

CIRCULAR

29 JUNE 2017

CIRCULAR 17/095 DISCIPLINARY NOTICE: SETTLEMENT OF DISCIPLINARY PROCEEDINGS AGAINST DURME NATIE C.V.B.A (“DMN”)

CATEGORY

Membership

ATTACHMENTS

None

ICE Futures Europe (“the Exchange”) has proceeded with disciplinary measures against Durme Natie C.V.B.A (“DMN”) in relation to its failure to operate in accordance with certain aspects of the Exchange’s Grading and Warehousekeeping procedures (“G&WP’s), in respect of ICE Futures London Cocoa contracts.

Background

On four separate occasions from the period of August 2015 to August 2016, DMN failed to adhere to the G&WP’s. During which time, the Exchange investigated and concluded that DMN had failed numerous times with regards to sampling rules surrounding the ICE Futures London Cocoa, as well as warrant and delivery procedures failing to meet the required standard.

In light of the seriousness and repetitive incidents throughout this time, the Exchange has reviewed DMN’s actions as well as mitigations and received assurances of the management and oversight controls over this area.

Allegations

In relation to the incidents described above, the Exchange alleged that DMN, as a nominated warehousekeeper, had breached the following rules;

D.1.17.3, which states that

“The position of Goods within the warehouse shall be recorded and maintained by the Warehousekeeper on a storage plan of the warehouse or on a list of storage zones or locations of the Warehouse in a manner that will allow an Exchange official or other third party readily to locate and identify the Goods.”

D.2.5.1, which states that

In respect of each sample drawn from a Standard Delivery Unit:

“(a) a sample of 2 kg minimum weight shall be drawn which shall be representative of the Standard Delivery Unit as a whole, and shall be taken randomly from a minimum of 30% of the number of sound bags forming the Standard Delivery Unit and over the full height and width of the Standard Delivery Unit directly into a clean dry and odourless cotton or linen sample bag with a tare not exceeding 100g; and

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(b) the sample bag shall be sealed with the Warehousekeeper's seal and also if supervised the Supervision Company's seal and the sample bag shall be marked with the following as a minimum:

- (i) the name of the Warehousekeeper responsible for drawing the sample
- (ii) Warrant number;
- (iii) Delivery Area;
- (iv) Origin;
- (v) Date on which the Cocoa was landed; and
- (vi) The bar code issued by or recorded on Guardian in respect of the sample."

D.2.5.2, which states that

In respect of a sample drawn from a Large Delivery Unit:

(a) sample material of 12 kg minimum weight shall be drawn from a minimum of 30% or more of the number of sound bags over the full height and width of the Large Delivery Unit;

(b) the sample material shall be quartered to provide a grading sample weighing not less than 3kg. The remaining beans from the preliminary sample shall be bagged, clearly marked and stored with the Large Delivery Unit from which they were drawn;

(c) the grading sample material shall be placed in a cotton or linen sample bag with a tare not exceeding 150g. The grading sample bag shall be sealed with the Warehousekeepers seal, and also if supervised the Supervision Company's seal and the details specified in GWP D 2.5.1 (b) shall be marked on the bag.

The Exchange recommended to the Compliance officer in accordance with Rule E.3.7, that disciplinary proceedings be commenced in regards to the alleged breaches.

In accordance with Rule E.4.3A, DMN were given the opportunity to settle disciplinary proceedings at any stage with the Exchange. An agreement was reached and as per the same rule, any terms of settlement agreed between the Compliance officer and DMN was to be ratified by the Authorisation, Rules and Conduct Committee ("the ARC"). Following the ARC's ratification these terms shall now take effect.

Details of Settlement

The Exchange views that operating in accordance with the G&WP's at all times is of critical importance. In agreeing settlement terms and considering the appropriate sanctions, the Exchange took note of remedial action taken by DMN. In addition the Exchange also considered mitigating factors and acknowledged the cooperation shown by DMN in this matter.

It is important to note that at the time of this investigation, as per Rule E.7 (a) (iii), the maximum fine which might have been imposed in relation to a matter recommended for disciplinary proceedings, as per Rule E.3.7; was limited to £25,000 for an individual and £50,000 for a member in respect of each offence.

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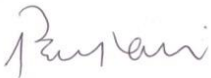
However, in accordance with Circular 16/169 amendments were made to rule E.7 (a) (iii), whereby the maximum fine for a member was increased from £50,000 to £250,000, this came into effect on Wednesday 16 November 2016 and consequently this could be of relevance in consideration of an analogous matter today.

As a result both parties agreed a settlement on the following terms;

- DMN admits to overall responsibility to the above mentioned breaches of the G&WP's.
- DMN is to pay a total fine of £33,333 as a penalty for said breaches. (This represents a discount for settlement and for the other mitigating factors mentioned above.)

Please ensure that the appropriate members of staff within your organisation and customers are advised of the content of this Circular.

Signed:



Patrick Davis
Company Secretary

FOR MORE INFORMATION, PLEASE CONTACT:

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