MARKET REGULATION ADVISORY NOTICE

Exchange	**CME, CBOT, NYMEX & COMEX**
Subject	**Position Limits and Accountability Levels**
Rule References	**Rules 559, 560, and 562**
Advisory Date	**April 19, 2021**
Advisory Number	**CME Group RA2104-5**
Effective Date	**May 3, 2021**

Effective on trade date Monday, May 3, 2021, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory supersedes CME Group Market Regulation Advisory Notice RA2101-5RR from March 15, 2021. It is being issued based on amendments to CME, CBOT, and NYMEX/COMEX Rule 559 ("Position Limits and Exemptions") that harmonize the rule text with language already contained in RA2101-5RR and the CFTC's final rules concerning position limits. Specifically, the amendments codify the requirements attendant to market participants who submit a position limit exemption application after exceeding a position limit.

The only changes in this Advisory Notice are reflected in the text of Rule 559, and codify in the rule text language from the answer to FAQ 10.

Questions regarding this Advisory Notice may be directed to the following individuals in Market Regulation:

For NYMEX and COMEX Products

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For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or news@cmegroup.com.

FAQ Related to Position Limits, Position Accountability and Reportable Levels

Q1: What is the difference between Position Limits, Accountability and Reportable Levels?

A1: **Position Limits** are levels which a market participant may **not** exceed unless they have an approved exemption. Any positions in excess of these limits would be considered a rule violation pursuant to Rule 562.

Position Limits are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts as set forth in the Table.
Position Accountability Levels are levels which a market participant may exceed and not be in violation of an Exchange Rule. A market participant who exceeds an accountability (or reportable) level may be asked by the Market Regulation Department (the "Department") to provide information relating to the position, including, but not limited to, the nature and size of the position, the trading strategy employed with respect to the position, and hedging information, if

applicable. Failure to supply the requested information may result in an order to reduce such positions, in addition to disciplinary action as a result of the failure.

Additionally, any market participant who has a position in excess of an accountability level is deemed to have consented, when so ordered by the Department to:

- not further increase the positions;
- comply with any limit on the size of the position; and/or
- reduce any open position which exceeds a position accountability level.

Generally, these actions would be taken only after having been contacted by the Department regarding the open positions.

The Department calculates positions using three separate methods for purposes of its position accountability reviews. Any position that exceeds an accountability level based on any of the three methods is considered by the Department to be in excess of the accountability level. The three methods are as follows:

1. Spot Month/Single Month/All Month Accountability Levels are calculated on a net futures-equivalent basis by contract and include contracts that aggregate into one or more base contracts as set forth in the Table.

2. Spot Month/Single Month/All Month Accountability Levels are calculated on a net futures-only basis.

3. Spot Month/Single Month/All Month Accountability Levels for options are calculated per option quadrant (long call, long put, short call, short put) on a gross basis.

Reportable Levels are levels at which clearing members, omnibus accounts and foreign brokers are required to submit to the Exchange a daily report of all positions as set forth in the Table. Positions at or above the reportable level in a particular expiration month of a futures contract, or in all puts or in all calls of a particular option contract expiration month, trigger the reportable status. A person who is reportable in a particular product must report **all open positions** in all futures and in all open puts or calls on such futures in the product and in any product that aggregates into the product, **regardless of size**.

Market participants should be aware that not all products have position limits or position accountability levels. Position limits, position accountability levels and reportable levels are listed in each Exchange's Table and may be accessed via the following link:
http://www.cmegroup.com/market-regulation/position-limits.html

Q2: What is the difference between Spot Month, Second Spot Month, Single Month and All Month for purposes of position limits and position accountability levels, and when do they go into effect?

A2: **Spot Month** generally goes into effect as a particular contract month becomes the closest contract month to expiration or as a contract nears expiration. The dates vary by contract and market participants should reference the Table to identify when the spot month limits go into effect. For example, NYMEX RBOB Gasoline futures has a spot month limit of 2,000 net futures-equivalent contracts that becomes effective at the close of trading three business days prior to the last trading day of the contract month.

Subsequent Spot Month limits are lower than spot month limits and go into effect after the initial spot month limit, as the contract month nears expiration. For example, in CME Live Cattle futures

the spot month limit is reduced from 600 net futures-equivalent contracts effective at the close of trading on the first business day following the first Friday of the contract month to 300 net futures-equivalent contracts effective at the close of trading on the business day immediately preceding the last 5 trading days of the contract month. Additionally, the limit changes from 300 to 200 at the close of trading on the business day prior to the last 2 trading days of the contract month.

Single Month is defined as the position held in any given contract month outside of the spot period effective date. For example, a CBOT December 2023 Corn futures contract has a single month limit of 57,800 net futures-equivalent contracts prior to the spot month effective date.

All Month is defined as the net open position held across all contract months of a particular product and is effective at all times. For example, the CME S&P 500 Stock Price Index futures all month limit is 60,000 net futures-equivalent contracts. If a market participant is long 32,000 September 2021 contracts, long 30,000 December 2021 contracts and short 1,000 March 2021 contracts, the all month position is long 61,000 net futures-equivalent contracts. They would be over the all month limit by 1,000 contracts.

The Department publishes a monthly notice of spot month effective dates for core products. The notice is posted on the CME Group website and is also available via an email subscription.

Website: Select Category – Market Regulation & Market Surveillance

Notices

In order to receive the notice via email, you will need to create a CME Group login and go to the subscription notice page. Once there, select Market Regulation Advisories – Market Surveillance Notices

Login

Q3: Are there limits for holding delivery instruments?

A3: Yes, for the CBOT products specified below. No person shall own or control more than the below amount of registered and outstanding shipping certificates/warehouse receipts issued by facilities designated by the Exchange as regular to issue shipping certificates unless they have received a hedge exemption from the Exchange. This includes any mini-sized certificates (in futures equivalent contracts). If a person is stopped for delivery in a quantity that would cause such person to exceed the certificate limit, the person must cancel, retender, or sell the quantity of certificates in excess of the limit no later than the close of business on the following business day. Failure to do so constitutes a position limit violation. Please see FAQ 4 for information concerning deliveries in physically-delivered metals contracts.

Corn	1,200	Wheat	1,200
Soybean	1,200	Oat	600
Soybean Oil	1,100	Rough Rice	800
Soybean Meal	1,500	KC Wheat	1,200

Q4: Do deliveries in physically-delivered metals contracts impact the futures position in the spot month for purposes of compliance with spot month position limits?

A4: Effective for the April 2021 contracts and beyond, in physically-delivered metals contracts, the spot month position limit will be applied and enforced separately for futures and for deliveries during the spot month. For example, the Gold futures contract has a spot month position limit of 6,000 contracts and no person may hold more than 6,000 Gold futures contracts (on a net futures-equivalent basis) during the spot month unless they have received a hedge exemption from the Exchange. Separately, a participant may not make (issue) or take (stop) delivery of more than 6,000 net futures-equivalent contracts during the spot month unless they have received a hedge exemption from the Exchange. If a person stops certificates for delivery in a quantity that would cause such person to exceed the certificate limit, the person must retender the quantity of certificates in excess of the limit no later than the close of business on the following business day. Failure to do so constitutes a position limit violation.
Given that the spot month limit is applied separately for futures and for deliveries, no netting between futures and deliveries is permitted.

Q5: How does aggregation of contracts work?

A5: The aggregation of contracts for single month, all month and spot month are noted in each Table.

Using the spot month as an example, for a contract that aggregates into only one base contract during the spot month, the base contract will be identified in the "Spot Month Aggregate Into Futures Equivalent Leg (1)" column of the Table and will denote a positive correlation with the base contract. The aggregation ratio for the Leg (1) base contract will be identified in the "Aggregate Into Ratio Leg (1)" column of the Table.

For contracts that aggregate into two separate base contracts during the spot month, the base contract noted in the "Spot Month Aggregate Into Futures Equivalent Leg (1)" column of the Table will denote a positive correlation, and the aggregation ratio for the Leg (1) base contract will be identified in the "Aggregate Into Ratio Leg (1)" column of the Table. The base contract noted in the "Spot Month Aggregate Into Futures Equivalent Leg (2)" column of the Table will denote a negative correlation with respect to the base contract, and the aggregation ratio for the Leg (2) base contract will be identified in the "Aggregate Into Ratio Leg (2)" column of the Table**.**

At this time, CME, CBOT, NYMEX and COMEX contracts subject to federal position limits will maintain the current aggregation as set forth in the applicable Table. Changes to aggregation to incorporate the new CFTC position limit regulations and the definitions of related contracts will become effective as of the CFTC compliance date of January 1, 2022, and will result in notification to the marketplace prior to the effective date.

Q6: How are options on futures counted for purposes of position limits?

A6: Options on futures positions are aggregated into the underlining futures contracts in accordance with the Table on a delta equivalent value.

If a position exceeds position limits as a result of an option assignment, the person who owns or controls such position shall be allowed one business day to liquidate the excess position without being considered in violation of the limits. Additionally, if, at the close of trading, a position that includes options exceeds position limits when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation.

Q7: What does a diminishing balance contract mean and how do you calculate its futures equivalence?

A7: Diminishing balance contracts are specific futures contracts whose front month position in any given contract month diminishes as the contract month progresses towards expiration/month end for purposes of position limits. Typically, a contract diminishes each Exchange business day a portion of the final settlement price is established. The number of Exchange business days varies depending on the calendar month, and in calculating a diminishing balance, market participants should exclude the calendar date of any U.S. holiday as set forth in the CME Globex Holiday Calendar available on the CME Group website.

Diminishing balance contracts are typically those where the final settlement price is equal to the arithmetic average of a determined referenced price for each business day that it is determined during the contract month; or the balance of the month average of a determined referenced price for each business day that it is determined during the contract month, starting from the selected start date through the end of the contract month, inclusive.

Diminishing balance contracts are identified as such in the Table.

An example of a diminishing balance contract and its futures-equivalent value is set forth below.

Example 1: Chicago CBOB Gasoline (Platts) Futures (commodity code "2C")

Customer holds 6,600 October 2015 "2C" contracts going into October 2015 and does not add or liquidate any positions during the month.

	Futures Position	Futures Equivalent Position
Start of Day Position	2C October 2015 Contract	2C October 2015 Contract
10/1/2015	6,600	6,600
10/2/2015	6,600	6,300
10/5/2015	6,600	6,000
10/6/2015	6,600	5,700
10/7/2015	6,600	5,400
10/8/2015	6,600	5,100
10/9/2015	6,600	4,800
10/12/2015	6,600	4,500
10/13/2015	6,600	4,200
10/14/2015	6,600	3,900
10/15/2015	6,600	3,600
10/16/2015	6,600	3,300
10/19/2015	6,600	3,000
10/20/2015	6,600	2,700
10/21/2015	6,600	2,400
10/22/2015	6,600	2,100
10/23/2015	6,600	1,800
10/26/2015	6,600	1,500
10/27/2015	6,600	1,200
10/28/2015	6,600	900
10/29/2015	6,600	600

10/30/2015	6,600	300

Q8: How does aggregation of accounts work with respect to position limits and position accountability levels?

A8: Aggregation of positions is based on ownership or control. All positions in accounts for which any person, by power of attorney or otherwise, directly or indirectly controls trading or holds a 10 percent or greater ownership or equity interest must be aggregated with the position held and trading done by such person. For the purpose of determining the positions in accounts for which any person controls trading or holds a 10 percent or greater ownership or equity interest, positions or ownership or equity interests held by, and trading done or controlled by, two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by, or the trading were done or controlled by, a single person.

While CFTC Regulation 150.4(a)(2) requires any person that, by power of attorney or otherwise, holds or controls the trading of positions in more than one account or pool with substantially identical trading strategies, to aggregate all such positions, the no-action relief issued by the CFTC Division of Market Oversight on July 31, 2019, provides relief from this provision except in a situation where such person holds or controls the trading of such positions in order to willfully circumvent applicable position limits (see CFTC Letter No. 19-19).

Q9: **Are there exemptions from the account aggregation requirements?**

A9: Yes. Exemptions from aggregation in all contracts subject to Exchange position limits must comply with the provisions of CFTC Regulation 150.4(b). Parties must file with the Market Regulation Department via email at Market_Reg_Surveillance_Chgo@cmegroup.com, and the filing must include:

1. A description of the relevant circumstances that warrant disaggregation; and
2. A statement of a senior officer of the entity certifying that the conditions set forth in the applicable aggregation exemption provision have been met.

Filing for contracts not subject to federal positions limits may occur at any time prior to exceeding a position limit. After exceeding a position limit, filing should occur within a reasonable period of time, which is generally considered 5 business days.

For contracts subject to federal limits, the CFTC has specific timing requirements set forth in Regulation 150.4(c) (Notice filing for exemption) for which the CFTC Division of Market Oversight has provided no-action relief on July 31, 2019 (see CFTC Letter No. 19-19).

A market participant that files an exemption from account aggregation with the CFTC must also provide a copy of the CFTC filing to Market_Reg_Surveillance_Chgo@cmegroup.com.

Q10: How can a market participant obtain an exemption from position limits?

A10: A market participant seeking an exemption from position limits must apply by completing a form provided by the Department. Market participants may be eligible to receive an exemption from position limits in accordance with Rule 559 based on having bona fide hedging positions (as

defined in CFTC Regulation §150.1 (Bona fide hedging transaction or positions), non-enumerated bona fide hedging positions and/or spread positions.

A market participant intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Department prior to exceeding such limits. However, a person who establishes a position in excess of position limits and files the required application for bona fide hedging transactions or positions or non-enumerated bona fide hedging transactions or positions with the Department will not be in violation of Rule 559 provided that the filing occurs within five (5) business days after assuming the position, except in circumstances where the Department requires a person to file prior to the fifth business day. An application filed after exceeding a limit must include an explanation of the sudden or unforeseen bona fide hedging need.

In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant and clearing firm will be in violation of speculative position limits for the period of time in which the excess positions remained open.

The Department may approve, deny, condition or limit any exemption request based on factors deemed by the Department to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner given characteristics of the market for which the exemption is sought.
A person who has received written authorization from the Department to exceed position limits must annually file an updated application no later than one year following the approval date of the most recent application. Further, for referenced contracts, a party applying for an extension of a non-enumerated bona fide hedging exemption must receive a notice of extension from the Exchange prior to exceeding the position limit after the expiration date of the current exemption.

Failure to file an updated application will result in expiration of the exemption.

To obtain an exemption application or for further information on the exemption application process, please contact the Department via email.

For CME and CBOT products: Hedgeprogram@cmegroup.com

For NYMEX and COMEX products: NYhedgeprogram@cmegroup.com

Q11: If a market participant currently holds a position limit exemption, do they need to refile under the new rules, and if so, when?

A11: Market Participants currently holding a position limit exemption may continue to rely on that exemption until the expiration date noted in their approval letter. Market Participants looking to hedge using strategies not previously allowed or approved by the Exchange must file a new position limit exemption application. For example, a Corn participant looking to hedge singled-sided unpriced deals under anticipatory merchandising would need to file a new application since this strategy was not previously permitted.

Market Participants may obtain an updated exemption application by reaching out via email at the address set forth the answer to FAQ 10 above.

Q12: Are position limits effective intraday?

A12: Yes, any positions, including positions established intraday, in excess of those permitted under the rules are deemed to be position limit violations.

Q13: Do positions established as a result of Trading at Settlement ("TAS"), Trading at Marker ("TAM") or Basis Trade at Index Close ("BTIC") rules subject to position limits?

A13: Yes, in both intraday and at the end of the day. TAS, TAM and BTIC are pricing conventions for executions occurring in an underlying existing Exchange product, and as such, are included in determining compliance with position limits. For intraday purposes, the position is included immediately upon execution of the trade, and **not** when the settlement, marker or Index price is published.

Q14: Does an order that has been placed but not executed count for purposes of determining compliance with a position limit?

A14: No, unfilled orders do not constitute an open position for position limit purposes. Notwithstanding the foregoing, market participants should be aware of Rule 575 ("Disruptive Practice Prohibited") and the associated Market Regulation Advisory Notice with respect to order entries.

Q15: Are Clearing Members in violation of position limits if their clients exceed a limit?

A15: Except as set forth in the answer to FAQ 10, a clearing member shall not be in violation of position limits if it carries positions for its customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions. A reasonable period of time shall generally not exceed one business day.

Q16: What happens if a market participant exceeds a position limit and does not qualify for an exemption?

A16: Violation of a position limit is a strict liability offense. The Department will consider a number of factors in determining the appropriate regulatory action, including, but not limited to, the size of the position in excess of the limit, previous violations, length of the violation and profitability.

Rule Texts

CME and CBOT

Rule 559. POSITION LIMITS AND EXEMPTIONS

The position limit levels applicable to those contracts with position limits are set forth in the Position Limit, Position Accountability and Reportable Level Table ("Table") in the Interpretations Section at the end of Chapter 5.

A person seeking an exemption from position limits must apply to the Market Regulation Department on forms provided by the Exchange. In order to obtain an exemption from position limits, a person must:

1. Provide a description of the exemption sought, including whether the exemption is for bona fide hedging transactions or positions as defined in CFTC Regulation §150.1 (Bona fide hedging transaction or position), non-enumerated bona fide hedging transactions or positions, or spread positions;
2. Provide a complete and accurate explanation of the underlying exposure related to the exemption request;

3. Agree to promptly provide, upon request by the Market Regulation Department, information or documentation regarding the person's financial condition;
4. Agree to comply with all terms, conditions or limitations imposed by the Market Regulation Department with respect to the exemption;
5. Agree that the Market Regulation Department may, for cause, modify or revoke the exemption at any time;
6. Agree to initiate and liquidate positions in an orderly manner;
7. Agree to comply with all Exchange rules; and
8. Agree to promptly submit a supplemental statement to the Market Regulation Department whenever there is a material change to the information provided in the most recent application.

A person intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Market Regulation Department prior to exceeding such limits. However, a person who establishes a position in excess of position limits and files the required application for bona fide hedging transactions or positions or non-enumerated bona fide hedging transactions or positions with the Market Regulation Department shall not be in violation of this rule provided the filing occurs within five (5) business days after assuming the position except in circumstances where the Market Regulation Department requires a person to file prior to the fifth business day. An application filed after exceeding a limit must include an explanation of the sudden or unforeseen bona fide hedging need. In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant and clearing firm will be in violation of speculative limits for the period of time in which the excess positions remained open.

The Market Regulation Department shall, on the basis of the application and any requested supplemental information, determine whether an exemption from position limits shall be granted. The Market Regulation Department may approve, deny, condition or limit any exemption request based on factors deemed by the Department to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner given characteristics of the market for which the exemption is sought.

Nothing in this rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Market Regulation Department to review at any time the positions owned or controlled by any person and to direct that such position be reduced to the position limit provided for in the Table.

A person who has received written authorization from the Market Regulation Department to exceed position limits must annually file an updated application not later than one year following the approval date of the most recent application. Failure to file an updated application will result in expiration of the exemption.

559.A. Bona Fide Hedging Transactions or Positions

The Market Regulation Department may grant exemptions from position limits for bona fide hedging transactions or positions as defined in CFTC Regulation §150.1.

Approved bona fide hedgers may be exempted from Exchange emergency orders that reduce position limits or restrict trading.

559.B. Non-Enumerated Bona Fide Hedging Transactions or Positions

1. Referenced Contracts (as defined in CFTC Regulation §150.1)

The Market Regulation Department may grant exemptions from the position limits for non-enumerated bona fide hedging transactions or positions. For the purposes of this rule, non-enumerated bona fide hedging transactions or positions must meet the definition of a bona fide hedging transaction or position in CFTC Regulation §150.1. Any position involving a commodity index contract and one or more referenced contracts will not be recognized as a bona fide hedging transaction or position pursuant to this Section.

2. Contracts Not Subject to Federal Position Limits

The Market Regulation Department may grant exemptions from the position limits for non-enumerated bona fide hedging transactions or positions which are held by or on behalf of an entity or an affiliate of an entity which typically buys, sells or holds positions in the underlying cash market, a related cash market, or a related over-the-counter market and for which the underlying market has a high degree of demonstrated liquidity relative to the size of the positions and where there exist opportunities for arbitrage which provide a close linkage between the futures or options market and the underlying market in question.

Any position involving swaps (excluding pass-through swaps) or commodity index contracts may be recognized as a bona fide hedging transaction or position pursuant to this Section.

559.C. Spread Positions

The Market Regulation Department may grant exemptions from the position limits for an intra-market spread, inter-market spread, intra-commodity spread, and inter-commodity spread, including calendar spread, quality spread, processing spread, product or by-product spread, or futures-options spread positions.

559.D. Aggregation of Positions

For the purpose of applying the position limits in the Table, all positions in accounts for which any person, by power of attorney or otherwise, directly or indirectly controls trading or holds a 10 percent of greater ownership or equity interest must be aggregated with the positions held and trading done by such person. For the purpose of determining the positions in accounts for which any person controls trading or holds a 10 percent or greater ownership or equity interest, positions or ownership or equity interests held by, and trading done or controlled by, two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by, or the trading were done or controlled by, a single person. Any person that, by power of attorney or otherwise, holds or controls the trading of positions in more than one account or pool with substantially identical trading strategies, must aggregate all such positions in accordance with the provisions of CFTC Regulation 150.4(a)(2).

559.E. Exemptions from Aggregation

Exemptions from aggregation in all products subject to Exchange position limits must comply with the provisions of CFTC Regulation 150.4(b).

Any person claiming an exemption from Exchange position limits under the provisions of CFTC Regulation 150.4(b)(1)(ii), (b)(2), (b)(3), (b)(4), or (b)(7) must provide a notice to the Market Regulation Department which sets forth 1) a description of the relevant circumstances that warrant disaggregation and 2) a statement by a senior officer or executive of the entity certifying that the conditions set forth in the applicable CFTC aggregation exemption provision have been met.

Upon request by the Market Regulation Department, any person claiming an exemption from aggregation under this Section E. must provide any requested information that demonstrates the person meets the applicable requirements for the exemption. Market Regulation, in its sole discretion, may amend, suspend, terminate, or otherwise modify a person's exemption from aggregation for failure to comply with the provisions of this Section E.

In the event of a material change to the information provided in any notice filed under this Section E., an updated or amended notice must be promptly filed with the Market Regulation Department detailing the material change.

559.F. Violations

Violations of position limits and approved exemption limits are subject to the provisions of Rule 562.

NYMEX/COMEX

Rule 559. POSITION LIMITS AND EXEMPTIONS

The position limit levels applicable to those contracts with position limits are set forth in the Position Limit, Position Accountability and Reportable Level Table ("Table") in the Interpretations Section at the end of Chapter 5.

A person seeking an exemption from position limits must apply to the Market Regulation Department on forms provided by the Exchange. In order to obtain an exemption from position limits, a person must:

1. Provide a description of the exemption sought, including whether the exemption is for bona fide hedging transactions or positions as defined in CFTC Regulation §150.1 (Bona fide hedging transaction or position), non-enumerated bona fide hedging transactions or positions, or spread positions;
2. Provide a complete and accurate explanation of the underlying exposure related to the exemption request;
3. Agree to promptly provide, upon request by the Market Regulation Department, information or documentation regarding the person's financial condition;
4. Agree to comply with all terms, conditions or limitations imposed by the Market Regulation Department with respect to the exemption;
5. Agree that the Market Regulation Department may, for cause, modify or revoke the exemption at any time;
6. Agree to initiate and liquidate positions in an orderly manner;
7. Agree to comply with all Exchange rules; and
8. Agree to promptly submit a supplemental statement to the Market Regulation Department whenever there is a material change to the information provided in the most recent application.

A person intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Market Regulation Department prior to exceeding such limits. However, a person who establishes a position in excess of position limits and files the required application for bona fide hedging transactions or positions or non-enumerated bona fide hedging transactions or positions with the Market Regulation Department shall not be in violation of this rule provided the filing occurs within five (5) business days after assuming the position except in circumstances where the Market Regulation Department requires a person to file prior to the fifth business day. An application filed after exceeding a limit must include an explanation of the

sudden or unforeseen bona fide hedging need. In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant and clearing firm will be in violation of speculative limits for the period of time in which the excess positions remained open.

The Market Regulation Department shall, on the basis of the application and any requested supplemental information, determine whether an exemption from position limits shall be granted. The Market Regulation Department may approve, deny, condition or limit any exemption request based on factors deemed by the Department to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner given characteristics of the market for which the exemption is sought.

Nothing in this rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Market Regulation Department to review at any time the positions owned or controlled by any person and to direct that such position be reduced to the position limit provided for in the Table.

A person who has received written authorization from the Market Regulation Department to exceed position limits must annually file an updated application not later than one year following the approval date of the most recent application. Failure to file an updated application will result in expiration of the exemption.

559.A. Bona Fide Hedging Transactions or Positions

The Market Regulation Department may grant exemptions from position limits for bona fide hedging transactions or positions as defined in CFTC Regulation §150.1.

Approved bona fide hedgers may be exempted from Exchange emergency orders that reduce position limits or restrict trading.

559.B. Non-Enumerated Bona Fide Hedging Transactions or Positions

1. Referenced Contracts (as defined in CFTC Regulation §150.1)

The Market Regulation Department may grant exemptions from the position limits for non-enumerated bona fide hedging transactions or positions. For the purposes of this rule, non-enumerated bona fide hedging transactions or positions must meet the definition of a bona fide hedging transaction or position in CFTC Regulation §150.1. Any position involving a commodity index contract and one or more referenced contracts will not be recognized as a bona fide hedging transaction or position pursuant to this Section.

2. Contracts Not Subject to Federal Position Limits

The Market Regulation Department may grant exemptions from the position limits for non-enumerated bona fide hedging transactions or positions which are held by or on behalf of an entity or an affiliate of an entity which typically buys, sells or holds positions in the underlying cash market, a related cash market, or a related over-the-counter market and for which the underlying market has a high degree of demonstrated liquidity relative to the size of the positions and where there exist opportunities for arbitrage which provide a close linkage between the futures or options market and the underlying market in question.

Any position involving swaps (excluding pass-through swaps) or commodity index contracts may be recognized as a bona fide hedging transaction or position pursuant to this Section.

559.C. Spread Positions

The Market Regulation Department may grant exemptions from the position limits for an intra-market spread, inter-market spread, intra-commodity spread, and inter-commodity spread, including calendar spread, quality spread, processing spread, product or by-product spread, or futures-options spread positions.

559.D. Aggregation of Positions

For the purpose of applying the position limits in the Table, all positions in accounts for which any person, by power of attorney or otherwise, directly or indirectly controls trading or holds a 10 percent of greater ownership or equity interest must be aggregated with the positions held and trading done by such person. For the purpose of determining the positions in accounts for which any person controls trading or holds a 10 percent or greater ownership or equity interest, positions or ownership or equity interests held by, and trading done or controlled by, two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by, or the trading were done or controlled by, a single person. Any person that, by power of attorney or otherwise, holds or controls the trading of positions in more than one account or pool with substantially identical trading strategies, must aggregate all such positions in accordance with the provisions of CFTC Regulation 150.4(a)(2).

559.E. Exemptions from Aggregation

Exemptions from aggregation in all products subject to Exchange position limits must comply with the provisions of CFTC Regulation 150.4 (b). Any person claiming an exemption from Exchange position limits under the provisions of CFTC Regulation 150.4(b)(1)(ii), (b)(2), (b)(3), (b)(4), or (b)(7) must provide a notice to the Market Regulation Department which sets forth 1) a description of the relevant circumstances that warrant disaggregation and 2) a statement by a senior officer or executive of the entity certifying that the conditions set forth in the applicable CFTC aggregation exemption provision have been met. Upon request by the Market Regulation Department, any person

claiming an exemption from aggregation under this Section E. must provide any requested information that demonstrates the person meets the applicable requirements for the exemption. Market Regulation, in its sole discretion, may amend, suspend, terminate, or otherwise modify a person's exemption from aggregation for failure to comply with the provisions of this Section E. In the event of a material change to the information provided in any notice filed under this Section E., an updated or amended notice must be promptly filed with the Market Regulation Department detailing the material change.

559.F. Conditional Limit in NYMEX Last Day Financial Natural Gas Contracts

The Market Regulation Department may grant a Conditional limit in Last Day Financial Natural Gas contracts of up to the equivalent of ten thousand (10,000) NYMEX Physical Natural Gas Contracts (NG) during the period that position limits are applicable. Any participant seeking such exemption must agree: (1) not to hold a position in the NG contract during the last three days of trading; (2) provide the Exchange information on the complete book of all positions related to the Henry Hub; and (3) any other information /documentation required by the Exchange

559.G. Violations

Violations of position limits and approved exemption limits are subject to the provisions of Rule 562.

CME, CBOT, and NYMEX/COMEX

Rule 560. Position Accountability

A person who owns or controls positions in excess of reportable levels or where such Person otherwise holds substantial positions in contracts traded on the Exchange or cleared by the Clearing House (*CBOT only* : in excess of reportable levels or subject to accountability levels) shall keep records, including records of their activity in the underlying commodity and related derivative markets, and make such records available, upon request, to the Exchange.

Upon request by the Market Regulation Department, such person shall also provide information relating to the positions owned or controlled by that person including, but not limited to, the nature and size of the position, the trading strategy employed with respect to the position, and hedging information, if applicable.

For purposes of this rule, all positions in accounts for which a person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading shall be included with the positions held by such person. Additionally, positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by a single person.

If the person from whom such records or information is requested fails to comply as directed, the Market Regulation Department may order the reduction of such position, in addition to taking disciplinary action as a result of such failure.

A person who exceeds position accountability or position limit levels as a result of maintaining positions at more than one clearing firm shall be deemed to have waived confidentiality regarding his position and the identity of the clearing members at which the positions are maintained.

A person who holds or controls aggregate positions in excess of specified position accountability levels or in excess of position limits pursuant to an approved exemption shall be deemed to have consented, when so ordered by the Market Regulation Department, not to further increase the positions, to comply with any prospective limit which exceeds the size of the position owned or controlled, or to reduce any open position which exceeds position accountability or position limit levels. Any order to reduce an open position shall be issued by the Chief Regulatory Officer or his designee, if he determines in his sole discretion, that such action is necessary to maintain an orderly market.

A clearing member that carries positions for another person shall be responsible for taking reasonable and diligent actions to effect the timely compliance with any order issued pursuant to this rule upon notification of such order by the Market Regulation Department.

All positions must be initiated and liquidated in an orderly manner.

Rule 562. POSITION LIMIT VIOLATIONS

Any positions, including positions established intraday, in excess of those permitted under the rules of the Exchange shall be deemed position limit violations.

If a position exceeds position limits as a result of an option assignment, the person who owns or controls such position shall be allowed one business day to liquidate the excess position without being considered in violation of the limits. Additionally, if, at the close of trading, a position that includes options exceeds position limits when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation.

A clearing member shall not be in violation of this rule if it carries positions for its customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions. For the purposes of this rule, a reasonable period of time shall generally not exceed one business day.

A customer who exceeds the position limits as a result of maintaining positions at more than one clearing member shall be deemed to have waived confidentiality regarding his positions and the identity of the clearing members at which they are maintained. A clearing member carrying such positions shall not be in violation of this rule if, upon notification by the Market Regulation Department, it liquidates its pro-rata share of the position in excess of the limits or otherwise ensures the customer is in compliance with the limits within a reasonable period of time. For purposes of this rule, a reasonable period of time shall generally not exceed one business day.