SUBMISSION COVER SHEET

***IMPORTANT*: Check box if Confidential Treatment is requested** ☐

Registered Entity Identifier Code (optional): **23-244 (1 of 4)**

Organization: **Chicago Mercantile Exchange Inc. ("CME")**

Filing as a: ☒ **DCM** ☐ **SEF** ☐ **DCO** ☐ **SDR**

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): **07/12/23** **Filing Description:** **Adoption of CME and CBOT Rule 524.D. ("Trade Marker at Close ("TMAC") Transactions") and Issuance of Three (3) Associated Market Regulation Advisory Notices RA2302-5, RA2303-5, RA2304-5.**

SPECIFY FILING TYPE

Please note only ONE choice allowed per Submission.

Organization Rules and Rule Amendments

☒	Certification	§ 40.6(a)
☐	Approval	§ 40.5(a)
☐	Notification	§ 40.6(d)
☐	Advance Notice of SIDCO Rule Change	§ 40.10(a)
☐	SIDCO Emergency Rule Change	§ 40.10(h)

Rule Numbers: See filing.

New Product **Please note only ONE product per Submission.**

☐	Certification	§ 40.2(a)
☐	Certification Security Futures	§ 41.23(a)
☐	Certification Swap Class	§ 40.2(d)
☐	Approval	§ 40.3(a)
☐	Approval Security Futures	§ 41.23(b)
☐	Novel Derivative Product Notification	§ 40.12(a)
☐	Swap Submission	§ 39.5

Product Terms and Conditions (product related Rules and Rule Amendments)

☐	Certification	§ 40.6(a)
☐	Certification Made Available to Trade Determination	§ 40.6(a)
☐	Certification Security Futures	§ 41.24(a)
☐	Delisting (No Open Interest)	§ 40.6(a)
☐	Approval	§ 40.5(a)
☐	Approval Made Available to Trade Determination	§ 40.5(a)
☐	Approval Security Futures	§ 41.24(c)
☐	Approval Amendments to enumerated agricultural products	§ 40.4(a), § 40.5(a)
☐	"Non-Material Agricultural Rule Change"	§ 40.4(b)(5)
☐	Notification	§ 40.6(d)

Official Name(s) of Product(s) Affected:

Rule Numbers:

Christopher Bowen
Managing Director and Chief Regulatory Counsel
Legal Department

July 12, 2023

VIA ELECTRONIC PORTAL

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: CFTC Regulation 40.6(a) Certification. Adoption of CME and CBOT Rule 524.D. ("Trade Marker at Close ('TMAC') Transactions") and Issuance of Three (3) Associated Market Regulation Advisory Notices RA2302-5, RA2303-5, RA2304-5. CME Submission No. 23-244 (1 of 4)

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), Chicago Mercantile Exchange Inc. ("CME"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX") (collectively, the "Exchanges") hereby certify to the Commission the adoption of CME and CBOT Rule 524.D. ("Trade Marker at Close ('TMAC') Transactions") and the issuance of associated CME Group Market Regulation Advisory Notices RA2302-5 regarding TMAC transactions, RA2303-5 regarding block trades, and RA2304-5 regarding Exchange for Related Position transactions (collectively, the "Rule Amendments") effective Sunday, July 30, 2023 for trade date Monday, July 31, 2023.

CME and CBOT Rule 524. ("Trading at Settlement ('TAS'), Basis Trade at Index Close ('BTIC') and Basis Trade at Cash Open ('TACO') Transactions") will be amended to adopt new subpart D which will codify the Trade Marker at Close ("TMAC") transaction type. The new TMAC transaction type will allow market participants to trade certain equity index futures contracts at the current day's applicable marker price, or at any valid price increment up to four ticks higher or lower than the marker.

The marker price for TMAC transactions will be derived from the volume-weighted average price ("VWAP") of outright transactions in the underlying instrument executed on CME Globex electronic trading platform ("CME Globex") in the 30-second window ending at 4:00 p.m. Eastern Prevailing Time ("EPT"). Trading activity in this 30-second window is also used by the Exchanges for purposes of calculating reference prices known as the Fixing Prices for the respective instruments. The daily TMAC marker price for each eligible instrument will therefore equal the Fixing Price, published by the Exchanges and made available on the CME Group website.

Market Regulation will issue RA2302-5 regarding Rule 524. ("Trading at Settlement ('TAS'), Basis Trade at Index Close ('BTIC'), Basis Trade at Cash Open ('TACO'), and Trade Marker at Close ('TMAC') Transactions"), RA2303-5 regarding Rule 526. ("Block Trades") and RA2304-5 regarding Rule 538. ("Exchange for Related Position Transactions") to codify the TMAC transaction type and the associated guidance for proper trade practices in accordance with the aforementioned rules.

CME and CBOT are concurrently certifying TMAC-eligibility to certain CME and CBOT Equity Index Futures contracts (the "Contracts") effective July 31, 2023 via Submission No. 23-245 also dated July 12, 2023.

300 Vesey Street New York, NY 10282 T 212 299 2200 F 212 301 4645 christopher.bowen@cmegroup.com cmegroup.com

The Exchanges reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act") and identified that the Rule Amendments may have some bearing on the following Core Principles:

> **Availability of General Information:** The Exchanges will release a Special Executive Report ("SER") regarding the Rule Amendments. The SER will also be posted on the CME Group website. As required by this Core Principle, the Exchanges are also publicly issuing RA2302-5, RA2303-5 and RA2304-5 to ensure that market participants have updated guidance and information attendant to Rule 524. and TMAC transactions. RA2302-5, RA2303-5 and RA2304-5 will also be available on the CME Group website.
>
> **Contracts Not Readily Subject to Manipulation:** A review of the Contracts' activity indicates there is sufficient liquidity to support pricing at TMAC. The Contracts are not subject to manipulation.
>
> **Compliance with Rules**: The Rule Amendments provide guidance to the marketplace on the regulatory requirements attendant to TMAC transactions. This guidance is intended to assist market participants in remaining in compliance with Rule 524., Rule 526. and Rule 538. and is therefore in compliance with this Core Principle.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges hereby certify that the Rule Amendments comply with the Act, including regulations under the Act. There were no substantive opposing views to the proposal.

The Exchanges certify that this submission has been concurrently posted on the CME Group website at http://www.cmegroup.com/market-regulation/rule-filings.html.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2200 or via e-mail at CMEGSubmissionInquiry@cmegroup.com.

Sincerely,

/s/ Christopher Bowen
Managing Director and Chief Regulatory Counsel

Attachments:	Appendix A	Amendments to CME and CBOT Rule 524.
	Appendix B	CME Group Market Regulation Advisory Notice RA2302-5
	Appendix C	CME Group Market Regulation Advisory Notice RA2303-5
	Appendix D	CME Group Market Regulation Advisory Notice RA2304-5

Appendix A

CME and CBOT Rulebooks
Chapter 5
("Trading Qualifications and Practices")

(additions are underscored; deletions are ~~overstruck~~)

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524. TRADING AT SETTLEMENT ("TAS"), BASIS TRADE AT INDEX CLOSE ("BTIC"), ~~AND~~ BASIS TRADE AT CASH OPEN ("TACO") AND TRADE MARKER AT CLOSE ("TMAC") TRANSACTIONS

The Exchange shall determine the products, contract months and time periods during which TAS, BTIC, ~~and~~ TACO, and TMAC transactions shall be permitted. Specific products, contract months and spreads eligible for pricing as TAS, BTIC, ~~or~~ TACO, or TMAC transactions are set forth in the TAS, BTIC, ~~and~~ TACO, and TMAC Table ("Table") at the end of Chapter 5.

[Sections A.-C. remain unchanged]

524.D. Trade Marker at Close ("TMAC") Transactions

The following shall govern TMAC transactions:

1. A TMAC order may be entered on Globex at any time the applicable contract is available for TMAC trading on Globex and during such TMAC-eligible contract's prescribed pre-open time period. The initiation of any TMAC order on Globex outside these time periods is prohibited.
2. Unless otherwise specified in the Table, a TMAC-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526 or as an Exchange of Futures for Physical ("EFP") or Exchange of Futures for Risk ("EFR") transaction pursuant to the requirements of Rule 538.
3. Unless otherwise specified by the Exchange, a TMAC transaction may be executed at the current day's applicable marker price or at any valid price increment four ticks higher or lower than the applicable marker price.

[End of Rule.]

Appendix B

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	TAS, TAM, BTIC, TACO, and TMAC Transactions
Rule References	Rule 524
Advisory Date	July 13, 2023
Advisory Number	CME Group RA2302-5
Effective Date	July 31, 2023

Effective on trade date July 31, 2023, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA2301-5 from June 1, 2023. It is being issued in connection with the adoption of CME and CBOT Rule.524.D. ("Trade Marker at Close ('TMAC') Transactions"). The new TMAC transaction type will allow market participants to trade certain equity index futures contracts at the current day's applicable marker price, or at any valid price increment up to four ticks higher or lower than the marker. (See SER-9219)

The marker price for TMAC transactions will be derived from the volume-weighted average price ("VWAP") of outright transactions in the underlying instrument executed on CME Globex electronic trading platform ("CME Globex") in the 30-second window ending at 4:00 p.m. Eastern Prevailing Time ("EPT"). Trading activity in this 30-second window is also used by the Exchanges for purposes of calculating reference prices known as the Fixing Prices for the respective instruments. The daily TMAC marker price for each eligible instrument will therefore equal the Fixing Price, published by the Exchanges and made available on the CME Group website.

No other substantive changes have been made to this Advisory Notice.

Information on the specific products, contract months and spreads eligible for pricing as TAS, TAM, BTIC, TACO, or TMAC transactions is contained in the Trading at Settlement ("TAS") Table set forth in the Interpretations & Special Notices Section at the end of Chapter 5 of each Exchange's Rulebook. The table may also be accessed here.

TAS, TAM, BTIC, TACO, and TMAC transactions are subject to the information contained in the Advisory Notice, each Exchange's Rule 524, and, for BTIC, TACO, and TMAC transactions, provisions contained in applicable CME and CBOT futures product chapters. The text of each Exchange's Rule 524 appears in Section 6 of this Advisory Notice.

1. General Information on TAS, TAM, BTIC, TACO, and TMAC Transactions

TAS permits parties to trade at a differential to the current day's not-yet-known futures settlement price. TAM and TMAC permit parties to trade at a differential to the current day's not-yet-known Exchange-determined marker price.

Orders for CME and CBOT TAS and TMAC-eligible futures products may be entered into CME Globex for execution at the current day's settlement price, marker price, or any valid price increment up to four ticks higher or lower than the settlement price.

CME and CBOT TAS and TMAC-eligible futures products may also be executed as block trades, EFPs, or EFRs and priced at the current day's settlement price, marker price, or any valid price increment up to four ticks higher or lower than the settlement price.

Orders for NYMEX and COMEX TAS- and TAM-eligible futures products may be entered into CME Globex for execution at the current day's settlement or marker price, as applicable, or any valid price increment ten ticks higher or lower than the applicable settlement or marker price, except for spot month Copper futures which may be executed on CME Globex and priced solely at the settlement price, or TAS flat.

NYMEX and COMEX TAS- and TAM-eligible futures products may also be executed as block trades, EFPs, or EFRs and priced at the settlement or marker price, as applicable, or any valid price increment ten ticks higher or lower than the settlement or marker price, except for spot month Copper futures block trades, EFPs, and EFRs which may be priced solely at the settlement price, or TAS flat.

BTIC permits parties to trade at a differential (basis) to an eligible futures contract's underlying cash Index or a related index as described in the product chapter in which the closing level is not-yet-known.

TACO permits parties to trade at a differential (basis) to an eligible futures contract's underlying cash Index special opening quotation ("SOQ"), which is not-yet-known.

Orders for certain CME and CBOT futures products may be entered into CME Globex for execution at the current day's eligible closing price or any fair and reasonable basis above or below the current day's eligible closing price.

Certain CME and CBOT futures products may be executed as a block trade and priced at the underlying futures contracts' eligible closing price or at a differential (basis) to the cash Index, or a related index as described in the product chapter, closing price.

Orders for CME E-mini S&P 500 futures may be entered into CME Globex or executed as a block trade for pricing at the next following regularly scheduled SOQ or any fair and reasonable basis above or below the next following regularly scheduled SOQ.

The basis must be stated in admissible futures price increments for the specific futures contract. In the case of a BTIC or TACO block trade, the negotiated basis must be fair and reasonable in light of factors including, but not limited to, financing rates, expected dividend income, and time remaining until the underlying futures contract expiration.

Information on products eligible to be executed as block trades and priced as TAS, TAM, BTIC, TACO, or TMAC transactions may be found here:

http://www.cmegroup.com/clearing/trading-practices/block-trades.html

2. Regulatory Considerations

All market participants are reminded that any trading activity that is intended to disrupt orderly trading or to manipulate or attempt to manipulate prices to benefit a TAS, TAM, BTIC, TACO, or TMAC position, including a position established as a block trade, will subject the member and/or the market participant to disciplinary action for any of a number of rule violations, including, but not limited to:

- price manipulation or attempted price manipulation
- wash trading
- conduct detrimental to the interest or welfare of the Exchange or conduct which tends to impair the dignity or good name of the Exchange
- engaging in conduct inconsistent with just and equitable principles of trade

Investigation of suspected manipulative or disruptive activity related to TAS, TAM, BTIC, TACO, or TMAC or activity in the related underlying markets will include the Market Regulation Department's ("Department") review of positions and trading activity in the applicable Exchange markets and any related markets to determine if such activity was disruptive, collusive, and/or caused or attempted to cause aberrant price movement during these periods. Pursuant to Rule 432.L.3, market participants are reminded that it is an offense to fail to produce any books or records requested by authorized Exchange staff within 10 days after such request is made or such shorter period of time as determined by the Exchange in exigent circumstances. The Department always has the authority to request books and records as well as other relevant information regarding the nature of a participant's trading and positions in Exchange products and in any related markets as part of its regulatory program.

3. Entry of TAS, TAM, BTIC, TACO, and TMAC Orders on CME Globex

Rule 524 permits the initiation of TAS, TAM, BTIC, TACO, and TMAC orders into CME Globex only subsequent to the beginning of each group's pre-open state and during the time period the applicable contracts are available for TAS, TAM, BTIC, TACO, or TMAC trading on CME Globex, as applicable. The initiation of any TAS, TAM, BTIC, TACO or TMAC order on CME Globex outside of these time periods is strictly prohibited.

Market participants are reminded that the timing of each groups' pre-open state may be randomized, as described in the Client Systems Wiki, available here.

Any market participant who initiates the entry of a TAS, TAM, BTIC, TACO or TMAC order prior to receipt of the security status message indicating that the market has transitioned to the pre-open will be subject to disciplinary action by a panel of the Business Conduct Committee, notwithstanding that the order may have been rejected by the CME Globex system. Sanctions for noncompliance may include a fine, disgorgement of any profits realized as a result of any orders accepted by CME Globex which were initiated prior to receipt of the security status message and/or a suspension of access to the market. Market participants must have appropriate protocols in place to ensure that TAS, TAM, BTIC, TACO, and TMAC orders are not initiated prior to receipt of the security status message.

4. TAS and TAM Calendar Spreads

As set forth in the TAS Table, certain intra-commodity calendar spreads are permitted to be entered into CME Globex and priced at the settlement or marker price, or a specified number of ticks above or below the settlement or marker price.

Additionally, certain NYMEX and COMEX intra-commodity calendar spreads are permitted to be executed as block trades and priced at the settlement or marker price or at a positive or negative differential.

TAS and TAM spread trades may be executed at zero or at a positive or negative differential (positive/negative 1 through positive/negative 10 for eligible NYMEX and COMEX products) (positive/negative 1 through positive/negative 4 for eligible CME and CBOT products) on CME Globex or, where allowable, as block trades. For more information regarding leg price assignment on Globex see the Client Systems Wiki, available here.

5. TAS, BTIC, and TACO Pricing and Daily Price Limits

Notwithstanding that CME Live Cattle, Feeder Cattle and Lean Hogs futures and CBOT Corn, Soybean, Soybean Oil, Soybean Meal, Wheat and KC HRW Wheat futures are subject to daily price limits, market participants executing a trade in one of those products which is priced at a tick increment above or below the settlement price (negative 4 through negative 1 or positive 1 through positive 4) may result in a final trade price above or below the daily price limit.

Similarly, BTIC and TACO transactions may result in an assigned futures price outside of the applicable futures daily price limits.

6. Text of CME, CBOT, and NYMEX/COMEX Rule 524

CME and CBOT

524. TRADING AT SETTLEMENT ("TAS"), BASIS TRADE AT INDEX CLOSE ("BTIC") AND BASIS TRADE AT CASH OPEN ("TACO") TRANSACTIONS

The Exchange shall determine the products, contract months and time periods during which TAS, BTIC, and TACO transactions shall be permitted. Specific products, contract months and spreads eligible for pricing as TAS, BTIC, or TACO transactions are set forth in the TAS Table ("Table") at the end of Chapter 5.

524.A. Trading at Settlement ("TAS") Transactions

The following shall govern TAS transactions:

1. A TAS order may be entered on Globex at any time the applicable contract is available for TAS trading on Globex and during such TAS-eligible contract's prescribed pre-open time period. The initiation of any TAS order on Globex outside these time periods is prohibited.

2. Unless otherwise specified in the Table, a TAS-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526 or as an Exchange of Futures for Physical ("EFP") or Exchange of Futures for Risk ("EFR") transaction pursuant to the requirements of Rule 538.

3. Unless otherwise specified by the Exchange, a TAS transaction may be executed at the current day's settlement price or at any valid price increment four ticks higher or lower than the settlement price.

524.B. Basis Trade at Index Close ("BTIC") Transactions

A Basis Trade at Index Close ("BTIC") transaction is an Exchange futures transaction which is priced with reference to the closing level of such futures contract's underlying cash Index, or the closing level of a related index as described in the applicable product chapter, on a particular trading day (the "Basis"). The following shall govern BTIC transactions:

1. A BTIC order may be entered on Globex at any time the applicable futures contract is available for BTIC trading on Globex and during such BTIC-eligible futures contract's prescribed pre-open time period. The initiation of any BTIC order on Globex outside these time periods is prohibited.

2. Unless otherwise specified in the Table, a BTIC-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526, except that a BTIC block trade cannot be executed on the last day of trading in an expiring BTIC-eligible futures contract.

3. The Basis established in any BTIC transaction must be stated in admissible price increments for the applicable futures contract as set forth in the applicable product chapter. The assigned futures price corresponding to such BTIC transaction shall be the closing level of the applicable cash Index, or the closing level of a related index as described in the applicable product chapter, for that trading day adjusted by the Basis established in such BTIC transaction. For any BTIC-eligible futures contract, the magnitude of the Basis in a BTIC block trade must be fair and reasonable in light of factors including, but not limited to, financing rates, expected dividend income, and time remaining until the underlying futures contract expiration. A BTIC futures transaction may result in an assigned futures price outside of applicable daily price limits. The assigned futures price is deemed final when determined by the Exchange, absent an index price correction by the index provider. If the closing level of a cash Index, or the closing level of a related index as described in the applicable product chapter, is corrected by the applicable cash Index provider prior to 4:00 p.m. CT on the following Business Day, the assigned futures price corresponding to such BTIC transaction shall be amended using the corrected closing level of the applicable cash Index, or the closing level of a related index as described in the applicable product chapter, adjusted by the Basis established in such BTIC transaction, and the assigned futures price shall be deemed final at that time.

4. Additional product-specific BTIC provisions, including those relating to disruptions in the publication of an index and the applicable index closing times are set forth in the applicable product chapter in the Rulebook.

524.C. Basis Trade at Cash Open (“TACO”) Transactions

A Basis Trade at Cash Open (“TACO”) transaction is an Exchange futures transaction that is priced with reference to the next following regularly scheduled special opening quotation (“SOQ”) of such futures contract’s underlying cash Index (the “Basis”). The following shall govern TACO transactions:

1. A TACO order may be entered on Globex at any time the applicable contract is available for TACO trading on Globex and during such TACO-eligible contract’s prescribed pre-open time period. The initiation of any TACO order on Globex outside these time periods is prohibited.
2. Unless otherwise specified in the Table, a TACO-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526, provided that for any expiring TACO-eligible contract, a TACO block trade is prohibited with reference to such contract’s cash Index SOQ for the last day of trading in such contract.
3. The Basis established in any TACO transaction must be stated in admissible price increments for the applicable futures contract as set forth in the applicable product chapter. The assigned futures price corresponding to such TACO transaction shall be the next following regularly scheduled SOQ of the applicable cash Index adjusted by the Basis established in such TACO transaction.
   For any TACO-eligible futures contract, the magnitude of the Basis in a TACO block trade must be fair and reasonable in light of factors including, but not limited to, financing rates, expected dividend income, and time remaining until the underlying futures contract expiration. A TACO futures transaction may result in an assigned futures price outside of applicable daily price limits.

4. In the event of a disruption in the primary listing exchange for a given cash Index (or a disruption in the applicable national bourse or market in the case of a given non-US cash Index) such that the administrator of such cash Index is unable to produce a regularly scheduled SOQ, all pending and executed TACO transactions in the corresponding futures contract shall be canceled by the Exchange. Such disruption shall be declared by the Exchange in its sole discretion.

5. Additional product-specific TACO requirements are set forth in the applicable product chapter in the Rulebook.

524.D. Trade Marker at Close (“TMAC”) Transactions

The following shall govern TMAC transactions:

1. A TMAC order may be entered on Globex at any time the applicable contract is available for TMAC trading on Globex and during such TMAC-eligible contract’s prescribed pre-open time period. The initiation of any TMAC order on Globex outside these time periods is prohibited.
2. Unless otherwise specified in the Table, a TMAC-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526 or as an Exchange of Futures for Physical (“EFP”) or Exchange of Futures for Risk (“EFR”) transaction pursuant to the requirements of Rule 538.
3. Unless otherwise specified by the Exchange, a TMAC transaction may be executed at the current day’s applicable marker price or at any valid price increment four ticks higher or lower than the applicable marker price.

NYMEX/COMEX

524. TRADING AT SETTLEMENT (“TAS”) AND TRADING AT MARKER (“TAM”) TRANSACTIONS

The Exchange shall determine the products, contract months and time periods during which TAS and TAM transactions shall be permitted. Specific products, contract months and spreads eligible for pricing as TAS or TAM transactions are set forth in the TAS Table (“Table”) at the end of Chapter 5.

524.A. Trading at Settlement (“TAS”) Transactions

The following shall govern TAS transactions:

1. A TAS order may be entered on Globex at any time the applicable contract is available for TAS trading on Globex and during such TAS-eligible contract’s prescribed pre-open time period. The initiation of any TAS order on Globex outside these time periods is prohibited.

2. Unless otherwise specified in the Table, a TAS-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526 or as an Exchange of Futures for Physical (“EFP”) or Exchange of Futures for Risk (“EFR”) transaction pursuant to the requirements of Rule 538.

3. Unless otherwise specified by the Exchange, a TAS transaction may be executed at the current day's settlement price or at any valid price increment ten ticks higher or lower than the settlement price.

524.B. Trading at Marker ("TAM") Transactions

The following shall govern TAM transactions:

1. A TAM order may be entered on Globex at any time the applicable contract is available for TAM trading on Globex and during such TAM-eligible contract's prescribed pre-open time period. The initiation of any TAM order on Globex outside these time periods is prohibited.
2. Unless otherwise specified in the Table, a TAM-eligible product and contract month may be executed as a block trade pursuant to the requirements of Rule 526 or as an EFP or EFR transaction pursuant to the requirements of Rule 538.
3. Unless otherwise specified by the Exchange, a TAM transaction may be executed at the current day's applicable marker price or at any valid price increment ten ticks higher or lower than the applicable marker price.

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

Erin Middleton, Director, Rules & Regulatory Outreach, 312.341.3286
Paige Gawrys, Senior Specialist, Rules & Regulatory Outreach, 312.872.5078
Jennifer Dendrinos, Senior Director, Investigations, 312.341.7812
Urmi Graft, Director, Investigations, 312.341.7639
Myles Peralta, Lead Investigator, 312.454.5310
Penelope Beckhardt, Lead Investigator, 312.435.3664

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

Appendix C

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Block Trades
Rule References	Rule 526
Advisory Date	July 13, 2023
Advisory Number	CME Group RA2303-5
Effective Date	July 31, 2023

Effective on trade date Monday, July 31, 2023, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA2204-5 from July 25, 2022. It is being issued to amend Section 12 to incorporate guidance regarding blocks that are executed using the Trade Marker at Close ("TMAC") transaction type as described in Special Executive Report 9219.

No other substantive changes have been made to this Advisory Notice.

This Advisory Notice contains the following Sections:

1. Definition
2. Participation
3. Different Accounts with Common Beneficial Ownership
4. Eligible Products
5. Time and Prices
6. Minimum Quantities
7. Block Trade Submission
8. Recordkeeping
9. Error Remediation
10. Dissemination of Block Trade Information
11. Use of Nonpublic Information
12. TAS, TAM and TMAC Block Trades
13. Basis Trade at Index Close ("BTIC") and Basis Trade at Cash Open ("TACO") Block Trades
14. Derived Block Trades
15. Text of Rule 526
16. Contact Information

All block trades are subject to the conditions set forth in Rule 526 and in this Advisory Notice. Violations of the Rule or any of the requirements and prohibitions set forth in this Advisory Notice may result in disciplinary action.

1. Definition of Block Trades

Block trades are privately negotiated futures, options or combination transactions that meet certain quantity thresholds which are permitted to be executed apart from the public auction market.
It is not permissible to facilitate the execution of block trades in Exchange-traded products on a system or facility accessible to multiple parties that allows for the electronic matching of or the electronic acceptance

of bids and offers. Parties may use communication technologies to bilaterally request block quotes from one or more participants and to conduct privately negotiated block trades. Parties may also utilize technologies supported by third parties which allow for the electronic posting of indicative block markets displayed to multiple market participants. However, block trades executed between parties based on such electronically displayed indicative markets may be transacted only through direct bilateral communications involving the broker, where applicable, and the parties to the trade.

Market participants may utilize Directed Request for Quote ("DRFQ") functionality within CME Direct to privately negotiate and execute block trades. Additional information concerning DRFQ functionality, including a description of the workflow and requirements concerning user entitlements, is available at www.cmegroup.com/drfq. Additionally, a short video describing the DRFQ process is available here. To learn more about DRFQ, please contact PlatformSolutions@cmegroup.com.

2. Participation in Block Trades

Each party to a block trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act. Eligible Contract Participants generally include exchange members and member firms, broker/dealers, government entities, pension funds, commodity pools, corporations, investment companies, insurance companies, depository institutions and high net-worth individuals. Commodity trading advisors and investment advisors who are registered or exempt from registration, and foreign persons performing a similar role and subject as such to foreign regulation, may participate in block transactions provided they have total assets under management exceeding $25 million and the block trade is suitable for their customers.

A customer order may be executed by means of a block trade only if the customer has specified that the order be executed as a block trade.

3. Block Trades between Different Accounts with Common Beneficial Ownership

Block trades between different accounts with common beneficial ownership are prohibited unless 1) each party's decision to enter into the block trade is made by an independent decision-maker; 2) each party has a legal and independent bona fide business purpose for engaging in the block trade; and 3) the block trade is executed at a fair and reasonable price. In the absence of satisfying all the aforementioned requirements, the transaction may constitute an illegal wash trade prohibited by Rule 534 ("Wash Trades Prohibited"). Common beneficial ownership is defined as not only accounts with the same beneficial ownership, but also accounts with common beneficial ownership that is less than 100%.

4. Block Eligible Products

A complete list of block eligible products may be found here:

CME, CBOT, NYMEX & COMEX Block Trade-Eligible Products and Minimum Quantity Thresholds

The marketplace is notified of block trade minimum quantity thresholds and any changes thereto via a Special Executive Report issued by Research & Product Development.

Interested market participants may receive these reports via email by visiting the CME Group Subscription Center located at:

http://www.cmegroup.com/tools-information/subscriptions/advisory-subscribe.html

5. Time and Prices of Block Trades

Block trades may be executed at any time, including times during which the public auction market is closed. Block trades may not be executed after the expiration of the underlying futures or options on futures contract month.

Block trades must be transacted at prices that are **"fair and reasonable"** in light of (i) the size of the transaction, (ii) the prices and sizes of other transactions in the same contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including, without limitation, the underlying cash market or related futures markets, at the relevant time, and (iv) the circumstances of the markets or the parties to the block trade.

The trade price must be consistent with the minimum tick increment for the market in question. Additionally, each outright transaction and each leg of any block eligible spread or combination trade must be executed at a single price. Block trade strategies involving a CME Group Exchange product and the product of any non-CME Group exchange are considered an outright transaction at the relevant CME Group Exchange, and, as such, will be reviewed for "fair and reasonable" pricing and timely submission solely as an outright transaction.

Block trade prices do not elect conditional orders (e.g. stop orders) or otherwise affect orders in the regular market.

6. Block Trade Minimum Quantities for Outrights, Spreads and Combinations

The block trade minimum quantity requirements for outright futures and outright options may be found using the link below.

CME, CBOT, NYMEX & COMEX Block Trade-Eligible Products and Minimum Quantity Thresholds

The bunching of block trade orders is not permitted except in the case of eligible CTAs or foreign Persons performing a similar role.

The Chief Regulatory Officer ("CRO") or his designee may exercise reasonable discretion and permit an exception to the block trade minimum threshold where, in the opinion of the CRO or his designee, the situation so requires and such exception is in the best interests of the Exchange, which may include, but is not limited to, instances involving the liquidation of a portfolio of positions where one or more of the legs of the aggregate transaction do not meet the block trade minimum threshold for the respective instrument(s).

Information with respect to minimum quantity thresholds for spreads and combinations executed as block trades may also be found here.

7. Block Trade Submission

Block trades in CME, CBOT, NYMEX and COMEX products must be submitted via CME Direct or CME ClearPort.

a) Submission Time Requirements

After a block trade is consummated it must be submitted to the Exchange via CME Direct or CME ClearPort within 5 or 15 minutes, depending on the product. Submission via CME Direct or CME ClearPort will result in a price report to the marketplace and submission to CME Clearing provided both sides of the trade pass the required credit check and the relevant terms of the respective sides of the trade match.

Where it is necessary for parties to agree to the individual leg prices on certain spread and combination trades to submit the trade, parties must do so as expeditiously as possible after agreeing to engage in the block trade.

Block trade prices are reported independently of transaction prices in the regular market and are not included as part of the daily trading range.

CME, CBOT, NYMEX & COMEX Block Trade-Eligible Products and Reporting Requirements

b) Additional Submission Requirements and Obligations

Since July 17, 2017, all block trades have been required to be submitted directly to CME Clearing via CME Direct, the CME ClearPort User Interface (UI), or the CME ClearPort API through proprietary or 3rd party software. CME Direct connects to the CME ClearPort API.

For the block trade to be price reported to the marketplace and submitted to CME Clearing, both sides of the trade must pass the required credit check and the relevant terms of the respective sides of the trade must match. If either side does not pass the required credit check or the terms do not match, the block trade price will not be reported to the marketplace and the block trade will remain uncleared.

Entry into CME Direct or CME ClearPort may be done by each of the counterparties to the trade (single-sided entry) or via a broker or other authorized representative (dual-sided entry).

For single-sided entry, the buyer and seller of a block trade may agree to separately enter their side of the block trade into CME Direct or CME ClearPort, indicating each other as the opposite party. In this circumstance, **both** the buyer and seller must enter their respective side of the transaction within the required time-period.

For single-sided entry, one side of a trade (either the buyer or seller) may agree to enter their respective side of the trade and allege that trade against the other party. In this circumstance, the other party must ensure the alleged trade is accepted (complete with the correct account information for their side) within the required time-period. Consequently, the first party entering their side of the trade should ensure the information being entered is correct and must leave enough time for the second party to accept the trade within the requisite time-period.

For dual-sided entry where a broker or other representative is entering the buy and sell side of the block trade on behalf of the counterparties, the broker or other representative is responsible for the entry of the block trade within the requisite time-period.

Block Trades in CME and CBOT Products

Block trades may be entered in CME Direct or CME ClearPort from 5:00 p.m. CT Sunday through 5:45 p.m. CT Friday. CME Direct and CME ClearPort do not permit the entry of CME and CBOT block trades during the maintenance window, from 5:45 p.m. CT to 6:00 p.m. CT Monday through Thursday. CME and CBOT block trades negotiated immediately prior to and during the maintenance window must be entered by 6:05 p.m. CT for products subject to a 5-minute reporting requirement or by 6:15 p.m. CT for products subject to a 15-minute reporting requirement.

Block Trades in NYMEX and COMEX Products

Block trades may be entered in CME Direct or CME ClearPort from 5:00 p.m. CT/6:00 p.m. Eastern Time ("ET") through 4:00 p.m. CT/5:00 p.m. ET each business day. CME Direct and CME ClearPort do not permit the entry of NYMEX and COMEX block trades between 4:00 p.m.

CT/5:00 p.m. ET and 5:00 p.m. CT/6:00 p.m. ET each business day or at any time on weekends. NYMEX and COMEX block trades negotiated immediately prior to and during the time that block trade entry is not permitted must be entered by 5:05 p.m. CT/6:05 p.m. ET for products subject to a 5-minute reporting requirement or by 5:15 p.m. CT/6:15 p.m. ET for products subject to a 15-minute reporting requirement.

Block trades negotiated at any other time during which CME Direct or CME ClearPort are closed must be submitted no later than 5 or 15 minutes after the time CME Direct or CME ClearPort reopens, depending on the reporting requirement for the specific product.

Block trades may also be reported to the CME ClearPort Facilitation Desk/Global Command Center via email at FacDesk@cmegroup.com. **Please note that for the Facilitation Desk to submit the trade, the counterparty accounts must be registered with credit limits and product permissions set up in CME Account Manager.**

The Facilitation Desk is closed from 4:30 p.m. CT/5:30 p.m. ET Friday through 5:00 p.m. CT/6:00 p.m. ET Sunday.

c) Information Required for Reporting Block Trades

When reporting a block trade, the following information is required:

- Contract, contract month and contract year for futures, and, additionally for options, strike price and put or call designation for standard options, as well as the expiration date and exercise style for flex options;
- Quantity of the trade or, for spreads and combinations, the quantity of each leg of the trade;
- Price of the trade or, for certain spreads and combinations, the price of each leg of the trade;
- Account numbers for each side of the trade;
- Buyer's clearing firm and seller's clearing firm;
- For block trades reported via email, name and phone number of the party reporting the trade and counterparty name and contact information for verification purposes; and
- Execution time (to the nearest minute in Central/Eastern Time) of the trade. The execution time is the time at which the trade was consummated as described at the end of this section.

A block trade in a block-eligible option may be executed up to and including the day on which an option contract expires for purposes of offsetting an open option position, provided the offsetting block trade is submitted via CME Direct or CME ClearPort no later than the beginning of the CME ClearPort maintenance window.

The failure to submit timely, accurate and complete block trade reports may subject the party responsible for the reporting obligation to disciplinary action. Parties shall not be sanctioned for block reporting infractions deemed to arise from factors beyond the reporting party's control (e.g. the block trade fails the CME ClearPort automated credit check).

Please note that the execution time of a block trade is the time that the trade is consummated, which is the time that the parties agree to the trade in principle. In that regard, spread block trades are deemed consummated at the time the parties agree to the differential or combination price, not the time the leg prices are determined. Market participants must accurately report the execution time of the block trade. The reporting of inaccurate execution times may result in disciplinary action.

8. Block Trade Recordkeeping

Complete order records for block trades must be created and maintained pursuant to Rule 536 and CFTC Regulations. Additionally, the time of execution of the block trade must also be recorded for all block trades.

9. Error Remediation

Dual-Sided Entry

For dual-sided entry where a broker or other representative has entered the buy and sell side of the block trade on behalf of the counterparties and the trade has cleared, but for which the broker or other representative has made an error in the terms of the trade, the error may be corrected as follows:
If the error is discovered on the same CME Direct or CME ClearPort trade date on which submission occurred, the broker or other representative may void the erroneous submission and resubmit the block trade with the correct information.

If the error is discovered after the CME Direct or CME ClearPort trade date on which submission occurred, the broker or other representative may request the Exchange to correct the error within three business days.

Single-Sided Entry

For single-sided entry where the trade has cleared, but where an error has been made in the terms of the trade, either party may request the Exchange to correct the error within three business days.

All correction requests made to the Exchange must include evidence that the counterparties to the block trade agree to the correction request. All correction requests are subject to review and approval by the Exchange.

To request a correction please contact the CME ClearPort Facilitation Desk/Global Command Center at 1.800.438.8616 in the U.S., +44 20 7623 4747 in Europe, +65 6532 5010 in Asia, or via email at FacDesk@cmegroup.com.

Error correction requests received after the three-business-day window may not take place without the express approval of CME Clearing. Market participants should contact CME Clearing Services at 312.207.2525.

10. Dissemination of Block Trade Information

The date, execution time, contract month, price and quantity of block trades are automatically reported once they are cleared. Block trade information is reported on the MerQuote system and may be accessed by entering the code "BLK". Block trade information is also displayed on the CME Group website at the following link: http://www.cmegroup.com/tools-information/blocktrades.html. Block trade information is also displayed on the trading floor.

Block trade prices are published separately from transactions in the regular market.

Block trade volume is also identified in the daily volume reports published by the Exchange.

11. Use of Nonpublic Information Regarding Block Trades

a) General

Parties involved in the solicitation or negotiation of a block trade may not disclose the details of those communications to any other party for any purpose other than to facilitate the execution of the block trade. Parties privy to nonpublic information regarding a consummated block trade may not disclose such information to any other party prior to the public report of the block trade by the Exchange. Notwithstanding the preceding sentence, the disclosure of a customer's identity by a broker is governed solely by the terms of Section b) below. Parties solicited to provide a two-sided block market are not deemed to be in possession of nonpublic information provided side of market interest is not disclosed in the context of the solicitation.

b) Broker Disclosure of Customer Identity

A broker negotiating a block trade on behalf of a customer may disclose the identity of the customer to potential counterparties, including the counterparty with which the block trade is consummated, only with the express permission of the customer. Express consent must be obtained in writing (letter, email, instant message, etc.) or on a recorded phone line, and evidence of such consent must be provided to Market Regulation upon request. Such express consent is not required on a trade-by-trade basis. In order to provide affected brokers with sufficient time to obtain express consent, the compliance date for this amended requirement is Monday, June 1, 2020.

Except in circumstances where brokers obtain express consent on a trade-by-trade basis, brokers must reconfirm such consent on no less than an annual basis. For the reconfirmation, negative consent is permissible. Brokers should retain documentation evidencing the annual reconfirmation and must provide it to Market Regulation upon request.
With a customer's consent, the broker may disclose the customer's identity solely to parties involved in the block trade negotiation, including the party with whom the block trade is consummated. Disclosure to anyone else is strictly prohibited.

Parties solicited to provide a two-sided block market are not deemed to be in possession of nonpublic information provided side of market interest is not disclosed in the context of the solicitation.

c) Pre-Hedging/Anticipatory Hedging

Parties to a potential block trade may engage in pre-hedging or anticipatory hedging of the position that they believe in good faith will result from the consummation of the block trade, except for an intermediary that takes the opposite side of its own customer order. In such instances, prior to the consummation of the block trade, the intermediary is prohibited from offsetting the position established by the block trade in any account which is owned or controlled, or in which an ownership interest is held, or for the proprietary account of the employer of such intermediary. The intermediary may enter into transactions to offset the position only after the block has been consummated.

A party acting principally in a block trade negotiation that plans on engaging in pre-hedging activity must ensure it is clear to its counterparty that the party is trading principally, and, as such, owes no agency duties to the counterparty. In that regard, initial disclosures in account opening agreements or other similar communications may be deemed insufficient in the event that the block trade negotiation itself is indicative of the party assuming agency duties to the counterparty.

Representations by a party that they will "work an order" on behalf of a counterparty, or block trade negotiations where the price of the block trade is tied to the price of the party's pre-hedging activity plus a "markup" or "basis" are viewed by Market Regulation to imply that such agency duties are owed to the counterparty. In such scenarios, pre-hedging is prohibited.

Representations by a principal in the negotiation of a block trade that the party is intending to act as a principal is sufficient proof there are no agency duties (express or implied) owed to the counterparty provided that such representations are made prior to engaging in any pre-hedging activity. For example, disclosures in the header/footer of a party's instant message communications advising that the party is acting principally and owes no agency duties to the counterparty would suffice in lieu of direct communications during the negotiation. Alternatively, such disclosures could be made on recorded phone lines or sent via email prior to the principal engaging in pre-hedging activity related to the block trade negotiation.

It shall be a violation of Rule 526 for a person to engage in the front running of a block trade when acting on material nonpublic information regarding an impending transaction by another person, acting on nonpublic information obtained through a confidential employee/employer relationship, broker/customer relationship, or in breach of a pre-existing duty.

The Exchange may proceed with an enforcement action when the facts and circumstances of pre-hedging suggest deceptive or manipulative conduct by any of the involved parties, including when an intermediary handling a customer order violates its agency duties owed to the customer.

This guidance applies only in the context of pre-hedging of block trades. This guidance does not affect any requirement under the CEA or Commission Regulations.

12. TAS, TAM, and TMAC Block Trades

Certain block-eligible futures contract months may be executed as block trades and assigned the current day's settlement price or any valid price increment ten ticks higher or lower than the settlement price ("TAS block trades"). Certain block-eligible futures contract months may also be executed as block trades and assigned the current day's marker price or any valid price increment ten ticks higher or lower than the marker price ("TAM block trades"). Certain block-eligible futures contract months may also be executed as block trades and assigned the current day's marker price or any valid price increment four ticks higher or lower than the marker price ("TMAC block trades").

Additionally, intra-commodity calendar spreads may be executed as TAS or TAM block trades provided the underlying spread is eligible for TAS or TAM trading. Please refer to the most recent Advisory Notice on TAS and TAM transactions for the list of products, contract months and spreads for which TAS or TAM pricing is permitted.

The pricing of the legs of a TAS or TAM calendar spread block trade will be calculated as follows:

- The nearby leg of the spread will always be priced at the settlement or marker price, as applicable, for that contract month.

- The far leg of the spread will be priced at the settlement or marker price, as applicable, for that contract **minus** the allowable TAS or TAM price increment traded (–10 through +10), except in circumstances where the traded TAS or TAM price is the actual settlement or marker price of the contract.

TAS block trades, including eligible TAS calendar spread block trades, may not be executed on the last day of trading in an expiring contract.

The products and contract months in which TAS.TAM and TMAC block trades are permitted are set forth in the list of block trade eligible products which is available on the CME Group website via the following link:

Block Trade-Eligible Products and Minimum Quantity Thresholds

13. Basis Trade at Index Close ("BTIC") and Basis Trade at Cash Open ("TACO") Block Trades

A BTIC transaction is an Exchange futures transaction that is priced with reference to the applicable cash Index closing level. For a BTIC block trade executed on a given Trading Day on or before the scheduled close of the underlying primary securities market, the corresponding futures price shall be made by reference to the Index closing value for the current Trading Day. BTIC block trades are not permitted on the last day of trading in an expiring contract month.

A TACO transaction is an Exchange futures transaction that is priced with reference to the next following regularly scheduled special opening quotation ("SOQ") of such futures contract's underlying cash Index.

A list of BTIC block-eligible products and block minimum thresholds is available on the CME Group website via the following link:

BTIC Block Trades Table

The futures price assigned to a BTIC block trade will be the current day's applicable cash Index closing level adjusted by any valid price increment (the "Basis") higher or lower than the current day's cash Index closing level.

The futures price assigned to a TACO block trade will be the next following regularly scheduled special opening quotation ("SOQ") of the applicable cash Index adjusted by any valid Basis higher or lower than the SOQ.

The Basis in BTIC and TACO transactions must be stated in full tick increments as set forth in the applicable product chapter and must be fair and reasonable taking into account financing rates, expected dividend income and the time remaining until the applicable futures contract expires.

The futures price of a BTIC block trade will be determined by the Exchange at 3:45 p.m. Central Time and the Exchange-determined price will be final at that time. In the event of an early scheduled close of the primary securities market, the futures price of a BTIC block trade will be determined by the Exchange 45 minutes after the early scheduled close time for the primary securities market, and the Exchange-determined price will be final at that time. In the event of an equity market disruption in the primary securities market, all BTIC block trades will be cancelled for that trade date.

The futures price of a TACO block trade will be determined by the Exchange shortly after the SOQ is disseminated by Standard & Poor's. In the event of a disruption in the primary listing exchange for a given cash Index such that the administrator of such cash Index is unable to produce a regularly scheduled SOQ, all TACO block trades which rely on that SOQ will be cancelled.

Except as identified in the list of block eligible products, BTIC and TACO block trades **may not** be executed as a spread transaction. Parties wishing to effectuate a block spread transaction will be required to negotiate the transaction as separate outright BTIC or TACO block trades, with each leg meeting the applicable block trade minimum threshold.

14. Derived Block Trades

A derived block trade is an Exchange futures transaction in an eligible equity index futures contract in which a dealer consummates a block trade with a client but where the price and quantity of the block trade depends on one or more hedging transactions by the dealer that take place after the block trade has been consummated, but prior to the block trade being submitted to the Exchange. Derived block trades are available solely in equity index contracts identified here, at the existing block trade minimum threshold applicable to those products.

Derived block trades are not permitted in any other products.

The counterparties to a derived block trade must comply with the following requirements and procedures:

General Requirements

- The counterparties must agree that the execution will be done as a derived block trade
- A written or electronic record of the terms of the transaction must be created and maintained pursuant to the requirements of Rule 536.E.
- Prior to the execution of any hedging transactions, the dealer and client must consummate the block trade and determine and agree upon the following:
  - The quantity of futures or the notional value of the block trade, which must meet or exceed the applicable block trade minimum quantity threshold;
  - The execution methodology for the dealer's hedging transaction(s);
  - The markets in which the dealer's hedging transactions will take place; and
  - The pre-determined basis to be used by the dealer in determining the price of the block trade after the hedging transactions have been concluded.
- The hedging transactions and the consummated block trade must occur and be submitted to the Exchange on the same Exchange business day by 5:45 p.m. CT,
- No spread trades are permitted for derived block trades

Permissible hedging vehicles include stock baskets, other cash market instruments such as Exchange Traded Funds (ETFs), Exchange Traded Notes (ETNs), and/or equity index futures or options on futures contracts. At a minimum, the hedging vehicles must evidence a reasonable degree of price correlation to the equity index futures product underlying the derived block trade.

Permissible execution methodologies governing the execution of the hedges may include volume weighted average price ("VWAP"), time weighted average price ("TWAP"), percentage of volume ("POV"), limit price, or other agreed upon hedge types as determined by the dealer and the client at the time the block trade is consummated, and must be identified when submitting the block trade via CME Direct.

If the dealer is unable to execute the full quantity of hedges necessary to support the originally agreed upon quantity of the block trade consummated with the client, the dealer must, at a minimum, submit the block trade at a quantity that corresponds to the quantity of hedges the dealer executed. Alternatively, with the client's consent, the dealer may submit the block trade up to the full quantity originally agreed upon.

In the event the quantity of hedges does not meet the block trade minimum threshold, the dealer may, with the client's consent, submit the block trade at any quantity at or in excess of the block trade minimum threshold. Alternatively, the dealer may notify the client that no block trade was able to be submitted due to the lack of sufficient hedges to meet the block trade minimum quantity threshold. If no block trade is submitted, the dealer must keep a record noting that the block trade could not be submitted and produce the record to Market Regulation upon request.

<u>Submission Requirements</u>

- Derived block trades must be submitted via CME Direct by the dealer facilitating the trade (dual-sided entry) no later than 5:45 p.m. CT on the day the trade occurs;
- The block trade must be accurately identified within CME Direct by checking the derived block checkbox;
- The dealer must provide the following additional information concerning the hedging activity when submitting the derived block trade via the CME Direct block entry ticket:
  - o The hedge type (VWAP, TWAP, POV, Limit, or Other);
  - o The hedge description;
  - o The product(s) in which the hedge(s) took place (free form text box);
  - o The basis used for determining the block trade price (expressed in Index points); and
- The time of execution submitted into CME Direct must accurately identify the time that the dealer and the client consummated the block trade in principle, which must have been prior to the commencement of any hedging activity; and

Derived block trades will be uniquely identifiable when price reported on the CME Group website and distributed via market data.

15. Text of Rule 526

Rule 526 BLOCK TRADES

The Exchange shall designate the products in which block trades shall be permitted and determine the minimum quantity thresholds for such transactions. Additionally, with respect to block trades in swaps, the minimum size for such transactions shall be established at levels at or in excess of those set forth in Appendix F to Part 43 of CFTC Regulations *[this sentence appears solely in CBOT's rule]*. The following shall govern block trades:

A. A block trade must be for a quantity that is at or in excess of the applicable minimum threshold. Orders may not be aggregated in order to achieve the minimum transaction size, except by those entities described in Sections I. and J.

B. Each party to a block trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act.

C. A member shall not execute any order by means of a block trade for a customer unless such customer has specified that the order be executed as a block trade.

D. The price at which a block trade is executed must be fair and reasonable in light of (i) the size of the block trade, (ii) the prices and sizes of other transactions in the same contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including without limitation the underlying cash market or related futures markets, at the relevant time, and (iv) the circumstances of the markets or the parties to the block trade.

E. Block trades shall not set off conditional orders (e.g., Stop Orders and MIT Orders) or otherwise affect orders in the regular market.

F. Unless otherwise agreed to by the principal counterparties to the block trade, the seller, or, in the case of a brokered transaction, the broker handling the block trade, must ensure that each block trade is reported to the Exchange within the time period and in the manner specified by the Exchange. The report must include the contract, contract month, price, quantity of the transaction, the respective clearing members, the time of execution, and, for options, strike price, put or call and expiration month. The Exchange shall promptly publish such information separately from the reports of transactions in the regular market.

G. Block trades must be reported to the Clearing House in accordance with an approved reporting method.

H. Clearing members and members involved in the execution of block trades must maintain a record of the transaction in accordance with Rule 536.

I. A commodity trading advisor ("CTA") registered or exempt from registration under the Act, including, without limitation, any investment advisor registered or exempt from registration under the Investment Advisors Act of 1940, shall be the applicable entity for purposes of Sections A., B., C., and D., provided such advisors have total assets under management exceeding $25 million and the block trade is suitable for the customers of such advisors.

J. A foreign Person performing a similar role or function to a CTA or investment advisor as described in Section I, and subject as such to foreign regulation, shall be the applicable entity for purposes of Sections A., B., C., and D., provided such Persons have total assets under management exceeding $25 million and the block trade is suitable for the customers of such Persons.

16. Contact Information

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

Jennifer Dendrinos, Senior Director, Investigations, 312.341.7812
Urmi Graft, Director, Investigations, 312.341.7639
Cash Kinghorn, Investigations Specialist, Investigations, 312.930.1873
Myles Peralta, Lead Investigator, Investigations, 312.454.5310
Erin Middleton, Director, Rules & Regulatory Outreach, 312.341.3286
Paige Gawrys, Senior Specialist, Rules & Regulatory Outreach, 312.872.5078

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

Appendix D

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Exchange for Related Positions
Rule References	Rule 538
Advisory Date	July 13, 2023
Advisory Number	CME Group RA2304-5
Effective Date	July 31, 2023

Effective on trade date Monday, July 31, 2023, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA2105-5 from May 21, 2023. It is being issued to amend FAQ #11 and FAQ #23 to incorporate guidance regarding EFRPs that are priced using the Trade Marker at Close ("TMAC") transaction type as described in Special Executive Report 9219.

No other material changes have been made to the Advisory Notice.

Market participants should note that no changes have been made with respect to the continued prohibition on the execution of transitory EFRPs in any products. The execution of transitory EFRPs, which prior to August 4, 2014, had been permitted in CME foreign currency products, NYMEX energy products and COMEX and NYMEX metals products remain strictly prohibited.

As defined in Rule 538, transitory EFRPs are EFRPs in which the execution of an EFRP is contingent upon the execution of another EFRP or related position transaction between the parties and where the transactions result in the offset of the related positions without the incurrence of market risk that is material in the context of the related position transactions. Questions 14-17 in the FAQ provide additional guidance in this regard.

The time-period between the transactions is a factor considered in assessing whether the EFRP is a transitory EFRP; however, the legitimacy of the transactions will be evaluated based on whether the transactions have integrity as independent transactions exposed to market risk that is material in the context of the transactions.

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

For NYMEX and COMEX Products

Tom Dixon, Senior Director, 212.299.2901

For CME and CBOT Products

Michael Joubert, Manager, 312.341.7714

William Lange, Director, 312.341.7757

Chris Reinhardt, Executive Director, 312.435.3665

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

Text of Rule 538 – ("Exchange for Related Positions")

An Exchange for Related Position ("EFRP") transaction involves a privately negotiated off-exchange execution of an Exchange futures or options contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product, or OTC derivative instrument corresponding to the asset underlying the Exchange contract.

The following types of EFRP transactions are permitted to be executed outside of the Exchange's centralized market in accordance with the requirements of this rule:

> Exchange of Futures for Physical ("EFP") – the simultaneous execution of an Exchange futures contract and a corresponding physical transaction or a forward contract on a physical transaction.
>
> Exchange of Futures for Risk ("EFR") – the simultaneous execution of an Exchange futures contract and a corresponding OTC swap or other OTC derivative transaction.
>
> Exchange of Option for Option ("EOO") – the simultaneous execution of an Exchange option contract and a corresponding transaction in an OTC option.

For purposes of this rule, EFPs, EFRs and EOOs shall collectively be referred to as EFRP transactions.

538.A. Parties to an EFRP

One party to the EFRP must be the buyer of the Exchange contract and the seller of (or the holder of the short market exposure associated with) the related position; the other party to the EFRP must be the seller of the Exchange contract and the buyer of (or the holder of the long market exposure associated with) the related position. The Exchange contract and the corresponding related position must be executed for accounts with the same beneficial ownership.

A third party may facilitate, as principal, the related position component of an EFRP on behalf of a customer. Except for immediately offsetting foreign currency EFPs executed pursuant to Section K., such third party must be able to demonstrate that the related position was passed through to the customer who received the Exchange contract as part of the EFRP.

Specifically with respect to the execution of immediately offsetting foreign currency EFPs pursuant to Section K. by CTAs, account controllers, or other Persons acting on behalf of another party, the initiating and offsetting cash legs are not required to be passed through to the customer who received the Exchange contract as part of the EFRP. However, in a circumstance where the futures leg of the transaction fails to clear, the underlying customer must receive the profit or loss, if any, attendant to the offset of the offsetting cash leg.

Parties to an EFR or EOO transaction must comply with all relevant CFTC regulations governing eligibility to participate in the related position component of such transactions.

538.B. Independently Controlled Accounts

The opposing accounts to an EFRP transaction must be (a) independently controlled accounts with different beneficial ownership; (b) independently controlled accounts of separate legal entities with common beneficial ownership; or (c) independently controlled accounts of the same legal entity, provided that the account controllers operate in separate business units.

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.

538.C. Related Position

The related position component of an EFRP must be the cash commodity underlying the Exchange contract or a by-product, a related product or an OTC derivative instrument of such commodity that has a reasonable degree of price correlation to the commodity underlying the Exchange contract. The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Each EFRP requires a bona fide transfer of ownership of the underlying asset between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related position transaction.

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.

The facilitation of the execution of an EFRP by any party that knows such EFRP is non bona fide shall constitute a violation of this Rule.

538.D. EFPs in Connection with Inventory Financing of Storable, Non-Financial Commodities

A party providing inventory financing for a storable agricultural, energy or metals commodity may, through the execution of an EFP, purchase the commodity and sell the equivalent quantity of futures contracts to a counterparty, and grant to the counterparty the non-transferable right, but not the obligation, to execute a second EFP during a specified time period in the future which will have the effect of reversing the original EFP.

538.E. Quantity Equivalence

The quantity of the related position component of the EFRP must be approximately equivalent to the quantity of the Exchange component of the EFRP. Appropriate hedge ratios between the Exchange and related position components of the EFRP may be used to establish equivalency.

538.F. Prices and Price Increments

The Exchange component of the EFRP transaction must be priced in accordance with the applicable futures price increments or option premium increments as set forth in the rules governing the Exchange contract.

EFRPs may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction. EFRPs may not be priced to facilitate the transfer of funds between parties for any purpose other than as the consequence of legitimate commercial activity.

538.G. EFRPs Following the Termination of Trading in Exchange Contracts

EFRP transactions in certain Exchange contracts may be executed for a defined period of time following the termination of trading in accordance with the applicable product rules governing each Exchange contract. Such transactions may be executed only to liquidate Exchange positions.

538.H. Recordkeeping

Parties to an EFRP transaction must maintain all records relevant to the Exchange contract and the related position transaction, including order tickets, records customarily generated in accordance with relevant market practices, records reflecting payments between the parties and, where appropriate, transfer of title, as well as any other records required to be kept pursuant to CFTC Regulation 1.35. Brokers who facilitate EFRP transactions must maintain all records corresponding to their facilitation of the transactions.

Records related to EFRP transactions must be provided to the Exchange upon request. It shall be the responsibility of the carrying clearing member firm to obtain and submit the requested records of their clients to the Exchange on a timely basis.

538.I. Submission to the Clearing House

Each EFRP transaction shall be submitted to the Clearing House within the time period and in the manner specified by the Exchange and the Clearing House. In all cases, the record submitted to the Clearing House must reflect the correct EFRP transaction type and must reflect the accurate date and time at which the relevant terms of the transaction were agreed upon by the parties to the trade.

An EFRP transaction submitted to the Clearing House shall not be considered accepted by the Clearing House until the transaction has cleared and the first payment of settlement variation and performance bond has been confirmed.

538.J. EFRP Volumes Required to be Reported with Daily Large Trader Positions

Each clearing member, omnibus account and foreign broker responsible for submitting daily large trader positions in accordance with Rule 561 must submit for each reportable account the EFRP volume bought and sold in the reportable instrument. This information must be included in the daily Large Trader report to the Exchange.

538.K. Immediately Offsetting EFPs in Foreign Currency Futures

EFPs in foreign currency futures wherein the parties immediately offset the cash transaction are permitted and 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 should indicate, by name, 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 acting on behalf of a third party (such as a commodity pool or fund), the cash side confirmation statement must identify, at minimum, 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 third party by name. These transactions are only permissible as EFPs in foreign currency futures and not in any other asset class or in EFRs or EOOs in foreign currency futures.

FAQ Related to Rule 538
Exchange for Related Positions

Q1: What are EFRP transactions?

A1: EFRP is an acronym for Exchange for Related Position, and EFRPs are one of the permitted exceptions to the requirement that futures and options on futures be executed openly and competitively on the Exchange.

An EFRP transaction involves the off-exchange execution of an Exchange futures or options on futures contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product or OTC derivative instrument corresponding to the asset underlying the Exchange contract.

Q2: What is the difference between EFRP transactions and "Ex-Pit" transactions?

A2: The term "Ex-Pit Transaction" refers broadly to transactions that Exchange rules permit to be executed outside of the Exchange's centralized market. Permissible Ex-Pit transactions include EFRPs, block trades and transfer trades. EFRPs are addressed in Rule 538; block trades are addressed in Rule 526, and transfer trades are addressed in Rule 853.

Q3: What are the different types of EFRPs permitted by the CME Group Exchanges?

A3: The following types of Exchange for Related Position ("EFRP") transactions are permitted to be executed outside of the Exchange's centralized market in accordance with the requirements of Rule 538, the application guidance in this advisory, and any applicable CFTC regulations.

Exchange of Futures for Physical ("EFP") – the simultaneous execution of an Exchange futures contract and a corresponding physical transaction or a forward contract on a physical transaction.
Exchange of Futures for Risk ("EFR") – the simultaneous execution of an Exchange futures contract and a corresponding OTC swap transaction or other OTC derivative transaction.

Exchange of Option for Option ("EOO") – the simultaneous execution of an Exchange option contract and a corresponding transaction in an OTC option. No other instrument other than an OTC option is eligible as the related position component of an EOO.
The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Where the related position component of an EFRP is a physical transaction, a forward contract that is not otherwise defined as a swap under federal regulations, an Exchange Traded Fund ("ETF") or an Exchange Traded Note ("ETN"), the transaction should be submitted for clearing as an EFP transaction type.

Where the related position component of an EFRP is an instrument defined as a swap pursuant to federal regulations, or is another OTC derivative transaction, the transaction must be submitted as an EFR or an EOO transaction type, as applicable, and must be reported as required under Parts 43 and 45 of Commodity Futures Trading Commission Regulations. For further information regarding CFTC/SEC product definitions, market participants should reference the August 13, 2012 Federal Register release (77 FR 48207) that defines swaps and the scope of the forward contract exclusion.

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 EFR or EOO transaction executed pursuant to Rule 538.

The above-referenced exclusion does not apply to swaps that are bilaterally negotiated and submitted for clearing-only to a DCO provided such swaps have a reasonable degree of correlation to the underlying CME Group Exchange product.

Q4: May EFRPs be executed in any of the CME Group Exchanges' futures and options contracts?

A4: With the exception of CME full-sized Standard & Poor's 500 Stock Price Index Options, EFRPs may be executed in any of the CME Group Exchanges' futures and futures options contracts provided the transaction conforms to the requirements of Rule 538 and any associated advisories, as well as with any applicable CFTC regulations.

Notwithstanding the foregoing, CBOT Soybean Crush Spread Options are not able to be submitted to CME Clearing through CME ClearPort or CME Direct, and are therefore ineligible to be executed as EFRPs.

Q5: May EFRPs be transacted on electronic systems?

A5: It is not permissible to facilitate the execution of EFRPs on a system or facility accessible to multiple parties that allows for the electronic matching of or the electronic acceptance of bids and offers. Parties may use communication technologies to bilaterally request EFRP quotes from one or more participants and to conduct privately negotiated EFRPs. Parties may also utilize technologies supported by third parties which allow for the electronic posting of indicative EFRP markets displayed to multiple market participants. However, EFRPs executed between parties based on such electronically displayed indicative markets may be transacted only through direct bilateral communications involving the broker, where applicable, and the parties to the trade.

Q6: Are there specified trading hours during which EFRP transactions may be executed?

A6: EFRPs may be executed at any time. However, an EFRP transaction submitted to the Clearing House shall not be considered to have been accepted by the Clearing House until the transaction has cleared and the first payment of settlement variation and performance bond has been confirmed.

Q7: May an EFRP be executed after trading has ceased in an expiring contract?

A7: EFRP transactions in certain Exchange contracts may be executed for a defined period of time following the termination of trading only to liquidate Exchange positions and only in accordance with the applicable product rules governing each Exchange contract. The applicable product chapter of the relevant Exchange's rulebook will specify if such transactions are permitted and, if so, the time period following the cessation of trading during which such transactions are eligible to be executed.

Q8: Are there restrictions on who may participate in EFRP transactions?

A8: EFP Transactions – There are no specific eligibility requirements for participation in an EFP transaction.

EFR and EOO Transactions – Participants to EFR and EOO transactions must comply with applicable CFTC requirements governing eligibility to transact the related position component of an EFR or EOO, and participants should consult with counsel as appropriate to determine eligibility. In this regard, market participants should be mindful of all eligibility standards applicable to related positions, including, where applicable, CFTC Regulations Part 32-Regulation of Commodity Option Transactions and Part 35-Swaps in an Agricultural Commodity.

Q9: May EFRPs be executed between affiliated accounts?

A9: The opposing accounts involved in the execution of an EFRP must be:

a) independently controlled accounts with different beneficial ownership; or
b) independently controlled accounts of separate legal entities with common beneficial ownership; or
c) independently controlled accounts of the same legal entity provided that the account controllers operate in separate business units.

Accounts with the same beneficial ownership include accounts owned by the same person or entity, accounts of a parent and its wholly owned subsidiaries, and accounts of subsidiaries that are wholly owned by the same parent. Common beneficial ownership is more inclusive and includes not only accounts with the same beneficial ownership, but also accounts with common beneficial ownership that is less than 100%.

Parties to an EFRP transaction involving the same legal entity or common beneficial owner must be able to demonstrate the independent control of decision making for the respective accounts and that the EFRP had economic substance for each party to the trade.

Q10: Are multi-party EFRP transactions permitted?

A10: Typically, there may be only two parties involved in an EFRP transaction. One party to the EFRP must be the buyer of the Exchange contract and the seller of (or the holder of the short market exposure associated with) the related position; the other party to the EFRP must be the seller of the Exchange contract and the buyer of (or the holder of the long market exposure associated with) the related position. The Exchange contract and corresponding related position of an EFRP must be executed for accounts with the same beneficial ownership.

Any third party may facilitate, as principal, the related position component of an EFRP on behalf of a customer provided that the third party can demonstrate that the related position was passed through to the customer who received the Exchange contract as part of the EFRP.

With respect to the execution of immediately offsetting foreign currency EFPs pursuant to Section K. by CTAs, account controllers, or other Persons acting on behalf of another party, the initiating and offsetting cash legs are not required to be passed through to the customer who received the Exchange contract as part of the EFRP. However, in a circumstance where the futures leg of the transaction fails to clear, the underlying customer must receive the profit or loss, if any, attendant to the offset of the offsetting cash leg.

Q11: Are there restrictions on the price at which an EFRP transaction may be executed?

A11: EFRPs may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction, provided that the price conforms to the applicable futures price increments or option premium increments set forth in the product chapter rules for the relevant Exchange contract.

The futures leg of EFP and EFR transactions in those commodities and contract months permitted to be priced at the settlement or marker price or any permissible price increment above or below the settlement or marker price pursuant to the provisions of Rule 524 will be eligible for TAS, TAM, or TMAC pricing. Please note that the futures leg of spot month Copper EFPs and EFRs may be priced solely at the settlement price, or TAS flat.

Please see the TAS Table set forth in the Interpretations & Special Notices Section at the end of Chapter 5 of each Exchange's Rulebook for information on the specific products, contract months and permissible price increments, which may also be accessed here.

EFRPs executed at off-market prices are more likely to be reviewed by Market Regulation to determine the purpose for the pricing. EFRPs may not be priced off-market for the purpose of shifting substantial sums of cash from one party to another, to allocate gains and losses between the futures or options on futures and the 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.

Q12: May EFRPs be average priced?

A12: Yes. EFRP transactions designated for average pricing must conform to the requirements of Rule 553 ("Average Price System") and Rule 538.

Q13: Are the prices and quantities of EFRP transactions publicly reported?

A13: The price of the Exchange leg of an EFRP transaction is not publicly reported. EFRP volumes are reported daily, by instrument, on the CME Group website.

Parties to an EFR or EOO transaction should consult CFTC regulations regarding the swap reporting requirements associated with their execution of the related position transaction.

Q14: Are transitory EFRPs permitted in any products listed on CME Group exchanges?

A14: No.

Transitory EFRPs are EFRPs in which the execution of an EFRP is contingent upon the execution of another EFRP or related position transaction between the parties and where the transactions result in the offset of the related positions without the incurrence of market risk that is material in the context of the related position transactions.

The time period between the transactions is a factor considered in assessing whether the EFRP is a transitory EFRP; however, the legitimacy of the transactions will be evaluated based on whether the transactions have integrity as independent transactions exposed to market risk that is material in the context of the transactions.

Where economically equivalent futures products trade on a CME Group Exchange and another exchange, the contingent execution between two parties of equal and opposite EFRPs on each exchange where the related position components offset and are not subject to market risk shall be considered a prohibited transitory EFRP at the applicable CME Group Exchange.

Q15: May a swap be negotiated to settle via an EFR?

A15: Parties to a swap may agree to settle the swap via an EFR provided that the determination of the settlement value of the swap (floating price) is subject to market risk that is material in the context of the transaction. For example, parties may negotiate a swap to settle via EFR on a specific date in the future at the futures settlement price or the average settlement price over a prescribed time period.

Q16: Can an EFRP incorporate multiple legs on the Exchange component of the transaction or incorporate multiple legs on the related position component of the EFRP?

A16: An EFRP may incorporate multiple Exchange components provided that the EFRP is not a prohibited transitory EFRP as defined in Section C. and in the answer to Question 14 of this Advisory Notice. Accordingly, an EFRP with multiple Exchange components where the related position components offset without the incurrence of market risk that is material in the context of the related position transactions would not be permissible. Alternatively, an EFRP with multiple Exchange components where the related position components do not offset and where those related position components incur material market risk are permitted.

An EFRP may incorporate multiple related position components provided that the net exposure of the related position components is approximately equivalent to the quantity of futures exchanged or, in the case of an EOO, the net delta-adjusted quantity of the OTC option components is approximately equivalent to the delta-adjusted quantity of the Exchange-listed option.

Q17: May EFPs be utilized to facilitate inventory financing in storable non-financial commodities?

A17: EFP transactions entered into for the purpose of obtaining inventory financing for storable agricultural, metals and energy commodities are permitted in accordance with the following: A party providing inventory financing for a storable, non-financial commodity may, through the execution of an EFP, purchase the commodity and sell the equivalent quantity of futures contracts to a counterparty, while simultaneously granting to the counterparty the non-transferable right, but not the obligation, to execute a second EFP that reverses the original EFP during a specified time period in the future.

Q18: What types of instruments are considered acceptable for use as the related position side of EFRPs?

A18: The related position component of the EFRP must involve the product underlying the Exchange contract or a by-product, related product or OTC derivative instrument that is reasonably correlated to the corresponding Exchange instrument.
The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Where the risk characteristics and/or maturities of the related position differ from the instrument underlying the Exchange contract, the parties to the EFRP may be required to demonstrate the correlation between the products and the methodology used in equating the futures to the related position. In all cases, the related position transaction must be comparable with respect to quantity, value or risk exposure of the corresponding Exchange contract.

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 position transaction.

Where the related position component of an EFRP is a physical transaction, a forward contract that is not otherwise defined as a swap under federal regulations, an Exchange Traded Fund ("ETF") or an Exchange Traded Note ("ETN"), the transaction should be submitted for clearing as an EFP transaction type.

Where the related position component of an EFRP is an instrument defined as a swap pursuant to federal regulations, or is another OTC derivative transaction, the transaction must be submitted as an EFR or an EOO transaction type, as applicable, and must be reported as required under Parts 43 and 45 of Commodity Futures Trading Commission Regulations. For further information regarding CFTC/SEC product definitions, market participants should reference the August 13, 2012 Federal Register release (77 FR 48207) that defines swaps and the scope of the forward contact exclusion.

Generally acceptable related position instruments for EFRPs in the following product groups include, but are not limited to, the following:

<u>Foreign Exchange Contracts</u>: Instruments acceptable as the related position component of an FX EFRP transaction include spot, forwards, non-deliverable forwards ("NDFs"), swaps and swaptions, cross-currency basis swaps, OTC FX options, non-deliverable options ("NDOs"), currency baskets, ETFs and ETNs.

<u>Interest Rate Contracts</u>: Instruments acceptable as the related position component of an interest rate EFRP include Treasuries, Agencies, investment grade corporates, money market instruments, interest rate swaps and swaptions, forward rate agreements (FRAs), mortgage instruments including collateralized mortgage obligations, OTC interest rate options, ETFs and ETNs.

<u>Equity Index Contracts</u>: Instruments acceptable as the related position component of a stock index EFRP include stock baskets provided the basket is highly correlated to the index and, further, that the basket represents at least 50% of the underlying index by weight or includes at least 50% of the stocks in the underlying index. The notional value of the basket must be approximately equal to the value of the corresponding exchange contract. Other acceptable instruments include equity index swaps and swaptions, OTC equity index options, ETFs and ETNs.

<u>Agricultural Contracts</u>: Instruments acceptable as the related position component of an EFRP in agricultural products include the commodity underlying the futures contract or a by-product or related product that is reasonably correlated to the futures being exchanged, physical forwards, cash-settled forwards, agricultural commodity swaps or swaptions, OTC agricultural options, ETFs and ETNs.

<u>Commodity Index Contracts</u>: Instruments acceptable as the related position component of an EFRP involving an Exchange contracts based on a commodity index (*e.g.*, S&P GSCI, Bloomberg Commodity Index) include a corresponding commodity index swap or swaption, ETFs or ETNs.

Energy Contracts: Instruments acceptable as the related position component of an EFRP in energy products include the commodity underlying the futures contract or a by-product or related product that is reasonably correlated to the futures being exchanged, physical forwards, cash-settled forwards, energy commodity swaps or swaptions, OTC energy options, ETFs and ETNs.

Metals Contracts: Instruments acceptable as the related position component of an EFRP in metals products include related spot transactions, physical forwards, cash-settled forwards, swaps and swaptions, OTC metals options, ETFs and ETNs.

Questions regarding the acceptability of related position instruments may be addressed to the Market Regulation contacts listed in this Advisory Notice.

Q19: What are the recordkeeping requirements for EFRPs?

A19: Parties to an EFRP must maintain all records relevant to the Exchange contract and the corresponding related position transaction, including any records required to be kept pursuant to CFTC Regulation 1.35. Upon request, such records must be provided to Market Regulation in a timely manner.

Records that may be requested include, but are not limited to, the following:

A. All order tickets, trade blotters, e-mails, instant messages, telephone recordings or other records related to the order placement, negotiation, execution and/or confirmation of the EFRP.

B. All cash confirmations and signed contracts corresponding to the cash or derivative component of the EFRP. The documentation must contain all of the relevant terms of the transaction and counterparty information.

C. For EFPs, third party proof of payment evidencing settlement and documentation representing the transfer of ownership of the commodity. For EFPs involving forward contracts, such information may be requested if the forward contract has settled at the time of the request. For EFRs and EOOs, where applicable, proof of payment evidencing settlement between the parties.

D. Futures account statement reflecting confirmation of the EFRP.

E. Records reflecting the booking of the cash or derivative transaction in the firm’s internal bookkeeping systems.

Parties who facilitate EFRP transactions must maintain all records corresponding to their facilitation of the transactions.

Q20: Who is responsible for submitting EFRP records when a request for such records is made by the Market Regulation Department?

A20: Upon request, related position documentation for an EFRP must be provided on a timely basis and in the form and manner requested, to the Market Regulation Department. The clearing firm carrying the account shall be responsible for obtaining relevant EFRP records from its client and submitting the records to Market Regulation.

Pursuant to Rule 418 (“Consent to Exchange Jurisdiction”), any party initiating or executing a transaction subject to the rules of the Exchange, or for whose benefit such transaction has been executed, is subject to the jurisdiction of the Exchange and may be required by Market Regulation to produce records and cooperate fully with any investigation.

Failures to provide requested records in a complete or timely manner may result in the issuance of charges pursuant to the provisions of Rule 406 (“Issuance of Charges”).

Q21: Must transactions executed as EFRPs be designated as EFRPs on account statements or other records of the transaction?

A21: Yes. Account statements and other records of the transaction made pursuant to the requirements of Rule 536 and CFTC Regulation 1.38 must accurately identify EFRP transactions as such. It is not acceptable to designate the trades as “Ex-Pit” or “ClearPort” trades as such terms may reflect transaction types other than EFRPs.

Q22: How are EFRPs submitted to the Clearing House?

A22: EFRPs must be submitted via CME Direct or CME ClearPort.

Information on the various methods of registration for access to CME Direct or CME ClearPort may be via the following links:

http://www.cmegroup.com/trading/cme-direct/registration.html#newFirmUserRegistration

http://www.cmegroup.com/clearport/registration.html

EFRPs in CME and CBOT Products

EFRPs may be entered in CME Direct or CME ClearPort from 5:00 p.m. CT Sunday through 5:45 p.m. CT Friday. CME Direct and CME ClearPort do not permit the entry of CME and CBOT EFRPs during the maintenance window, from 5:45 p.m. CT and 6:00 p.m. CT Monday through Thursday.

EFRPs in NYMEX and COMEX Products

EFRPs may be entered in CME Direct or CME ClearPort from 5:00 p.m. CT/6:00 p.m. Eastern Time (“ET”) through 4:00 p.m. CT/5:00 p.m. ET each business day. CME Direct and CME ClearPort do not permit the entry of NYMEX and COMEX EFRPs between 4:00 p.m. CT/5:00 p.m. ET and 5:00 p.m. CT/6:00 p.m. ET each business day and at all times on weekends.

EFRPs may also be reported to the CME ClearPort Facilitation Desk/Global Command Center via email at FacDesk@cmegroup.com. **Please note that for the Facilitation Desk to submit the trade, the counterparty accounts must be registered with credit limits and product permissions set up in CME Account Manager.**

The Facilitation Desk is closed from 4:30 p.m. CT/5:30 p.m. ET Friday through 5:00 p.m. CT/6:00 p.m. ET Sunday.

Please contact the Enterprise Application & Systems Entitlements (EASE) Team with any additional registration questions in the U.S. at 312.456.1560, in Europe at +44 20 3379 3802 or in

Asia at +65 6593 5536.

If you have any trade submission issues, please contact the CME ClearPort Facilitation Desk/Global Command Center in the U.S. at +1 800 438 8616, in Europe at +44 20 7623 4747 or in Asia at +65 6532 5010.

Q23: How soon after execution must the EFRP be submitted to the Clearing House?

A23: Absent mitigating circumstances, EFRP transactions must be submitted to the Exchange as soon as possible, but no later than the end of the business day on which the EFRP was executed.

The relevant terms of the EFRP are considered to have been determined at the time the price and quantity of the Exchange contract and the corresponding related position component of the transaction are agreed upon by the parties to the EFRP. For EFPs and EFRs eligible to be priced as TAS, TAM, or TMAC transactions, the execution time of the trade is considered to have been determined at the time the quantity and price (TAS-, TAM-, or TMAC-flat or any permissible price increment above or below the settlement or marker price) have been agreed upon by the parties to the EFP or EFR.

However, where the actual delivery quantity may not be precisely determined by the parties until the time of delivery, the parties may contractually agree to submit the transaction to the Clearing House within the required reporting period following the time at which the actual delivery quantities are determined, rather than reporting the EFRP at the time of pricing. Absent such contractual arrangement, the transaction must be reported at the time of pricing.

Notwithstanding the foregoing, EFRPs may not, under any circumstances, be submitted for clearing later than the end of the permissible posting period for EFRP transactions following the expiration of the underlying futures contract as specified in the relevant product chapter of the applicable Exchange rulebook.

Q24: Must the execution date and time be submitted for EFRPs?

A24: The date and time of execution must be accurately submitted for each EFRP transaction. The execution date and time to be submitted are the date and time at which the relevant terms of the transaction were determined by the parties to the trade as described in Q22.

The execution time for EFRPs must be entered in CME Direct or CME ClearPort in the local time of the party(ies) entering the EFRP.

Q25: What information regarding EFRPs must be submitted in a reporting firm's daily Large Trader position file?

A25: A firm's daily Large Trader position file must include for each reportable account the EFRP volume bought and sold in the reportable instrument.

Q26: What are the responsibilities of firms in connection with EFRPs executed or cleared on behalf of a customer?

A26: Firms that execute or clear EFRPs on behalf of customers are responsible for ensuring that their customers who execute EFRPs are fully informed regarding Exchange EFRP requirements.

Upon request by the Market Regulation Department, firms carrying accounts that execute EFRPs are responsible for obtaining and submitting records of their clients' EFRP transactions in a timely and complete manner.

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 will be found to have violated Rule 538.C.

Q27: Is an Immediately Offsetting EFP in Foreign Currency Futures prohibited as a transitory EFRP in Foreign Currency Futures?

A27: No. An immediately offsetting FX EFP as expressly permitted under Rule 538.K. is not prohibited as a transitory EFRP because the offsetting physical transaction is not contingent on the EFP in any way. If, for example, the futures leg of an immediately offsetting EFP in foreign currency is not accepted for clearing, the futures transaction is void ab initio and the counterparties would be left with the stand-alone physical transaction. Nevertheless, Rule 538.K. 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 EFRP.

Q28: May a second EFP be transacted between two parties to an initial EFP to adjust for a circumstance where the actual amount of the physical product delivered as part of the initial EFP is larger or smaller than the quantity represented by the number of futures contracts exchanged in the initial EFP?

A28: Yes. Two parties that execute and submit an initial EFP at the time of pricing (see FAQ 23) and later find that the amount of physical product delivered is larger or smaller than the quantity represented by the number of futures exchanged in that EFP may transact a second EFP (typically referred to as a "true-up EFP") to account for the difference once the actual delivery quantities are determined. Absent mitigating circumstances, true-up EFP transactions must be submitted to the Exchange as soon as possible, but no later than the end of the business day on which the actual delivery quantities are determined.

Notwithstanding the foregoing, upon mutual agreement, the parties may instead choose to financially settle the quantity difference as opposed to posting a true-up EFP.