

Authority: Rule 940

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## REGULATORY BULLETIN

### Interpretation of Rule 940 – Binary Event Futures

***Abstract: This Bulletin provides interpretive guidance relating to the Exchange's Binary Event Futures based upon potential corporate mergers.***

In March 2007, the Exchange announced a new futures product, Binary Event Futures ("BEFs"), that hinges on specifically defined business or financial events. The first of these contracts, which relate to merger proposals that have been received by the Chicago Board of Trade, commenced trading on April 20, 2007. This Bulletin describes the Exchange's views with respect to the operation of BEFs as provided for in USFERule 940. In case of any conflict between this Bulletin and Rule 940, the provisions of Rule 940 will control.

BEFs enable traders to take a position as to the future occurrence (or non-occurrence) of a specified event (the "Underlying Event") on or before a specified date. Specifically, the buyer of a BEF (holding a "long" position) will be entitled to receive payment of a fixed sum in the event of the occurrence of a particular event by a specified settlement date, while the seller (holding a short position) will be obligated to pay such fixed sum. On the other hand, if the designated event does not occur by the specified settlement date, buyers will not be entitled to receive, and sellers will not be obliged to make, the fixed sum payment.

BEFs will be traded from 7:15 a.m. to 4:00 p.m. (Chicago Time) Monday through Friday. The Last Trading Day for BEFs will be the first to occur of: 1) the day the Exchange declares the occurrence of the Underlying Event; 2) the day the Non-Occurrence of the Underlying Event is declared by the Exchange; or 3) the last Business Day of the Trading Period. If the Underlying Event occurs after the close of one Trading Session and before the opening of the next Trading Session, a new Trading Session will not be opened. BEFs will be quoted as a percentage of probability of the occurrence of the event in minimum increments of 0.5 probability points, with a tick value of \$5.00. Daily settlement prices will be recommended by the Exchange based on trading conditions at 3:15 p.m. (Chicago Time), except for the last trading day, when the settlement price will be set at zero or 100.0 (% probability points) depending on the occurrence or non-occurrence of the Underlying Event. Position reporting levels are set at 25 contracts. Payments are required to be made under the rules of the Clearing Organization.

The first BEF Contracts relate to the occurrence or non-occurrence of a business combination between the Board of Trade of the City of Chicago (CBOT) and Chicago Mercantile Exchange Holdings, Inc. (CME) or between CBOT and Intercontinental Exchange, Inc. (ICE). Contracts call for a settlement payment of \$1,000 per contract upon the occurrence of the subject business combination.

#### *Occurrence of Merger or Other Business Combination*

The Exchange will announce whether or not the subject Underlying Event has occurred. BEFs are designed to require payment not only in the event that CBOT engages in a

combination by way of a formal merger, but in the event that CBOT effects a substantive combination of its business with either CME or ICE by other means. Accordingly, an Underlying Event will be deemed to have occurred not only in the case of a formal merger, but under other objective circumstances that demonstrate a substantive combination of businesses. Thus, under Rule 940(a), an Underlying Event will consist of a merger or consolidation of CBOT with one of the other entities, the acquisition of majority control of CBOT by one of the other entities, the acquisition of majority control of one of the other entities by CBOT, or any substantially similar transaction, whether effected directly or through the use of affiliates. The occurrence of the Underlying Event will be confirmed by reference to formal filings received by governmental agencies, press releases, reports by third-party wire services and other forms of notice or communication deemed reliable by the Exchange.

Note that the occurrence of the Underlying Event in connection with one BEF contract will automatically result in the declaration by the Exchange of the Non-Occurrence of the Underlying Event in the other BEF (e.g., If CBOT merges with ICE, then the BEF based on the potential CBOT-CME combination will automatically be declared not to have occurred and would be settled at zero at the end of the last trading day).

Finally, in the event of any ambiguity relating to the terms of the BEFs, including whether the settlement criteria have been satisfied, a panel of three independent experts will be appointed by USFE's Chief Compliance Officer to decide the matter, in accordance with Rule 940(l). The majority decision of the panel shall be final.

*Rule 940(k) -- Insider Trading*

The rules pertaining to the trading of BEFs include restrictions that are intended to preserve the integrity of the marketplace, specifically with respect to insider trading. Rule 940(k) provides that "[d]irectors and employees of the Persons identified in these Contracts and any other Person with material nonpublic information in connection with the probability of the occurrence of the Underlying Event are prohibited from trading, directly or indirectly, in any of these Contracts."

The Exchange urges Members to take notice of the range of persons that are prohibited from trading these BEFs. As may be expected, directors and employees of the entities identified in the BEFs may not trade such products. However, the Rule is also intended to prohibit from trading any advisers to the entities, such as investment bankers, lawyers or accountants who may be actively involved with the business combination.

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