.00 amount with respect to the physically-settled contract for such Core Product if they determine, by a Required Public Director Vote, that reinstating such \$1.00 amount would not reasonably be expected to give rise to a bona fide risk of loss of market share of the Corporation for such Core Product; and provided further that in no event shall the electronic trading fee for such physically settled Core Product be lower than the open outcry trading fee for such product, except in accordance with bona fide market making programs.

## **Section 2. Open-Outcry Trading of Futures Contracts on Core Products.**

The Corporation shall not terminate open-outcry trading of Futures Contracts that are Core Products until one of the following circumstances shall have occurred: (a) a Liquidity Event (as defined in Section 5 hereof) has occurred; (b) the Corporation's lease, existing as of the Effective Time, with respect to the Corporation's trading floor located at the World Financial Center, One North End Ave., New York, NY 10282, has expired or been terminated (other than as a result of a breach thereof by the Corporation or a voluntary termination thereof by the Corporation); or (c) (i) the Public Directors, by a Required Public Director Vote, recommend to the Board of Directors that such action be taken and (ii) such action is approved by a vote of at least two-thirds of the entire Board of Directors, determined as if there were no vacancies; provided, however, that the size of the entire Board of Directors for purposes of calculating the two-thirds vote required by (ii) shall exclude the number of Public Directors, if any, that are barred from voting on such matter due to that fact that such Public Director or a member of such Public Director's immediate family, directly or indirectly, has a financial interest in such matter; provided, further, however, that for this purpose, compensation paid by ICE to such Public Director for serving as a director of ~~[NYBOT]~~ the Exchange shall not be deemed to be a financial interest. If any of the circumstances described in clause (ii) of the definition of "Liquidity Event" or clause (b) of this Section 2 shall have occurred, then all trading of Futures Contracts that are Core Products may be transitioned to fully electronic trading and all open-outcry trading of such Futures Contracts may be terminated. If any of the circumstances described in clause (i) of the definition of "Liquidity Event" shall have occurred, then all trading of Futures Contracts that are Core Products of the type triggering such clause may be transitioned to fully electronic trading and all open-outcry trading of such Futures Contracts may be terminated, but open-outcry trading of other Futures Contracts that are Core Products shall not be terminated on this basis. For so long as open-outcry trading of Futures Contracts that are Core Products has not been terminated pursuant to this Section 2, the Corporation shall (a) maintain an appropriate disaster recovery site, which is at least comparable to the Corporation's recovery site as of the Effective Time, to sustain open-outcry trading in the event the Corporation's trading floor is not available for such trading and (b) dedicate sufficient financial and technological resources appropriate to support and maintain trading on an open-outcry trading floor consistent with prevailing industry practices. Notwithstanding any other term of the Bylaws or any Annex thereto, the Corporation may terminate open-outcry trading of any Futures Contracts that are not Core Products by majority vote of the Board of Directors.

## **Section 4. Discounts.**

Discount for Certain Trading. Notwithstanding anything to the contrary set forth herein, (i) NYBOT Members shall be entitled to a fee reduction of no less than 20% off the lowest fees established by the Corporation and ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~, and charged to individuals who are not NYBOT Members (other than with respect to prices charged in connection with bona fide market making programs) and (ii) NYBOT Member Firms shall be entitled to a fee reduction of no less than 20% off the lowest fees established by the Corporation and ICE Clear US, Inc. ~~[NYBOT Clearing Corporation]~~, and charged to entities that are not NYBOT Member Firms (other than with respect to prices charged in connection with bona fide market making programs). Such fee reductions shall apply with respect to Transactions constituting proprietary trading conducted by the Person entitled to the discount, solely for his, her or its own account, whether executed by open-outcry trading or electronic trading (but shall not include Transactions for customer or other accounts, whether or not such Person is



affiliated with such other account through an ownership interest, control of trading in such account, or otherwise) with respect to any Existing Products;

**Duration of Discount for Certain Electronic Trading.** Upon the transfer by a NYBOT Member of a NYBOT Membership, the discount for Transactions made via electronic trading shall terminate, provided, however, that (i) a transfer to an individual who confers [NYBOT Membership] privileges to a NYBOT Member Firm shall not be deemed a transfer for this purpose and (ii) the leasing of a NYBOT Membership to an individual shall not be deemed a transfer with respect to such NYBOT Member's rights under Section 4(a) of Annex B.

**MFN for Electronic Trading.** From and after the Effective Time, all NYBOT Permit Holders and Lessees shall be entitled to pay the lowest Exchange fee and ICE Clear US, Inc. [NYBOT Clearing Corporation] fee for electronic Transactions in any Existing Product on the Exchange (a "MFN Discount"), but excluding for such purpose (i) any discount pursuant to Section 4(a) above, (ii) fees charged in connection with bona fide market making programs and (iii) in the case of Lessees, fees charged to NYBOT Permit Holders. Such MFN Discount shall apply with respect to Transactions constituting proprietary trading conducted by the NYBOT Permit Holder or Lessee solely for his or her own account (but shall not include Transactions for customer or other accounts, whether or not the NYBOT Permit Holder or Lessee is affiliated with such other account, through an ownership interest, control of trading in such account, or otherwise). The entitlement to such MFN Discount expires upon the first transfer of a NYBOT Trading Permit or a NYBOT Membership, provided, however, that the leasing of a NYBOT Membership to an individual shall not be deemed a transfer for this purpose.

#### **ANNEX D**

(The following definitions shall apply to the Bylaws and Annexes)

#### **[NYBOT] Clearing [Corporation] Organization**

The term "[NYBOT] Clearing [Corporation] Organization" shall mean [New York] ICE Clear[ing] [Corporation] U.S., Inc., a business corporation organized under the laws of New York.

#### **ANNEX F**

The amendment or repeal of the following shall constitute "Core Rights" as such term is used in the Bylaws of the Corporation:

#### **I. [NYBOT] Exchange Rules**

[REMAINDER OF ANNEX UNCHANGED]

#### **RULES**

#### **DEFINITIONS**

##### **Exchange**

The term "Exchange" shall mean [~~the Board of Trade of the City of New York,~~] ICE Futures U.S.<sup>®</sup>, Inc., a corporation organized and existing under the Delaware General Corporation Law.

##### **Rule 2.01. Qualifications**

To be eligible to become and remain a holder of a NYBOT Membership<sup>[5]</sup> or NYBOT Permit [Holder] or [Lessee] to lease a NYBOT Membership, a person must be a natural person at least twenty-one (21) years of age, of good character, reputation and business integrity with adequate financial resources and credit to assume the responsibilities and privileges of Membership.

### **Rule 2.03. Application**

(a) An individual applying to be holder of a NYBOT Membership~~[,]~~ or NYBOT Permit ~~[Holder]~~ or ~~[Lessee]~~ to lease a NYBOT Membership must file with the Exchange an application for Membership in the form supplied by the Exchange, a non-refundable application fee in the amount specified by the Board, a confidential statement or report from two (2) different business references acceptable to the Membership Committee and such other documents as the Exchange may deem necessary or appropriate, including in the case of a NYBOT Membership, evidence that the individual owns or will acquire the Required Shares, or that the Required Shares will be owned by a Member Firm with which the Person has entered into an A-B-C Agreement approved by the Exchange.

[REMAINDER OF RULE UNCHANGED]

### **Rule 2.04. Notice of Application**

The name of each applicant shall be posted on the Member Page of the Exchange's website or otherwise sent to all ~~[NYBOT]~~ Members at least ten (10) days prior to approval by the Exchange.

### **Rule 2.08. Conditions for Denial**

The Exchange may deny Membership or reinstatement to any applicant seeking approval ~~[as]~~ to hold a NYBOT Membership~~[,]~~ or NYBOT Permit ~~[Holder]~~ or ~~[Lessee]~~ to lease a NYBOT Membership who:

[REMAINDER OF RULE UNCHANGED]

### **Rule 2.37. Expenses of Lawsuits Brought Against the Exchange by Members**

Any Member who institutes a lawsuit or other similar proceeding against the Exchange, or any of its officers, the Board ~~[of Governors]~~ or committee members, agents or employees in any court or otherwise and who fails to prevail in such lawsuit or proceeding shall pay to the Exchange and any such officer, member, agent or employee any and all reasonable expenses and disbursements, including attorney's fees and any statutory costs, incurred thereby in the defense of such lawsuit or proceeding.

## **No. 1 - Statement of Policy Concerning Conduct**

The Board ~~[of Governors]~~ has been apprised of a growing incidence of Members acting in a discourteous manner towards Exchange officials—both staff and Members alike. In some extreme cases Members have engaged in verbal abuse and overtly threatening behavior towards Exchange officials.

By the order of the Board ~~[of Governors]~~, the Members are hereby advised that such conduct is unacceptable and will be addressed by appropriate action, including possible disciplinary action under the Rules. Any Member who is dissatisfied with the way an employee or committee official is performing his or her function should bring the matter to the attention of the employee's supervisor or the relevant committee chairman.

**EXHIBIT C**

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

**Rule 4.07. Open Outcry Trading Hours**

(a) Unless otherwise directed by the Board, the open outcry trading hours of the Exchange shall be as follows:

(i) Agriculture Contracts Trading Hours

<b>CONTRACT</b>	<b>OPEN</b>	<b>CLOSE</b>
Cocoa Options	8:00 AM	1:00 PM Closing period commences at 11:48 AM and ends at 11:50 AM
Coffee "C" Options	8:00 AM	1:30 PM Closing period commences at 1:28 PM and ends at 1:30 PM
Cotton No. 2 Options	<del>[8:15]</del> <u>10:30</u> AM	2:15 PM Closing period commences at 2:14 PM and ends at 2:15 PM Pre-Close commences at 2:00 PM
FCOJ Options	10:00 AM	1:30 PM Closing period commences at 1:29 PM and ends at 1:30 PM Pre-Close commences at 1:15 PM
FCOJ Spot	12:45 PM	1:15 PM
<del>[Robusta Options]</del>	<del>8:00 AM</del>	<del>1:30 PM</del> <del>Closing period commences at 1:28 PM and ends at 1:30 PM]</del>
Sugar No. 11 Options	8:10 AM	1:30 PM Closing period commences at 1:28 AM and ends at 1:30 PM

[REMAINDER OF RULE UNCHANGED]

**27.18. Trading Hours**

(a) The ETS trading hours shall be as specified by the Exchange from time to time.

(b) The time period during which daily Settlement Prices shall be determined is:

\* \* \*

(vii) for Sugar No. 14 and Sugar No. 16 Futures Contracts, ~~[2:44]~~1:29 PM – 2:~~[45]~~00 PM;

\* \* \*

(c) On the Last Trading Day for each Exchange Futures Contract, the Trading Session will end:

(i) for Sugar No. 14~~[5]~~ and Sugar No. 16 ~~[and Cash Settled Currency]~~ Futures, at ~~[2:30]~~1:45 PM;

[REMAINDER OF RULE UNCHANGED]