ice

Atlanta Calgary Chicago Houston London New York Singapore

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

BY ELECTRONIC TRANSMISSION

Submission No. 09-1
January 14, 2009

Mr. David Stawick
Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: New Sugar Resolution No. 8 -
Submission Pursuant to Section 5c(c)(1) of the Act and Regulation 40.6

Dear Mr. Stawick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6, ICE Futures U.S., Inc. ("Exchange") submits, by written certification, new Sugar Resolution No. 8, attached as Exhibit A, which provides for cash settlement of outstanding open positions in the January 2010 futures contract at expiration and the procedures for determining the final settlement value. The Resolution applies solely to January 2010 and not to any other contract month.

After almost nine months of trading, the January 2010 and 2011 Sugar No. 11 futures contracts have only reached open interest of 207 and 2 lots, respectively. By comparison, March 2010 and 2011 contracts have open interest of 52,360 and 17,325 lots, respectively as of January 13th. In addition, on average the January futures contract does not attract a bid/offer for most of the trading day.

Although it has been difficult to attract open interest in the January delivery month, the sugar trade has expressed very strong interest in continuing to list January as a delivery month. This is because the sugar trade engages in deliveries during the months between the October delivery month and the March delivery month and believes that a January delivery month should provide a better hedging tool for the period between October and March. However, to ensure that the January 2010 expiration proceeds in an orderly fashion, the Exchange is implementing a procedure to provide for cash settlement solely for the January 2010 delivery month. The decision has been made now, about a year in advance, so that market participants holding open positions in the January 2010 delivery month will have enough time to liquidate their open positions if they do not want to participate in the cash settlement process.

By allowing cash settlement solely for January 2010, it is hoped that interest in trading January will grow without delivery constraints or possible price distortions.

The final settlement price for the January 2010 delivery month will be determined as follows:

(a) on each Business Day during the period from September 1 through September 23, 2009, a Daily Difference shall be calculated by subtracting the October 2009 ("October") contract settlement price from the March 2010 ("March") contract settlement price; a positive number indicates March over October, a negative number indicates October over March; and

(b) the Daily Differences determined during the period shall be averaged to determine an Average Difference; and

(c) an amount equal to the Average Difference multiplied by a factor of .3907, rounded to the nearest one one-hundredth of a cent per pound, shall be subtracted from the settlement price of the March futures contract on the Last Trading Day of the January 2010 Contract.

The last five (5) trading days of the October contract are not included in the calculation to eliminate any unusual volatility in the price of October as it nears expiration. The factor of .3907 was determined by dividing the number of calendar days between January 1, 2010 and March 1, 2010 by the number of calendar days between October 1, 2009 and March 1, 2010, i.e. 59 divided by 151.

Daily settlement prices for the Sugar No. 11 futures contract are determined by the Exchange's Market Supervision Department. The procedures, which have been developed to ensure an objective calculation of such prices, are as follows:

First, an automated program determines the weighted average price ("WAP") of all prices traded during the closing period, which is defined in Exchange Rule 4.06 as the two minute period from 13:28-13:30 for Sugar No. 11;

Second, staff reviews the spreads traded during the closing period and determines whether the WAP is consistent with the spread market and adjusts the price, if appropriate; and

Finally, staff reviews all activity during the closing period including bids and offers to ensure that the settlement price is appropriate; the guidelines used for the review include volume of outright trades compared to the volume of spread trades, prices and open interest in the contract.

Attached as Exhibit B is a chart showing the number of transactions and the volume executed for the October 2008 and March 2009 Sugar No. 11 futures contracts during the closing period for each day in September 2008. However, as noted above, the WAP for the volume traded during the closing period is just one factor in determining settlement prices.

The spot month limit of 5,000 contracts for the October 2008 contract went into effect on September 16, 2008. Generally, except for volatility on the last trading day, the spot month limit has no impact on volume or liquidity during the closing period, and, therefore, does not affect the determination of the settlement price.

The methodology for determining the final settlement price for the January 2010 was selected for several reasons as explained below:

- Determining the actual cash value of raw sugar on the Last Trading Day of the January contract is difficult. The Sugar No. 11 futures contract is a global contract. Delivery may take place from any of 30 origins around the world, and each origin has its own commercial price. These prices are not available from any source. Each origin's commercial price is affected by freight rates, supply and demand, local tariffs, currency values, etc. In addition, the sugar trade has been reluctant to provide information or participate in price surveys as many feel it will impact their commercial business.

- Informal interviews of commercial participants from all major sectors of the world sugar market disclosed that generally the commercial price of sugar bought and sold in January is based on a differential to the March futures price. The interviews also disclosed that the sugar trade found the suggested calculation a reasonable method of determining the cash value of January at expiration. In fact, the trader holding the largest short position in the January 2010, as provided by large trader reports, was in favor of using the methodology. (It should be noted that there are currently no reportable longs.)

- Using the proposed cash settlement methodology, Exchange staff calculated what the settlement price would have been for a January 2006, 2007 and 2008 contract. A comparison of that price was then made to the weighted average price of exchange for physicals ("EFPs") executed on the Exchange during the last three (3) days each January contract would have traded. In two (2) of the three (3) years, the weighted average price varied from the settlement price by less than 1.5 percent. While these EFPs may have involved different growths of sugar and delivery terms, the calculations do suggest that the proposed methodology is a reasonable approach to determining the final settlement price for the January 2010 contract.

The Exchange's methodology for determining cash settlement has been met with unanimous approval from the sugar trade, which, as stated above, price their January cash contracts using a differential to the March future.

To the best of our knowledge, the proposed cash settlement methodology will not effect the value of open positions currently being held, and there is no systematic bias that will effect the value, up or down, of the final settlement price for January 2010.

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

The Resolution was adopted by the Exchange's Board of Directors on January 14, 2009 and will become effective on January 16, 2009. 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 212-748-4084 or jill.fassler@theice.com.

Sincerely,

Jill S. Fassler
Vice President
Associate General Counsel

cc: Division of Market Oversight
New York Regional Office

EXHIBIT A

Sugar Resolution No. 8 – Cash Settlement Procedure for January 2010 Sugar No. 11 Futures Contract

The provisions of this Resolution No. 8 shall apply solely to the January 2010 Sugar No. 11 futures contract (the "Contract"), and supersede all other delivery terms otherwise applicable to Sugar No. 11 futures contracts.

(1) (a) Final Settlement for each open position of the Contract shall be made on the Business Day following the Last Trading Day of the contract and shall be made in the same manner, and in accordance with the same procedures, as the payment of variation Margin.

(b) The amount to be paid in final settlement shall be determined by multiplying $11.20 times the basis point difference between the Settlement Price of the previous trading day for the contract and the Final Settlement Price, calculated as set forth in paragraph (2) of this Resolution.

(2) The Final Settlement Price shall be calculated using the settlement prices of the October 2009 ("October") and the March 2010 ("March") futures contracts, as follows:

(a) For each Business Day during the period from September 1 through September 23, 2009, a Daily Difference shall be calculated by subtracting the October contract settlement price from the March contract settlement price; a positive number indicates March over October, a negative number indicates October over March; and

(b) the Daily Differences determined during the period shall be averaged to determine an Average Difference; and

(c) The Final Settlement Price shall be calculated by subtracting an amount equal to the Average Difference multiplied by a factor of .3907, rounded to the nearest one one-hundredth of a cent per pound, from the settlement price of the March futures contract on the Last Trading Day of the January 2010 Contract.

(3) Upon final settlement as provide in this Resolution, the parties shall have no further obligations hereunder.

EXHIBIT B

Trade Date	[redacted]		Contract Month: March 2009	
	[redacted]		Number Transactions	Volume Traded
2008-09-02	[redacted]		214	2684
2008-09-03	[redacted]		183	2517
2008-09-04	[redacted]		102	1869
2008-09-05	[redacted]		258	3038
2008-09-08	[redacted]		287	7157
2008-09-09	[redacted]		354	8175
2008-09-10	[redacted]		352	7648
2008-09-11	[redacted]		376	6520
2008-09-12	[redacted]		396	6963
2008-09-15	[redacted]		405	3099
2008-09-16	[redacted]		938	5583
2008-09-17	[redacted]		377	3027
2008-09-18	[redacted]		333	2954
2008-09-19	[redacted]		372	2794
2008-09-22	[redacted]		236	1633
2008-09-23	[redacted]		186	664
2008-09-24	[redacted]		205	1583
2008-09-25	[redacted]		353	3983
2008-09-26	[redacted]		314	1549
2008-09-29	[redacted]		345	1901
2008-09-30	[redacted]		490	3710