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BY ELECTRONIC TRANSMISSION

Submission No. 09-333
July 9, 2009

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OFFICE OF THE SECRETARIAT
C.F.T.O.

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: Amendments to Section 4(b) of Annex B of the Bylaws, Rules 6.47, 21.25 and 27.22(a) and Resolution No. 2 of Chapter 21 -
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 Section 4(b) of Annex B of the Bylaws, Rules 6.47, 21.25 and 27.22(a) and Resolution No. 2 of Chapter 21, attached as Exhibit A.

Section 4(b) of Annex B of the Bylaws

The amendment to Section 4(b) of Annex B of the Bylaws allows, under certain conditions, the trading discount enjoyed by a NYBOT Member Firm¹ to continue when there is a change in control of the NYBOT Member firm as a result of a merger, acquisition, asset purchase or other similar non-recurrent corporate transaction. The discount would continue following a change in control only (1) with respect to the specific commodities that formed an integral part of the NYBOT Member Firm's business prior to the corporate transaction, and (2) the extent that the Exchange-related activities of the acquiring firm are the same as those conducted by the NYBOT Member Firm prior to said transaction.

By allowing the trading discount to continue, the acquiring firm will be encouraged to grow the acquired business of the NYBOT Member Firm without the acquiring firm being

¹ A NYBOT Member Firm is defined as a firm that held such status on September 14, 2006 (prior to the merger with ICE). The trading discount is for proprietary trades in futures and options contracts that were listed on NYBOT at the time of its acquisition by ICE.

granted the status of a NYBOT Member Firm or discounts on other products. For example, an acquiring firm purchases the global sugar business of a NYBOT Member Firm. The NYBOT Member Firm's sugar business includes buying and selling physical sugar as well as hedging its commercial sugar business by trading Sugar No. 11[®] futures and options contract. The acquiring firm will receive the trading discount enjoyed by the NYBOT Member Firm for proprietary trades in Sugar No. 11, but will not receive the discount for proprietary trades in Coffee "C"[®] or Cotton No. 2[®]. Similarly, a hedge fund that purchases a cotton floor brokerage operation would not receive any discount for proprietary trading activity that was not related to the cotton floor brokerage operation, such as trades to cover or manage errors.

Rule 6.47

Rule 6.47 is the Exchange's codification of CFTC Regulation 1.59 which, among other things, prohibits exchange employees from trading, directly or indirectly, in any commodity interest (i) traded on the exchange, a related exchange or linked exchange or cleared by its clearing organization, and (ii) traded or cleared at another exchange or clearing organization for which the employee has access to Material Non-Public Information. Subparagraph (c)(2) of Rule 6.47 creates the presumption that certain Exchange staff members have access to Material Non-Public Information and are automatically subject to the trading prohibition. An amendment adds the staff of market supervision to such list of employees.

Rule 21.25

Disciplinary Rule 21.25 grants all members of the Floor Committee the authority to impose summary fines for minor trade practice violations (such as improperly approaching the market) and infractions relating to decorum and attire. The current maximum fine allowable under Rule 21.25 is \$10,000 for "acts which interfere with the personal comfort and safety of others" and \$5,000 for all other infractions. The amendments increase the allowable maximum fine to \$25,000 for "acts which interfere with the personal comfort and safety of others when such fine is issued by a Hearing Panel of the Floor Committee ("Panel") and \$10,000 for all other infractions when such fine is issued by either an individual Floor Committee Member or a Panel.

Raising the allowable maximum for summary fines will serve as a better deterrent for floor infractions. In addition, the current fine system has been in effect since 2004. Since 2004, other exchanges have raised the allowable maximum for summary fines, e.g., the CME has a maximum of \$20,000.

A summary fine issued pursuant to Rule 21.25 is subject to review by a Panel upon the request of the fined member or the Chairman of the Executive Floor Committee. At the conclusion of such review, the Panel has the authority to change the particular violation for which the fine was imposed. For example, a fine imposed for a violation of subsection (b)(i)(A)(18) for "leaving a spot in the ring" may be changed to a fine for a violation of (b)(i)(A)(19) for "causing a disruption in the marketplace." Under current procedures, the fined

member has the right to a second hearing before the same Panel if the violation for which the fine was imposed is changed. The second hearing is, for all intents and purposes, a rerun of the first hearing as the same evidence is presented with the same Panel presidings. In order to expedite the imposition of summary floor fines and reduce the burden on the Floor Committee members who serve on review panels, the proposed amendments to Rule 21.25 eliminate the right to a second review under such circumstances.

Rule 27.22(a)

The amendment to Electronic Trading Rule 27.22(a) clarifies the point in time at which an order entered on the electronic system is considered to have been exposed to the competitive market place and, therefore, has become public information that may be discussed with other market participants. The amendment requires that the terms of the order must be entered into the electronic trading system and *visible* by all market participants before the order may be discussed between any market participants.

Resolution No. 2 of Chapter 21

Disciplinary Resolution No. 2 authorizes specifically named Exchange personnel to act on behalf of the Floor Committee and issue summary fines for such things as running, smoking or eating on the trading floor, throwing trash on the floor or otherwise defacing Exchange property. Except for one, the individuals named in the Resolution are no longer working at the Exchange. The amendments delete individuals' names and refer only to job functions and titles related to floor operations.

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 July 8, 2009 and will become effective on July 13, 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

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

Section 4. Discounts.

* * *

(b) Duration of Discount for Certain Electronic Trading.

(i) Upon the transfer by a NYBOT Member of a NYBOT Membership, the discount for Transactions made via electronic trading shall terminate, provided, however, that (i) a transfer to an individual who confers privileges to a NYBOT Member Firm shall not be deemed a transfer for this purpose and (ii) the leasing of a NYBOT Membership to an individual shall not be deemed a transfer with respect to such NYBOT Member's rights under Section 4(a) of Annex B.

(ii) Upon the occurrence of a merger, acquisition, consolidation, assets purchase or similar non-recurring corporate transaction in which another entity (the "Acquiring Firm") becomes the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm (the "Acquired Business"), the Acquiring Firm shall be entitled to the fee reduction enjoyed by the NYBOT Member Firm immediately prior to such corporate transaction, but only with respect to Existing Products that formed an integral part of the Acquired Business immediately prior to the corporate transaction, and only to the extent that the Exchange-related activities conducted with the Acquired Business are the same as those regularly conducted by the NYBOT Member Firm immediately prior to the corporate transaction. In all other circumstances, the discount for Transactions made via electronic trading shall terminate to the extent that a corporate transaction results in an Acquiring Firm become the successor in interest of a discrete line of business, or the entire business, of a NYBOT Member Firm.

[REMAINDER OF BYLAW SECTION UNCHANGED]

Rule 6.47. Exchange Disclosure and Trading Policy

(a) Definitions. For purposes of this Rule:

* * *

(2) "Governing Member" means any Person serving on the Exchange's Board of ~~Governors~~ Directors.

* * *

(c) Employee Trading Guidelines

1. Except as provided in subparagraph 4 below, no Exchange Employee may trade directly or indirectly in any Commodity Interest, or Related Commodity Interest for which a contract is listed for trading on the Exchange.

2. Except as provided in subparagraph 4 below, no Exchange Employee who has or who, in fulfilling his duties, may obtain Material, Non-Public Information may trade directly or indirectly in any Commodity Interest, or other Related Commodity Interest whether or not such Commodity Interest or Related Commodity Interest involves a contract listed for trading on the Exchange. Employees involved in market surveillance, market supervision, compliance and auditing functions shall, for the purposes of this Guideline, be presumed to have access to such Material, Non-Public Information.

[REMAINDER OF RULE UNCHANGED]

Rule 21.25. Floor Committee Summary Action

(a) *Imposition of Fines and Removal from Premises*

Any two (2) or more [the] Floor Committee members may summarily impose a fine (a "Ring Fine"), and any member of the Floor Committee may summarily impose a fine, for each violation of any Rule regarding decorum or attire or regarding the timely submission of accurate reports, records or other similar matters required for clearing or verifying each day's Transactions as specified in paragraph (b) hereof. Any such fine shall not exceed [five] ~~ten~~ thousand dollars (\$[5]~~10~~,000), except for a fine issued by a Panel convened pursuant to subparagraph (d)(i) hereof for a violation[s] of paragraph (b)(i)(A)(15) which shall not exceed [ten] ~~twenty-five~~ thousand dollars (\$[10]~~25~~,000), and a fine issued for a violation of paragraph (b)(i)(B) of this Rule shall not be less than two hundred fifty dollars (\$250). No member of the Floor Committee shall issue a fine (including a Ring Fine) in any matter in which that Committee member has a direct financial, personal, or other interest. For purposes of the preceding sentence, a member shall be deemed to have a direct financial, personal or other interest in any matter in which a member with whom he is associated has a direct financial, personal or other interest.

* * *

(d) *Procedures for Review of Floor Fines*

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(iii) **Sanctions and Decision of Panel:** The Panel may affirm, rescind or modify any such fine imposed in whole or in part, and, based upon the facts as determined by the Panel at the hearing, may change the particular subsection of paragraph (b) for which the fine is imposed; [~~provided, however, that if the Panel so changes the subsection for which the fine is imposed, the Member may request a further review of the matter pursuant to paragraph (c) hereof within seven (7) Business Days after receipt of the written decision of the Panel. Any such further review shall be conducted in accordance with the procedures specified in paragraph (d)(ii) of this Rule, except that the same Panel shall be reconvened and the record of the prior proceeding(s) shall constitute evidence in the subsequent review proceeding. In the event such request is not made by the Member within seven (7) Business Days, all further rights to request a review shall be waived and the fine imposed shall become final in accordance with paragraph (d) of this Rule.~~]

[REMAINDER OF RULE UNCHANGED]

Rule 27.22. Pre-Execution Communications Prohibited

(a) For the purposes of this Chapter, pre-execution communications shall mean communications between two (2) market participants for the purpose of discerning interest in the execution of a Transaction prior to [~~entry of an order on ETS~~] the terms of an order being entered on the ETS and visible to all market participants on the electronic trading screen.

(b) Pre-execution communications and Transactions arising from such communications are prohibited in all Exchange Commodity Contracts.

No. 2. Summary Action by Security and Floor Operations Staff

RESOLVED, that the Board of [~~Governors~~] Directors hereby authorizes any employee of the Exchange's Security Department, the Senior [Staff and Thomas Greene, Senior] Vice President, Floor Operations [~~, James Garrity, Assistant Vice President, Floor Operations, and Michael Farrell, Manager,~~] and any Vice President or Manager of Floor Operations, [and any replacement thereof] acting as agent for the Floor Committee, to issue summary sanctions for the following violations listed in Rule 21.25(b)(i)(A), provided, however, that the violation is witnessed by said individuals:

1. Running on the Trading Floor or adjacent corridors;
2. Smoking, eating or drinking, except in areas specifically designated by the Exchange;

3. Leaving or throwing refuse on the furniture, fixtures or floor;
4. Sitting on cabinets, desks or floor;
5. The defacing or damaging of walls or other facilities;
6. Failure to wear required identification badges; and
7. Failure to conform to the mandatory forms of dress and appearance.