

 **ICE** FUTURES U.S.  
World Financial Center  
One North End Avenue  
New York, New York 10282

**BY ELECTRONIC TRANSMISSION**

Submission No. 09-48  
November 12, 2009

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

Mr. David A. 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 7.00, 7.04, 7.06, 7.07, 7.13, 8.10(g)(iii), 21.03 and 21.11, Licensing Resolution No.1 and Standing Resolution No. 7 - 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 7.00, 7.04, 7.06, 7.07, 7.13 and Licensing Resolution No.1, attached as Exhibit A; Rule 8.10(g)(iii), attached as Exhibit B; Rules 21.03 and 21.11, attached as Exhibit C; and Standing Resolution No. 7, attached as Exhibit D.

**Rules 7.00, 7.04, 7.06, 7.07, 7.13 and Licensing Resolution No. 1**

Sugar No. 16 Rule 29.10 provides for the Deliverer to designate an Exchange-licensed weighmaster and sampler to act on his behalf when the sugar is weighed and sampled at the Receiver's designated refinery. The number of deliveries in Sugar No. 16 is relatively small and is conducted in U.S. ports and refineries among the domestic commercials. Except for the licensing of weighmasters and samplers, the Exchange takes no part in and does not supervise the Sugar No. 16 deliveries. Last April, the Exchange implemented comprehensive amendments to the Exchange's Licensing Rules in order to harmonize the licensing provisions amongst the four (4) agricultural commodities which are delivered through the exchange of electronic warehouse receipts. The rule amendments, however, did not provide for the licensing of weighmasters and samplers for Sugar No. 16. The amendments to Rules 7.00, 7.04, 7.06, 7.07, 7.13 and Licensing Resolution No. 1 provide for such licensing. It should be noted that at all times since last April, sugar weighmasters and samplers had already been granted their annual Exchange licenses and no lapse in having Exchange-licensed sugar weighmasters and samplers occurred.

Rule 8.10(g)(iii)

Coffee Rule 8.10(g)(iii) provides that, in the event that coffee is moved in accordance with Rule 8.10(g) and has been previously weighed for Exchange delivery, the Exchange weights shall be invalidated at the time of the move, and new Exchange weights shall be issued and entered upon completion of the move. In order to make it clear that the weights should be entered into eCOPS as soon as possible, Rule 8.10(g)(iii) was amended to state that, upon completion of the move of each chop of coffee, new weights must be taken and entered.

Rules 21.03 and 21.11

After a full disciplinary hearing, a hearing panel of the Business Conduct Committee (“BCC”) has the authority to impose a sanction not to exceed one hundred thousand dollars (\$100,000) for each violation committed by a Respondent. However, prior to any hearing, BCC subcommittees have the limited authority to make a settlement offer which may include a sanction not to exceed twenty-five thousand dollars (\$25,000). Rules 21.03 and 21.11 were amended so that the BCC subcommittees have the authority to make a settlement offer which may include a sanction that is equal to the sanction that may be imposed after a hearing, i.e. the amendments increase the maximum sanction for a settlement offer from \$25,000 to \$100,000 for each violation.

Standing Resolution No. 7

The amendment to Standing Resolution No. 7 authorizes the President to change the settlement period for any Exchange-traded contract when there is an Exchange or domestic holiday.

The amendments were adopted by the Exchange’s Board of Directors at its meeting on November 11, 2009. The amendments will go into effect on November 16, 2009. The Exchange certifies that amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. 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 at [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 7.00. Scope of Chapter

The Rules of this Chapter govern the licensing of individuals and Firms engaged in the storage, grading and handling of cocoa, coffee, cotton, sugar and frozen concentrated orange juice (“FCOJ”) for deliveries pursuant to the Exchange’s Cocoa, Coffee “C”<sup>®</sup>, Cotton No. 2<sup>®</sup>, Sugar No. 16 and FCOJ Futures Contracts.

### Rule 7.04. License and eCOPS<sup>®</sup> Participant and EWR Provider Agreements

To be eligible for an Exchange license, an applicant must execute:

\* \* \*

(b) with respect to Exchange Cocoa, Coffee, Sugar No. 16 and FCOJ, the applicable eCOPS Participant Agreement; or

[REMAINDER OF RULE UNCHANGED]

### Rule 7.06. Master Samplers

(a) To be eligible for an Exchange license as an Exchange Cocoa, Sugar or Coffee master sampler, an applicant must:

(i) have executed an eCOPS Participant Agreement and have access to and be able to use eCOPS; and

(ii) provide to the Warehouse and License Committee proof acceptable to the Committee of sufficient knowledge, training and experience in the field of sampling. Applicants must also register with the Exchange the names of all those individuals it shall employ as samplers to perform Exchange sampling duties and shall attest to each individual's knowledge, training and experience in the field of sampling. Master samplers shall be responsible for the acts of all such individuals and shall immediately notify the Exchange’s Commodity Operations Department (“Commodity Operations”) of any additions to or deletions from such required listing.

### Rule 7.07. Weighmasters/Weighers

(a) To be eligible for an Exchange license as an Exchange Cocoa, Sugar or Coffee weighmaster, an applicant must:

(i) have executed an eCOPS Participant Agreement and have access to and be able to use eCOPS; and

(ii) provide to the Warehouse and License Committee proof acceptable to the Committee of sufficient knowledge, training and experience in the field of weighing. Applicants must also register with the Exchange the names of all those individuals it shall employ to perform Exchange weighing duties and shall attest to each such individual's knowledge, training and experience in the field of weighing the related commodity. Weighmasters shall be responsible for the acts of all such individuals and shall immediately notify Commodity Operations of any additions to or deletions from such required listing.

**Rule 7.13. Term of License; Renewals**

(a) Unless otherwise provided by the Board, each license granted or renewed, including without limitation the license of any Licensed Stores, shall be valid:

(i) for cocoa and coffee graders, master samplers, weighmasters and warehouse operators and sugar master samplers and weighmasters, until the thirtieth (30<sup>th</sup>) day of April of each year following the effective date of the granting or renewal of the license;

[REMAINDER OF RULE UNCHANGED]

**RESOLUTIONS**

**No. 1. Licensing Resolution—Schedule of License Fees**

WHEREAS, the Board is authorized by Rule 7.15 to establish annual license fees;

NOW THEREFORE BE IT RESOLVED that the Board hereby places the following schedule of license fees into effect:

TYPE OF LICENSE	COFFEE	SUGAR	COCOA	PULP	COTTON	FCOJ
<b>Licensed Stores</b>						
First Store or Warehouse code	\$300	N/A	\$300	\$300	\$300	\$300
Any Subsequent Store or Warehouse code	\$200	N/A	\$200	\$200	\$200	\$200
Renewal store or Warehouse code	\$200	N/A	\$200	\$200	\$200	\$200
<b>Master Sampler</b>	\$200	\$200	\$200	N/A	N/A	N/A
Renewal	\$100	\$100	\$100	N/A	N/A	N/A
<b>Weighmaster</b>	\$200	\$200	\$200	N/A	N/A	N/A
Renewal	\$100	\$100	\$100	N/A	N/A	N/A
<b>Grader</b>	\$200	<del>[\$200]</del> N/A	\$200	N/A	N/A	N/A
Renewal	\$100	<del>[\$100]</del> N/A	\$100	N/A	N/A	N/A

## EXHIBIT B

(In the text of the amendment below, additions are underlined.)

### Rule 8.10 Certificate of Grade

\* \* \*

(g)(iii) In the event that coffee that is moved pursuant to this paragraph (g) has been previously weighed for Exchange delivery, the Exchange weights shall be invalidated at the time of the move, and new Exchange weights shall be issued and entered upon the completion of the move of each chop of coffee; provided, however, if such coffee is moved at the request of the owner, new Exchange weights will only be issued and entered upon the owner's request.

[REMAINDER OF RULE UNCHANGED]

## EXHIBIT C

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

### Rule 21.03. The Business Conduct Committee

\* \* \*

(e) In any case where a subcommittee of the Business Conduct Committee concludes that a Rule violation may have occurred, such subcommittee of the Business Conduct Committee shall advise the Member or non-member market participant of that fact and may:

\* \* \*

(iv) negotiate and enter into a written settlement agreement with the Member or non-member market participant, whereby the Member or non-member market participant, with or without admitting guilt, may agree to:

(1) a cease and desist order or a reprimand;

(2) a fine of up to [~~twenty-five~~] one hundred thousand dollars (\$~~25~~100,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;

(3) a voluntary suspension of up to one (1) year for each Rule violation alleged;

(4) expulsion;

(5) a prohibition against executing any Customer orders; and/or

(6) as part of a suspension or expulsion, the term or condition that the Member may not be employed by another Member as a floor employee, or any combination thereof; or

(7) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and the issuance of a notice directing all Members to deny access to such non-member market participant to the Exchange's markets for such period of time;

provided, however, in any case in which it is concluded that the Member may have violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, the subcommittee of the Business Conduct Committee shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Member, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties.

### Rule 21.11. Settlement Prior to Commencement of Hearing

Prior to the commencement of the hearing, the Hearing Panel may approve the entry into a settlement agreement with the Respondent, whereby the Respondent, with or without admitting guilt, may agree to:

(a) a cease and desist order or a reprimand;

(b) a fine of up to [~~twenty-five~~] one hundred thousand dollars (\$~~25~~100,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;

(c) a voluntary suspension of up to one (1) year for each Rule violation alleged;

(d) a prohibition against executing any Customer orders;

(e) expulsion; and/or

(f) as part of a suspension or expulsion, the term or condition that the Respondent may not be employed by another Member as a floor employee, or any combination thereof; or

(g) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and directing all Members to deny access to such non-member market participant to the Exchange's markets;

provided, however, in any case in which it is concluded that the Respondent may have violated a Rule involving the execution of, or the failure to execute, a Customer Transaction, the Hearing Panel shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Respondent, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties.

## EXHIBIT D

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

### R-7 Delegation of Authority to President

WHEREAS, Bylaw Section 4.3 provides that the business of the Exchange shall be managed by or under the direction of the Board of Directors (“Board”); and

WHEREAS, Bylaw Section 9.1 authorizes the Board of Directors to appoint a President and other officers to carry out the business of the Exchange; and

WHEREAS, the Licensing Rules authorize the Board to grant Exchange licenses to chemists, graders, master samplers, warehouse or tank facility operators and weighmasters; and

WHEREAS, Article XVI of the Bylaws authorizes the Board to adopt Rules or make any amendments to the Rules that are not inconsistent with the Bylaws; and

WHEREAS, the adoption of certain Rules or amendments and the granting of licenses are administrative in nature;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby delegates to the President the authority to:

1. grant Exchange licenses to chemists, graders, master samplers, warehouse or tank facility operators and weighmasters, in each case, upon the recommendation of the relevant committee; ~~and~~

2. adopt or amend Rules governing (i) trading hours; (ii) procedures for the purchase, sale or transfer of a Membership (excluding qualifications, rights or obligations of a Membership); (iii) Option contract rules relating to procedures for listing Strike Prices, Strike Price intervals and listing of Strike Prices on a discretionary basis; (iv) reduction in the minimum price fluctuation of an Exchange Commodity Contract; (v) administrative procedures (excluding voting requirements, Board or committee composition, disclosure of material, non-public information and conflicts of interest); (vi) holidays; (vii) acceptable types of orders (other than those relating to non-competitive trades) and (viii) procedures relating to the submission of trades for matching and clearing[-];

3. change the settlement period for Cocoa futures and options contracts by as much time as is necessary and for as long a period as is necessary in order to keep the settlement periods between the Exchange and LIFFE consistent with each other when the normal 5-hour time difference between New York and London is affected by the start or end of British Summer Time and/or Daylight Savings Time[-]; and

4. solely with respect to Exchange or domestic holidays, change the settlement period for any Commodity Contract.