

April 7, 2005

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

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Rule Certification

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Dear Ms. Webb:

Pursuant to Commission Regulation 40.6(a), the Chicago Board of Trade (CBOT[®]) hereby submits the following:

- **Exchange advisory notice (copy attached) regarding "ex-pit" transactions.**

This notice provides a statement of current CBOT requirements relevant to Exchange for Physical, Exchange for Swap and Exchange for Risk transactions.

The CBOT intends to publish this notice no sooner one day after the Commission's receipt of this filing.

There were no opposing views concerning this notice.

The CBOT certifies that this notice complies with the Commodity Exchange Act and the rules thereunder.

Sincerely,

Paul Draths
Vice President and Secretary

April 11, 2005

NOTICE
Ex-Pit Transactions

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

The following notice summarizes the various requirements related to the execution of certain types of ex-pit transactions, including EFP, EFS and EFR transactions. Member firms are urged to ensure that all employees are fully informed regarding these requirements. Violations of the relevant CBOT regulations may result in disciplinary action by the Business Conduct Committee.

1. Bona Fide EFP, EFS and EFR Transactions

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

Member firms may facilitate, as principal, the cash commodity component of an EFP on behalf of a customer provided that the member firm can demonstrate that the cash commodity transaction was passed through to the customer that received the futures position as part of the EFP transaction.

In all EFP, EFS and EFR transactions, the associated cash product must be 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 cash and futures products exchanged are reasonably correlated.

The futures exchanged in an EFP, EFS or EFR must be an outright futures contract. Futures combinations are not a permissible component of an EFP, EFR or EFS. Additionally, the quantity of futures exchanged must be approximately equivalent to the underlying quantity of the cash product being exchanged. The parties involved may be required to demonstrate such equivalency.

2. Contingent EFP, EFS and EFR Transactions Prohibited

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

Two parties, for example, would be prohibited from executing contingent March and June Treasury Bond EFPs to roll a position. Similarly, two parties would be prohibited from executing a CBOT

EFP and a contingent EFP on another market in which the cash transaction economically offset the cash leg of the CBOT EFP. Such transactions are considered 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. (Central 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 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 which involve the same legal entity cannot be executed during the delivery month and two business days prior to the first delivery day to offset existing positions in the expiring contract.

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

After trading has ceased on the last trading day in a physically delivered 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 specify for each contract the number of days after the last trading day during which such transactions are permitted.

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 Note, 5-Year Note, 2-Year Note, Dow Jones-AIG Commodity Index, 10-Year Municipal Note Index and 10-Year and 5-Year Interest Rate Swaps.

EFRs may be executed only in agricultural futures contracts. The OTC component of an EFR must comply with any applicable regulatory requirements prescribed by the Commodity Futures Trading Commission.

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

8. Documentation Requirements for EFPs, EFSs and EFRs

Parties to such transactions must maintain all documents relevant to the futures and cash 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 practices such as cash contracts, confirmation statements, invoices, warehouse receipts or other documents of title
- d) third party documentation to support proof of payment or that the title of the cash 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 the ex-pit transaction. Additionally all futures account statements must designate ex-pit transactions as such.

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

William Lange	(312) 341-7750 or wlange@cbot.com
Sandra Valtierra	(312) 347-4137 or svaltierra@cbot.com

Paul J. Draths
Vice President & Secretary