

January 25, 2006

NOTICE
Exchange of Futures for Related Positions

Exchange for Physical (EFP) Transactions
Exchange for Swap (EFS) Transactions
Exchange for Risk (EFR) Transactions

The following notice summarizes requirements related to the execution of the various types of Exchange of Futures for Related Positions, which include EFP, EFS, and EFR transactions. Member firms are urged to ensure that all employees are fully informed regarding these requirements, as violations of the relevant CBOT Regulations (444.01, 444.04 and 444.05) may result in disciplinary action by the Business Conduct Committee.

1. Bona Fide EFP, EFS and EFR Transactions

For an EFP, EFS, or EFR to be considered bona fide, the seller of the futures must simultaneously purchase (or have the long market exposure associated with) the related cash commodity position, and the buyer of the futures must simultaneously sell (or have the short market exposure associated with) the related cash commodity position. Multiparty transactions are prohibited except as provided in the following paragraph.

A member firm may facilitate, as principal, the transfer of the related position component of an EFP, EFS, or EFR transaction on behalf of a customer provided that the member firm can demonstrate that the related position was passed through to the customer that received the futures position as part of the transaction.

The related cash commodity position (e.g. cash, swap, or OTC derivative) must involve the commodity underlying the futures contract or a derivative, by-product, or related product that is reasonably correlated to the futures being exchanged. The parties to the transaction may be required to demonstrate that the related cash commodity position and the futures position are reasonably correlated.

The futures that are exchanged in an EFP, EFS, or EFR must be an outright position in a futures contract. A futures combination is not a permissible component of an EFP, EFR, or EFS transaction. Additionally, the quantity of futures exchanged must be approximately equivalent to the underlying quantity of the related cash commodity being exchanged. The parties to the transaction may be required to demonstrate such equivalency.

2. Contingent EFP, EFS and EFR Transactions Are Prohibited

Two parties may not execute contingent EFP, EFS, or EFR transactions in which the execution of one such trade is contingent either upon either the execution of another EFP/EFS/EFR or another offsetting cash, swap, or OTC transaction. In cases where two parties execute an EFP, EFS, or EFR and execute an economically offsetting cash, swap or OTC transaction, the participants may be required to demonstrate that there was no express or implied obligation or understanding to execute both transactions.

For example, two parties are prohibited from executing contingent March and June Treasury Bond EFPs to roll a position. Similarly, two parties are prohibited from executing a CBOT EFP and a contingent EFP on another market in which the cash transaction economically offsets the cash leg of the CBOT EFP. Such transactions are considered to be prearranged futures trades that circumvent the open market execution requirement.

3. Pilot Program Permitting Transitory EFPs in CBOT 100 oz. Gold and 5,000 oz. Silver

Transitory EFPs, wherein the parties to the EFP immediately offset the cash leg of the transaction, are currently permitted on a pilot basis in 100 oz. Gold and 5,000 oz. Silver exclusively during the hours of 12:25 p.m. to 7:30 a.m. (Chicago time). Such transactions are permitted subject to the following requirements:

- a) The seller of the futures contract must simultaneously purchase the cash commodity and the buyer of the futures contract must simultaneously sell the cash commodity.
- b) All documents typically generated in accordance with cash market conventions must be generated and retained.
- c) The execution time of the EFP must be recorded on the order ticket and, upon submission of the EFP for clearing, on the order entry screen.
- d) All other CBOT and CFTC requirements regarding EFP transactions must be adhered to in connection with these transactions.

4. Permissible Counterparties

EFPs, EFSs, and EFRs may be executed between two accounts provided that at least one of the following applies:

- a) the accounts have different beneficial ownership;
- b) the accounts have the same beneficial ownership, but are under separate control;
- c) the accounts are commonly controlled, but involve separate legal entities which may or may not have the same beneficial ownership.

In cases where the parties to a transaction involve the same legal entity, same beneficial owner, or separate legal entities under common control, the parties must be able to demonstrate that the EFP, EFS, or EFR was a legitimate arm's length transaction.

The term "same beneficial ownership" refers to a parent and its wholly owned subsidiaries or subsidiaries that are wholly owned by the same parent.

5. Restrictions in a Delivery Month

EFPs, EFSs, and EFRs in an expiring futures contract are prohibited during the contract's delivery month, and on the first and second business days preceding the first delivery day of the expiring contract, if such EFP, EFS, or EFR transactions:

- are made for the purpose of offsetting existing positions in the expiring contract; and

- involve the same legal entity (i.e., no change of ownership); and

- are executed such that the date of futures position being offset is not the same as the date of the EFP, EFS, or EFR transaction

Such positions, whether carried at the same FCM or at different FCMs, must be either offset in the open market or fulfilled through the delivery process. (See Regulation 444.05)

6. Execution of EFPs, EFSs and EFRs Following Contract Expiration

After trading has ceased on the last trading day in a physical delivery contract, outstanding positions in the contract may be liquidated by executing an EFP, EFS, or EFR, provided that both sides of the trade are liquidating positions. CBOT Regulations found in each product chapter of the Rulebook specify for each product the number of days after the last trading day during which such transactions are permitted for the purpose of liquidating open positions.

7. Permissible Contracts for EFPs, EFSs and EFRs

EFPs may be executed in all CBOT futures contracts.

EFSs may be executed only in the following futures contracts: Treasury Bond, 10-Year Treasury Note, 5-Year Treasury Note, 2-Year Treasury Note, Dow Jones-AIG Commodity IndexSM, 10-Year Municipal Note Index, 10-Year Interest Rate Swap and 5-Year Interest Rate Swap.

EFRs may be executed in all agricultural futures contracts as well as in the following financial futures contracts: Treasury Bond, 10-Year Treasury Note, 5-Year Treasury Note, 2-Year Treasury Note, 30-Day Fed Fund, Dow Jones-AIG Commodity IndexSM, 10-Year Municipal Note Index, 10-Year Interest Rate Swap and 5-Year Interest Rate Swap. The OTC component of an EFR transaction must comply with any applicable regulatory requirements prescribed by the Commodity Futures Trading Commission.

Options on futures are not permissible components of an EFP, EFS, or EFR.

8. Documentation Requirements for EFPs, EFSs and EFRs

Parties to EFPs, EFSs, or EFRs must maintain all documents relevant to the futures and related cash commodity position transactions, and must provide such documents to the Office of Investigations and Audits upon request. Documents that may be requested include, but are not limited to, the following:

- a) futures order tickets;
- b) futures account statements;
- c) documentation customarily generated in accordance with cash market or other relevant market practices such as cash, swap or OTC contracts, confirmation statements, invoices, warehouse receipts or other documents of title;
- d) third party documentation to support proof of payment or to verify that the title of the related cash commodity position was transferred from the seller to the buyer. This may include, but is not limited to, bills of lading, truck receipts, canceled checks, bank statements, cash account statements, Fed wire confirms or Fixed Income Clearing Corporation documents.

All futures order tickets must clearly indicate the time of execution of EFP, EFS, or EFR transactions. Additionally all futures account statements must designate Exchange of Futures for Related Position transactions as such.

9. Submission of EFP, EFS and EFR Transactions to Clearing

All Exchange of Futures for Related Position transactions must be accurately submitted to the CBOT's Clearing Services Provider. The record of the trade must include the time of execution and must be properly designated as either an EFP, EFS, or EFR transaction.

Questions regarding this notice may be directed to the following individuals in the Office of Investigations and Audits:

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