ICE FUTURES CANADA

NOTICE

NOTICE

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Summary of content

Updated requirements regarding Wash Trade and Cross Trades

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Updated requirements regarding Wash Trades and Cross Trades

Buy and sell orders entered by the same trader, or executed for the same beneficial owner, may give rise to certain restrictions and prohibitions under the rules of ICE Futures Canada (the "Rules"). These Rules include Rule 8A.07 (Prohibited Practices – Wash Trades) and Rule 8A.08 (Crossing Orders).

ICE Futures Canada is issuing this notice to provide updated information on the application of these rules to specific trading practices. These requirements are in line with the Wash Trade and Cross Trade provisions at many other derivatives exchanges.

In general, the updated requirements prohibit any crossing of the same beneficial account, regardless of the circumstances. Further, traders who receive buy and sell orders from the same client have a positive duty to enquire about the nature of the orders, and ensure they are not for the same beneficial owner.

Frequently Asked Questions

1. **Is it permissible for a trader to enter opposing buy and sell orders in the same contract at the same price?**

   In general, a trader may only enter opposing buy and sell orders in the same contract if:

   (a) the orders are for different beneficial owners, and

   (b) the trader leaves a time delay between the entry of the buy and sell orders. This delay must be at least five (5) seconds for outright futures, and fifteen (15) seconds for strategies, spreads, and options. Rule 8A.08 should be reviewed for further details.

   For clarity, it should be noted that leaving the required time delay between buying and selling orders does not alter the prohibition on Wash Trading, as described below.

2. **Is it acceptable for the same beneficial owner to buy and sell in the same transaction?**

   In general, no. Transactions in which the same beneficial owner is both buyer and seller are typically considered Wash Trades, which are prohibited under the Rules. Wash Trading is defined in Rule 1.02 as: *"Entering into, or purporting to enter into, transactions to give the appearance that purchases and sales have been made, without incurring market risk or changing the trader's market position"*

   Wash Trading is a violation of the Rules regardless of the time delay between the entry of opposing buy and sell orders.

3. **Can orders be placed for different accounts, departments, or divisions of the same beneficial owner?**

   In certain circumstances, buying and selling orders may be generated from different business units of the same legal entity. Furthermore, on occasion, these buying and selling orders may cross in the market. These trades will not generally be considered Wash Trades, provided it can be shown that the orders were independently generated for legitimate and separate business purposes, by different individuals, and the trades were not pre-arranged or otherwise deliberately entered to cross against each other.

   In circumstances where a single trader is responsible for executing orders for multiple departments or divisions of a company, either as an employee or on a brokerage basis, it is expected that one order will be entered and fully executed before the entry of the opposing order. Exemptions to this requirement will only be considered in limited circumstances, on a case-by-case basis, with prior approval from the Regulatory Division.

4. **What are the responsibilities of a broker in accepting opposing orders from the same client?**

   A broker who knowingly accepts opposing orders that would result in a Wash Trade will themselves be considered to be in violation of the Rules. Brokers at all levels, whether omnibus or otherwise, bear a responsibility to make reasonable inquiries into the nature and background of the orders they receive. Furthermore, there may be circumstances where the broker must go beyond merely accepting the assertion of the client that the orders will not result in a Wash Trade.

5. **How does the Exchange view inadvertent crossing by traders for their personal account?**

   Inadvertent and unintentional trades across one's own orders may not be considered rule violations. If this becomes more than an occasional occurrence, the Regulatory Division will may request an explanation of the reason(s) for the transactions. Individuals who frequently submit bids and offers on opposite sides of the market, such as "locals" and Liquidity Providers, are encouraged to explore front-end functionality which is designed to minimize or eliminate their buying and selling orders from matching with each other.

6. **Is it considered a violation for orders generated from automated trading systems or algorithms to cross against each other?**

   The parameters noted above for Liquidity Providers also apply to automated trading systems. However, if the algorithms of a given Liquidity Provider match against themselves frequently, or cause price or volume aberrations, the trading may be subject to particular scrutiny and may be deemed to be in violation of the Rules. Therefore, market participants should monitor their automated trading systems, and employ systems that minimize the potential for the execution of cross transactions that do not involve a change in ownership.

7. **If a position offset is not completed within the required time period, how can the existing long and short positions be liquidated?**

   Previously, the crossing of opposing orders to liquidate concurrent long and short positions has been permitted, provided the required time delay between the buy and sell orders is respected. This exemption to the Wash Trade rules will no longer be provided in most circumstances. Instead, one order must be executed in its entirety prior to the entry of the opposing order. Exemptions to this requirement will be considered on a case-by-case basis, and only with the prior approval of the Regulatory Division.