

LONDON NOTICE NO. 3790

Issue Date: 27 January 2014

Effective Date: 1 April 2014

**COCOA FUTURES CONTRACT
(EXCHANGE CONTRACT NO. 401)**

**ROBUSTA COFFEE FUTURES CONTRACT
(EXCHANGE CONTRACT NO. 409)**

CHANGES TO THE GRADING & WAREHOUSEKEEPING PROCEDURES (“G&WPs”) RELATING TO THE ANNUAL RENEWAL PROCEDURE FOR NOMINATED WAREHOUSEKEEPERS

Executive Summary

This Notice informs Members about changes to the annual renewal procedure for Nominated Warehousekeepers including: (a) the renewal period will run from 1 May to 30 April annually; (b) the requirement for Warehousekeepers to submit to the Exchange, at the time of renewal, details of its proposed charges for the Loading-In, Rent and Movement Out in respect of Cocoa and Robusta Coffee for the following 12 months, together with comparable commercial rates; (c) additional requirements in respect of the Movement Out of Cocoa and Robusta Coffee from a Warehouse; (d) clarification of the appeal process in respect of the application for nomination of a Warehousekeeper; and (e) certain other changes to reflect the aim of harmonising the G&WPs with the relevant procedures in place for ICE Futures US.

1. Introduction

- 1.1 This Notice informs Members that following consultation with market users and Warehousekeepers, the Exchange is introducing changes to the Grading & Warehousekeeping Procedures (“G&WPs”) as they relate to both the Cocoa Futures and Robusta Coffee Futures Contracts. In making these changes the Exchange is seeking to harmonise the G&WPs with the relevant procedures in place for ICE Futures US where possible, whilst at the same time addressing certain of the concerns expressed by both market users and Warehousekeepers.
- 1.2 The changes to the G&WPs affect: the annual renewal process for Nominated Warehousekeepers by requiring additional information to be submitted to the Exchange to assist in its determination as to whether applications for renewal should be accepted or not; the introduction of a time limit by which a Warehousekeeper must complete a Loading Out request for Cocoa and/or Robusta Coffee (“Goods”); harmonisation of the Procedures covering Resignation, Insolvency and Termination of a Warehousekeeper/Warehouse; the introduction of a specific requirement to notify the Exchange of changes in circumstances of Warehousekeepers; and clarification of the Procedures covering the sampling of Goods.

1.3 These amendments to the G&WPs, full details of which are set out in the Attachment to this Notice, will become effective on 1 April 2014.

2. Application to become a Warehousekeeper and Annual Renewal of nomination

2.1 To bring into line both the LIFFE and ICE Futures US nomination periods the LIFFE nomination period will be changed from 1 April to 31 March to 1 May to 30 April.

2.2 Application for annual Renewal of Nomination must be submitted by no later than 30 business days prior to 1 May. In light of the changes that are proposed to the G&WPs, Warehousekeepers are recommended to liaise with the Exchange in advance of this deadline so as to ensure that the additional requirements are fully understood and all necessary information is submitted in a timely manner.

2.3 The acceptance of an application for the annual renewal of the nomination of a Warehousekeeper will be at the absolute discretion of the Exchange.

2.4 Where the Exchange decides not to accept the application to become a Warehousekeeper the Warehousekeeper may appeal the decision of the Exchange. An appeal made under this Procedure must be made to the Board of LIFFE A&M (or by a committee of the Board) in writing within five business days of the decision not to accept the application. The Board or committee of the Board, shall determine the appeal within 28 days of the Exchange's receipt of the written appeal.

2.5 Refusal of the annual renewal of the nomination of a Warehousekeeper by the Exchange shall serve as termination by the Exchange of the nomination of the Warehousekeeper and the provisions of Procedure D 1.13 (Termination) shall apply

3. Warehousekeeper Charges

3.1 Currently Warehousekeepers are required to submit proposed Maximum Rent and Movement Out rates to the Exchange on a semi-annual basis, and these rates are then published to the market via the Exchange's website. To bring the Exchange's requirements into line with those of ICE Futures US, Warehousekeepers will be required to submit these rates annually as part of the renewal application process, with effect from 1 May 2014. This will also apply for each subsequent annual renewal of approval.

3.2 An additional criteria will be introduced as part of the application/renewal process which will require Warehousekeepers to justify to the Exchange that the proposed rates are reasonable and comparable with commercial charges levied for similar services. As part of this process, Warehousekeepers will be required to submit to the Exchange Maximum Loading-In, Weighing, Sampling and Re-bagging rates for Goods. In addition Warehousekeepers shall submit rates charged for comparable services provided to commercial users of Warehouses. It should be noted that two new defined terms "Loading In" and Loading in Charge", have been introduced into the G&WPs to ensure clarity as to what should be included in the charge for Loading In of Goods into a Warehouse. For the sake of consistency, and to achieve harmonisation with ICE Futures US procedures, the current definition of "Movement Out" will be changed to "Loading Out" and the definition of "Movement Out Charge" will be changed to "Loading Out Charge".

- 3.3 There will be no change to the publication regime, in that only Maximum Rent and Loading Out rates will be published to the market via the Exchange's website.
- 3.4 In the event that the Exchange determines, in its absolute discretion, that the rates proposed by a Warehousekeeper have not been justified as reasonable and comparable with commercial charges levied for similar services, then it may reject an application/renewal.
- 3.5 A commitment by the Warehousekeeper to ensure that all charges, whether published by the Exchange or not, be reasonable and comparable with the commercial charges levied for similar services and reflect actual services rendered, shall form part of the standards expected of a Warehousekeeper.
- 3.6 Maximum Rent and Loading Out rates for Exchange Goods may only be increased once a year at the annual renewal of nomination and any proposed increases must be submitted to the Exchange at least 90 days prior to the annual renewal of nomination.
- 3.7 A Warehousekeeper shall maintain records which identify the charges made by the Warehousekeeper, and on request from the Exchange, the Warehousekeeper shall provide details of any charges made, or agreed to be made, between the Warehousekeeper and an Owner in respect of Exchange Goods.

4. Loading Out Rates

- 4.1 In order to provide greater certainty to the Owner of the Goods who has instructed the Warehousekeeper to Load Out the Goods, the Exchange has implemented a time period within which such instruction must be completed. Warehousekeepers will have 60 calendar days to complete a Load Out request and in the event that it takes longer than this period to complete, then no rent will accrue to the Owner for the period after the 60-day limit.
- 4.2 As a consequence there will be an additional provision within the G&WPs that Warehousekeepers must provide adequate resources to facilitate the Loading Out of the entire stock of Goods held within 60 calendar days.
- 4.3 For the avoidance of doubt, the 60 calendar day requirement is in addition to the existing Loading Out minimum tonnage rates, which will be left unchanged.

5. Resignation, Insolvency and Termination of nomination

- 5.1 The process for the termination by a Warehousekeeper of the nomination of a Warehousekeeper or Warehouse shall now be included in the Procedure D 1.11 (Resignation) of the G&WPs, so as to align the Exchange's Procedures with those of ICE Futures US.
- 5.2 In the case of the suspension of nomination following insolvency of a Nominated Warehousekeeper the Exchange has determined to place more control of the Warehousekeeper/Warehouse in which the Goods are stored following the suspension with the Owner of the Goods. Following the suspension of the nomination of a Warehousekeeper the Owner may make an application for the movement of the Goods. However, the Exchange may determine not to utilise the Performance Bond of the suspended Warehousekeeper where:

- the business of the suspended Warehousekeeper has been taken over by another Nominated Warehousekeeper and that Warehousekeeper has consented to taking control of the Goods; or
- the Goods are currently stored in a Warehouse which is registered by another Warehousekeeper and that Warehousekeeper has consented to taking control of the Goods.

5.3 As noted above in Section 2.4, the Exchange may reject an application/renewal at its absolute discretion, and further may suspend or terminate the nomination of a Warehousekeeper or Warehouse at any time.

5.4 A Warehousekeeper may appeal the decision of the Exchange to suspend or terminate its nomination or the nomination of a Warehouse for which it is the Nominated Warehousekeeper. An appeal must be made to the Board (or by a committee of the Board) in writing within five business days of the termination or suspension of the nomination and must contain evidence as to why the nomination should not be suspended or terminated. The Board or committee of the Board, shall determine the appeal within 28 days of the Exchange's receipt of the written appeal.

5.5 Goods stored in a Warehouse for which the nomination has been suspended or terminated must, unless otherwise determined by the Board, be moved to another nominated Warehouse within 60 calendar days. Where movement of Goods is required under such circumstances, the cost shall be solely for the account of the Warehousekeeper.

6. Sampling of Cocoa and Robusta Coffee

6.1 The Exchange requires that sampling instructions submitted by the Owner to a Warehousekeeper are undertaken without delay, and the G&WPs are amended to reflect this requirement.

7. Duty to Notify

7.1 Whilst Warehousekeepers generally are required to inform the Exchange of changes in circumstance, the Exchange has determined that it would be helpful to provide additional clarity on those events which it would expect to be notified. These include, but are not limited to, material or adverse change in financial condition of the Warehousekeeper, change in ownership/control, and failure or inability to meet continuously the criteria for eligibility as a Nominated Warehousekeeper. The detailed list of events can be found in Procedure D.13.A of the G&WPs. For further information in relation to this Notice, Members should contact:

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