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BY ELECTRONIC TRANSMISSION

Substitute Submission No. 14-72S
August 15, 2014

Ms. Melissa Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Amendments to Rule 4.06 and Issuance of Frequently Asked Questions Advisory Submission Pursuant to Commission Regulation 40.6(a)

Dear Ms. Jurgens:

On August 8, 2014, ICE Futures U.S., Inc. filed submission 14-72 containing amendments to Rule 4.06 and the text of an advisory in the form of Frequently Asked Questions relating to EFRPs. The redline of the amendments to Rule 4.06 that was attached as Exhibit A to that submission did not indicate the text of language that was being deleted from the Rule or certain other amendments that were described in the explanation portion of the submission. Accordingly, the Exchange is filing this substitute version of 14-72 containing a new Exhibit A which marks all additions and deletions to the text of that Rule. In all other respects the information contained in the original submission remains unchanged.

If you have any questions or need further information, please contact me at (212) 748-4083 or at Audrey.hirschfeld@theice.com.

Sincerely,

Audrey R. Hirschfeld

Audrey R. Hirschfeld
SVP and General Counsel

cc: Division of Market Oversight

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Re: Amendments to Rule 4.06 and Issuance of Frequently Asked Questions Advisory Submission Pursuant to Commission Regulation 40.6(a)

Dear Ms. Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended, and Commission Regulation 40.6(a), ICE Futures U.S., Inc. ("IFUS" or "Exchange") submits, by written certification, amendments to Rule 4.06 and a related new Frequently Asked Questions advisory ("FAQ") regarding Exchange For Related Position ("EFRP") transactions, as set forth in Exhibits A and B, respectively.

Rule 4.06 codifies the Exchange's requirements for EFRPs, which include AA/EFP transactions, EFS/EFR transactions and EOOs, as defined in paragraph (a) of the Rule. By this submission the Exchange has made certain clarifying amendments to paragraph (b) of the Rule. Specifically, new subparagraphs (b)(ii) and (b)(iii) have been added articulating two of the essential elements of a bona fide EFRP. Paragraph (b)(ii) codifies the requirements that a transfer of ownership of the cash commodity between the parties or a legally binding contract between the parties consistent with relevant market conventions for the underlying product, must exist. The FAQ contains other details on the basic elements of an EFRP, identifies the products in which the Exchange permits such transactions, describes the instruments which qualify as the cash or OTC derivative component of an EFRP, and sets forth information regarding pricing, submission for clearing and recordkeeping requirements. New paragraph (b)(iii) sets forth the prohibition against effecting an EFRP which is contingent upon the execution of another EFRP or related position transaction between the parties that results in the offset of the related position, without incurring market risk that is material in the context of the transaction. The FAQ further address contingent/transitory EFRPs.

The Exchange has also addressed practices specifically associated with EFPs in foreign currency that are immediately offset, and has provided further guidance regarding the role of third party account controllers and related documentation requirements in such context. As a threshold matter, Question 13 of the FAQ and renumbered subparagraph (b)(vii) of the Rule expressly provide that an immediately offsetting EFP is not permitted in any Exchange product other than foreign currency, and the use of the term "transitory" to describe such transactions has been eliminated. Likewise, Question 9 of the FAQ provides a limited exception to the general requirement that only two parties participate in an EFRP, by recognizing the unique role of CTAs and other account controllers in the context of immediately offsetting EFPs in foreign currency.

The Rule and FAQ continue to permit CTAs and other account controllers to transact in the foreign currency market as principal, but with the added caveat (set forth in Question 9) that the account controller produce to the Exchange, upon request, an agreement or other document substantiating that the risk of loss on the cash/OTC component would be borne by the customer of the account controller if the EFP were void as a consequence of the futures leg not clearing. A particular document or arrangement is not specified and account controllers have the flexibility to determine the manner in which they meet this obligation taking into account their varied customer relationships. In addition, the amendments to subparagraph (b)(vii) and Question 14 of the FAQ clarify that the specification of the clearing members and customers involved in the immediately offsetting foreign currency EFP may be reflected in a confirmation issued by the bank/dealer or a written allocation instruction issued by the account controller.

The amendments to Rule 4.06 also address the circumstances in which affiliated accounts may execute EFRPs with each other. Paragraph (b)(iv) has been amended to eliminate clause (D) which had permitted the execution of EFRPs between commonly controlled accounts of separate legal entities that had different beneficial owners. The Exchange has determined that the element of common control may not be consistent with the requirements for a bona fide EFRP. All other changes to Rule 4.06 reflect non-substantive or stylistic changes.

The Exchange certifies that the Rule amendments and FAQ comply with the requirements of the Commodity Exchange Act and the rules and regulations promulgated thereunder. Specifically, Core Principle 9 and CFTC Regulation 38.500 (as well as Regulation 1.38) expressly provide that the rules of a board of trade may authorize, for bona fide business purposes, an exchange of futures in connection with a cash commodity transaction. The Exchange's Rule and the FAQ have been informed by public views expressed by the agency, dating back to the 1987 Report by the then Division of Trading & Markets, with respect to the essential elements of a bona fide EFRP.

The Exchange is not aware of any substantive opposing views that were expressed by members or others with respect to the Rule amendments or the FAQ. The Exchange further certifies that concurrent with this filing a copy of this submission was posted on the Exchange's website at (https://www.theice.com/notices/RegulatoryFilings.shtml).

The Rule amendments and FAQ will become effective on September 5, 2014, except for the account controller obligation to produce documentation under Rule 4.06(b)(vii) regarding immediately offsetting EFPs and the risk of a failed EFP, which provision will become effective October 1, 2014, in order to provide adequate time for account controllers to implement measures they deem necessary to comport with the amended rule.

If you have any questions or need further information, please contact me at (212) 748-4083 or at Audrey.hirschfeld@theice.com.

Sincerely,

Audrey R. Hirschfeld
SVP and General Counsel

cc: Division of Market Oversight

EXHIBIT A

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 related cash position;

(ii)EFS or Exchange for Risk ("EFR"): A privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding related 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 related 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) Each EFRP requires a bona fide transfer of ownership of the Cash Commodity between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related product transaction.

(iii) The execution of an EFRP transaction may not be contingent upon the execution of another EFRP or related position transaction between the parties where the transactions result in the offset of the related position without the incurrence of market risk that is material in the context of the related position transactions.

~~(ii)~~ (iv) The accounts involved in the execution of an EFRP Transaction must be (A) independently controlled with different beneficial ownership; or (B) independently controlled accounts of separate legal entities with the same beneficial ownership [~~, 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)~~ (v) 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~~vi) EFRP [~~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.

(vii) [~~With respect to~~]EFPs [~~in foreign currency futures~~]wherein the parties immediately offset the cash transaction [~~(“transitory EFPs”),~~] are permitted only in foreign currency futures. For such transactions, the Exchange 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 must [~~should~~] indicate, by name or account number, 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 (“Account Controller”) facilitating, as principal, the cash/OTC component of the transaction, [~~acting on behalf of a third party (such as a commodity pool or fund),~~] the [~~cash side~~] confirmation statement issued by the bank/foreign exchange dealer or a written allocation instruction issued by the Account Controller as soon as practicable after the entire transaction is complete, must identify, at minimum, the name of the Account Controller, 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 customer of the Account Controller [~~third party~~] by name.

(viii) A Person[~~Member~~] providing inventory financing may enter into an AA/EFP Transaction in which there is a purchase of the storable agricultural, energy or metals[~~physical~~] commodity and the sale of an equivalent quantity of Exchange Futures Contracts [~~representing an approximately equivalent amount of the physical commodity~~] and simultaneously grant to the same counterparty the [~~a~~] nontransferable right, but not the obligation, to effectuate a second AA/EFP Transaction during a specified time period [~~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~~ix) 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.

EXHIBIT B

ICE FUTURES U.S.®

EFRP FAQs

September 2014

EFRP FAQs

The following document provides answers to frequently asked questions regarding rules and procedures related to Exchange for Related Position ("EFRP") transactions executed at ICE Futures U.S. ("IFUS").

1. What are EFRP transactions?

EFRPs include Exchange for Physical (EFP), Exchange for Swaps (EFS), Exchange for Risk (EFR) and Exchange of Options for Options (EOO). EFRP transactions are permitted as exceptions to CFTC Regulation 1.38 which requires all futures trades to be executed "openly and competitively." The trades are bilaterally negotiated off-exchange and must comply with IFUS Rule 4.06, which governs such transactions.

An Exchange for Physical ("EFP"), also sometimes referred to as Against Actuals ("AA") or "Futures for Cash", is an off-exchange bilaterally negotiated transaction involving the simultaneous exchange of an Exchange futures position for a corresponding related cash or physical position. In such a transaction the buyer (seller) of the futures transaction is the seller (buyer) of a corresponding amount of the cash commodity, as appropriate, at a price mutually agreed upon.

An Exchange for Swap ("EFS") and an *Exchange for Risk* ("EFR") are the same type of transaction. An EFS/EFR is an off-exchange bilaterally negotiated transaction involving the simultaneous exchange of an Exchange futures position for a corresponding related OTC swap or other OTC derivative in the same or related product.

An Exchange of Options for Options ("EOO") is an off-exchange bilaterally negotiated transaction involving the simultaneous exchange of an Exchange option position for a corresponding related OTC option position or other OTC instrument with similar characteristics in the same or a related instrument.

The related position component of an EFRP may not be a futures contract or an option on a futures contract.

2. What commodities can be used for the related cash or OTC derivative component of the transaction?

ICE Futures U.S. Rule 4.06 requires that "the related position must involve the commodity underlying the Exchange Futures Contract or Option (or any by-product or related product)." According to CFTC guidance, the item that is deliverable on the futures contract may always be used for the cash or OTC derivative component of the transaction. If the commodity used to fulfill the cash or OTC derivative component is not deliverable against the futures contract, it must be an item that is reasonably equivalent in terms of its physical and economic properties. The cash commodity or OTC derivative component also should have a reliable and demonstrable price relationship with the futures contract. It should exhibit price movement that parallels the price movement of the futures contract (reasonable correlation). The lack of a consistent price relationship between the cash commodity or OTC derivative component and the futures contract can undermine the utility of the transaction and may indicate that the parties' motive for the EFRP was to circumvent Exchange rules or regulatory requirements.

3. Are all IFUS futures and options contracts eligible for EFRP transactions?

EFRPs may be executed in all IFUS contracts provided that the transaction complies with the requirements of IFUS Rule 4.06 and any applicable CFTC requirements.

4. Who may participate in EFRP transactions?

The Exchange does not set any specific qualifications for participation in EFP transactions. However, to participate in an EFS/EFR or an EOO, the parties must be Eligible Contract Participants (as that term is defined in Section 1a(18) of the Commodity Exchange Act) and comply with any other CFTC requirements regarding eligibility to transact the OTC component of the EFS/EFR or EOO. Market participants considering the use of EOO transactions should consult appropriate counsel to determine whether or not they are eligible to enter into OTC options transactions. Since EFP transactions include a bona fide cash market transaction, these transactions are typically transacted by commercial market participants (e.g. producers, merchants, dealers, financial institutions) who customarily transact business in the relevant cash market. Therefore, EFPs conducted by non-commercial participants may be subject to additional scrutiny to determine the bona fide nature of the cash market transaction.

5. Are there any price restrictions on EFRP transactions?

EFRP transactions may be executed at any commercially reasonable price agreed upon by both parties provided that such price conforms to the minimum tick increment for the relevant exchange contract. However, EFRPs executed at off-market prices are more likely to be examined by the Exchange to determine the purpose for the pricing. EFRPs may not be priced off-market with the intent to shift substantial sums of cash from one party to another, to allocate gains and losses between the futures and cash or OTC derivative components of the EFRP, to evade taxes, to circumvent financial controls by disguising a firm's financial condition, or to accomplish some other unlawful purpose.

6. What are the requirements for a bona fide EFRP?

An EFRP must have two components: a futures contract or option on futures and a related position, either a cash commodity, OTC derivative (e.g. swap), or OTC option. In addition:

- The buyer (seller) of the related cash commodity or OTC component must be the seller (buyer) of the futures or options contract.

- The quantity of the exchange contract(s) must be approximately equivalent to the quantity of the related cash commodity or OTC component.

- The related cash commodity or OTC component should involve the product underlying the exchange contract or a by-product or a related product that has a reasonable price correlation with the exchange contract.

- The price must conform to the minimum tick increment of the futures contract.

- The accounts on the opposite sides of the EFRP must be for different beneficial owners or be under separate decision-making and control.

An EFRP must stand on its own as an independent transaction without being dependent on the execution of any other transaction.

7. What are the documentation requirements for EFRPs?

The parties to an EFRP are required to prepare and/or maintain all documents in connection with both the futures and related cash or OTC components of the EFRP. Upon request, any participant in an EFP transaction must provide the Exchange with such material, information and documents, which evidence title to, or the contract(s) to buy or sell, the cash commodity (or the by-product or related product) involved in the transaction. Each EFRP requires a bona fide transfer of ownership of the cash commodity between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related product transaction. Similarly, any participant in an EFS/EFR transaction, when requested, must provide the material, information and/or documents that demonstrate that the EFS/EFR is legitimate including, but not limited to, the master swap agreement and any supplements to it. Swap documents should contain all of the terms of the transaction, such as quantity, fixed price, floating price, how the settlement price is determined and the identity of the counterparty. For an EOO transaction, participants must provide documentation demonstrating that the OTC component is a legitimate OTC option transaction conducted by a person eligible to transact OTC options.

A swap that is traded on or subject to the rules of a designated contract market ("DCM") or a swap execution facility ("SEF") is ineligible to be the related position component of an EFS/EFR or EOO transaction executed pursuant to Rule 4.06. This exclusion does not apply to swaps that are bilaterally negotiated and submitted for clearing-only to a Derivatives Clearing Organization ("DCO") provided that such swaps have a reasonable price correlation with the exchange contract.
The documentation should demonstrate that the buyer (seller) of the cash commodity or OTC component was the seller (buyer) of the futures or options contract. The cash commodity or OTC component should involve the product underlying the exchange contract or a by-product or a related product that has a reasonable price correlation with the exchange contract. The quantity of the exchange contract(s) must be approximately equivalent to the quantity of the cash commodity or OTC component.
The parties to an EFRP and/or each party's Clearing Member, must also maintain, and provide upon Exchange request, all documents relevant to the futures or options component of the EFRP including account statements and order tickets (or other electronically time-stamped records).

The Exchange may also require the participants to produce additional documents related to the negotiation of the terms of the EFRP, such as emails, instant messages, or recorded audio communications, if they exist.

8. Who is responsible for submitting documentation to the Exchange when requested?

Exchange requests for EFRP documentation are commonly directed to the Clearing Member(s) that cleared the transaction. The carrying Clearing Member is responsible for providing the requested documents and information on a timely basis. It should be noted, however, that <u>all</u> market participants are subject to the jurisdiction of the Exchange pursuant to Rule 4.00 and may be requested to furnish information and may be subject to disciplinary action for violation of Exchange Rules.

Firms that execute or clear EFRPs on behalf of customers should establish, document and execute controls that are reasonably designed to determine a customer's suitability to engage in EFRP transactions and detect the execution of non-bona fide EFRPs. If a Clearing Member has actual or constructive notice or knowledge of the execution of non-bona fide EFRPs by its customer and the Clearing Member fails to take appropriate action, the Clearing Member may be found to have committed an act detrimental to the best interests of the Exchange.

9. How many parties participate in an EFRP transaction?

Generally, there may only be two parties involved in an EFRP transaction. The documentation for all EFRP transactions must demonstrate that the buyer (seller) of the IFUS contract is the seller (buyer) of the physical or OTC component of the transaction. Transactions involving more than two parties are prohibited **except** that a CTA or other account controller may facilitate, as principal, the cash/OTC component of an immediately offsetting foreign currency EFP. However, in such case, the CTA or other account controller must, upon request of the Exchange, furnish an agreement, account statement or other document which demonstrates that the risk of loss on the cash/OTC component would be borne by the customer of the account controller if the EFP were void as a consequence of the futures leg not clearing.

10. May affiliated accounts execute EFRPs with each other?

The accounts involved in the execution of an EFRP transaction must be:

1. Independently controlled with different beneficial ownership; or
2. Independently controlled accounts of separate legal entities with the same beneficial ownership; or
3. Independently controlled accounts within the same legal entity, provided that the account controllers operate in separate business units; or

"Independently controlled" means that the parties have separate accounts with separate operations (whose positions, even when exactly opposite, cannot be offset except by trading on the electronic platform) and that there is independent control of decision making with respect to transactions for such accounts.

The term “same beneficial ownership” means the same person or entity, or a parent and its wholly owned subsidiaries, or subsidiaries that are wholly owned by the same parent. For EFRP transactions between accounts with common beneficial ownership, the parties to the trade must be able to demonstrate the independent control of the accounts and that the transaction had economic substance for each party to the trade.

11. Can an EFRP transaction initiate or offset a position?

Yes, EFRP transactions generally can be used to either initiate or offset futures and/or cash/OTC positions. The impact of an EFRP transaction depends upon the existing futures or options positions of the parties to the transaction at the time the EFRP is executed.

12. Are transitory EFRPs permitted?

No. Transitory EFRPs are prohibited in all Exchange products. Transitory EFRPs are transactions in which the execution of an EFRP is contingent upon the execution of a related physical or OTC transaction between the parties that offsets the cash or OTC derivative component of the EFRP without the incurrence of market risk that is material in the context of the related physical or OTC transactions. Upon completing a transitory EFRP, both parties to the transaction end up with the same position in the cash market as they had before the trade took place.

The length of time between the offsetting related physical or OTC transaction and the EFRP may be considered when determining whether a transaction is transitory, but the primary consideration is determining whether the offsetting cash or OTC transaction can stand on its own as an independent transaction exposed to market risk.

13. Is an immediately offsetting EFP in Foreign Currency Futures prohibited as a transitory EFRP?

No. An immediately offsetting EFP in Foreign Currency Futures is permitted under Rule 4.06 and is not considered a transitory EFP because, in such transactions, the offsetting physical transaction cannot be contingent on the execution of the EFP. For example, if the futures leg of an immediately offsetting EFP in foreign currency is not accepted for clearing, the futures transaction and corresponding cash/ OTC component of the EFP would be void and the counterparties would be left with the stand-alone physical currency transaction that was not a component of the EFP. Rule 4.06 makes clear that the stand-alone physical and EFP transactions may occur immediately and result in the offset of the physical transactions without being prohibited as a transitory EFP. These transactions are only permissible as EFPs in foreign currency futures and not in any other asset class or in any other type of EFRP.

14. What documentation is required for an Immediately Offsetting Currency EFP?

For EFPs in foreign currency products that are executed simultaneously or almost simultaneously to another offsetting position in a related physical currency, the Exchange would expect to see confirmation statements for the cash leg of the transaction issued by the participating bank/foreign exchange dealer. The confirmation statements should be the type normally produced by the bank/foreign exchange dealer for confirmation of "stand-alone" currency deals and must identify the counterparty principal to the transaction by name or account number (or other account specific designation).

In circumstances where the EFP Transaction is between a bank/foreign exchange dealer and a CTA, account controller or other person ("Account Controller") facilitating, as principal, the cash/OTC component of the transaction as specified in Question 9 of this FAQ, a confirmation statement issued by the bank/foreign exchange dealer or a written allocation instruction issued by the Account Controller as soon as practicable after the entire transaction is complete, must contain at minimum the name of the Account Controller, Carrying Clearing Member and the account number (or other account specific designation), but need not identify the customer of the Account Controller by name. In addition, the requirements specified in Question 9 of this FAQ must be satisfied by the Account Controller.

15. Can two opposing EFPs/AAs be used to facilitate inventory financing for storable physical commodities?

In connection with inventory financing in storable agricultural, energy or metals products, a market participant may enter into an EFP/AA transaction in which there is a purchase of the physical commodity and the sale of futures contracts representing the equivalent amount of the physical commodity and simultaneously grant to the same counterparty a nontransferable right (but not the obligation) to transact a second AA/EFP during a specified time period which will have the effect of reversing the original AA/EFP.

16. How are EFRP transactions submitted to the Exchange?

EFRP transactions must be submitted via the ICE Block® system. In addition, market participants should be aware that the Commodity Exchange Act and CFTC Regulations impose certain swap reporting obligations which may be applicable to them in connection with EFS/EFR transactions.

17. What are the trading hours for EFRP transactions?

EFRP transactions should be submitted to the Exchange as soon as possible following agreement to the terms by the relevant parties. EFRPs in energy products may be submitted through ICE Block during the trading hours for the corresponding energy contract market only.
EFRP transactions in agricultural and financial products may be submitted through ICE Block from the opening of the corresponding contract market until 30 minutes

after the close of that market. The only exception is for EFRP transactions executed on the last trading day for any delivery month in any Sugar No. 11® or Sugar No. 16 futures contract which must be executed and entered into ICE Block no later than five (5) minutes prior to the close of trading.

18. What are the recordkeeping requirements for EFRPs?

Parties to an EFRP must maintain all records relevant to the Exchange contract and the corresponding related cash or OTC position, including any records required to be kept pursuant to CFTC Regulation 1.35. EFRP transactions do not require submission of a separate time of execution provided that they are submitted through ICE Block immediately upon execution. If such transactions are not entered to ICE Block immediately, the date and the time of execution of the EFRP transaction must be captured and recorded on a separate record containing the other trade details related to the EFRP, as required under Exchange Rule 6.08. In addition, market participants should be aware that the Commodity Exchange Act and CFTC Regulations impose certain swap reporting obligations which may be applicable to them in connection with EFS/EFR transactions. EFRP transactions must be accurately identified as such on confirmation and monthly account statements produced by FCMs and delivered to customers.

19. Do EFRPs have to be separately identified and submitted in a firm's daily Large Trader position file?

Yes. In accordance with Exchange Rule 6.15, a firm's daily Large Trader position file must include for each reportable account the EFRP volume bought and sold in the reportable instrument, by contract month, and for EOOs by put and call strike.

20. What types of transactions would the Exchange consider to be non-bona-fide EFRPs?

Submission of EFRPs for which the related cash/ OTC derivative component does not exist or cannot be documented and which are used to circumvent the competitive central futures or options market would be considered non-bona fide and would be considered a violation of Exchange Rules.

Transactions that would be considered non-bona-fide EFRPs include, but are not limited to, the following scenarios:

- Executing EFRPs on behalf of two customers or between an FCM's proprietary trading desk and a customer to avoid exposure to the competitive, exchange-traded futures or options market when there are no corresponding bona-fide cash or OTC transactions.

- Execution of EFRP transactions between two separate commercial suppliers by a trader with control over the trading for both entities in which the trades did not involve the actual transfer of ownership of the cash or OTC derivative component, but instead were done with the intent to transfer funds from one company to the other.

- Execution of EFRP transactions between two separate market participants under separate control for the purpose or intent to transfer funds from one company to the other without legitimate bona-fide cash/ OTC market transactions.

- Execution of non-bona fide EFRPs for the purpose of moving funds or P&L between futures and cash or OTC accounts of the same entity in order to conceal losses.

For more information please contact:

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