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

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BY ELECTRONIC TRANSMISSION

Submission No. 10-62
December 22, 2010

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 Chapter 27, Appendix II Exchange Messaging Policy - 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 the Exchange's Messaging Policy (Chapter 27, Appendix II), attached as Exhibit A.

The Exchange has reviewed its current messaging policy and determined that the policy needed to be updated to account for the increased usage and volume executed on the Exchange's electronic trading system ("ETS").

The amendments replace the original policy with one that only applies to those futures contracts that are determined by the Exchange to be "Designated Contracts". If a futures contract has an average daily volume of 10,000 contracts, the futures contract is deemed a "Designated Contract". Hence, the Designated Contracts for the Exchange are Cocoa, Coffee "C"®, Cotton No. 2®, Sugar No. 11®, the Russell Complex and the U.S. Dollar Index® futures contracts.

The amended policy no longer defines a "Message Count Threshold" or "Volume Ratio" but replaces both with a definition of a "Weighted Volume Ratio" or "WVR". WVR is defined as the total number of messages sent to ETS multiplied by a price-based weighting scale divided by the total number of lots traded by the Firm with direct access. The amended policy will impose a surcharge on "Firms with direct access" instead of "Registered Operators" as such firms are readily identifiable and more easily held accountable. In addition, the amendments provide for an increase in the surcharge as the Firm's WVR increases.

Market Makers may be exempted from the surcharge. The determination will be made on a case-by-case basis and will be based on such criteria as the liquidity of the particular market and the volume and number of trades by the Market Maker in the particular market.

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 December 9, 2010 and will go into effect on January 3, 2011 with all surcharges being waived until March 1, 2011. 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.)

APPENDIX II

EXCHANGE MESSAGING POLICY

Introduction

[~~The Exchange Messaging Policy (hereinafter the "Policy") provides a cost guideline that will encourage Users to properly trade and quote the Exchange futures markets listed on the ICE trading platform. Inefficient and excessive messaging can slow the performance of the platform, which may negatively affect the Exchange market participants. Accordingly, the Policy is aimed at preventing inefficient and excessive messaging without compromising market liquidity. Users who exceed both a set Message Count Threshold ("MCT") and Volume Ratio ("VR") in any Exchange contract or spread market are subject to surcharge.~~

~~Message Count Threshold~~

~~The Exchange has implemented a MCT of 3,000 messages. Users who enter more than 3,000 messages in any Exchange contract or spread market during the VR compliance hours may be subject to a surcharge if that User's VR (explained below) exceeds 20:1. The attached schedule provides a list of the VR compliance hours for each Exchange Futures Contract. User's who enter less than 3,000 messages during the VR compliance hours are not required to comply with the 20:1 VR. Notwithstanding the foregoing, the President has been delegated the authority to change the VR for any product.~~

~~Volume Ratio~~

~~The VR is defined as the total number of messages sent to the ICE platform divided the total number of lots traded. The result is a ratio of the number of messages per executed contract. For the purposes of the VR calculation, each order submission, revision, hold, withdrawal and/or consummation of an order constitutes one message.~~

~~The Exchange will levy charges on the basis of those Registered Operators whose system usage as configured on the ICE ETS exceeds a VR of 20:1 in any of the Exchange contract or spread markets during the VR compliance hours for that market. The term "Registered Operator" has the same meaning as provided in the Exchange Rules.~~

~~Surcharges~~

~~Registered Operators who exceed both the MCT and VR in any Exchange contract or spread market during VR compliance hours will receive an automated notification. After two sessions of non-compliance within a calendar month, the Person who executed the Electronic User Agreement authorizing the Registered Operator(s) will be billed a surcharge in accordance with the attached schedule for each subsequent session a Registered Operator authorized by that Person exceeds the required messaging limits. Please note that the Exchange will waive charges in respect of the first and second Trading Days during each calendar month for each contract or spread market in which any eBadge exceeds the MCT and VR.~~

~~Registered Operators and Responsible Individuals may obtain information regarding their messaging at the ICE website, www.theice.com.~~

~~Termination~~

~~In addition to the introduction of the charges, the Exchange retains the right to restrict or suspend access to Exchange markets listed on the ICE platform should the Exchange determine that the message usage~~

~~associated with any Registered Operator or User becomes capable of impairing the orderly conduct of Exchange business.~~

~~Volume Ratio Charge Structure~~]

[~~Market~~	~~Maximum~~ VR per ~~Registered Operator~~	~~VR Compliance Hours (New York Time)~~	~~Charge for exceeding maximum VR~~
~~Cocoa Coffee "C"® Sugar No. 11® Cotton No. 2® FCOJ, Currencies, USDX®, Equity Indexes and Commodity Indexes.~~	~~20:1~~	~~10:00AM – 2:30PM~~	~~$1,000 per Registered Operator per day that the VR is exceeded, plus an additional $1,000 if the VR exceeds a ratio of 30:1~~]

The level of computer-generated order-flow on the Exchange has progressively increased since the Exchange's business became fully electronic. In some circumstances, inefficient and excessive messaging can slow the performance of the ETS and increase bandwidth and other operational requirements for Members. In order to address this concern, the Exchange implemented the Exchange Messaging Policy ("the Policy").

The Policy is designed to discourage inefficient and excessive messaging without compromising market liquidity and sets out certain messaging thresholds which it expects Firms with direct access not to exceed. Most trading activity for Firms with direct access operates well within the thresholds set out in this Policy. The Exchange will levy charges on those Firms with direct access whose system usage per Firm as configured on the ICE Platform exceeds certain thresholds.

Scope of policy

This Policy applies to such Exchange contracts as shall be designated from time-to-time ("the Designated Contracts"). The initial Designated Contracts are Cocoa, Cotton No. 2®, Coffee "C"®, Sugar No. 11®, the Russell Complex and the U.S. Dollar Index® futures contracts. The Policy will apply to those Firms with direct access who enter more than 100,000 messages in any Designated Contract market on a particular trading day. For the purposes of the Policy, each order submission, revision, hold, cancel/replace and/or consummation constitutes a message.

Weighted Volume Ratio

The Weighted Volume Ratio ("WVR") is defined as the total number of messages sent to the ETS multiplied by a price-based weighting scale divided by the total number of lots traded. The result is a figure for weighted messages per executed contract.

Each message is weighted as set out below.

	Price-based weighting multiplier		Description
Price difference from best bid or offer	Outrights	Spreads	
None (best bid or offer)	0	0	If the price is the best bid or offer, it will not be counted
At market bid or offer	0	0	If the price equals the best bid or or best offer, it will not be counted
1 tick off market	0.5	0.25	If the price is within one minimum price fluctuation ("tick") of the best bid or best offer it will count as one half of a message for an outright trade and one quarter off a message for a spread trade
2 ticks off market	1.0	0.5	If the price is within two (2) ticks of the best bid or best offer it will count as one (1) message for an outright trade and half (0.5) a message for a spread trade
3 to 5 ticks off market	2.0	1.0	If the price is between three (3) and five (5) ticks from the best bid or best offer it will count as two (2) messages for an outright trade and one (1) message for a spread trade
More than 5 ticks off market	3.0	2.0	If the price is more than five (5) ticks from the best bid or best offer it will count as three (3) messages for an outright trade and two (2) messages for a spread trade

WVR Thresholds

Firms with direct access who exceed a WVR of 100:1 in a Designated Contract on a particular trading day will receive an electronic notification.

Firms with direct access who exceed a WVR of 100:1 in any Designated Contract or spread market for seven (7) or more electronic trading days in any calendar month will be subject to a one thousand dollar ($1,000) surcharge for that calendar month.

Firms with direct access who meet or exceed a WVR of 500:1 in any Designated Contract or spread market on any electronic trading day will be subject to a two thousand dollar ($2,000) surcharge per day for every day that the WVR of 500:1 has been met or exceeded.

Firms with direct access may obtain information regarding their messaging at the ICE website, www.theice.com.

Firms with direct access who are enrolled in any official Exchange Market Maker Program will be monitored under the guidelines set forth in this Messaging Policy; however, such Market Makers may be exempted from the surcharges listed below with such exemption to be determined on a case-by-case basis according to specific circumstances, which include but are not limited to, the liquidity of the particular market and the volume and number of trades by such Market Maker in the particular market.

Restriction or suspension of access

In addition to the surcharges, the Exchange retains the right to restrict or suspend access to Exchange markets listed on the ETS should the Exchange determine that the message usage associated with any Firm with direct access becomes capable of impairing the orderly conduct of business. Such determination will be made by the Exchange in its absolute discretion and may be made at any time and, of necessary, any consequent restriction or suspension may be implemented immediately and without notice.