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OFFICE OF THE SECRETARIAT  
2009 APR 27 AM 10 27

**BY ELECTRONIC TRANSMISSION**

Supplemental Submission No. 09-19  
April 27, 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 7.13, 7.17, 9.24, Cocoa Resolution No. 5, Cotton Resolution No.1 and FCOJ Resolution No. 1 - Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Mr. Stawick:

In Submission No. 09-19 dated April 15, 2009, ICE Futures U.S., Inc. ("Exchange") submitted, by written certification in accordance with Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, amendments to numerous rules which created one License and Warehouse Committee and moved product specific storage and delivery provisions contained in Chapter 7 to the appropriate contract rules chapter. This Supplemental Submission corrects errors and makes conforming changes to the amendments and new rules contained in Submission 09-19. The corrected amendments are attached as Exhibit A.

In Submission 09-19, the amendments to Rule 7.13(e) added a provision that required a cotton warehouse operator to submit a license issued by the USDA with its renewal application. This provision should not have been included in the Rule as it has never been a requirement for an Exchange cotton warehouse operator to be licensed by the USDA. The amendments were to include only current requirements and not make changes to those requirements. Therefore, 7.13(e) was corrected by deleting this provision. In addition, Rule 7.17(a)(v) did not include the conforming change to the requirement stated in Rule 7.05, i.e. a cocoa grader must grade cocoa at least once a year. The correction to Rule 7.17(a)(v) makes the conforming change.

In addition, the following corrections have been made as follows:

(1) Rule 9.24, the reference to Warehouse and Licensing Committee should be Warehouse and License Committee;

(2) Cocoa Resolution No. 5.IX.1, 2 and 4, the word coffee should be cocoa;

(3) Cotton Resolution No. 1, the roman numeral for Financial Condition should be (VI), not (VII);

(4) FCOJ Resolution No. 1(III)(3)(C), in the first sentence, the word Rule should be Resolution;

(5) FCOJ Resolution No. 1(III)(7), the reference to subparagraph (II) should be subparagraph (III);

(6) FCOJ Resolution No. 1(V)(6)(A), the reference to subparagraph (III) should be subparagraph (V);

(7) FCOJ Resolution No. 1 (VII)(3)(F)(ii), the word Rule should be Resolution,

(8) FCOJ Resolution No. 1 (XI), in paragraph 1 which is applicable for May 2008 –May 2009 delivery months, the reference to Exchange NFC should be deleted; and

(9) FCOJ Resolution No. 1 (XI)(3) the reference to Non-Negotiable Warehouse Receipts should be Electronic Warehouse Receipts.

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

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 twice and deletions are bracketed and lined out.)

### Rule 7.1[6]3. Term of License; Renewals

\* \* \*

(e) To obtain renewal of a warehouse or tank facility operator license for one (1) or more stores, the warehouse operator of such store(s) must submit to ~~[the Vice President-]~~Commodity Operations, in addition to written notification of its intent to renew, proof in a form acceptable to the ~~[Cocoa, Coffee and Pulp]~~ Warehouse and License Committee of extension of the minimum coverages required by Rule 7.0[5]8 and, with respect to a renewal of a warehouse license to store Exchange Cocoa, a valid CMA Warehouse Compliance Certificate [and, with respect to a renewal of a warehouse license to store Exchange Cotton, a current warehouse operator's license issued by the USDA].

### Rule 7.[20]17. Suspension and Cancellation

(a)(i) The Board or the ~~[Cocoa, Coffee and Pulp]~~ Warehouse and License Committee may, in its sole and absolute discretion, with or without cause, suspend or cancel at any time any license granted or renewed, including without limitation any license issued to a Licensed Store pursuant to the Rules.

\* \* \*

(v) The ~~[Cocoa, Coffee and Pulp]~~ Warehouse and License Committee shall cancel a cocoa grader's Exchange license in the event that such grader fails to grade cocoa a minimum of one (1) time every ~~[two (2)]~~ year[s] as set forth in paragraph (d) of Rule 7.0[6]5.

[REST OF RULE AMENDMENT UNCHANGED]

### Rule 9.24. Rebagging of Cocoa

When to protect the contents of an original bag(s) of Cocoa stored in a warehouse licensed by the Exchange, it shall be necessary to rebag such Cocoa, such rebagging may be done, within the discretion of the ~~[Cocoa and Coffee]~~ Warehouse and Licens[ing]e Committee, and upon the following conditions:

\* \* \*

(b) The Exchange shall refer such request to the ~~[Cocoa and Coffee]~~ Warehouse and Licens[ing]e Committee who may, within their discretion, permit such rebagging to be done under the supervision of a second licensed weigher who shall be appointed by the Exchange.

[REMAINDER OF RULE UNCHANGED]

### No. 5. Warehouse Procedures and Recordkeeping Requirements for the Storage of Exchange Cocoa

RESOLVED, THAT the following are the minimum acceptable standards and procedures to be followed by Exchange licensed cocoa warehouses in connection with the storage of Exchange Cocoa.

#### I. Location and Physical Structure of Warehouse

Any location for the storage of Exchange Cocoa must be maintained on a continuing basis in accordance with the following standards and shall be subject to examination by the Exchange:

\* \* \*

#### IX. Storage and Handling Rates

1. At the time it applies for a license from the Exchange and at the time it applies for renewal of such license, the warehouse operator shall submit to the Exchange its charges for the storage and handling of Exchange Coffee (the "Rates"). Such Rates shall be reasonable and competitive with the Rates charged by other Exchange licensed cocoa [coffee] warehouse operators within the same Exchange delivery port.

2. The Rates may only be increased quarterly based on a calendar year. Written notice must be given to the Exchange thirty (30) days prior to the start of the quarter in which an increase in the Rates will become effective. Prior to the effective date of the increase, the Warehouse and License Committee will review the increase to determine that it is reasonable and competitive with the Rates charged by other Exchange licensed cocoa [coffee] warehouse operators within the same Exchange delivery port.

3. If the Warehouse and License Committee determines that the increase in the Rates is reasonable and competitive, then the increase shall become effective at the start of the calendar quarter.

4. If the Warehouse and License Committee determines that the increase in the Rates is not reasonable and competitive, then the increase shall not become effective with respect to Exchange Cocoa [Coffee] stored in the warehouse operator's Licensed Store(s).

**X. Violations**

[REMAINDER OF RESOLUTION UNCHANGED]

**No. 1. Warehouse Requirements for the Storage of Exchange Cotton**

RESOLVED, THAT the following are the minimum acceptable standards and procedures to be followed by Exchange licensed cotton warehouses in connection with the storage of Exchange Cotton.

**(VII) Financial Condition**

The warehouse operator shall furnish to the Exchange its financial statement as of the end of its last fiscal period certified by an independent public accountant and, further, shall furnish to the Exchange within four (4) months after the end of each subsequent fiscal period a similar certified financial statement.

[REMAINDER OF RESOLUTION REMAINS THE SAME]

**No. 1. Tank Facility Procedures and Requirements for the Storage of Exchange FCOJ**

RESOLVED, THAT the following are the minimum acceptable standards and procedures to be followed by Exchange licensed FCOJ tank facilities in connection with the storage of Exchange FCOJ.

\* \* \*

**(III) USDA Inspection**

\* \* \*

(3) At the time of the physical delivery of FCOJ upon surrender of an EWR, the tank facility operator shall cause samples to be made available to USDA Inspectors from the FCOJ to be delivered so that the USDA Inspectors may issue a Certificate of Quality and Condition. Said USDA Certificate shall be provided on the spot to the tank facility and the Receiver.

\* \* \*

**(C) Replacement Procedure**

In the event that a Receiver chooses to demand replacement under this R[es]olution, the Receiver must issue written demand to the tank facility with a copy to the Exchange, within seven (7) Business Days from the date on which the Exchange informed the Receiver of that right.

\* \* \*

(7) The facility operator shall be bound by the results of the grade reviews performed by the USDA as described in subparagraph (III)(5) of this Resolution. A non-operating owner, as set forth in paragraph (X) of this Resolution shall be bound as well.

\* \* \*

**(V) Tariffs**

\* \* \*

(6) All such written tariff increase requests shall become effective for the following calendar quarter from and after the sixtieth (60<sup>th</sup>) day after receipt unless:

(A) such request has been considered by the Warehouse and License Committee during that period in the manner set forth in subparagraph (III)(5) of this Resolution; and

\* \* \*

**(VII) Delivery Obligations of Licensed Tank Facility Issuing An EWR**

(3) A tank facility shall deliver to the holder of an EWR either fifteen thousand (15,000) lbs. solids (plus or minus 3%) of FCOJ, as specified in the EWR issued by the tank facility, at the unloading platform of said tank facility meeting the specifications for deliverable FCOJ under the Rules upon the surrender of the EWR by the holder and the payment only of all unpaid storage charges due to the tank facility for periods subsequent to the date of the issuance of the EWR and of such load-out charges which have not been previously paid to the tank facility.

\* \* \*

(F) In the event that the tank facility is unable to make available FCOJ specified in the EWR before the end of Day 30, then:

\* \* \*

(ii) storage charges incurred through Day 30 remain in effect; however, storage charges arising after Day 30 shall be waived; provided, however, that if the holder does not adhere to the schedule called for in subparagraph (b)(iv) of this Resolution, then the above penalty shall not apply and a new Day 10 and/or Day 30 may be commenced on any EWR(s) upon which the schedule was violated.

\* \* \*

**(XI) Records**

*Effective with respect to the May 2008 through May 2009 delivery months.*

1. The tank facility operator shall keep a record of the amount of Exchange FCOJ [~~and Exchange NFC~~] stored at the facility for which EWRs have been issued.

\* \* \*

3. The following records relating to Exchange FCOJ shall be kept and maintained by the tank facility operator for at least the indicated periods of time after the FCOJ has been removed from the tank facility, or otherwise no longer identified as Exchange FCOJ:

<u>Category of Document</u>	<u>Time Period</u>
<u>Delivery Orders</u> .....	<u>1 year</u>
<u>Receiving Reports</u> .....	<u>2 years</u>
<u>Stock Record Cards</u> .....	<u>2 years</u>
<u>[Non-Negotiable]Electronic Warehouse Receipts</u> .....	<u>2 years</u>
<u>Storage Report</u> .....	<u>2 years</u>