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**BY ELECTRONIC TRANSMISSION**

Submission No. 10-54  
December 9, 2010

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 Cocoa Resolution No. 4 -  
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 Cocoa Resolution No. 4, attached as Exhibit A.

June 15, 2006 was the last time the fees for grading cocoa were increased, and the entire increase was allocated as payment to the graders (see Submission No. 06-14). The Exchange, however, has not received an increase to its share of the grading fee since the mid-1980s, almost 25 years ago, despite increases in administrative costs. Therefore, Cocoa Resolution No. 4 was amended to reflect an increase of nine dollars (\$9) to each of the grading categories to cover increases in administrative costs. The entire \$9 increase will be allocated to the Exchange and will go into effect as of January 1, 2011.

In addition, effective with the March 2012 Cocoa futures contract, grading for waste will become a term and condition for delivery of cocoa under the futures contract (see Submission No. 10-4). As part of the Exchange's program for training the Cocoa graders in determining the percentage of waste in a sample, the Exchange will begin to include waste as part of the grading process as of June 1, 2011. Since determining the percentage of waste takes time and expertise, Cocoa Resolution No. 4 was amended to reflect an additional nine dollars (\$9) to be added to the grading fee as of June 1, 2011, with the entire \$9 increase allocated to the graders.

The increases will not have a material effect on the value of the Cocoa futures contract.

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 December 9, 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 [jill.fassler@theice.com](mailto:jill.fassler@theice.com) or 212-748-4084.

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.)

### No. 4. Cocoa Grading Fees

WHEREAS, Rule 9.18 authorizes the Board to establish fees, payable by the Person, who submitted the Sampling Order, to the Exchange, for grading Cocoa in accordance with the Rules;

NOW, THEREFORE, BE IT RESOLVED, that with respect to each Lot graded by Exchange licensed graders, the Person, who submitted the Sampling Order, shall pay the Exchange the following fees, which shall be distributed by the Exchange to such graders as indicated below:

~~(i) ninety-nine dollars (\$99) per Lot of one (1) or two (2) chops, of which each such grader shall receive eighteen dollars (\$18);~~

~~(ii) one hundred eleven dollars (\$111) per Lot of three (3) chops, of which each such grader shall receive twenty-one dollars (\$21);~~

~~(iii) one hundred twenty-three dollars (\$123) per Lot of four (4) chops, of which each such grader shall receive twenty-four dollars (\$24); and~~

~~(iv) one hundred thirty-five dollars (\$135) per Lot of five (5) or six (6) chops, of which each such grader shall receive twenty-seven dollars (\$27);~~

RESOLVED, that the term "Lot" as used in this Resolution shall mean the entire quantity of Cocoa beans tendered in fulfillment of an Exchange Futures Contract; provided, however, that if only a portion of a Lot shall be graded the fee to be paid to the Exchange shall be the corresponding portion of the fee adjusted to the next higher even dollar amount (the "adjusted fee") and that portion of the fee to be distributed to each appropriate licensed grader shall be one third of:

~~(i) fifty percent (50%) of the adjusted per Lot fee in the case of one (1) or two (2) chops;~~

~~(ii) fifty-seven percent (57%) of the adjusted per Lot fee in the case of three (3) chops;~~

~~(iii) fifty-nine percent (59%) of the adjusted per Lot fee in the case of four (4) chops;~~

~~(iv) sixty percent (60%) of the adjusted per Lot fee in the case of five (5) or six (6) chops; and]~~

*Effective from January 1, 2011 through May 31, 2011*

<u>Number of Chops</u>	<u>Grading Fee</u>	<u>Exchange Portion</u>	<u>Grader Portion</u>	<u>Fee per Grader</u>
1 to 2	\$108	\$54	\$54	\$18
3	\$120	\$57	\$63	\$21
4	\$132	\$60	\$72	\$24
5 to 6	\$144	\$63	\$81	\$27

*Effective from June 1, 2011 and all subsequent grading*

<u>Number of Chops</u>	<u>Grading Fee</u>	<u>Exchange Portion</u>	<u>Grader Portion</u>	<u>Fee per Grader</u>
1 to 2	\$117	\$54	\$63	\$21

3	\$127	\$57	\$70	\$23
4	\$139	\$60	\$79	\$26
5 to 6	\$153	\$63	\$90	\$30

and:

BE IT FURTHER RESOLVED that, the “number of chops” referred to in the above chart is for each Lot which for the purposes of this Resolution shall mean the entire quantity of Cocoa beans tendered in fulfillment of one (1) Exchange Cocoa Futures Contract; and

BE IT FURTHER RESOLVED, that where a Sampling Order is filed with the Exchange and cocoa is received for grading and where the Exchange is then requested to cancel the submission for grading, the Exchange shall retain

- ~~[(i) fifty percent (50%) of the per Lot fee in the case of one or two (2) chops;~~
- ~~(ii) forty-three percent (43%) of the per Lot fee in the case of three (3) chops;~~
- ~~(iii) forty-one percent (41%) of the per Lot fee in the case of four (4) chops; and~~
- ~~(iv) forty percent (40%) of the per Lot fee in the case of five (5) or six (6) chops.~~

~~The] its portion of the Grading Fee and the remainder of the [f] Grading Fee(s) shall be returned to the Person submitting the Sampling Order. Where the Exchange receives a request to cancel the submission for grading and the grading has already occurred, no portion of the [f] Grading Fee(s) shall be returned to the Person submitting the Sampling Order.~~