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 **NEW YORK**
BOARD OF TRADE®
World Financial Center
One North End Avenue
New York, New York 10282

BY ELECTRONIC TRANSMISSION

05-22
June 9, 2005

Ms. Jean A. Webb
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 9.00, 9.14, 9.18, 9.23(f) and Resolution No. 4 -
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 9.00, 9.14, 9.18, 9.23(f) and Resolution No. 4, attached as Exhibit A.

The amendments to Rules 9.00, 9.14 and 9.18 and Resolution No. 4 make it clear that a non-member may submit a cocoa sampling order to the Exchange. In most cases, the amendments substitute the word "Person" for the word "Member".

The amendments to Rule 9.23(f) delete confusing language from the Rule. Rule 9.23(f)(i) requires that the weights for an Exchange-Segregated Lot of Cocoa be invalidated when the Cocoa has been moved from a Licensed Store. Subparagraph (ii)(1) of the same Rule, provides that, in the event the Cocoa is moved from one Licensed Store to another, the warehouse operator moving the Cocoa must receive authorization from the owner of the Cocoa. Provisions (2) and (3) of subparagraph (ii) then provide for Exchange supervision of the move and for the warehouse operator to bear the cost of re-weighing. The last requirement of subparagraph (ii) (3), "bear the cost of re-weighing", has at the end of said provision the words, "if authorized by the owner". It is not clear what it is that must be authorized by the owner, since subparagraph (ii)(1) states that (a) the move cannot take place without the owner's authorization,

(b) the Cocoa must be reweighed whether or not the reweighing is authorized by the owner in order for the Cocoa to remain deliverable under the Exchange's rules, and (c) the reweighing is

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at no cost to the owner since the cost must be borne by the warehouse operator. In order to remove any confusion caused by the words "if authorized by the owner" at the end of subparagraph (ii)(3), the words were deleted from the subparagraph (ii)(3).

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 June 8, 2005. The amendments will become effective on June 10, 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 jfassler@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 9.00. Definitions

As used in the Cocoa Rules:

* * *

(t) Sampling Confirmation

The term "Sampling Confirmation" shall mean an electronic record created on eCOPS in which a licensed master sampler notifies the Exchange and the ~~[Member]~~ Person requesting the sample to confirm that such sampler obtained the requested sample in accordance with the Rules.

(u) Sampling Order

The term "Sampling Order" shall mean an electronic record created on eCOPS in which a Person ~~[Member]~~ requests that a sample of cocoa be obtained and graded in accordance with the Rules.

[REMAINDER OF RULE UNCHANGED]

Rule 9.14. Sampling Cocoa

(a) All Cocoa to be delivered in Exchange-Segregated Lots which must be graded pursuant to the Rules shall be sampled in accordance with the provisions of this Rule:

* * *

(i) Each Lot of cocoa to be sampled shall be sampled by one (1) duly licensed master sampler within two (2) Business Days following the receipt of the eCOPS Sampling Order (or three (3) Business Days in the case of Hampton Roads) or within such longer period as allowed by the Exchange for good cause shown.

* * *

(2) The total charge for such sampling shall be payable by the ~~[Deliverer]~~ the Person, who submitted the Sampling Order, to the master sampler. In the case of the first (1st) Exchange delivery under a Certificate of Grade or the first (1st) Exchange delivery under a recertification of grade, the Deliverer shall include one half of the charge for sampling in the Exchange Invoice and paid by the Receiver on the Date of Delivery as required by Rule 9.11.

* * *

(g) These sampling procedures have been designed to promote the integrity and impartiality of the sampling process, and do not constitute an assumption by the Exchange in any respect of any responsibility of the ~~[Member]~~ Person on whose behalf the cocoa is sampled, and the Exchange shall have no liability for any acts or omissions in connection with such sample. The Exchange shall not be liable in any way by reason of the fact that any sample was not drawn in accordance with these procedures, or was otherwise improperly drawn, or was not fair and representative of the cocoa to which it is purported to relate.

EXHIBIT A

Rule 9.18. Grading Cocoa

* * *

(c) The Growth, Description, Condition, Count and Grade of Cocoa to be delivered on an Exchange Futures Contract must be established by duly licensed graders in accordance with the following:

* * *

(vi) The fees for grading shall be such amounts as may from time to time be established by the Board. All grading fees shall be payable by the [Deliverer] Person, who submitted the Sampling Order, to the Exchange within ten (10) days of receipt of an invoice from the Exchange. This fee shall be distributed by the Exchange to the graders selected hereunder in the amounts established by the Board. In the case of the first (1st) Exchange delivery under a Certificate of Grade or the first (1st) Exchange delivery under a recertification of grade, one half of the grading fees paid to the Exchange shall be included in the Exchange Invoice and paid by the Receiver on the Date of Delivery as required by Rule 9.11, unless it shall be determined that the cocoa is not good delivery, in which case the entire grading fee shall be for the account of the Deliverer, unless such fees are otherwise apportioned by the Special Arbitration Committee appointed in accordance with Rule 9.27.

No. 4. Cocoa Grading Fees

WHEREAS, Rule 9.18 authorizes the Board to establish fees, payable by the [Deliverer] 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, [Deliverers] 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:

* * *

The remainder of the fee(s) shall be returned to the [Deliverer] 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 fee(s) shall be returned to the [Deliverer] Person submitting the Sampling Order.

Rule 9.23. Weighing Cocoa

* * *

(f)(i) Any movement of cocoa from the Licensed Store specified in the weighmaster's return shall invalidate such weights for the purposes of delivery or redelivery.

(ii) In the event cocoa is moved from one (1) Licensed Store to another Licensed Store of the same warehouse operator or the Licensed Store of another warehouse operator, the warehouse operator moving the cocoa shall:

- (1) obtain authorization from the Member owning the cocoa and the Exchange;
- (2) provide for Exchange supervision of the move; and
- (3) bear the cost of re-weighing [if authorized by the owner].