

November 21, 2003

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

Reference File #2366.03
Rule Certification

Dear Ms. Webb:

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

- **Amendments to Rule 230.00 and Regulation 450.02D per the attached texts (additions underlined; deletions bracketed and struck through).**

The referenced amendments concern the designation of "affiliates" for Exchange transaction fee purposes by member firms registered under Categories (1) and (2) of CBOT Regulation 230.02. This filing supersedes and replaces two previous CBOT filings in this regard, dated October 7 and November 3, 2003 (CBOT Reference Files #2366.01 and 2366.02 respectively.)

The referenced amendments will have the following purposes and effects:

- 1) With respect to the Rule 230.00 definition of firms eligible for "Associate Member only" registration, conform the definition with that already established for other types of "member firm affiliate" designations. (i.e., Include a provision for eligible business organizations which have common parent entities with another member firm.)
- 2) Allow Category (1) and (2) member firms which have four Full and two Associate Memberships registered to designate, for member firm transaction fee treatment, any number of affiliates as defined in Regulation 450.02D, plus up to five "passive investor" entities where the member firm exercises trading control over, or is under common trading control with, such entities.

The CBOT intends to implement these amendments no sooner than one day after the Commission's receipt of this filing.

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When these proposed amendments were considered by the CBOT Board of Directors, one director voted against the proposal. Substantive opposing views were not otherwise expressed.

The CBOT certifies that these amendments comply with the Commodity Exchange Act and the rules thereunder.

Sincerely,

Paul J. Draths
Vice President and Secretary

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Additions are underlined; deletions are bracketed and struck through.

230.00 Registration - An eligible business organization as determined by the Exchange [~~Membership and Financial Compliance Committees~~] may be a member firm of the the [~~this~~] Exchange with respect to all contracts, if one Full Membership, held in the name of any principal or employee thereof is registered on behalf of the firm.

Provided, however, that four (4) Full Memberships and two (2) Associate Memberships must be held in the name of any principals or employees thereof, and registered on behalf of the firm, in order for the eligible business organization to be a member firm under Regulation 230.02, Category (3) "other Non-FCM-Non-clearing".

An eligible business organization as determined by the Exchange [~~Membership and Financial Compliance Committees,~~] which is wholly owned by one or more members or member firms, [~~or~~] which wholly owns a member firm, or which is wholly owned by the same parent company(ies) as a member firm, may be a member firm of the [~~this~~] Exchange only with respect to those contracts in which Associate Members have trading privileges if one Associate Membership, held in the name of any principal or employee thereof is registered on behalf of the firm.

Those individuals who desire to register their memberships on behalf of an eligible business organization shall make application to the Exchange [~~Membership Committee,~~] giving therein such information as may be requested. If the application is granted, their memberships shall be registered for the benefit of the eligible business organization, and such eligible business organization shall be entitled to member firm privileges with respect to all contracts or only with respect to contracts in which Associate Members have trading privileges, as the case may be.

A member firm may be a CBOT Clearing Member and entitled to clearing privileges with respect to all contracts, pursuant to the membership registration requirements of Rule 703.00. All such memberships shall be registered hereunder in the manner described above, and under the criteria prescribed in Rule 703.00.

Member firms shall be subject to all requirements and prohibitions contained in the Rules and Regulations applicable to members, and in such cases, all registered members shall be subject to discipline and their memberships subject to sale by the Exchange for the acts or delinquencies of the firm for which they are registered. All such designations may be terminated at any time by the Exchange, or by the registered members with the written approval of the Exchange.

450.02D Member Firm Affiliates and Designated Passive Investor Entities

(i) ~~[Affiliates of]~~ **Member Firm[s] Affiliates** - For purposes of this regulation, the term "member firm affiliate" shall mean a non-Futures Commission Merchant, non-clearing entity which is wholly owned by one or more member firms, which wholly owns a member firm, or which is wholly owned by the same parent company(ies) as a member firm. For purposes of this regulation, the term "member firm" shall refer only to firm registered with the Exchange pursuant to registration categories (1a), (1b), (2a) or (2b) of Regulation 230.02.

~~(a)[A-]~~ A member firm affiliate may lease a Full or Associate Membership on its own behalf, thereby qualifying for delegate fee treatment (i.e., the applicable member firm fee plus the applicable delegate fee) with respect to its transactions on the Exchange.

~~(b)[B-]~~ A member firm which owns one or more Full Memberships in addition to those required for its own registration under Rule 230.00, and/or any Associate Membership(s), (hereinafter "non-qualifying memberships") may designate such a non-qualifying membership to make its member firm affiliate eligible for member firm transaction fee treatment. A non-qualifying membership may not be designated for more than one member firm affiliate at any given time.

~~(c).~~ A member firm that has at least four (4) Full Memberships and two (2) Associate Memberships registered on its behalf, including any Full Memberships required for its own registration under Rule 230.00, may designate any number of its member firm affiliates for member firm transaction fee treatment.

~~[Such designations shall be subject to the following provisions:~~

- ~~— (1) — In order to become effective, the designation must be documented with, and approved by, the Exchange in such manner as the Exchange prescribes.~~
- ~~— (2) — A non-qualifying membership may not be designated for more than one member firm affiliate at any given time.~~
- ~~— (3) — Upon such designation, the [member firm] affiliate shall be subject to the Exchange's jurisdiction and to all duties and obligations imposed upon members, member firms, or other approved persons under the Rules and Regulations; provided, however, that the Exchange may exempt such member firm affiliates from any such duty or obligation which, in the Exchange's sole judgment, is incompatible or in conflict with, or is unrelated to, the activities of the member firm affiliate.~~
- ~~— (4) — The Exchange may withdraw its approval of such designation for good cause.~~
- ~~— (5) — A non-qualifying membership will be subject to sale by the Board for the acts or delinquencies of the member firm for which it is registered and/or for the acts or delinquencies of the member firm affiliate.~~
- ~~— (6) — Upon the sale or transfer of a non-qualifying membership, claims may be filed pursuant to Rule 253.00 against the member firm for which the membership is registered and/or against the member firm affiliate.~~

~~(e) Notwithstanding the preceding provisions of this regulation, a member firm registered with the Exchange pursuant to registration category (3) of Regulation 230.02 may designate, as its member firm affiliates, up to five additional entities which are wholly owned by, or under~~

~~common trading control with, such member firm.]~~

(ii) Member Firm Designation of Passive Investor Entities - A member firm that is registered with the Exchange pursuant to registration categories (1a), (1b), (2a) or (2b) of Regulation 230.02, and that has at least four (4) Full Memberships and two (2) Associate Memberships registered on its behalf including any Full Memberships required for its own registration under Rule 230.00, or a member firm registered with the Exchange pursuant to registration category (3) of Regulation 230.02, may designate, for member firm transaction fee treatment, up to five non-FCM, non-clearing passive investor entities, where the member firm exercises trading control over, or is under common trading control with, such entities, or in addition with respect to a category (3) member firm, which wholly owns such entities. For purposes of this regulation, a "passive investor entity" is defined as a commodity pool, hedge fund, or other collective investment vehicle.

If a Regulation 230.02, category (1a), (1b), (2a), (2b) or (3) member firm wishes to designate more than five passive investor entities as described in this paragraph (ii), it must have an additional four (4) Full Memberships and two (2) Associate Memberships registered on its behalf, in order to be eligible to designate up to six additional such entities.

(iii) Provisions applicable to designations of member firm affiliates and passive investor entities – All designations of member firm affiliates and passive investor entities, as described in paragraphs (i) and (ii) above, shall be subject to the following provisions:

- (1) In order to become effective, the designation must be documented with, and approved by, the Exchange in such manner as the Exchange prescribes.
- (2) Upon such designation, the member firm affiliate or passive investor entity shall be subject to the Exchange's jurisdiction and to all duties and obligations imposed upon members, member firms, or other approved persons under the Rules and Regulations; provided, however, that the Exchange may exempt such member firm affiliates or passive investor entities from any such duty or obligation which, in the Exchange's sole judgment, is incompatible or in conflict with, or is unrelated to, the activities of the member firm affiliate or passive investor entity.
- (3) The Exchange may withdraw its approval of such designation for good cause.
- (4) A non-qualifying membership or all of the four (4) Full Memberships and two (2) Associate Memberships registered on behalf of a Regulation 230.02, category (1a), (1b), (2a), (2b) or (3) member firm will be subject to sale by the Exchange for the acts or delinquencies of the member firm for which they are registered and/or for the acts or delinquencies of any member firm affiliate or passive investor entity that has been designated by the member firm under this regulation.
- (5) Upon the sale or transfer of a non-qualifying membership or any of such four (4) Full Memberships or two (2) Associate Memberships, claims may be filed pursuant to Rule 253.00 against the member firm for which the membership is registered and/or against any member firm affiliate or passive investor entity that has been designated by the member firm under this regulation.