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

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Submission No. 08-28

April 10, 2007

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

**Re: Amendments to Floor Trading Rule 4.11(d) and (e) – Position Transfers  
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, amendments to Floor Trading Rule 4.11(d) and (e), attached as Exhibit A.

The Commodity Exchange Act generally requires transactions executed on a designated contract market to be executed competitively and prohibits the transfer of contracts if such transfer would result in a change in the beneficial owner of the contracts, with certain limited exceptions. The exceptions are codified in Floor Trading Rule 4.11, which also gives the parties flexibility as to the price at which the transfer is made.

The amendments to Floor Trading Rule 4.11(d) give the Exchange the ability to specifically authorize position transfers, on a case by case basis, in circumstances where doing so would be in the best interests of the Exchange or the marketplace and the clearing members representing the beneficial owners are willing to effectuate the transfer. The provision will allow a trader encountering financial difficulties to mitigate losses that could result from liquidation of his positions by transferring some or all of his positions to another trader that is willing to take on those positions. The amendments are similar to CME Rule 853(A)(3) and NYMEX Rule 6.20(A)(iv).

Floor Trading Rule 4.11(e) provides a mechanism for traders who inadvertently hold open positions in the agricultural commodities after the last trading day, to transfer the contracts (up to a specified level) to another beneficial owner, thereby avoiding the

prospect of a delivery default. The amendments extend this relief to traders of Financial Contracts, to ensure that the inadvertent holding of a currency position after expiration does not give rise to the risk of delivery default if the foreign currency cannot be timely acquired.

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

The amendments were adopted by the Exchange's Board of Directors on April 9, 2008. No substantive opposing views were expressed by members or others with respect to the amendments. The amendments will become effective on April 14, 2008.

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

Sincerely,

Jason V. Fusco  
Assistant General Counsel  
& Market Regulation Counsel

cc: Division of Market Oversight  
New York Regional Office

**Rule 4.11. Transfer Transactions Not Required to Be Made by Open Outcry**

\* \* \*

(d) All Transactions referred to in subparagraphs (a)(i) through (iv) shall not be permitted if there is any change in beneficial ownership of the contracts involved except for the following:

(i) transfers made for the purpose of combining the Positions held by two (2) or more commodity pools which are operated by the same commodity pool operator and traded by the same commodity trading advisor, pursuant to the same strategy, into a single account so long as the transfers do not result in the liquidation of any open Positions, and the pro rata allocation of interests in the consolidating account does not result in more than a de minimis change in the value of the interest of any pool participant; ~~and~~

(ii) such other transfer as the President or his designee, in his discretion, shall exempt in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring corporate transaction between two (2) or more entities where one (1) or several entities become the successor in interest of one (1) or several other entities; and

(iii) with the consent of the clearing member(s) and the approval of the President or his designee, the transfer of existing Positions between accounts or between clearing members when the situation so requires and such transfer is in the best interests of the Exchange or the marketplace.

(i~~ii~~v) For purposes of this Rule, a change in beneficial ownership . . . .

(~~i~~v) Transactions referred to in subparagraph (a)(ii) shall not be considered a change of . . . .

\* \* \*

(e) After the close of trading on the Last Trading Day of any delivery month in any Cocoa, Coffee "C", Cotton No. 2, ~~Ethanol,~~ Financial, FCOJ, ~~[NFC,~~ Pulp, Robusta, Sugar No. 11 and Sugar No. 14 Contract (but not later than 1:00 p.m. of the Last Trading Day for the Financial Contract and not later than noon for Cocoa, Coffee "C", Cotton No. 2 and FCOJ and not later than 10:00 a.m. for ~~Ethanol,~~ Sugar No. 11 and Sugar No. 14 on the following Business Day), a Clearing Member carrying one (1) or more open contracts for that delivery month for its own account or the account of any other Person as the result of an error may transfer any or all of such contracts to any other account carried by such Clearing Member or to any other Clearing Member (together with any delivery documents evidencing an intention to deliver or receive with respect to such contracts); provided that:

(i) for any delivery month in Cocoa, Coffee "C", Pulp, Robusta and Sugar No. 14, no Clearing Member may so transfer for its own account and/or the account of any other Person, in the aggregate, more than ten (10) contracts in such delivery month ~~[the aggregate]~~;

(ii) for any delivery month in Cotton No. 2, in a Financial Contract and FCOJ, no Clearing Member may so transfer for its own account and/or the account of any other Person, in the aggregate, more than twenty (20) contracts in such delivery month ~~[the aggregate]~~;

(iii) for any delivery month in Ethanol, no Clearing Member may so transfer for its own account and/or the account of any other Person, in the aggregate, more than eighty (80) contracts in such delivery month ~~[the aggregate]~~;

**EXHIBIT A**

(iv) for any delivery month in Sugar No. 11, no Clearing Member may so transfer for its own account and/or the account of another Person, in the aggregate, more than eighty (80) contracts in such delivery month [~~the aggregate~~]; and

(v) not later than 1:00 p.m. of the Last Trading Day for a Financial Contract and not later than noon of the Business Day following such Last Trading Day, the Clearing Member effecting the transfer shall deliver to the Clearing Organization written notification of such transfer (in such form as the Clearing Organization may prescribe), specifying the parties thereto and the prices at which such transfers were effected.

[REMAINDER OF RULE UNCHANGED]