



ICE FUTURES U.S.
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BY ELECTRONIC TRANSMISSION

C.F.T.C.
OFFICE OF THE SECRETARIAT

2009 SEP 18 AM 10 13

Submission No. 09-39
September 17, 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: Amendments to Rules 7.08, 21.02(e) and Adoption of New Rule 27.03A -
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 7.08 and 21.02(e) and the adoption of new Rule 27.03A, attached as Exhibit A.

Rule 7.08

Exchange-licensed cocoa and coffee warehouse operators and FCOJ tank facility operators are required to post a performance bond ("Bond") or irrevocable letter of credit ("LC") naming the Exchange as the beneficiary for the term of the respective license. Very often a warehouse or tank facility operator will post a Bond or LC that does not cover the full term of the license, requiring Commodity Operations staff to keep track of expiring Bonds and LCs and make sure that the warehouse or tank facility operator provides another Bond or LC before the current one expires. At times, there have been lapses in coverage which put the Exchange at risk. In order to eliminate this risk, Rule 7.08 was amended to require cocoa and coffee warehouse operators and FCOJ tank facility operators to have, at the time they either apply for a license or file a renewal, a Bond or LC for the full term of the license. This requirement is already in place for cotton warehouse operators.

Rule 21.02(e)

The amendments to Rule 21.02(e) eliminate the requirement that a warning letter be issued before a summary fine can be imposed by the Vice President of Market Regulation ("Vice

President”), and increase the maximum amount of a summary fine issued by the Vice President from one thousand dollars (\$1,000) to ten thousand dollars (\$10,000).

Rule 21.02(e) authorizes the Vice President to take summary action for infractions such as recordkeeping violations, failure to report sales on the close, failure to report block trades within five minutes and failure to obtain a unique log-in identification for the Electronic Trading System. The Rule currently requires that the Vice President issue a warning letter for each specific infraction before a summary fine of up to one thousand dollars (\$1,000) may be imposed. Elimination of the warning letter prerequisite and an increase of the maximum fine amount to ten thousand dollars (\$10,000) are warranted for several reasons: first, there is no reason to require issuance of a warning letter in light of the fact that new rules, which traders may not be aware of and inadvertently violate, are rarely introduced; second, the \$1,000 maximum summary fine has been the standard for more than a decade and has never been adjusted for inflation; and third, allowing the Vice President to assess more substantial fines will expedite the resolution of record keeping cases that would otherwise takes time to resolve utilizing the Business Conduct Committee process.

New Rule 27.03A

The ICEBlock system is the electronic system used by the Exchange for the input of permissible non-competitive trades, i.e. Block Trades, Exchange for Physicals, Exchange for Swaps and Exchange of OTC Options for Exchange-traded Options. New Rule 27.03A codifies the access requirements for ICEBlock and the obligations of Clearing Members and other persons authorized by the Clearing Members to use ICEBlock for the submission of the permissible non-competitive trades. The new Rule codifies the following procedures:

- (1) All Clearing Members have access to the ICEBlock to input permissible non-competitive trades. In addition, a Clearing Member can authorize its customer or another third party (“Authorized Persons”) to be given access to ICEBlock to input such trades. Prior to being given access, Authorized Persons must execute either (i) an Electronic User Agreement, which gives the Authorized Person direct access to the ICE electronic trading platform and ICEBlock, or (ii) the ICEBlock Access and Use Agreement, which gives the Authorized Person direct access solely to ICEBlock.
- (2) Block Trades automatically clear on the trade date either to (i) the Clearing Member to whom the trade was allocated, or (ii) to the Clearing Member that authorized the Authorized Person to submit the permissible non-competitive trades for a specified account.
- (3) Given the procedure in number (2) above, an authorized Person’s Clearing Member Guarantor for access to the ICE electronic trading platform will not be obligated to clear trades submitted to ICEBlock by the Authorized Person.

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 at its meeting on September 17, 2009 and will go into effect on September 21, 2009.

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 7.08. 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 and maintain such coverage in effect, as follows:

(i) for cocoa and coffee warehouse operators,

(A)(1) Outstanding performance bond coverage or an unconditional irrevocable letter of credit from a financial institution approved by the Exchange (an "Approved Financial Institution") in the amount of at least the following:

Amount	Exchange Licensed Storage Space
\$100,000	Up to—250,000 Sq. Ft.
\$175,000	250,001—500,000 Sq. Ft.
\$225,000	500,001—750,000 Sq. Ft.
\$250,000	750,001—Above

(2) Any performance bond or irrevocable letter of credit submitted to satisfy the requirements of subparagraph (a)(i)(A)(1), above, must be issued or confirmed by an Approved Financial Institution, be in such form as may be prescribed by the Exchange from time to time, and shall not expire until the thirtieth (30th) day of April occurring next following the effective date of the granting or renewal of the license;

* * *

(iii) for FCOJ tank facility operators,

* * *

(C) Performance Bond: Letter of Credit. Limitation of Issuance of EWRs

(1) a performance bond with a principal amount of one million dollars (\$1,000,000); or

(2) a letter of credit, in favor of the Exchange which is unconditional and irrevocable and available to be drawn upon by the Exchange by clean sight drafts, in the amount of one million dollars (\$1,000,000).

(3) any performance bond or irrevocable letter of credit submitted to satisfy the requirements of subparagraphs (a)(i)(C)(1) or (2), above, must be issued in such form as may be prescribed by the Exchange from time to time, and shall not expire until the thirty-first (31st) day of December occurring next following the effective date of the granting or renewal of the license.

[REMAINDER OF RULE UNCHANGED]

Rule 21.02. Compliance Staff — Powers and Duties

* * *

(e) Notwithstanding the provisions of paragraph (d) of this Rule, the Vice President or his designee may issue a warning letter or impose a summary fine of no more than ten thousand dollars (\$10,000) [if] in any case in which it is concluded[s] that there may have been a violation of:

(i) any trading card or order ticket record keeping rule[;];

(ii) [a violation of] Rule 4.25(b) [for which] provided, however, that the Floor Committee has not already taken any action[;];

(iii) [or a violation of] Rule 4.31(c) [may have occurred]; or

(iv) Rule 27.05(a)(i).

~~[the Vice President may impose a summary fine of no more than one thousand dollars (\$1,000) after one (1) warning letter has been issued to the Member for the same violation, and, if in any case, the Vice President concludes that a violation of Rule 27.05(a)(i) may have occurred, the Vice President may impose a summary fine of no more than one thousand dollars (\$1,000).] The authority to impose such a summary fine does not limit the Vice President's authority to refer the matter to the BCC instead of imposing a summary fine. A summary fine imposed in accordance with this paragraph shall become final and effective and payment shall become due and owing to the Exchange fifteen (15) calendar days after the Member receives the fine.~~

Rule 27.03A. Access for Submitting Block Trades and Other Non-Competitive Transactions

(a) Block Trades, EFPs, EFSs and EOOs are non-competitive Transactions that may be executed in accordance with Exchange Rules specifically applicable to them and submitted to the Exchange by the Customer or another Person authorized to do so by the Clearing Member carrying the account for which the Transactions are submitted (an "Authorized Person").

(b) An Authorized Person who has not executed an Electronic User Agreement shall have limited access to ETS for the sole purpose of submitting non-competitive Transactions permitted by the Exchange, provided that an ICEBlock Access and Use Agreement, or such other agreement as the Exchange may require from time to time, has been duly executed by the Authorized Person.

(c) Any Block Trade submitted to the ETS by an Authorized Person in accordance with this Rule that is not otherwise accepted by a Clearing Member shall be automatically cleared on the Trade date to the Clearing Member which authorized the submission of non-competitive trades by the relevant Authorized Person for the account to which the Authorized person allocated such Block Trade.

(d) The Clearing Member Guarantor, if any, of an Authorized Person who submits Trades in accordance with this Rule shall have no obligations under Rule 27.04(b) with respect to the clearance of such Trades.