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New York, New York 10282

**BY ELECTRONIC TRANSMISSION**

05-15

April 14, 2005

Ms. Jean A. Webb  
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 7.05, 7.15, 7.21 and 7.23 and Coffee Resolution No. 1  
And Cocoa Resolution No. 5 -  
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Ms. Webb:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, the Board of Trade of the City of New York, Inc. ("Exchange") submits, by written certification, amendments to Rules 7.05, 7.15, 7.21 and 7.23 and Coffee Resolution No.1 and Cocoa Resolution No. 5, attached as Exhibit A.

The Exchange's Licensing Rules require warehouses to comply with all applicable laws, but do not address how conflicts between the Exchange's warehouse procedures and "local" laws are to be determined. In February, the Exchange adopted Rule 7.05(d)(i) to resolve this issue for the pulp warehouses (see Submission No. 05-9). The provisions of subparagraph (d)(i) were amended to apply to coffee and cocoa warehouses as well as pulp warehouses.

In addition, Coffee Resolution No. 1 and Cocoa Resolution No. 5 were amended to incorporate the provisions of Rule 7.05 (d)(i) and to expand the definition of applicable law so that the definition takes into account jurisdictions outside the US. Currently, both coffee and pulp are deliverable from warehouses located outside the US.

The amendments to Rule 7.15 update the procedures for the payment of licensing fees. The amendments to Rules 7.21 and 7.23 specifically state which contract rules should be followed when moving certificated stock.

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 Governors on April 13, 2005. The amendments will become effective on April 18, 2005. 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 [jfessler@nybot.com](mailto:jfessler@nybot.com) or 212-748-4084.

Sincerely,

Jill S. Fassler  
Vice President  
Associate General Counsel

cc: Riva Adriance  
Thomas Leahy  
CFTC, Division of Market Oversight  
Allen Cooper  
CFTC, New York Regional Office

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

**Rule 7.05. Warehouse Operators**

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

\* \* \*

(d) meet all applicable laws, customs and other requirements of each jurisdiction in which the Firm is located, operates Licensed Stores or otherwise conducts business;

(i) if, at any time, any licensed warehouse operator [~~licensed to store pulp~~] becomes aware that the laws of the jurisdiction, in which any [~~store -1~~] Licensed Store [~~for the storage of pulp~~] is located, conflict, or are likely to conflict, with the requirements of the Rules, the warehouse operator shall immediately notify the Exchange. In the event of a conflict, the Exchange shall determine whether, in its reasonable opinion, the conflict is reconcilable with the Rules and shall determine in its absolute discretion what action, if any, to take. If the Exchange determines in its sole discretion that the conflict will not immediately prejudice the warehouse operator from complying with the Rules, the Exchange shall, without prejudice to its rights and powers under the Rules, consult with the warehouse operator as to what, if any, remedial action to take.

[REMAINDER OF RULE UNCHANGED]

**No. 1. Warehouse Procedures and Recordkeeping Requirements for the Storage of Exchange Coffee**

**No. 5. Warehouse Procedures and Recordkeeping Requirements for the Storage of Exchange Cocoa**

RESOLVED, THAT the following are the minimum acceptable standards and procedures to be followed by Exchange licensed coffee warehouses in connection with the storage of Exchange-certified Coffee/Cocoa.

**I. Location and Physical Structure of Warehouse**

Any location for the storage of Exchange Coffees/Cocoa must be maintained on a continuing basis in accordance with the following standards:

\* \* \*

2. It shall comply with all applicable [~~federal, state and local~~] laws, customs and other requirements of each jurisdiction in which any Licensed Store is located, including any pertinent fire regulations and have sufficient floor load limits.

A. If, at any time, any licensed warehouse operator becomes aware that the laws of the jurisdiction, in which a Licensed Store is located, conflict, or are likely to conflict, with the requirements of the Rules, the warehouse operator shall immediately notify the Exchange. In the event of a conflict, the Exchange shall determine whether, in its reasonable opinion, the conflict is reconcilable with the Rules and shall determine whether, in its absolute discretion what action, if any, to take. If the Exchange determines in its sole discretion that the conflict will not immediately prejudice the warehouse operator from complying with the Rules, the Exchange shall, without prejudice to its rights and powers under the Rules, consult with the warehouse operator as to what, if any, remedial action to take.

[REMAINDER OF RESOLUTION UNCHANGED]

**EXHIBIT A**

**Rule 7.15. Fees**

~~[(a) Every individual of Firm licensed hereunder shall pay to the Exchange such annual license fees as may from time to time be established by the Board.~~

~~(b) Unless otherwise provided by the Rules, a]~~ All license fees shall be established by the Board and shall be ~~[charged on an annual basis and shall be due and payable on April 2<sup>nd</sup> of each year or such other date as the Board may determine, and are payable by the licensee in whose name a license is registered on that date]~~ paid to the Exchange when the appropriate licensing application is filed with the Exchange's Office of Commodity Operations. Fees unpaid ten (10) days after such fees are due shall be reported to the Cocoa, Coffee and Pulp Warehouse and License Committee for its action.

**Rule 7.21. Voluntary Cancellation**

\* \* \*

(c) The effective date of the cancellation of a warehouse operator's license or the license of a Licensed [s]Store, shall be determined by the Board or the Cocoa, Coffee and Pulp Warehouse and License Committee, as the case may be. On the effective date of any such cancellation, all certified [e]Coffee and/or [e]Cocoa in such Licensed Store, that has not been moved in accordance with Rule 8.10 for Coffee or Rule 9.23 for Cocoa, will automatically lose its certification.

**Rule 7.23. Effect of Expiration, Suspension, or Cancellation of the License of a Licensed Store**

\* \* \*

(b) Unless the Board otherwise determines, if the license of a Licensed Store expires or is suspended or canceled for any reason, any certified [e]Coffee and/or Cocoa stored in such Licensed Store shall continue to be certified, provided such [e]Coffee and/or Cocoa is moved to a Licensed Store in accordance with Rule 8.10 for Coffee or Rule 9.23 for Cocoa within sixty (60) days of such expiration, suspension or cancellation.

[REMAINDER OF RULE UNCHANGED]