



Submission No. 23-132
September 29, 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 Coffee “C”[®] Futures Contract Rules
Submission 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 Rule 8.10 and Appendix II of Chapter 8, which are set forth in Exhibit A. As discussed below, the amendments will prohibit owners of coffee which has previously been certified for delivery against the Coffee “C” futures contract (“Futures Contract”) and subsequently de-certified from re-submitting such coffee for Exchange certification.

In order to be deliverable against the Futures Contract, Arabica coffee must be stored, sampled and then graded in accordance with Exchange rules. After grading, coffee which is found to have met the standards for the Futures Contract will be issued a “Certificate of Grade” making it eligible for delivery. The Certificate of Grade does not expire. However, the coffee is subject to an age penalty based on the date that the Certificate is issued. The age penalty provisions of the contract¹ are intended to create a financial incentive to remove “old” coffee from Exchange stocks, by discounting their delivery value over time.

Currently, under the terms of the Futures Contract, certificated coffee may be de-certified and subsequently resubmitted for grading.² Permitting such “re-certification” allows an owner of coffee that has accumulated significant age penalties to effectively remove such penalties by obtaining a new Certificate of Grade. While this process carries additional costs and a risk that the coffee may not pass re-grading, the financial incentives created by removing accumulated age penalties can make this “de-cert/re-cert” process attractive, particularly if the owner believes the condition of the coffee has not deteriorated during storage.

The amendments to Rule 8.10(a) and Appendix II(b) will prohibit coffee which has been certified for delivery and subsequently de-certified from being re-submitting for Exchange

¹ The age penalty provisions are set forth in [Appendix V of Chapter 8](#).

² Note: In the event that Arabica coffee is submitted for grading and fails, the owner’s only option is to appeal the decision of the grading panel in accordance with the terms of the Futures Contract. The decision of the appeals panel will be final. An owner of coffee which has failed grading may not re-submit such coffee for re-grading.



sampling and grading. These amendments are being made to ensure enforcement of the age penalties by eliminating the “de-cert/re-cert” mechanism described above. In addition, these amendments align the Exchange’s Futures Contract with the Robusta futures contract listed on ICE Futures Europe, which also prohibits the “de-cert/re-cert” process, establishing a single harmonized process across the world’s to most prominent futures contracts.

The amendments will become effective on December 1, 2023. This timeline will give owners the opportunity to re-submit coffee for sampling and grading prior to the amendments becoming effective. Further, we note that the Exchange’s Coffee Committee determined, by unanimous votes, to recommend the adoption of the amendments to Rule 8.10 and Appendix II of Chapter 8 with the forgoing timeline for implementation. The amendments and timeline were subsequently approved by the Exchange’s Board of Directors by unanimous vote.

The Exchange certifies that the amendments 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.

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.

CONTRACTS NOT READILY SUBJECT TO MANIPULATION

The Coffee “C” Futures Contract is not readily susceptible to manipulation as it is based on a highly liquid underlying commodity. The Exchange does not anticipate that the amendments will impede or otherwise impact physical delivery of coffee against the contract.

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 that reads "Jason V. Fusco". The signature is fluid and cursive, written in a professional style.

Jason V. Fusco
Assistant General Counsel

Enc.



EXHIBIT A

(In the text of the amendment below, additions are underscored and deletions are bracketed and lined through.)

Rule 8.10. Certificate of Grade

- (a) Coffee to be delivered under a Coffee “C” Futures Contract must be sampled, graded, weighed, and certified in accordance with procedures specified herein or adopted by the Board. Unless otherwise determined by the Exchange and except with respect to appeals under Appendix II(m) of these Rules, Coffee which has previously been sampled and graded in accordance with these Rules may not be re-submitted for sampling and grading at any time.

* * *

(balance of the Rule unchanged.)

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”:

(a) eCOPS Sampling Order.

(1) A Person who wishes to have coffee graded by the Exchange shall first (1st) submit to the Exchange a Sampling Order in the form prescribed by the Exchange. eCOPS will assign an Exchange identification number to each Sampling Order.

(2) No Sampling Order will be processed unless it is fully completed.

(b) Prohibition on Resubmissions.

(1) Except with respect to appeals under subparagraph (m) below, and unless otherwise determined by the Exchange, [A]a Sampling Order may not be submitted covering coffee previously submitted to the Exchange for grading [, only if the Exchange issued a Certificate of Grade with respect to such coffee. If the submitter previously submitted such coffee, he must input into the Sampling Order the number of the Certificate of Grade under which such coffee was previously graded and the respective grade thereof.

(2) In the event such coffee is found to satisfy the minimum standards for delivery hereunder, the Exchange shall issue a new Certificate of Grade (bearing the date of the new Certificate of Grade) reflecting the results of the regrading].

* * *

(balance of the Rule unchanged.)