



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of  
Market Oversight

CFTC Letter No. 12-02  
No-Action  
July 2, 2012  
Division of Clearing and Intermediary Oversight

### **Staff No-Action Relief: Temporary Relief for Clearing Members from the Requirements of Ownership-Level Reporting of § 20.4 of the Commission's Regulations Regarding Large Swaps Trader Reporting for Physical Commodities**

On July 22, 2011, the Commission published large trader reporting rules for physical commodity swaps and swaptions (for ease of reference, "swaps"). 76 FR 43851. The rules are codified in Part 20 of the Commission's regulations and became effective on September 20, 2011. Section 20.3 of the reporting rules requires daily reports from clearing organizations. Section 20.4 of the reporting rules requires daily reports from clearing members and swap dealers ("reporting entities"). Section 20.7 provides that unless otherwise instructed by the Commission, a clearing organization or reporting entity shall submit data records and any other information required by the reporting rules using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission. Section 20.8(a)(4) delegates to the Director of the Division of Market Oversight ("DMO" or "Division") the authority for determining the format, coding structure, and electronic data transmission procedures for Part 20 reports.

On September 16, 2011, the Division issued a letter under Section 20.10(c) to relieve clearing organizations and clearing members as a class from the reporting requirements of Sections 20.3 and 20.4 until November 21, 2011 for cleared swaps, and January 20, 2012 for uncleared swaps. On November 18, 2011, the Division issued a second letter under Section 20.10(c) to establish a conditional safe harbor for less than fully compliant reporting under Sections 20.3 and 20.4 until March 20, 2012. On March 20, 2012, the Division issued conditional no-action relief for less than fully compliant reporting under Sections 20.3 and 20.4 until July 2, 2012. Both the safe harbor and no-action relief have been conditioned on the submission of month-end open interest reports to the Commission, as well as the submission of an e-mail describing how the submitted reports vary from fully compliant reports, arrangements being made to reach full compliance, and the anticipated date of full compliance.

The Division understands that Intercontinental Exchange ("ICE") has been producing Section 20.4 data files for a number of clearing members subject to the Part 20 reporting requirements. However, clearing members have raised concerns that ICE is unable to produce fully compliant reports in FIXML-based format for reportable positions that are based on ownership by the July 2, 2012 compliance date. ICE expects to be able to generate such

ownership files on or about July 16, 2012. As soon as it is able to generate such files, ICE has indicated that it will produce them dating back to July 2, 2012.

In light of these circumstances, the Division will not recommend that the Commission commence an enforcement action against clearing members for failure to submit fully compliant Section 20.4 reports in FIXML-based format for positions based on ownership until July 27, 2012. As a condition of this relief, clearing members must submit, by July 30, 2012, fully compliant ownership reports dating back to July 2, 2012.

Notwithstanding the no-action position taken herein, the Division reminds reporting entities that they are ultimately responsible for the reporting requirements of Section 20.4 and that reliance on other entities, including exchanges and third-party vendors, does not excuse a failure to comply with such requirements. In addition, the Division reminds the public that other applicable provisions of Part 20, including the special call provision of Section 20.5(b) and the books and records requirements of Section 20.6, became effective on September 20, 2011. Finally, nothing in this letter should be interpreted as altering the implementation schedule of Part 151 of the Commission's regulations.

The no-action position taken herein is taken by the Division only and does not bind the Commission or any other Division or Office of the Commission's staff. As with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief provided herein, in its discretion.

If you have any questions regarding the content of this staff no-action letter, please contact Ali Hosseini at [ahosseini@cftc.gov](mailto:ahosseini@cftc.gov) or (202) 418-6144.

Sincerely,

Richard A. Shilts  
Director  
Division of Market Oversight