

LONDON NOTICE No. 2662

ISSUE DATE: 28 June 2005
EFFECTIVE DATE: 28 June 2005

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

**ROBUSTA COFFEE FUTURES CONTRACT
(EXCHANGE CONTRACT NO. 406)**

**NOMINATED WAREHOUSEKEEPERS: INTRODUCTION OF A SUITABILITY
REQUIREMENT FOR ALL STAFF INCLUDING SENIOR MANAGEMENT**

**AMENDMENTS TO THE GRADING AND WAREHOUSEKEEPING PROCEDURES IN
RESPECT OF COCOA AND ROBUSTA COFFEE FUTURES CONTRACTS**

Executive Summary

This Notice advises members and Nominated Warehousekeepers of the introduction of a suitability requirement for all staff, including senior management, of Nominated Warehousekeepers.

1. LIFFE Circular No. 04/64, issued on 31 December 2004, advised members and Nominated Warehousekeepers that the Exchange would introduce a fit and proper (i.e. suitability) requirement for staff of Nominated Warehousekeepers.
2. This Notice provides members and Nominated Warehousekeepers with details of the new arrangements and the consequential amendments to Procedure D 1.6 (Criteria for Approval as a Nominated Warehousekeeper) of the Grading and Warehousekeeping Procedures in respect of Cocoa and Robusta Coffee Futures Contracts ("the G&WPs"). Specifically, the new arrangements require that:
 - (a) in order to be nominated as a Nominated Warehousekeeper and to continue to be so nominated, the employees, contractors and agents of a Nominated Warehousekeeper must be suitable, adequately trained and supervised;

Web site: www.euronext.com/derivatives

The Euronext Derivatives Markets ("Euronext.liffe") include the markets for derivatives operated by Euronext Amsterdam, Euronext Brussels, Euronext Lisbon, Euronext Paris and LIFFE Administration and Management, referred to respectively as the Amsterdam, Brussels, Lisbon, Paris and London markets.

Euronext NV, PO Box 19163, 1000 GD Amsterdam, The Netherlands

- (b) a Nominated Warehousekeeper has specific and appropriate procedures to evaluate the suitability of senior management on a continuing basis. Such procedures should include, but are not limited to, an assessment against the criteria contained in Procedure D 1.6.3 of the G&WPs; and
 - (c) a Nominated Warehousekeeper must disclose any matters to the Exchange that could reasonably be expected to be disclosed in relation to the suitability of its senior management.
3. **The new arrangements will come into effect on and from 28 June 2005. However, the Exchange has determined that existing Nominated Warehousekeepers should be given a transitional period, ending at the close of business on 1 September 2005, during which to amend their current procedures and assess senior management against the criteria contained in Procedure D 1.6.3.** During the transitional period, the Exchange will not take action against a Nominated Warehousekeeper for any failure under the new arrangements. However, by the end of the transitional period the Exchange requires that each Nominated Warehousekeeper provides an undertaking to the Exchange that it is in compliance with the new arrangements and has reported any instances where an individual in a senior management position falls under the criteria set out in Procedure D 1.6.3.
4. Furthermore, as part of the annual renewal of nominations, Nominated Warehousekeepers will be required to give a positive undertaking that they continue to be in compliance with the new arrangements. The arrangements will also be incorporated into the application process and will thus have immediate effect in relation to any new applicants.
5. The amendments to Procedure D 1.6 of the G&WPs form the Attachment to this Notice. An updated version of the G&WPs will appear in the Member Handbook and on the Euronext website (www.euronext.com) in due course.

For further information in relation to this Notice, members should contact:

David Brignull	+44 (0)20 7379 2854	david.brignull@liffe.com
Andrew Fenlon	+44 (0)20 7379 2333	andrew.fenlon@liffe.com

AMENDMENTS TO THE GRADING AND WAREHOUSEKEEPING PROCEDURES IN RESPECT OF COCOA AND ROBUSTA COFFEE FUTURES CONTRACTS

(Additions shown underlined/deletions ~~struckthrough~~)

1.6 Criteria for Approval as a Warehousekeeper

1.6.1 For a Warehousekeeper to be approved as a Warehousekeeper and in order to maintain that status, the Exchange must be satisfied that he:

- (a) carries on business in a port or Delivery Area where Warehouses are eligible for nomination under the relevant contract terms;
- (b) is of sufficient business and financial standing, meets the financial requirements prescribed by the Exchange from time to time and, with effect from 1 April 2000, has in place a performance bond as prescribed by the Exchange from time to time for the protection of an Owner's interests (or such other financial provisions as may be prescribed by the Exchange from time to time). The Exchange may, at any time, request information regarding the financial status of a Warehousekeeper;
- (c) has been, or is part of a Related Company that has been, a Warehousekeeper for a reasonable period. A reasonable period will usually be considered to be at least two years, with a minimum of one year's experience of storing either Cocoa or Robusta Coffee or both, or that the Warehousekeeper employs staff with such experience;
- (d) has in place the necessary procedures and management controls to ensure his compliance with the Rules, the relevant contract terms and these Procedures for the classification of Warehousekeeper in respect of which he is or is seeking to be nominated;
- (e) shall organise and control his affairs in a responsible manner, keep proper records, have well defined procedures for handling and storing Cocoa and Robusta Coffee and ensure that his employees, contractors or agents are suitable, adequately trained and properly supervised;
- ~~(e)~~(f) has in place such insurance as shall be specified by the Exchange in its absolute discretion from time to time;
- ~~(f)~~(g) where applicable, is licensed to issue a Warrant for the delivery of Goods to the bearer of the Warrant, by a National or State licensing authority;
- ~~(g)~~(h) has satisfactory communication and office facilities for the production of Warrants, Lotting Account details and such other documents relating to delivery;
- ~~(h)~~(i) shall undertake to be connected to GATS, either directly or via a third party, prior to taking Goods into store and piling them for potential delivery against positions in the Cocoa or Robusta Coffee Futures Contract, as the case may be;
- ~~(i)~~(j) shall undertake to appoint a London agent where deemed necessary at the absolute discretion of the Exchange; and
- ~~(j)~~(k) satisfies any other requirements that the Exchange may prescribe from time to time.

1.6.2 In respect of a Warehousekeeper who is, or who is seeking to be approved as a Dual Capacity Warehousekeeper, in addition to the above, the Exchange must also be satisfied that he:

- (a) has, or is part of a Related Company that has, adequate experience of the handling of bulk Cocoa, or that the Warehousekeeper employs staff with such experience; and
- (b) possesses or has access to equipment and bags to enable compliance with the requirements of Procedure D 1.15.6.

~~1.6.3 In order to satisfy itself that a prospective or existing Warehousekeeper fulfils the above criteria, the Exchange may seek references from any organisation or body it considers appropriate (e.g. members, bankers or Dun & Bradstreet).~~

1.6.3 Pursuant to Procedure D 1.6.1(e), a Warehousekeeper shall have appropriate and detailed procedures to evaluate on a continuing basis the suitability of senior management, which for the purposes of this Procedure includes any director, partner, sole practitioner, senior manager or any other individual whose position enables them to assert a material influence over the management of the Warehousekeeper's operation. Such procedures shall include, but are not limited to, an assessment against the criteria detailed below:

- (a) whether any such person has been convicted of any criminal offence. Particular consideration should be given to offences of dishonesty, fraud, financial crime or other offences relating to companies, insolvency, money laundering, market manipulation or insider dealing;
- (b) whether any such person has been the subject of an adverse finding or any settlement in civil proceedings, particularly in connection with the formation or management of a body corporate;
- (c) whether any such person has been the subject of, or has been interviewed in the course of, any existing or previous investigation or disciplinary proceedings by a regulatory authority, clearing house or exchange, professional or trade body, or government body or agency;
- (d) whether any such person has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;
- (e) whether any such person has been involved with a company, partnership or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;
- (f) whether any such person has been a director, partner, or has been concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
- (g) whether any such person has been dismissed, or has been asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;

(h) whether any such person has ever been disqualified from acting as a director or from acting in any managerial capacity; and

(i) whether any such person being an individual has ever been declared bankrupt or has made any arrangement or composition with his creditors.

1.6.4 Where a Warehousekeeper assesses that any criterion detailed in Procedure D 1.6.3 has been met by any person in a senior management position, the Warehousekeeper shall immediately notify the Exchange with details of all facts and circumstances surrounding the assessment including:

(a) whether the Warehousekeeper believes, notwithstanding that one or more of the criteria has been met, that the person remains suitable for senior management; and, if so

(b) the reasons, facts, or circumstances why the Warehousekeeper believes the person remains suitable.

1.6.5 In order to satisfy itself that a prospective or existing Warehousekeeper fulfils the criteria detailed in this Procedure D 1.6, the Exchange may seek references from any organisation or body it considers appropriate (e.g. members, other Warehousekeepers, bankers or Dun & Bradstreet).