



Submission No. 23-47
April 5, 2023

Mr. Christopher J. Kirkpatrick
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 Conflicts of Interest Provisions for Coffee and Cocoa Grading Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6(a)

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (the "Act"), and Commodity Futures Trading Commission ("Commission") Regulation 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") hereby certifies the amendments to Appendix II of Chapter 8 (Coffee "C" Futures[®]) and Cocoa Rule 9.18(c)(ii)(2) (collectively the "Conflicts Rules"), which are set forth in Exhibit A.

The Conflicts Rules contain provisions that are designed to mitigate conflicts of interest and help ensure the integrity of the grading process for coffee and cocoa that is submitted for Exchange delivery. Among other impermissible interests which are identified in the Conflicts Rules, graders are disqualified from grading coffee or cocoa shortly before and during the delivery period for each product if the grader or the grader's firm holds a futures position in the expiring delivery month for such product. This "disqualification period" currently commences five business days before the start of the notice period for each product and applies to graders regardless of the size of the position the grader or the grader's firm holds. As a result, a high percentage of licensed graders, who are predominantly employed by commercial firms that use the Exchange's products to hedge, are prohibited from grading during the disqualification period.

The amendments to the Conflicts Rules: (i) delay the start of the disqualification period from five days prior to the First Notice Day ("FND") to one day prior to FND; and (ii) permit graders to grade coffee and cocoa during the disqualification period if they or their firms hold only a de minimis futures position in the expiring delivery month. What constitutes a de minimis position will be determined by the Exchange each delivery period based on the overall open interest. The Exchange believes these changes will significantly increase the number of graders available to grade during the delivery period, while still addressing potential conflicts of interest.

The Exchange certifies that the amendments, which will become effective on April 20, 2023, comply with the requirements of the Act and the CFTC Regulations promulgated thereunder. The Exchange has reviewed the designated contract market core principles ("Core Principles") as set forth in the Act and has determined that the amendments comply with the following relevant Core Principles:



COMPLIANCE WITH RULES

The amendments will be enforced by the Exchange in accordance with Core Principle 2.

CONTRACTS NOT READILY SUBJECT TO MANIPULATION & CONFLICTS OF INTEREST

The amendments to the Conflicts Rules are designed to minimize constraints that would impede grading coffee and cocoa for Exchange delivery consistent with Core Principle 3, while maintaining a sufficient process to address potential conflicts of interest as required by Core Principle 16.

AVAILABILITY OF INFORMATION

As required by Core Principle 7, the text of the amended Rules will be codified in the Exchange's Rulebook and made available on the Exchange's Website.

The Exchange is not aware of any opposing views with regard to the amendments and further certifies that, concurrent with this filing, a copy of this submission was posted on the Exchange's website at <https://www.theice.com/futures-us/regulation#rule-filings>

If you have any questions or need further information, please contact me at 212-748-4021 or at jason.fusco@theice.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason V. Fusco', written in a cursive style.

Jason V. Fusco
Assistant General Counsel

Enc.
cc: Division of Market Oversight
New York Regional Office



EXHIBIT A

COFFEE APPENDIX II

Procedures for Grading Coffee and Issuance of Certificates of Grade

The following procedures must be followed by Members and Licensees in connection with the grading of Coffee "C":

(n) Impartiality.

(2) ~~[No grader may grade coffee if he has an interest in the coffee to be graded.]~~ No licensed grader may grade coffee if the grader or an immediate family member:

- (i) directly or indirectly has an ownership interest in, or is a partner or employee of, a Firm which has an ownership interest in the coffee submitted for grading;
- (ii) commencing ~~[five]~~ one business day[s] prior to first notice day of the expiring coffee delivery month, directly or indirectly holds or controls, a position (other than a de minimis position) in such delivery month or is a partner or employee of a Firm which holds or controls a position (other than a de minimis position) in such delivery month;
- (iii) directly or indirectly has an ownership interest in, or is an employee of, the warehouse operator where the coffee submitted for grading is stored; or
- (iv) has any other business or personal relationship that poses a conflict of interest with respect to the grading of coffee under Exchange Futures Contracts.

[REMAINDER OF APPENDIX UNCHANGED]

Rule 9.18. Grading Cocoa for Exchange Delivery

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

(ii) The cocoa will be graded by a panel of three (3) licensed graders in accordance with such procedures as from time to time may be promulgated by the Board of Cocoa Graders.

(2) ~~[The graders selected shall have no interest, beneficial or prejudicial, in the cocoa to be graded.]~~ No licensed grader may grade cocoa if such grader or an immediate family member:

- (i) directly or indirectly has an ownership interest in, or is a partner or employee of, a Firm which has an ownership interest in the cocoa submitted for grading;



(ii) commencing [~~five~~ one] business day[s] prior to first notice day of the expiring cocoa delivery month, directly or indirectly holds or controls a position (other than a de minimis position) in such delivery month or is a partner or employee of a Firm which holds or controls a position (other than a de minimis position) in such delivery month;

(iii) directly or indirectly has an ownership interest in, or is an employee of, the warehouse operator where the cocoa submitted for grading is stored; or

(iv) has any other business or personal relationship that poses a conflict of interest with respect to the grading of cocoa under Exchange Futures Contracts.

[REMAINDER OF RULE UNCHANGED]