



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

BY ELECTRONIC TRANSMISSION

07-8
February 7, 2007

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Ms. Eileen A. Donovan
Acting 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 Sugar No. 11 Rules 11.07 and 11.08 -
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6**

Dear Ms. Donovan:

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 Sugar No. 11 Rules 11.07 and 11.08, attached as Exhibit A.

Rule 11.07 provides the procedures for determining the final weight and testing of sugar being delivered under the Sugar No. 11 futures contract. Currently, the procedures to be followed are based upon where the sugar will be shipped. The amendments to Rule 11.07 simplify the procedures by providing that in all cases the final weights and sampling shall be based upon shipping weights and tests done at the port of loading. In addition, the amendments also clarify the rights and obligations of the Deliverer and Receiver regarding the appointment of supervisors who will observe the final weighing and testing. The amendments to Rule 11.08(3) delete the provisions regarding final settlement based on landed weights and tests since this procedure will no longer be used. The revised procedures will improve the efficiency of the Exchange delivery process by providing for a single method of final weights and tests that is consistent with the "fob" nature of the contract.

The Exchange certifies that the amendments comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The Exchange's Board of Directors adopted the amendments at its meeting on February 7, 2007. The amendments will be implemented with the listing of the March 2009 Sugar No. 11

futures contract. 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 11.07. Final [w]Weights and [t]Tests [are to be determined as follows:

~~Effective with respect to the March 2007 through October 2008 delivery months.~~

~~(a) If the sugar is to be shipped to Belgium, Canada, Finland, France, Germany, Holland, Ireland, Japan, Malaysia, Morocco, New Zealand, Portugal, Singapore, Sweden, the United Kingdom or the United States, settlement is to be made on net landed weights and tests taken at port of discharge as customary at said port in accordance with the procedures set forth in paragraph (b) below; provided, however, that regardless of the destination, the Receiver shall have the right, declarable at the time of nomination of the carrying vessel, to require that final settlement be based upon shipper's weights and tests determined as is customary at loading port at time of loading.~~

~~Effective with respect to the March 2009 delivery month and all delivery months thereafter.~~

~~(a) If the sugar is to be shipped to Belgium, Canada, the Emirate of Dubai, Finland, France, Germany, Holland, Ireland, Japan, Malaysia, Morocco, New Zealand, Portugal, Singapore, Sweden, the United Kingdom or the United States, settlement is to be made on net landed weights and tests taken at port of discharge as customary at said port in accordance with the procedures set forth in paragraph (b) below; provided, however, that regardless of the destination, the Receiver shall have the right, declarable at the time of nomination of the carrying vessel, to require that final settlement be based upon shipper's weights and tests determined as is customary at loading port at time of loading.~~

~~(b) Where not contrary to commercial custom, not later than five (5) days prior to the arrival of the vessel at destination port, Deliverer shall appoint weighers and samplers to determine weights and draw samples in concert with the Receiver or his representative. One hundred per cent (100%) of the sugar shall be weighed and sampled, unless a lesser amount is mutually agreed upon. All expenses of weighing, sampling and testing shall be borne by the Deliverer. In the event the Deliverer has not made a timely appointment of weighers and samplers, the Receiver shall appoint qualified weighers and samplers and shall within thirty (30) days of completion of discharge of the sugar furnish Deliverer with the customary documentary evidence of weights and tests at the port of discharge, and Deliverer shall reimburse the Receiver for the cost of same. Receiver's failure to provide documentary evidence of weights and tests, where reasonably in the power of the Receiver, shall render him liable to the Deliverer for any damages to Deliverer as a result of such failure.~~

~~(c) If the sugar is to be shipped to any destination other than those enumerated in paragraph (a) of this Rule, final settlement shall be based upon shipper's weights and tests determined at loading port at the time of loading. Deliverer is to pay all expenses of the weighing, sampling, and testing at port of loading conducted by it. Receiver shall have the right to observe the weighing, sampling, and testing procedures utilized by the Deliverer's representative at the port of loading. The Receiver shall also have the right, in its sole discretion, upon written notice to the Deliverer at least five (5) days prior to the commencement of loading, to appoint at its own expense an internationally recognized and independent supervision company to conduct weighing, sampling and testing at the loading port at the time of loading.~~

~~(d)(i) Notwithstanding paragraphs (a) and (b) of this Rule, in the case where a Receiver ships the sugar on a vessel which carries sugar of more than one (1) origin, Receiver is not entitled to settlement on the basis of landed weights and tests, regardless of destination, and settlement shall be based on weights and tests as determined in paragraph (c). However, if a Receiver nominates a vessel which is scheduled to load sugars of more than one (1) origin, and the Receiver will guarantee to the Deliverer, in writing, at the time of nomination of the vessel that the Exchange sugars being received from the Deliverer will be separately loaded and stowed and separately discharged at a port of discharge in one (1) of the destinations enumerated in paragraph (a) above, the Receiver will be entitled to final settlement based on net weights and tests in accordance with the procedures outlined in paragraph (b).~~

~~(ii) When the sugar is shipped on a vessel which loads other sugar of the same origin, whether from other Exchange deliveries or in combination with non-Exchange sugar and all of the sugars shipped on the vessel are discharged at a port in one (1) of the destinations enumerated in paragraph (a), final settlement shall be made on net landed weights and tests provided that the total outturn weight and outturn polarization shall be pro-rated among the various parties concerned on the basis of certification of shipping weights and tests taken at the loading port(s) at the time of loading by a recognized organization performing such services in the country of origin at the expense of the Receiver. If the Receiver fails to timely produce such certificates, settlement of the Exchange sugar shall be based on weights and tests as determined in paragraph (e).~~

~~(e) On the recommendation of the World Sugar Committee, other countries may be added to the destinations set forth in paragraph (a) of this Rule by majority vote of the Board of Governors.]~~

(a) Final settlement shall be based upon shipper's weights and tests determined at loading port at the time of loading. Deliverer is to pay all expenses of the weighing, sampling, and testing at port of loading which shall be supervised by an internationally recognized and independent supervision company selected by the Deliverer. Deliverer shall provide written notification of the chosen supervision company to the Receiver at least six (6) days prior to the commencement of loading, and in the event of any change to the chosen company shall promptly provide written notification of such change to the Receiver. Receiver shall have the right to appoint at his own expense an internationally recognized and independent supervision company to observe the weighing, sampling, and testing procedures utilized by the Deliverer's representative at the port of loading.

(b) At loading the Deliverer shall provide satisfactory facilities for weighing which shall be done at the time the sugar is being loaded onto the vessel (or onto barge(s) if loading is at anchorage). Facilities used for weighing shall have a maximum tolerance of 1/10th of one percent (0.10%), and the Deliverer's supervisor shall satisfy himself that such facilities are tested by means of certified check weights at least once in every twenty-four (24) hours. In the event that weighbridges are used, the Deliverer's supervisor shall satisfy himself that such weighbridges are frequently tested to assure accuracy; they shall also be tested with certified check weights at least once every year.

(c)(i) At loading the Deliverer shall provide satisfactory facilities for sampling, which shall be done at the time of weighing. During the progress of sampling, the sugar drawn shall be kept in containers approved by, and shall remain under the control of, the Deliverer's supervisor.

(ii) Samples shall represent each lot of two thousand (2,000) tons of Deliverer's sugar loaded onto Receiver's vessel. All samples representing two thousand (2,000) tons of Deliverer's sugar shall be carefully mixed together by the Deliverer's supervisor so as to represent as true an average as possible. Samples shall be of a sufficient quantity to fill at least four (4) sealed containers. One (1) such container shall be given to the Deliverer and one (1) to the Receiver; two (2) shall be retained by the Deliverer's supervisor. All samples shall be retained for at least two (2) months after the date the commercial invoice is presented by the Deliverer in accordance with Rule 11.08(3)(a). If the Receiver has appointed a separate supervisor to observe loading in accordance with paragraph (a) above, both the Deliverer and Receiver may separately analyze his sample using a recognized and competent laboratory with a proven record of performing acceptable sugar analysis in the international sugar trade, and, where the polarizations of the Receiver and Deliverer differ by less than point one five (0.15) of a degree, then the mean of the two (2) shall be taken as the invoice basis. Where the polarizations differ by point one five (0.15) of a degree or more, a third sample shall be polarized by an independent recognized chemist with a proven record of performing acceptable sugar analysis in the international sugar trade as appointed by both the Deliverer's and Receiver's supervisors, the cost of which polarization shall be shared equally by the Deliverer and Receiver. In the event that the Deliverer's and Receiver's supervisors fail to mutually agree on such chemist, the Sugar Delivery Committee will nominate such chemist. The mean of the two (2) nearest polarizations shall be taken as the invoice basis, but where the middle polarization is equidistant from the other two (2) it shall be taken as the invoice basis.

Rule 11.08. Obligations of the Receiver and Deliverer

* * *

(3) Settlements:

(a) ~~[Where final settlement is made on destination weights and tests, Deliverer shall furnish:~~

~~(i) Full set of clean on-board bills of lading drawn to order or to order of shipper and endorsed in negotiable form.~~

~~(ii) Commercial *pro forma* invoice for ninety eight percent (98%) of the value of the sugar basis 96 degrees at the notice price.~~

~~(iii) Certificate of origin.~~

~~Final payment shall be made within ten (10) days of presentation of Deliverer's final invoice accompanied by weight and test certificates. Unless otherwise mutually agreed payment shall be made by wire transfer in same day funds. In the case of total loss or total damage, polarization shall be assumed to be 97.5 degrees and bill of lading weight shall apply. In the case of partial loss or partial damage, (1) the quantitative loss shall be determined as the difference between (a) the outturn weight and (b) the bill of lading weight, less the normal loss in weight as determined by the Refiner's records for the last three (3) sound arrivals of raw centrifugal sugar from the same country of origin during the twenty four (24) months preceding arrival; in case of an insufficient number of previous sound arrivals, normal loss in weight is deemed to be 3/4 of one percent; (2) sugar damaged to such extent that it cannot reasonably be discharged by buyer's normal discharging equipment and methods, or contaminated to such extent with oil or other substances that it cannot practicably be taken into buyer's refinery, shall be deemed a salvage loss.~~

~~(b) [Where settlement is made on shipping weights and tests,] Deliverer shall furnish:~~

~~(i) Full set of clean on-board bills of lading drawn to order or order of shipper and endorsed in negotiable form.~~

~~(ii) Commercial invoice for one hundred percent (100%) of the value of the sugar, basis actual polarization at the notice price.~~

~~(iii) Unless otherwise mutually agreed, Weight and Test Certificates issued by the Deliverer's appointed supervisor in accordance with the terms of Rule 11.07(d).~~

~~(iv) Certificate of origin.~~

~~(e)b) Upon presentation by Deliverer in New York of the required documents for all of a cargo loaded on-board Receiver's vessel by such Deliverer, Receiver shall pay for the sugar at the invoice price as provided in (a)(ii) ~~[or (b)(ii)]~~, without any setoff or deduction whatsoever, between the hours of 10:00 A.M. and 3:00 P.M., within two (2) hours after presentation by the Deliverer which shall be no later than 1:00 P.M. Unless otherwise mutually agreed, payment shall be made by wire transfer in same day funds.~~

~~(d)c)(i) At the time Deliverer furnishes bills of lading pursuant to paragraph (a)(i) ~~[or (b)(i)]~~ of this Rule, the Deliverer shall so notify the Clearing Organization in writing, with a copy of such notice concurrently furnished to the Receiver, and the net amount of variation Margin, if any, collected by the Receiver in respect of the contracts pursuant to which Deliverer has made delivery from the time the Multiple Delivery Notice for such contracts was issued shall be collected from Receiver by the Clearing Organization and paid to the Deliverer on the second (2nd) Business Day following receipt of such notice by the Clearing Organization, unless the Receiver notifies the Clearing Organization that the bills of lading have not been so furnished by Deliverer. Any such notice shall be in writing, with a copy concurrently furnished to the Deliverer, and shall be issued within twenty-four (24) hours of receipt of the Deliverer's notice referred to in the preceding sentence.~~

* * *

(4) The original bills of lading shall be presented by Deliverer in New York on a full banking day (whether or not an Exchange Holiday) together with the other necessary documents pursuant to

subparagraph[s] 3(a) [~~and (b)~~] promptly but in no event later than twenty (20) days after vessel's clearance of loading port. Deliverer shall be responsible for proven damages to Receiver resulting from failure to present such documents as herein provided.

[REMAINDER OF RULE UNCHANGED]