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BY ELECTRONIC TRANSMISSION

Submission No. 09-28
June 11, 2009

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

Re: Request for Commission Rule Approval: Amendments to Rule 7.08 -
Submission Pursuant to Section 5c(c)(2) of the Act and Regulation 40.4(a)
and
Amendments to Rules 7.06(b) and 7.07(b) -
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6

Dear Mr. Stawick:

Pursuant to Section 5c(c)(2) of the Commodity Exchange Act, as amended, and Commission Regulation 40.4(a), ICE Futures U.S., Inc. ("Exchange") is requesting approval of amendments to Rule 7.08, attached as Exhibit A. In addition, pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, the Exchange submits, by written certification, amendments to Rules 7.06(b) and 7.07(b), also attached as Exhibit A.

Rules 7.06(b) and 7.07(b)

In Submission 09-19 dated April 15, 2009, the Exchange submitted amendments which created one Warehouse and Licensing Committee for Cocoa, Coffee, Cotton and FCOJ and harmonized the licensing process for warehouse operators, graders, samplers and weighers for such markets. Included in those amendments were Rules 7.06(b) and 7.07(b) that, after further review, were determined to be inapplicable to the licensing of Cotton samplers and weighers. The practice of the cotton industry is to have the warehouse operator conduct the sampling and weighing. Hence, the license granted by the Exchange to a cotton warehouse operator includes a license to weigh and sample the cotton in the warehouse. Therefore, paragraph (b) of Rules 7.06 and 7.07 are irrelevant and have been deleted. It should also be noted that the deleted provisions were not part of the Cotton licensing rules prior to Submission 09-19.

Rule 7.08

A review of the standards applicable to warehouse operators licensed to store Exchange Cotton was conducted, in light of certain issues that arose after Cotton stored in Exchange-licensed facilities in Galveston was destroyed in a hurricane. The review has led to the adoption of amendments to Rule 7.08 to provide that all warehouse operators licensed to store Cotton must:

- (1) carry All-Risk insurance which covers certain listed perils;
- (2) meet the financial requirements established by the USDA and Commodity Credit Corporation ("CCC") (which administers the USDA Cotton loan program); and
- (3) be licensed by either the USDA or the state in which the warehouse is located.

The current rules do not require an Exchange-licensed Cotton warehouse operator to carry any insurance. Although most Cotton warehousemen do, the policies do not always cover all of the perils that might be suffered. The recent experience in Galveston showed that some insurance companies do not consider a hurricane to be a peril covered by their policies. Therefore, the amendments to paragraph (b) of Rule 7.08 requires that all Exchange-licensed Cotton warehouse operators carry All-Risk insurance that includes coverage of specified perils, which are: sprinkler malfunction, fire, lightning, windstorm, cyclone, tornado, hurricane, flood including influx or rising water (whether wind driven or not) or inherent explosion and other risk (whether an act of God or force majeure). The All-Risk policies must insure the value of the certificated bales for an amount that is defined and determined in accordance with Exchange Rule 10.22 (Invoicing and Grade and Staple Differences). The insurance requirement is similar to that required by the USDA for Cotton warehouse operators.

The rules currently applicable to Exchange-licensed Cotton warehouse operators require the submission of a certified financial statement at the end of the warehouse operator's last fiscal period. However, there is no capital or financial requirement against which the financial statement is measured, making the filing irrelevant absent evidence of insolvency. Therefore, Exchange-licensed Cotton warehouse operators will be required to meet the financial requirements of the USDA and CCC, which is total net worth of at least \$10.00 times the maximum number of bales that the warehouse operator can store, up to a maximum for \$250,000 per state, with a minimum net worth requirement of at least \$25,000.

Currently, there are no structural or storage standards applicable to the physical warehouse in which the Exchange-licensed warehouse operator stores cotton. Because cotton is stored in a wide range of 'facilities', including outdoors, it has been determined not to set specific standards, but to require that all Exchange-licensed Cotton warehouse operators to be registered as such with either the USDA or the state in which the warehouse is located. This will result in the physical warehouse meeting some, albeit differing, standards while continue to allow for the wide ranging methods under which Cotton is currently stored.

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

The amendments were adopted by the Exchange's Board of Directors on June 10, 2009. The amendments to Rules 7.06(b) and 7.07(b) will become effective on June 15, 2009. The amendments to Rule 7.08 will become effective after approval by the Commission.

Ordinarily, Exchange licenses for Cotton warehouse operators expire at the close of business July 31, 2009. However, in anticipation of the new licensing requirements, the President, pursuant to Rule 7.13 and Standing Resolution No. 7, extended such licenses until September 30, 2009. Although the Commission has forty-five (45) days to grant approval of the amendments to Rule 7.08, the Exchange is asking that such approval be granted as soon as possible in order that the Exchange may begin the process of receiving and approving renewal and original applications for Cotton warehouse operators for the period of October 1, 2009 through July 31, 2010.

No substantive opposing views were expressed by members or others with respect to the amendments.

If you have any questions or need further information, please contact me at 212-748-4084 or 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 7.06. Master Samplers

* * *

~~[(b) To be eligible for an Exchange license as an Exchange Cotton sampler, an applicant must be a warehouse operator licensed as such by the United States Department of Agriculture (“USDA”) and meet such other requirements as the USDA requires for licensed cotton samplers.]~~

Rule 7.07. Weighmasters/Weighers

* * *

~~[(b) To be eligible for an Exchange license as an Exchange Cotton weigher, an applicant must be a warehouse operator licensed as such by the USDA and meet such other requirements as the USDA requires for licensed cotton weighers.]~~

Rule 7.08. Warehouse and Tank Facility Operators

To be eligible for an Exchange license or renewal thereof, a warehouse operator must:

* * *

(b) submit to Commodity Operations and maintain in effect either proof in a form acceptable to the Warehouse and License Committee of the following minimum insurance or bond coverage, as follows:

* * *

(ii) for cotton warehouse operators,

(A) a performance bond or letter of credit with satisfactory sureties in the amount of at least one hundred thousand dollars (\$100,000) and subject to such conditions as shall be acceptable to the Exchange and satisfactory evidence of the existence of such bond and of its continuance in force during the term of the license[-]; and

(B) All Risk-Policies which insure the value of certificated bales against the loss or damage by sprinkler malfunction, fire, lightning, windstorm, cyclone, tornado, hurricane, flood including influx or rising water (whether wind driven or not) or inherent explosion and other risk (whether an act of God or force majeure), and which automatically attach as soon as such cotton is placed in the warehouse operator’s custody and remains in effect so long as the cotton remains in the warehouse operator’s legal custody;

(1) for the purposes of subparagraph (b)(ii)(B) of this Rule, the term “value of the certificated cotton” shall mean no less than the value determined in accordance with Rule 10.22 with the value date being the date the damage to the certificated bales occurred; provided, however, that if such damage occurs on a weekend or holiday, the value date shall be the preceding Business Day; and

(2) in the event that the amount of any loss or damage sustained by the owner of the certificated bale(s) is not payable, or is not payable in full, by the insurer by reason of any deductible set forth in any such policy or otherwise, the warehouse operator will promptly pay such amount.

* * *

(d) with respect to an application to store Cotton,

(i) be licensed as a Cotton warehouse operator by the USDA or the state in which the Licensed Store is located;

(ii) have operational rail sidings or, in the absence of such, must agree at the option of a Receiver in a delivery to move cotton in a delivery to the nearest operational rail siding at the warehouse operator's expense; and

(iii) submit a financial statement as of the end of the warehouse operator's last fiscal period certified by an independent public accountant; and

(iv) have and maintain at all times a total net worth of at least ten dollars (\$10.00) times the maximum number of bales that the warehouse operator can store, up to a maximum of two hundred fifty thousand dollars (\$250,000) per state, but in no event less than twenty-five thousand dollars (\$25,000) total net worth;

(A) for the purposes of this Rule, the term "net worth" shall mean the excess of allowable assets over liabilities.

[REMAINDER OF RULE UNCHANGED].