



BY ELECTRONIC TRANSMISSION

05-4
February 17, 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

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C.F.T.C.
2005 FEB 17 PM 3:30

Re: **New Rule 4.41 and repeal of Rules 8.18, 11.03 and 12.03 -
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, new Rule 4.41 and the repeal of Rules 8.18, 11.03 and 12.03, attached as Exhibit A.

In the contract rules for Coffee "C"[®], Sugar No. 11[™] and Ethanol, there is a rule titled "Unmatched Trades." The rule details unmatched trade procedures which are outdated and not reflective of existing trade input and matching practices. In addition, since the rule concerns trades that remain unmatched, the rule should appear in the chapter with the other rules concerning TIPS[®] submissions and trade matching, *i.e.*, with the Floor Trading Rules.

Therefore, the Unmatched Trade Rules for Coffee "C", Sugar No. 11 and Ethanol are repealed and replaced with new Rule 4.41 which applies to all unmatched trades.

The Exchange certifies that the new rule and the repeal of the listed rules comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder.

The new rule and the repeal of the listed rules were adopted by the Exchange's Board of Governors on February 16, 2005. They will become effective twenty four (24) hours after submission to the Commission. 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
CFTC, Division of Market Oversight
Allen Cooper
CFTC, New York Regional Office

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

Rule 4.41. Unmatched Trades

It shall be the duty of any party to a Trade that has been submitted to TIPS in accordance with Rule 4.32, but remains unmatched at the open of trading on the Business Day following the trade date, to buy in or sell out said contract within one (1) hour after the opening of business on the next Business Day. Such party may proceed against the other party under the Arbitration Rules then in effect.

Rule 8.18. [Unmatched Trades] Reserved.

~~[Should the Clearing Organization notify any party by 9:30 A.M. of the following Business Day that it cannot match a Trade reported by him with a corresponding Trade of the alleged other party to the Transaction, it shall be the duty of the party reporting the Transaction to present to the Exchange a memorandum thereof, stating that the Clearing Organization has advised him of its inability to match the Transaction reported by him, which notice shall be announced at the opening "call" and posted on the Bulletin Board.~~

~~It shall then be the duty of such party, in case the contract is not claimed, to buy in or sell out said contract at the expiration of one (1) hour after the opening of business on the day of default (being the Business Day after the Transaction was made), or sale, and to proceed against the other Member, when necessary, under the Exchange Arbitration Rules then in effect.]~~

Rule 11.03. [Unmatched Trades] Reserved.

~~(a) Should the Clearing Organization notify any party by 9:30 A.M. of the following Business Day that it cannot match a Trade reported by him with a corresponding Trade of the alleged other party to the Transaction, it shall be the duty of the party reporting the Transaction to present to the President a memorandum thereof stating that the Clearing Organization has advised him of its inability to match the Transaction reported by him which notice shall be announced at the opening "call" and posted on the Bulletin Board. It shall then be the duty of such party, in case the contract is not claimed, to buy in or sell out said contract at the expiration of one-half hour after the opening of business on the day of default (being the day after the Transaction was made), or, if the opening call shall not at that time be completed, then promptly after the end of such call, promptly notifying the President in writing of such purchase or sale, and to proceed against the other Member, when necessary, under the Exchange Arbitration Rules then in effect.~~

~~(b) Should the Clearing Organization notify any party by 9:30 A.M. of the following Business Day that it has refused to clear a Trade reported by him because of its rejection of the corresponding Trade of the other party to the Transaction, it shall be the duty of the innocent party to present to the President a memorandum thereof stating that the Clearing Organization has advised him of its refusal to clear his Trade because of its rejection of the corresponding Trade of the other party to the Transaction. It shall be the duty of the party whose Trade was rejected to use his best efforts to correct the situation with the utmost promptness. If the situation shall not sooner be corrected, it shall be the duty of the innocent party to buy in or sell out said contract at the expiration of one-half hour after the opening of business on the day of default (being the day after the Transaction was made), or, if the opening call shall not at that time be completed, then promptly after the end of such call, promptly notifying the President in writing of such purchase or sale, and to proceed against the other Member, when necessary, under the Exchange Arbitration Rules then in effect.]~~

EXHIBIT A

Rule 12.03. [Unmatched Trades] Reserved.

~~[Should the Clearing Organization notify any party by 9:30 A.M. of the following Business Day that it cannot match a Trade reported by him with a corresponding Trade of the alleged other party to the Transaction, it shall be the duty of the party reporting the Transaction to present to the President a memorandum thereof stating that the Clearing Organization has advised him of its inability to match the Transaction reported by him which notice shall be announced at the opening "call" and posted on the Bulletin Board. It shall then be the duty of such party, in case the contract is not claimed, to buy in or sell out said contract at the expiration of one half hour after the opening of business on the day of default (being the day after the Transaction was made), or, if the opening call shall not at that time be completed, then promptly after the end of such call, promptly notifying the President in writing of such purchase or sale, and to proceed against the other Member, when necessary, under the Arbitration Rules then in effect.~~

~~Should the Clearing Organization notify any party by 9:30 A.M. of the following Business Day that it has refused to clear a Trade reported by him because of its rejection of the corresponding Trade of the other party to the Transaction, it shall be the duty of the innocent party to present to the President a memorandum thereof stating that the Clearing Organization has advised him of its refusal to clear his Trade because of its rejection of the corresponding Trade of the other party to the Transaction. It shall be the duty of the party whose Trade was rejected to use his best efforts to correct the situation with the utmost promptness. If the situation shall not sooner be corrected, it shall be the duty of the innocent party to buy in or sell out said contract at the expiration of one half hour after the opening of business on the day of default (being the day after the Transaction was made), or, if the opening call shall not at that time be completed, then promptly after the end of such call, promptly notifying the President in writing of such purchase or sale, and to proceed against the other member, when necessary, under the Arbitration Rules then in effect.]~~