



World Financial Center  
One North End Avenue, New York, NY 10282

04-19  
April 26, 2004

Ms. Jean A. Webb  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

RE: Request for Commission Rule Approval  
Section 5c(c)(2), Regulation § 40.5 Submission  
Proposed NYBOT By-Laws and Rules

Dear Ms. Webb:

I. SUBMISSION

On behalf of the Board of Trade of the City of New York, Inc. (“NYBOT”), I am writing to request that (i) the existing contract market designations of NYBOT’s subsidiaries, Coffee, Sugar & Cocoa Exchange, Inc. (“CSCE”) and New York Cotton Exchange (“NYCE”) be transferred to NYBOT and (ii) the By-Laws and Rules of NYBOT, submitted herewith, be approved pursuant to Section 5c(c)(2) of the Commodity Exchange Act and Regulation §40.5. This submission is made in connection with concluding the merger of CSCE and NYCE with and into NYBOT.

II. TEXT OF PROPOSED BY-LAWS AND RULES

As a result of the planned completion of the Merger of CSCE and NYCE into NYBOT on June 10, 2004, CSCE and NYCE will cease to exist, NYBOT will be the sole surviving entity, and thus, the successor to the business currently conducted by CSCE and NYCE. In that connection it has adopted By-Laws and Rules necessary for it to succeed to the business of its subsidiaries as contract markets. The By-Laws and Rules submitted herewith are a compilation of the existing CSCE and NYCE By-Laws and Rules, which

have been consolidated without change other than to conform them to the structure that will exist under NYBOT and to incorporate the use of defined terms across all rules, unless otherwise indicated in the description which follows. In addition, NYBOT requests that the contract market designations of CSCE and NYCE, as specified in Exhibit A hereto, be transferred to it. In that connection, it should be noted that NYBOT will continue to use New York Clearing Corporation (“NYCC”) as its designated clearing organization, and therefore, there will be no transfers of open positions to another clearing organization.

### III. EFFECTIVE DATE AND RULE PROMULGATING AUTHORITY

The full set of By-Laws submitted herewith were adopted by the NYBOT Board and ratified by the NYBOT membership pursuant to By-Law Section 501, on February 11<sup>th</sup> and March 31, 2004, respectively. The Rules were adopted by the NYBOT Board pursuant to Section 308 of the By-Laws on April 14, 2004, and do not require ratification by the membership. The By-Laws and Rules will become effective on the date of the merger (June 10, 2004) subject to CFTC approval.

### IV. OPERATION, PURPOSE AND EFFECT OF THE PROPOSED BY-LAWS AND RULES

NYBOT was formed in 1998 in connection with the preliminary merger of CSCE and NYCE, which each became wholly owned subsidiaries of NYBOT. As part of that transaction, the members of both exchanges were issued Notes providing for annual payments until June 10, 2004. Upon such final payment, CSCE and NYCE are to be merged into NYBOT in completion of the merger, and NYBOT is to become the exchange on which all products currently traded on CSCE and NYCE will, thereafter, be traded.

#### 1. By-Laws

Except with respect to the nomination and election of Governors, the By-Laws are derived from the existing CSCE and NYCE By-Laws without material change. Those By-Laws previously were submitted to, and approved by, the Commission. A summary of the more significant provisions in the new By-Laws is set forth below.

#### Nomination and Election of Governors

The new By-Laws significantly change the process by which members of the Board of Governors are nominated and elected, except for the President and Public Governors, who are appointed. Specifically, the Nominating Committee

and the concept of a nominated “slate” of candidates has been eliminated in favor of a form of open nomination process. The nomination of candidates will be made by petition signed by 30 Members who are eligible to vote. As is currently the practice, candidates will be elected by plurality of the votes cast. In the event of a tie for any position, the Board would fill the position with one of the tied candidates.

#### Elimination of Distinction between Class A and Class B Members

The new By-Laws no longer recognize any distinction between Class A Members (CSCE) and Class B Members (NYCE) in light of the fact that both classes of membership will be merged into one upon completion of the Merger. Likewise, members of the Board of Governors thereafter elected will no longer be identified as Class A or Class B governors and will be elected by the full membership of NYBOT, rather than separately by class.

#### Relocation of Certain By-Laws

Former CSCE By-Law 315 (Service on Board and Committees) and 316 (Recusal by Members of Board and Committee) and their NYCE counterparts have been deleted from the By-Laws but are contained in their entirety in Chapter 6 of the Rules of NYBOT. Chapter 6 addresses and consolidates in one place those rules that are derived from CFTC regulations and are applicable to exchanges, their employees and members.

#### Expansion of Article 1 (Membership) and Article 5 (Committees)

Article 1 has been expanded to account for the fact that NYBOT, not CSCE and NYCE, will now be the exchange with respect to which memberships will be purchased, sold and leased. Likewise, Article 5 has been expanded to provide for the various categories of committees that will be designated as NYBOT, rather than CSCE or NYCE, committees.

## 2. Rules

There are 22 chapters of Rules, of which 12 contain the contract terms for the products in which CSCE and NYCE have already been designated as contract markets. The Rules reflect a codification and renumbering of the Rules of CSCE and NYCE without any significant alteration. Set forth below is a brief overview of the subject matters covered in each chapter.

## **Chapter 1 – Definitions**

This is a new chapter containing over 100 defined terms that are used consistently throughout the Rules. These definitions also are applicable to the By-Laws.

## **Chapter 2 – Membership**

This chapter is derived from the uniform membership rules that were adopted by CSCE and NYCE in 2000. It also incorporates certain changes to bring the rules into conformity with the structure that will exist post Merger. Specifically, a new Rule 2.38 sets forth the 3 categories of Trading Permits that will exist post-merger (Option, Finex and Finex-Europe). In addition, a revised Rule 2.14 codifies the requirement that a clearing member must have four (4) memberships in order to clear all NYBOT products, except where the firm chooses to continue clearing only CSCE or NYCE products, in which case two (2) memberships are required. Clearing of Finex products will continue to require two (2) Finex Trading Permits in addition to the memberships otherwise required to be held by the clearing member.

## **Chapter 3 – Committees**

Chapter 3 sets forth the composition requirements and general authority of each of NYBOT's 36 committees. The charter and composition requirements of these committees parallel the standards in the CSCE and NYCE committee rules from which they are derived.

## **Chapter 4 – Floor Trading Rules**

The Floor Trading Rules associated with the various CSCE and NYCE products are disparate in certain respect. Accordingly, where differences exist, the NYBOT rules preserve them by providing for product-specific trading rules. Otherwise, the trading rules are uniform for all products.

## **Chapter 5 – Margins**

The margin rules of both exchanges have been integrated into one chapter that reflects current practices on both exchanges.

## **Chapter 6 – Regulatory Requirements**

A new chapter has been formed containing Rules that stem from CFTC requirements applicable to members, the Exchange and its employees. It covers

-5-

Emergency Action, Conflicts of Interest, Position Limits and Reporting, Exchange Trading Policy and a number of other regulatory matters. In some cases, provisions that had been contained in the By-Laws have been moved to this chapter.

## **Chapter 7 – Licensing**

The various warehouse and licensing rules applicable to coffee, cocoa, cotton and FCOJ have been consolidated into one chapter, with product-specific subchapters as necessary.

## Chapters 8 – 19

These chapters contain the contract and other related rules for each of the products to be listed on NYBOT. Minor conforming changes have been made to account for the use of defined terms and to eliminate clearly obsolete provisions. Otherwise, these chapters mirror the contract terms contained in the corresponding CSCE and NYCE rules.

## Chapter 20 – Arbitration

The arbitration rules of both exchanges were generally identical and no material change has been made.

## Chapter 21 – Disciplinary Rules

The disciplinary process at both exchanges was harmonized in 1999 and the rules of CSCE and NYCE were identical in this respect.

## Chapter 22 – Standing Resolutions

Wherever possible, existing resolutions were incorporated into the chapter of the Rules that deals with the subject matter of the Resolution. The Resolutions that remained are contained in Chapter 22. Because the fee structure that will become

effective has not yet been determined, the CSCE Standing Resolution on that subject (SR-17) has been eliminated in its entirety.

### 3. Operation of NYBOT

Although the Merger of CSCE and NYCE technically will not occur until June 2004, the two exchanges have operated as one since NYBOT became their holding company parent in 1998. The NYBOT staff has served all entities in the NYBOT family since that time,

-6-

ensuring that the exchanges fulfilled their self-regulatory responsibilities. There will be no change in the level of staffing devoted to the continuation of CSCE's and NYCE's markets as NYBOT markets, and no change to the market surveillance, disciplinary, membership, arbitration and other self-regulatory programs that are in place. Likewise, New York Clearing Corporation, the clearing organization for CSCE and NYCE contracts will be designated as the clearing organization for NYBOT so that the transition to NYBOT will be entirely transparent.

### OPPOSING VIEWS

There were no opposing views expressed by the members or others with respect to the adoption of the By-laws and Rules.

### RELEVANT PROVISIONS OF THE CEA OR COMMISSION REGULATIONS

Upon review of the CEA and Commission Regulations, we believe it is not necessary for the Commission to amend or interpret any such rules or regulation in order to approve this submission.

### CERTIFICATION

NYBOT certifies that the By-Laws and Rules comply with the requirements of the Commodity Exchange Act and the regulations promulgated thereunder.

If you have any questions, please call me at (212) 748-4083.

Very truly yours,

Audrey R. Hirschfeld  
Senior Vice President  
General Counsel

cc: David Van Wagner - Washington  
Allen Cooper - New York Regional Office

## **EXISTING CONTRACT MARKET DESIGNATIONS OF CSCE & NYCE**

### Coffee, Sugar & Cocoa (CSCE)

Coffee “C” Futures and Options  
Mini Coffee “C” Futures  
Cocoa Futures and Options  
Ethanol Futures and Options  
Sugar No. 11 Futures and Options  
Sugar No. 14 Futures

### New York Cotton Exchange (NYCE)

Cotton No. 2 Futures and Options  
FCOJ Futures and Options  
U.S. Dollar Index<sup>®</sup> Futures and Options  
Currencies

#### Euro Based Futures and Options

- Euro-Japanese yen Futures and Options
- Euro-Swedish krona Futures and Options
- Euro-Swiss franc Futures and Options
- Euro-British pound Futures and Options
- Euro-Norwegian krone Futures and Options
- Euro-Canadian dollar Futures and Options
- Euro-US dollar Futures and Options
- Small Euro-US dollar Futures
- Euro-Australian dollar Futures and Options
- Euro-Czech krouna Futures and Options
- Euro-Hungarian forint Futures and Options

### **Pound Sterling Based**

- Pounds sterling-US dollar Futures and Options
- Pounds sterling-Japanese yen Futures and Options
- Pounds sterling-Swiss franc Futures and Options
- Pounds sterling-euro Futures and Options
- Small Pounds sterling-US dollar Futures

### **US Dollar Based**

- US Dollar-Japanese yen Futures and Options
- US Dollar-Swiss franc Futures and Options
- US Dollar-Canadian dollar Futures and Options
- US Dollar-South African Rand Futures and Options
- US Dollar-Swedish krona Futures and Options
- US Dollar-Norwegian krone Futures and Options
- US Dollar-Czech koruna Futures and Options
- US Dollar-Hungarian forint Futures and Options
- Small US Dollar-Japanese yen Futures



- Small US Dollar-Swiss franc Futures
- Small US Dollar-Canadian dollar

EXHIBIT A

#### Australian Dollar and New Zealand Dollar Based

- Australian dollar-US dollar Futures and Options
- New Zealand kiwi-US dollar Futures and Options
- Australian dollar-Japanese yen Futures and Options
- Australian dollar-New Zealand kiwi Futures and Options
- Australian dollar-Canadian dollar Futures and Options

#### **Japanese Yen Denominated**

- Swiss franc-Japanese yen Futures and Options
- Canadian dollar-Japanese yen Futures and Options

#### **Swedish krona Denominated**

- Norwegian krone-Swedish krona Futures and Options

Reuters CRB Index Futures and Options

NYSE Composite Index<sup>®</sup> Futures and Options

NYSE Small Composite Index<sup>®</sup> Futures

*Russell Index Complex Futures and*

- Russell 1000<sup>®</sup> Index Futures and Options
- Russell 1000 Mini Index Futures
- Russell 1000 Growth Index Futures and Options
- Russell 1000 Value Index Futures and Options
- Russell 2000<sup>®</sup> Index Futures and Options
- Russell 3000<sup>®</sup> Index Futures and Options