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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. 09-25
June 8, 2009

Mr. David A. Stawick
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 ICE Clear U.S. By-Law Section 5.5 and Rule 505 -
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 Clear U.S., Inc. ("ICE Clear") submits, by written certification, amendments to By-Law Section 5.5 and Rule 505, attached as Exhibit A.

By-Law Section 5.5

By-Law Section 5.5 sets forth the procedures for addressing the monetary default of a clearing member, including the specification of the resources to be applied by ICE Clear to cover the amount of the defaulted obligation owing to it. Currently, the By-Law specifies that the first sources, which are always to be applied, are the Guaranty Fund deposit, margin and other assets held for the proprietary account of the defaulting clearing member (whether such default occurs in the proprietary or customer account of such clearing member). In the case of a default involving contracts carried for a customer account, the margin held by ICE Clear for any such customer account must also be immediately applied. Thereafter, the following sources are to be applied in order with each source being fully utilized before the next is applied: such portion of the surplus of ICE Clear as determined by the Board, a loan, the Guaranty Fund, insurance proceeds received by ICE Clear and assessments levied on all clearing members.

The amendments revise the order of the sources to be applied to cover the amount of the defaulted obligation, as follows:

- 1 – The Guaranty Fund deposit, margin and other assets held for the proprietary account of the defaulting clearing member (whether such default occurs in the proprietary or

customer account of such clearing member) would remain first and will always be applied.

2 – In the event of a default involving the customer account of the clearing member, the immediate application of customer margin would not be mandatory, but permissive. This would allow for ICE Clear to facilitate the transfer of positions carried in the clearing member's customer account by ensuring that the margin securing positions of non-defaulting customers is available for transfer with their positions. The decision to forego immediate application of the margin carried in the customer account would be made by the President of ICE Clear with the concurrence of the Chairman or Vice Chairman, or in their absence, three (3) directors at least one (1) of whom is not an employee of ICE Clear or any of its affiliates.

3 – After applying the proprietary funds listed in item 1 above, ICE Clear would be free to utilize in any sequence deemed appropriate, customer margin, surplus of ICE Clear and loans without the need to fully utilize any one (1) category before applying the next. For example, in the case of a default in the customer account carried for the clearing member, ICE Clear could elect to first utilize the ICE credit facility or secure another loan, rather than use the margin deposits of non-defaulting customers of the clearing member.

4 – The application of the Guaranty Fund, insurance proceeds and assessments would remain in the existing sequence, with each source fully utilized before the next was applied. In addition, these sources could not be used until all other sources had been fully utilized. Thus, to the extent that a decision was made to forego the immediate use of customer margin, the sources in this category could not be applied unless and until any customer margin still held by ICE Clear and all other sources identified in item 3 above, had been fully utilized. This ensures that the assets of non-defaulting clearing members are not used before all property carried by ICE Clear for the proprietary (and, if applicable, customer account(s)) of the defaulting clearing member have been applied to cover the amount of the defaulted obligation.

In addition, provisions found at the end of paragraphs (b) and (c) which allowed cotton only clearing members not to pay Guaranty Fund assessments if the defaulting obligation was not related to cotton have been deleted. There are no longer any cotton only clearing members.

Rule 505

ICE Futures U.S., Inc. allows clearing members to accept pass-through letters of credit from their customers as substitutes for such customers' cash margin deposits (ICE Futures U.S. Rule 5.03(j)(viii)). The amendment to Rule 505 will allow the clearing members to substitute such pass-through letters of credit with ICE Clear in substitution of the clearing members' cash margin deposits. The form of pass-through letters of credit are standard in the industry and are accepted as substitutes of cash margin deposits made by clearing members of the Clearing Division of the CME.

The amendments were adopted by ICE Clear's Board of Directors on June 4, 2009 and will become effective on June 10, 2009. No substantive opposing views were expressed by members or others with respect to the amendments.

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

If you have any questions or need further information, please contact me at 212-748-4084 or at jill.fassler@theice.com.

Sincerely,

Jill S. Fassler
ICE Futures U.S., Inc.
Vice President
Associate General Counsel

cc: Division of Clearing and Intermediary Oversight
New York Regional Office

EXHIBIT A

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

Section 5.5. Monetary Defaults; Use of Guaranty Fund; Assessments

If any Clearing Member fails to deposit with, or pay to, the Corporation in full any original margin, variation margin, option premium or other sum (not including any dues, assessments or fines) under or in connection with any Contract, or fails to satisfy any reimbursement obligation to the Corporation in full under or in connection with any Cross Margining Program, when and as required by or pursuant to the rules of the Listing Exchange, the Rules of the Corporation or ~~pursuant to~~ the terms of any Cross Margining Program, such failure shall constitute a "Monetary Default~~[-]~~" and the amount owing shall constitute the "Defaulted Obligation." If and at such times as the Corporation has in effect a procedure whereby deposits or payments of sums with or to the Corporation are effected by having the Corporation instruct the Clearing Members' banks to wire transfer funds from their accounts with such banks directly to the accounts of the Clearing Corporation, a Clearing Member shall be deemed to have failed to deposit or pay any sum when and as required if such Clearing Member's bank fails so to wire transfer funds when and as instructed by the Corporation. In the event that at any time a Monetary Default occurs on the part of any Clearing Member (the "Defaulting Clearing Member"), then:

(a) ~~[Such Defaulting Clearing Member's original margin on deposit with the Corporation (in both customer and proprietary accounts), its Guaranty Fund deposits and any of its other assets under the control of the Corporation shall be applied by the Corporation to pay the amount owing (the "Defaulted Obligation") as hereinafter set forth.]~~ If and to the extent a Monetary Default relates to a Contract carried in any customer account ~~[of]~~ carried by the Corporation for a Defaulting Clearing Member, ~~[such margin,]~~ the Guaranty Fund deposit, margin and other assets ~~[(whether)]~~ held by the Corporation for all proprietary accounts of the Defaulting Clearing Member ~~[or the same or any other customer account)]~~ shall be applied, and if the President, with the concurrence of the Chairman or the Vice Chairman, or, in the absence of both the Chairman and the Vice Chairman, three (3) directors, at least one (1) of whom is not an employee of the Corporation or an employee of any Affiliated Person of the Corporation, so determines, the margin held by the Corporation for all customer accounts of the Defaulting Clearing Member may be applied, to pay the Defaulted Obligation. If and to the extent a Monetary Default relates to a Contract carried in any proprietary account ~~[of]~~ carried by the Corporation for a Defaulting Clearing Member, ~~[such]~~ the Guaranty Fund deposit, ~~[and that portion of such]~~ margin and such other assets as are held for the same or any other proprietary account of the Defaulting Clearing Member, shall be applied to pay the Defaulted Obligation. The Defaulting Clearing Member shall immediately restore any deficiencies in its margin and Guaranty Fund deposits resulting from any such application.

(b) If, after the application of funds in accordance with paragraph (a) of this Section 5.5, [the margin, Guaranty Fund deposit and other assets of a Defaulting Clearing Member under the control of the Corporation are in the aggregate less than] the Defaulted Obligation has not been satisfied, and if the Defaulting Clearing Member fails to pay the Corporation the amount of the deficiency on demand, such Defaulting Clearing Member shall continue to be liable therefor, but the amount of the deficiency, until collected from the Defaulting Clearing Member, shall be met from the following sources of funds, provided, however, that the sources identified in subparagraphs (i), (ii), (iii) shall be fully utilized before the sources identified in subparagraphs (iv), (v) and (vi) may be utilized, and, provided further that the sources identified in subparagraphs (iv), (v) and (vi) must be applied in the order listed (each such source to be fully utilized before the next following source is applied):

(i) such portion, if any, of the surplus of the Corporation as the Board determines to be available for such purpose;

(ii) ~~[I]~~if the President, with the concurrence of the Chairman or the Vice Chairman, or, in the absence of both the Chairman and the Vice Chairman, any director, so determines, a loan on such

terms and conditions as they may determine to be necessary or appropriate (including without limitation granting an assignment, pledge or other lien on or security interest in the Guaranty Fund or the cash, securities and other property held in the Guaranty Fund as provided in Section 5.4(f) of these By-Laws);

(iii) if, and to the extent that, a Monetary Default relates to any Contract carried in any customer account carried by the Corporation for the Defaulting Clearing Member, the original margin on deposit with the Corporation in all such customer accounts of the Defaulting Clearing Member to the extent that such deposits have not been applied pursuant to paragraph (a) hereof;

(iv) subject to Section 5.4(g)(ii) and the last paragraph of Section 5(b) of these By-Laws, the Guaranty Fund;

(v) insurance proceeds, if any, received by the Corporation in connection with the Monetary Default giving rise to the Defaulted Obligation; and

(vi) assessments levied by the Corporation upon all the Clearing Members (other than the Defaulting Clearing Member) as hereafter provided in this Section 5.5.

The total amount to be assessed at any one time pursuant to clause (v) of this paragraph (b) is hereinafter called the "Assessment Amount."

The amount that each Clearing Member must deposit in the Guaranty Fund to satisfy its obligation, pursuant to Section 5.4(g)(ii), to restore the Guaranty Fund deficiency in the event of the application of some part or all of the Guaranty Fund pursuant to Section 5.5(b)(i)(v) (the total Guaranty Fund amount so applied referred to herein as the "Aggregate Guaranty Fund Deficiency"), shall be determined by multiplying the Aggregate Guaranty Fund Deficiency by a fraction, the numerator of which shall be the sum of the amount of the Clearing Member's Base Margin Amount and Base Volume Amount (determined in each case without reference to the maximum Guaranty Fund deposit amounts imposed by subsections (b)(i), (b)(iii) and (b)(v)(A) of Section 5.4) for the period of three (3) calendar months prior to the Monetary Default, and the denominator of which shall be the total of the Base Margin Amounts and the Base Volume Amounts for such period for all Clearing Members (in each case determined without reference to the maximum Guaranty Fund deposit amounts imposed by subsections (b)(i), (b)(iii) and (b)(v)(A) of Section 5.4). The resulting product shall constitute the amount that each Clearing Member must restore to the Guaranty Fund pursuant to Section 5.4(g) as a result of the application of the Guaranty Fund pursuant to Section 5.5(b)(i)(v). ~~[Notwithstanding the foregoing, Clearing Members entitled to clear only Contracts in cotton at the time of the Merger ("Cotton Only Clearing Members") shall not be required to make any payments to restore the Guaranty Fund if and to the extent that the Guaranty Fund is applied pursuant to Section 5.5(b)(iii) as a result of a Monetary Default involving a type of Contract that was not cleared by the Corporation at the time of the Merger. If the Monetary Default involves both (i) Contracts of the type that were cleared by the Corporation at the time of the Merger, and (ii) Contracts of the type that were not cleared by the Corporation at the time of the Merger, then the Corporation will calculate the amounts to be paid to restore the Guaranty Fund separately for the different types of Contracts, as necessary, to comply with the previous sentence.]~~

(c) The amount of any assessment levied on any Clearing Member pursuant to Section 5.5 shall be computed by multiplying the Assessment Amount by a fraction, the numerator of which shall be the sum of the Clearing Member's Base Margin Amount and Base Volume Amount determined (in each case determined without reference to the maximum Guaranty Fund deposit amounts imposed by subsections (b)(i), (b)(iii) and (b)(v)(A) of Section 5.4) for the period of three (3) calendar months preceding the Monetary Default, and the denominator of which shall be the total of the Base Margin Amounts and the Base Volume Amounts for such period for all Clearing Members being assessed (in each case determined without reference to the maximum Guaranty Fund deposit amounts imposed by subsections (b)(i), (b)(iii) and (b)(v)(A) of Section 5.4). The resulting product shall constitute the amount of the assessment to be levied on such Clearing Member pursuant to this paragraph (c). ~~[Notwithstanding the foregoing, no~~

~~assessments shall be made against Cotton Only Clearing Members if and to the extent that the assessments relate to a Monetary Default involving a type of Contract that was not cleared by the Corporation at the time of the Merger. If the Monetary Default involves both (i) Contracts of the type that were cleared by the Corporation at the time of the Merger, and (ii) Contracts of the type that were not cleared by the Corporation at the time of the Merger, then the Corporation will calculate the amounts to be paid to restore the Guaranty Fund separately for the different types of Contracts, as necessary, to comply with the previous sentence.]~~

[REMAINDER OF BY-LAW SECTION UNCHANGED]

Rule 505. Deposit of Securities. Approved Foreign Currencies, and Letters of Credit as Original Margin

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(b) A Clearing Member may substitute a letter of credit or letters of credit, including letter(s) of credit deposited with the Clearing member by its customer in accordance with the rules and procedures of the Exchange, for all or part of the cash it has on deposit with the Corporation as original margin, in accordance with Rule 504(c) and this Rule 505(b); provided that the amount of such letter or letters of credit may not exceed 50% of the amount of original margin such Clearing Member is required to have on deposit.

[REMAINDER OF RULE UNCHANGED]