

RECEIVED
O.F.T.C.

2005 NOV 21 AM 9: 44

OFC. OF THE SECRETARIAT



BY ELECTRONIC TRANSMISSION

05-47
November 21, 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 4.09, 4.03(a)(ii) and 21.25 -
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 Rule 4.09, 4.03(a)(ii) and 21.25, attached as Exhibit A.

Rule 4.09

In a letter dated September 15, 2005, the Exchange submitted amendments to Rule 4.09 which would allow a floor broker to cross customers' orders during the post close trading session when there is a flat market (see Submission 05-36). The amendments addressed problems that arise under the cross trade rule, Rule 4.19, when there is only one price at which trading can occur in the post close session. The amendments allowed a floor broker to cross his customer orders when there is a flat market, i.e., the single price that traded on the close, if there are no other market participants bidding or offering and both orders are for public customers. The amendments submitted in this letter remove the requirements concerning public customer orders and the absence of bids and offers by other market participants. As with cross trades executed during the regular trading day, such post close transactions would be subject to the requirements of Rule 4.19 with the exception of making a one tick market. For example, a broker could make a flat market and take the opposite side of a customer's order only if the customer granted him written consent to do so and the order involves a commodity contract for which Exchange rules permit the members to take the opposite side of their customers' orders.

Rules 4.03(a)(ii) and 21.25

In Submission 05-36, the Exchange also submitted amendments to Rules 4.03(a)(ii) and 21.25 that made the failure to state a quantity and take ten (10) contracts a violation in all of the trading rings except for the Cocoa trading rings. The amendments submitted in this letter remove the Cocoa exception, making it a violation in all rings. Those opposing the amendments expressed the view that it may be difficult to enforce by the Cocoa Floor Committee members. However, Floor Committee members from other trading rings stated that the provision has effectively prevented situations where it appears that a floor broker may be trading size, but, in fact, only intends to trade one (1) or two (2) contracts. they also stated that it was not difficult to enforce.

Another amendment to Rule 21.25 will require all floor clerks to wear a trading jacket. The purpose of this amendment is to give a more uniform and professional appearance to the trading floor.

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 November 17, 2005. Except for the amendments concerning the failure to state a quantity, no substantive opposing views were expressed by members or others with respect to the amendments. The amendments to Rules 4.09, 4.03(a)(ii) and 21.25, will become effective on a date set by the President after filing with the Commission. The amendment to Rule 21.25, concerning the trading floor jacket requirement, will go into effect on January 2, 2006.

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
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 4.09. Post Close Trading Session

The Exchange will conduct a post close trading session for each Exchange Futures Contract and for each Exchange Options Contract if the particular Strike Price traded during the day as follows:

* * *

(d) Notwithstanding the provisions of Rule 4.19(b)(i), if [~~during the post close trading session, there are no other Floor Brokers bidding or offering and~~] the post close trading session Trade price is limited to a single price, a Floor Broker may execute a cross trade [~~a Customer's order against another Customer's order~~] at [~~the~~] such single Trade price as long as such Transaction is executed [~~crossed~~] in accordance with all of the other [~~applicable~~] provisions of Rule 4.19.

[REMAINDER OF RULE UNCHANGED]

Rule 4.03. Transactions, Bids and Offers

(a) Unless otherwise provided in the Rules, each Transaction, bid and offer for Commodity Contracts shall be:

* * *

(ii) understood to be for ten (10) Commodity Contracts where no quantity is specified and a Floor Broker who fails to specify a quantity is obligated to accept a minimum of ten (10) Commodity Contracts; provided, however, [~~that, with respect to Cocoa Contracts, a Floor Broker who fails to specify a quantity is obligated to accept only one (1) Commodity Contract; and provided, further, that~~] with respect to Cotton No. 2, FCOJ, Financial and Index Contracts, a Floor Broker showing two (2) hands is obligated to accept a minimum of ten (10) contracts;

[REMAINDER OF RULE UNCHANGED]

Rule 21.25. Floor Committee Summary Action

* * *

(b) *Conduct Subject to Summary Action*

It shall be a violation of the Rules regarding decorum, attire, or timely submission of accurate records for a Member to engage in the following practices:

(i) **Decorum:**

* * *

B. Trading Practices:

* * *

13. [~~except in the Cocoa Contracts trading rings,~~] failing to state a quantity and not taking a minimum of ten (10) contracts.

* * *

EXHIBIT A

(ii) **Attire:** Failure to conform to the Exchange mandatory forms of dress and appearance.

A. For purposes of this Rule, the following forms of dress and appearance are mandatory.

* * *

5. All Clerks must wear a trading jacket.

[REMAINDER OF RULE UNCHANGED]