

## NOTICE

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### Summary of Content:

New Rule 4.06  
Exchange for Related  
Position

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### **New Rule 4.06 Exchange for Related Position**

**Effective Monday, August 20, 2012**, the Exchange is implementing new Trading Rule 4.06, which consolidates current Rules 4.12, 4.13 and 4.13A. The former rules addressed Exchange for Physical or AA transactions, Exchange for Swap transactions and Exchange of OTC Options for Exchange-Traded Options transactions. All of these trade types are now covered by this new rule addressing Exchange for Related Position transactions. No substantive changes were made to the requirements for such transactions.

The text of new Rule 4.06 follows below. If you would like a copy showing language additions and/or deletions, please contact the Corporate Secretary's Office at (212)748-4082.

#### **Rule 4.06. Exchange for Related Position**

(a) The following transactions shall be permitted by arrangement between the parties in accordance with the requirements of this Rule, each type of transaction being referred to as an Exchange for Related Position ("EFRP"):

(i) AA or EFP Transaction: A privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding cash position;

(ii) EFS or Exchange for Risk ("EFR"): A privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding OTC swap or other OTC instrument;

(iii) Exchange of Options for options ("EOO"): A privately negotiated and simultaneous exchange of an Exchange Option position for a corresponding OTC option position or other OTC instrument with similar characteristics.

#### (b) EFRP Transaction Requirements

(i) An EFRP Transaction shall consist of two discrete but related simultaneous transactions in which one party must be the buyer of (or the holder of the long market exposure associated with) the related position and seller of the corresponding Exchange contract, and the other party to the EFRP Transaction must be the seller of (or the holder of the short market exposure associated with) the related position and the buyer of the corresponding Exchange contract. The related position must involve the commodity underlying the Exchange Futures Contract or Option (or any derivative, by-product or related product) in a quantity that is approximately equivalent to the quantity covered by the Exchange Futures Contract or Option.

(ii) The accounts involved in the execution of an EFRP Transaction must be (A) independently controlled with different beneficial owners; or (B) independently controlled accounts of separate legal entities with the same beneficial owners, provided that the account controllers operate separate business units; or (C) independently controlled accounts within the same legal entity, provided that the account controllers operate in separate business units; or (D) commonly controlled accounts of separate legal

entities, provided that the separate legal entities have different beneficial owners;

(iii) The parties to an EFRP Transaction shall maintain all documents relevant to the Exchange contract and the related position including all documents customarily generated in accordance with the relevant market practices, including, as applicable, copies of the documents evidencing title to, or the contract or contracts to buy or sell, the Cash Commodity (or the derivative, by-product or related product) involved in such Transaction, and master swap agreements and any supplements thereto. Any such documents and information shall be furnished to the Exchange upon request. The carrying Clearing Member shall be responsible to provide such requested documents and information on a timely basis.

(iv) AA/EFP and EFR Transactions executed on the Last Trading Day for any delivery month in any Sugar No. 11 or Sugar No. 16 Futures Contract must be executed and reported before the final five (5) minutes of trading.

(v) With respect to EFPs in foreign currency futures wherein the parties immediately offset the cash transaction (“transitory EFPs”), the Market Surveillance Department would expect to see confirmation statements issued by the bank/foreign exchange dealer party to the Transaction. These confirmation statements should be the type normally produced by the bank/foreign exchange dealer for confirmation of currency deals and should indicate, by name, the identity of the counter party principal to the Transaction. However, in circumstances where the EFP Transaction is between a bank/foreign exchange dealer and a CTA, account controller, or other Person acting on behalf of a third party (such as a commodity pool or fund), the cash side confirmation statement must identify, at minimum, the name of the third party’s Carrying Clearing Member and the third party’s account number (or other account specific designation), but need not identify the third party by name.

(vi) A Member may enter into an AA/EFP Transaction in which there is a purchase of the physical commodity and the sale of a quantity of Exchange Futures Contracts representing an approximately equivalent amount of the physical commodity and simultaneously grant to the same counterparty a nontransferable right to effectuate a second AA/EFP Transaction on a date certain in the future which will have the effect of reversing the original AA/EFP Transaction so long as both such Transactions are entered into by a producer, merchant or other user of the underlying physical commodity for the purpose of obtaining inventory financing on physical commodities.

(vii) Exchange Traded Funds (“ETFs”) are an acceptable cash or physical component of an EFP for Stock Indexes.

(c) Reporting Requirements

The parties to an EFRP Transaction shall cause the Transaction to be identified and reported to the Exchange in accordance with such procedures as are determined by the Exchange from time to time.

(d) All Commodity Contracts effected as part of EFRP Transactions shall be cleared in the usual manner. Clearing Members are responsible for exercising due diligence as to the bona fide nature of EFRPs submitted on behalf of their Customers.