



World Financial Center  
One North End Avenue  
New York, New York 10282

**BY ELECTRONIC TRANSMISSION**

October 3, 2012

Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Partial Withdrawal of ICE Futures U.S., Inc. Submission 12-53 due to United States  
District Court Judgment Vacating CFTC Position Limit Rules**

Dear Sir or Madam:

In a submission dated September 24, 2012, ICE Futures U.S., Inc. ("Exchange") submitted amendments to Chapter 6 of the Exchange's Rules which relate to position limits (see Submission No. 12-53). The Exchange adopted many of those amendments to meet the October 12, 2012 compliance date for relevant provisions of Commission Regulations 151.1 *et seq.* As a result of the recent District Court ruling vacating the CFTC regulations on which many of the rule amendments were premised, the Exchange is withdrawing portions of the submission and is renumbering one new rule, as set forth in Exhibits A and B. This action is being taken consistent with the advice of staff and counsel to the Division of Market Oversight.

The Exchange is withdrawing the amendments to Rules 6.12(b), 6.12(c), 6.23, 6.26(a), 6.27(b)(vii), 6.27(e), 6.27(f) and 6.28, and New Rule 6.12(d). The foregoing rule amendments and new rule 6.12(d) were adopted to comply with the vacated CFTC position limit rules. The withdrawn amendments are highlighted in yellow in attached Exhibit A. The Exchange is also renumbering the Rule previously submitted as new Rule 6.28 and titled "Risk Management Exemption" as new Rule 6.29. All other amendments in Submission 12-53 that are not indicated as withdrawn in Exhibit A remain and will thus become effective on October 12, 2012. Attached as Exhibit B is a copy of the amendments to Chapter 6 that will become effective on October 12, 2012.

If you have any questions or need further information, please contact Jason V. Fusco (212) 748-4021 ([Jason.fusco@theice.com](mailto:Jason.fusco@theice.com)).

Sincerely,

A handwritten signature in black ink, appearing to read "Jason V. Fusco", written in a cursive style.

Jason V. Fusco  
Assistant General Counsel  
Market Regulation

cc: Division of Market Oversight  
New York Regional Office  
Lois Gregory

## EXHIBIT A

(Withdrawn Text Highlighted in Yellow)

### Rule 6.12. Aggregation of Positions; Disaggregation in Spot Month

(a) The position limits and position accountability levels established by these Rules shall apply to all positions held by any Person, including those positions in accounts for which such Person by power of attorney or otherwise directly or indirectly holds positions or controls trading; and in the case of positions held by two (2) or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if all of the positions were held by or the trading of the positions were done by, a single Person.

(b) ~~[The positions of spouses, parents, and children living in the same household shall be aggregated for purposes of the foregoing position limits and position accountability levels.]~~ For the purpose of applying the position limit and position accountability levels established by these Rules, any Person holding positions in more than one account, or holding accounts or positions in which the Person by power of attorney or otherwise directly or indirectly has a 10 percent or greater ownership or equity interest, must aggregate all such accounts or positions, except in the circumstances specified in paragraph (c) below and as otherwise specified by the CFTC.

(c) ~~[Positions held in Futures and Futures Equivalent Contracts will not be aggregated with positions held in Cleared Only Swaps for the same Commodity which are submitted to the Exchange for clearing pursuant to Chapter 23.]~~ An eligible entity, as defined in Section 151.1, need not aggregate its positions with the eligible entity's client positions or accounts carried by an authorized independent account controller, as defined in Section 151.1, provided that the positions are not held in the spot month during such time that a notice period or spot month position limit is in effect for physical delivery Core Referenced Futures Contracts and the eligible entity complies with any CFTC requirements for exemption from aggregation.

(d) Commencing as of the close of business on the Business Day prior to the first Business Day that notice period or spot month position limits are in effect for any physical delivery futures contract, the positions of any Person that otherwise would be aggregated pursuant to paragraph (b), above, shall not be so aggregated and shall be considered separately for the purpose of applying the position limit levels established by these Rules, provided however, that if such positions are on the same side of the market, that such positions shall be combined for the purpose of applying the position limit levels.

### Rule 6.23. Position Limits for Domestic Raw Sugar No. 16 Contracts

(a) Subject to the exceptions contained in this Chapter, the maximum net long or net short position which any one (1) Person may own or control in the Domestic Raw Sugar No. 16 Contracts in any one month or in all months combined is one thousand (1,000) Exchange Futures Contracts.

(b) Subject to the exceptions contained in this Chapter, as of the close of business on the sixth Business Day prior to the Last Trading Day of any Exchange Futures Contract the maximum net long or net short position in any one (1) month which any Person may own or control in the an expiring Domestic Raw Sugar No. 16 Contract is one thousand (1,000) Exchange Futures Contracts.

### Rule 6.26. Hedge Exemption

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to bona fide hedging positions as defined in Section 1.3(z)(1) of the Regulations under the Act for excluded commodities and as defined in Section 151.5 for Core Referenced Futures Contracts (as such phrase is defined therein).

(b) To be eligible for an exemption under this Rule, a Member must submit a written request in the form provided by the Exchange to the Exchange which shall include the following:

- (i) a description of the size and nature of the proposed Transactions;
- (ii) information which will demonstrate that the proposed Transactions are bona fide hedging Transactions;
- (iii) a statement indicating whether the Person on whose behalf the request is made (1) maintains positions in the Exchange Futures Contract for which the exemption is sought with any other Member; and/or (2) has made a previous or contemporaneous request pursuant to this Rule through another Member, and if so, the relationship of the information set forth in such requests;
- (iv) a statement that the intended Transactions will be bona fide hedges;
- (v) a statement that the applicant will immediately supply the Exchange with any material changes to the information submitted pursuant hereto;
- (vi) such further information as the Exchange may request.

Within five (5) Business Days of the submission of the information set forth above, the Exchange shall notify the Member whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (1) the Member requests a withdrawal; or (2) the Exchange revokes, modifies or places further limitations thereon.

(c) Written requests for exemptions to ~~[notice period]~~ the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) ~~[notice]~~ day such position limits are in effect ~~[of the contract month]~~. Failure to file ~~[notice period]~~ position limit exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.

~~[(d) In the case of Sugar No. 11, written requests for exemptions to the position limit specified in Rule 6.22 for an expiring contract must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) Business Day such limit is in effect. Failure to file exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.]~~

~~[(e) In the case of corn, wheat, soybeans, soybean oil and soybean meal, written requests for exemptions to the position limits specified in Rule 6. 29 for an expiring contract must be received by the Exchange no later than five (5) Business Days prior to the Last Trading Day of the expiring contract, or such other time as the Exchange may specify. Failure to file exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.]~~

#### **Rule 6.27. Arbitrage, Spread and Straddle Exemption**

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to [A]arbitrage, intracommodity spread, intercommodity spread, eligible option/option and option//futures spreads or [S]straddle positions.

(b) To be eligible for an exemption under this Rule, a Member must submit to the Exchange a written request in the form provided by the Exchange which shall include the following:

- (i) a description of the size and nature of the proposed Transactions;
- (ii) a statement that the intended positions will be [A]arbitrage, spread or [S]straddle positions;
- (iii) a statement that the Person on whose behalf the request is made complies with whatever limitations are imposed by the Exchange with regard to said positions;

(iv) a statement that the Person on whose behalf the request is made agrees to submit immediately a supplemental statement explaining any change in circumstances affecting the position;

(v) a statement that the Person on whose behalf the request is made complies with all other Rules and requirements;

(vi) a statement that such positions will be moved in an orderly manner and will not be initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. The Person on whose behalf the request is made will not use said position in an attempt to violate or avoid the Rules, or otherwise impair the good name or dignity of the Exchange; and

~~[(vii) when applying for a cash and carry exemption, the trader must provide the cost of carrying the physical commodity, the minimum spread differential at which the trader will enter into a straddle position in order to obtain profit, and the quantity of stocks the trader currently owns in Exchange licensed warehouses or tank facilities.]~~

(c) Written requests for exemptions to ~~[notice period]~~ the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) ~~[notice]~~ day such position limits are in effect ~~[of the contract month for existing positions]~~. Failure to file ~~[notice period]~~ position limit exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.

(d) Within five (5) Business Days of the submission of the information set forth above, the Exchange shall notify the Member whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (i) the Member requests a withdrawal; or (ii) the Exchange revokes, modifies or places further limitations thereon.

~~[(e) When granted a cash and carry exemption, the trader shall agree that, (i) before the price of the nearby contract month rises to a premium to the second (2nd) contract month, the trader will liquidate all long positions in the nearby contract, and (ii) the trader will comply with all other restrictions or limitations placed on the trader as a condition to the grant of the exemption.]~~

~~[(f) Block Trades may not be used to establish positions upon which an arbitrage, spread, and straddle exemption request made in accordance with this Rule is based.]~~

#### **Rule 6.28. ~~Independently Controlled Position Exemption~~ Risk Management Exemption**

~~[(a) For the purposes of this Chapter, "Eligible Entity" means a commodity pool operator, an operator of a trading vehicle, which is excluded, or which has qualified for exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under Regulation 4.5 of the Act or a commodity trading advisor which (i) authorizes an independent account controller to control independently all trading decisions for positions it holds directly or indirectly, or on its behalf, but without its day to day direction and (ii) maintains only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf. "Eligible Entity" shall also mean such other person or entity deemed exempt by CFTC Regulations or Guidelines (including Regulation 150.3).]~~

~~[(b) For the purposes of this Chapter, "Independent Account Controller" means a Person who (i) is registered with the CFTC as a Futures Commission Merchant, introducing broker, commodity trading advisor, or as an associated person of any such registrant; (ii) is authorized by the Eligible Entity to control independently trading by, and on behalf of, but without the day to day direction of the Eligible Entity; (iii) trades independently of the Eligible Entity and of any other Independent Account Controller trading for the Eligible Entity; (iv) is supervised by the Eligible Entity only to the minimal degree necessary to fulfill its fiduciary responsibilities and duty to supervise diligently the trading done on its behalf; and (v) has no knowledge of trading decisions by any other Independent Account Controller.]~~

[ (e) Except for Cotton No. 2 Futures and Options Contracts, an Eligible Entity may carry positions that exceed speculative position limits if (i) such positions (A) are not for the spot month if there is a position limit which applies to individual trading months during their expiration, and (B) are carried for the Eligible Entity in the separate account or accounts of an Independent Account Controller; provided, however, that the overall positions held or controlled by each such Independent Account Controller may not exceed the speculative positions limits; and (ii) such Eligible Entity provides the Exchange with information respecting the Eligible Entity and the Independent Account Controller. ]

[ (d) If an Independent Account Controller is affiliated with the Eligible Entity or another Independent Account Controller, each of the affiliated entities must:

(i) have, and enforce, written procedures to preclude the affiliated entities from having knowledge of, gaining access to, or receiving data about trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities; provided, however, that such procedures may provide for the disclosure of information which is reasonably necessary for an Eligible Entity to maintain the level of control consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf;

(ii) trade such accounts pursuant to a separately developed and independent trading systems;

(iii) market such systems separately; and

(iv) solicit funds for such trading by separate Disclosure Documents that meet the standards of CFTC Regulation 4.21 or 4.31, as applicable, where such Disclosure Documents are required under Part Four of the Regulations.]

[ (e) Upon call by Exchange staff, any Person claiming an exemption from speculative position limits under this Rule must provide to the Exchange such information as specified in the call relating to the positions owned or controlled by that Person; trading done pursuant to the claimed exemption; the Futures, Options or cash market positions which support the claim of exemption; and the relevant business relationships supporting a claim of exemption. ]

[ (f) The Exchange may at any time condition an exemption on the Eligible Entity's business needs, financial status and integrity and on the liquidity, depth and volume of the market for which the exemption is sought. The Exchange may at any time modify or revoke the exemption if it is found that the Eligible Entity's status or market conditions have changed.]

## **EXHIBIT B**

(In the text of the amendments below additions are underscored and deletions are shown in brackets and lined through }

### **Rule 6.12. Aggregation of Positions**

(a) The position limits and position accountability levels established by these Rules shall apply to all positions held by any Person, including those positions in accounts for which such Person by power of attorney or otherwise directly or indirectly holds positions or controls trading; and in the case of positions held by two (2) or more Persons acting pursuant to an expressed or implied agreement or understanding, the same as if all of the positions were held by or the trading of the positions were done by, a single Person.

(b) The positions of spouses, parents, and children living in the same household shall be aggregated for purposes of the foregoing position limits and position accountability levels

(c) Positions held in Futures and Futures Equivalent Contracts will not be aggregated with positions held in Cleared Only Swaps for the same Commodity which are submitted to the Exchange for clearing pursuant to Chapter 23.

### **Rule 6.13. Enforcement of Position Limits and Position Accountability Levels**

(a) No Member may for itself or any Customer maintain a combination of Futures Contracts and Futures Equivalent Contracts which is, or which when aggregated in accordance with Rule 6.12 is, in excess of the limits established by this Chapter. For the purpose of the Rules contained in this Chapter:

(i) the futures equivalent of each Option Contract is the delta ratio published daily by the Exchange;

(ii) a long Futures Contract, a long Call Option and a short Put Option are on the same side of the market; similarly, a short Futures Contract, a short Call Option and a long Put Option are on the same side of the market;

(iii) in calculating a Futures Equivalent Contract position, all serial and regular Options for the Underlying Futures Contract shall be combined.

Members are responsible for maintaining their position and their Customers' positions within the limits contained in this Chapter on both an intraday and end-of-day basis. If, however, a Member's or Customer's position exceeds speculative position limits on any given Business Day due to changes in the deltas of the Options, the Member or Customer shall have one (1) Business Day to bring the position within the limits.

(b) In the event the Exchange learns that a Member or Customer maintains positions in accounts with more than one (1) Member such that the aggregate position in all such accounts exceeds the position limits and position accountability levels established by this Chapter, the Exchange may notify all Members maintaining or carrying such accounts of the total positions of such accounts. Such notice may also instruct each such Member to reduce the positions in such accounts twenty-four (24) hours after receipt of the notice, proportionately or otherwise so that the aggregate positions of such accounts at all such Members does not exceed the position limits and position accountability levels established by this Chapter, unless as provided by paragraph (c) below, a request for an exemption is made and granted by the Exchange pursuant to this Chapter. Any Member receiving such notice shall immediately take such steps as may be necessary to liquidate such number of Commodity Contracts as shall be determined by the Exchange in order to cause the aggregate positions of such accounts at such Members to comply with the position limits and position accountability levels established by this Chapter. Notwithstanding the foregoing, the Members may reduce the positions of such accounts by a different number of Commodity Contracts so long as after all reductions have been accomplished at all

Members carrying such accounts, the positions at all such Members complies with the position limits and position accountability levels established by this Chapter.

(c) In the event a Member or Customer exceeds its position limit due to sudden unforeseen increases in its bona fide hedging needs, such Member or Customer shall not be considered in violation of the Rules provided that such Person requests a hedge exemption to carry such increased position within ~~{(I) five (5) Business Days for Cocoa, Coffee, Sugar No. 11 and Sugar No. 16, (II) ten (10) Business Days for Cotton No. 2, FCOJ and the Financial and Index Contracts, and (III)}~~ one (1) Business Day (unless the Market Surveillance Department has expressly approved a later filing which may not exceed five (5) Business Days) ~~[for Corn, Wheat, Soybeans, Soybean Oil, and Soybean Meal]~~; in each case following the day on which the Member's or Customer's position limit was exceeded and provided further that such exemption is granted by the Exchange.

(d) Subject to the foregoing provisions of this Rule, in the event that a Member's position (whether for his own account or for the account of a Customer) exceeds the position limits established by this Chapter or ordered by the Exchange pursuant to Rules 6.17(a)(i), 6.18(a)(i), 6.22(a)(i), 6.24(a)(i)(A), 6.24(b)(i)(A), 6.24(c)(i)(A), 6.24(d)(i)(A), 6.24(e)(i)(A), 6.33(a)(i), 6.33(b)(i) or 6.33(c)(i) such Member shall liquidate such number of Contracts as the Exchange shall direct in order to eliminate the excess within such time as the Exchange may prescribe and shall report to the Exchange when such liquidations have been completed. If a Member fails so to liquidate Contracts within the time prescribed by the Exchange, then, in addition to any other actions the Exchange may take, the Exchange may take such steps as it may deem necessary or appropriate to liquidate such Contracts on behalf and at the expense of such Member to the extent necessary to eliminate such excess. Without limiting the generality of the foregoing, if such Member is a Clearing Member, the Exchange may direct the Clearing Organization to effect such liquidation in accordance with Rule 803 of the Clearing Organization. In addition, the Exchange in its discretion may require any Member carrying an account for such Member or Customer to obtain and hold additional original Margin from such Member or Customer in such amount and form and by such time as the Exchange shall specify until such excess has been eliminated.

#### **Rule 6.14. Exchange Access to Position Information**

(a) Without limiting any provision of these Rules, the Exchange shall have the authority to obtain from any Member information with respect to positions of such Member or any Customer of such Member. This authority shall include the authority to obtain information concerning positions maintained at other firms, and it shall be the obligation of a Member receiving such an inquiry to obtain such information from its Customer. In the event a Member fails to provide the requested information the Exchange, in addition to any other remedy provided in these Rules, may order that the Member liquidate the positions which are related to the inquiry.

(b) Any Member which owns, controls or carries for any Customer a 'reportable position' (as such term is used in Rule 6.15) in any Exchange Commodity Contract that is cash settled by reference to the price of a contract or commodity traded in another venue, including another designated contract market, shall submit to the Exchange, upon request, such information as the Exchange may require with respect to the positions which such Member or its Customer owns or controls in the reference contract or commodity on such other venue, in such form and manner as may be specified by the Exchange.

#### **Rule 6.15. Reportable Positions and Daily Reports**

(a) Members which own, control, or carry for any Customer a reportable position, as such term is defined by the Act and the Regulations thereunder, shall submit daily reports with respect to such positions to the Exchange containing such information as may be prescribed by the CFTC.

~~[(b) [Members which own, control, or carry for any Customer positions in Cleared Only Swaps submitted for clearing pursuant to Chapter 23 that are equal to, or exceed, the quantity listed below shall submit daily reports with respect to such Cleared Only Swap positions to the Exchange containing such information as is prescribed by the Commission for the reporting of Futures and Options positions.~~

- ~~-(i) For Cocoa Cleared Only Swaps, fifty (50) or more swaps;~~
- ~~-(ii) For Coffee Cleared Only Swaps, fifty (50) or more swaps; and~~
- ~~-(iii) For Sugar Cleared Only Swaps, fifty (50) or more swaps.]~~

~~(e)] Without limiting any provisions of the Rules, Members shall provide such additional information with respect to positions in Futures and Option Contracts and Cleared Only Swaps submitted for clearing pursuant to Chapter 23 and the ownership of such positions as may be requested by the Exchange.~~

### **Rule 6.23. Position Limits for Domestic Raw Sugar No. 16 Contracts**

(a) Subject to the exceptions contained in this Chapter, the maximum net long or net short position which any one (1) Person may own or control in the Domestic Raw Sugar No. 16 Contracts is one thousand (1,000) Exchange Futures Contracts.

(b) Subject to the exceptions contained in this Chapter, the maximum net long or net short position in any one (1) month which any Person may own or control in the Domestic Raw Sugar No. 16 Contract is one thousand (1,000) Exchange Futures Contracts.

### **Rule 6.26. Hedge Exemption**

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to bona fide hedging positions as defined in Section 1.3(z)(1) of the Regulations under the Act.

(b) To be eligible for an exemption under this Rule, a Member must submit a written request in the form provided by the Exchange to the Exchange which shall include the following:

- (i) a description of the size and nature of the proposed Transactions;
- (ii) information which will demonstrate that the proposed Transactions are bona fide hedging Transactions;
- (iii) a statement indicating whether the Person on whose behalf the request is made (1) maintains positions in the Exchange Futures Contract for which the exemption is sought with any other Member; and/or (2) has made a previous or contemporaneous request pursuant to this Rule through another Member, and if so, the relationship of the information set forth in such requests;
- (iv) a statement that the intended Transactions will be bona fide hedges;
- (v) a statement that the applicant will immediately supply the Exchange with any material changes to the information submitted pursuant hereto;
- (vi) such further information as the Exchange may request.

Within five (5) Business Days of the submission of the information set forth above, the Exchange shall notify the Member whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (1) the Member requests a withdrawal; or (2) the Exchange revokes, modifies or places further limitations thereon.

(c) Written requests for exemptions to ~~[notice period]~~ the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) ~~[notice]~~



day such position limits are in effect [~~of the contract month~~]. Failure to file [~~notice period~~] position limit exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.

~~[(d) In the case of Sugar No. 11, written requests for exemptions to the position limit specified in Rule 6.22 for an expiring contract must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) Business Day such limit is in effect. Failure to file exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.]~~

~~[(e) In the case of corn, wheat, soybeans, soybean oil and soybean meal, written requests for exemptions to the position limits specified in Rule 6.29 for an expiring contract must be received by the Exchange no later than five (5) Business Days prior to the Last Trading Day of the expiring contract, or such other time as the Exchange may specify. Failure to file exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.]~~

### **Rule 6.27. Arbitrage, Spread and Straddle Exemption**

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to [~~A~~] arbitrage, intracommodity spread, intercommodity spread, eligible option/option and option//futures spreads or [~~S~~] straddle positions.

(b) To be eligible for an exemption under this Rule, a Member must submit to the Exchange a written request in the form provided by the Exchange which shall include the following:

(i) a description of the size and nature of the proposed Transactions;

(ii) a statement that the intended positions will be [~~A~~] arbitrage, spread or [~~S~~] straddle positions;

(iii) a statement that the Person on whose behalf the request is made complies with whatever limitations are imposed by the Exchange with regard to said positions;

(iv) a statement that the Person on whose behalf the request is made agrees to submit immediately a supplemental statement explaining any change in circumstances affecting the position;

(v) a statement that the Person on whose behalf the request is made complies with all other Rules and requirements;

(vi) a statement that such positions will be moved in an orderly manner and will not be initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. The Person on whose behalf the request is made will not use said position in an attempt to violate or avoid the Rules, or otherwise impair the good name or dignity of the Exchange; and

(vii) when applying for a cash and carry exemption, the trader must provide the cost of carrying the physical commodity, the minimum spread differential at which the trader will enter into a straddle position in order to obtain profit, and the quantity of stocks the trader currently owns in Exchange licensed warehouses or tank facilities.

(c) Written requests for exemptions to [~~notice period~~] the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1<sup>st</sup>) [~~notice~~] day such position limits are in effect [~~of the contract month for existing positions~~]. Failure to file [~~notice period~~] position limit exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.

(d) Within five (5) Business Days of the submission of the information set forth above, the Exchange shall notify the Member whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (i) the Member requests a withdrawal; or (ii) the Exchange revokes, modifies or places further limitations thereon.

(e) When granted a cash and carry exemption, the trader shall agree that, (i) before the price of the nearby contract month rises to a premium to the second (2nd) contract month, the trader will liquidate all long positions in the nearby contract, and (ii) the trader will comply with all other restrictions or limitations placed on the trader as a condition to the grant of the exemption.]

(f) Block Trades may not be used to establish positions upon which an arbitrage, spread and straddle exemption request made in accordance with this Rule is based.

#### **Rule 6.28. Independently Controlled Position Exemption**

(a) For the purposes of this Chapter, “Eligible Entity” means a commodity pool operator, an operator of a trading vehicle, which is excluded, or which has qualified for exclusion from the definition of the term “pool” or “commodity pool operator,” respectively, under Regulation 4.5 of the Act or a commodity trading advisor which (i) authorizes an independent account controller to control independently all trading decisions for positions it holds directly or indirectly, or on its behalf, but without its day-to-day direction and (ii) maintains only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf. “Eligible Entity” shall also mean such other person or entity deemed exempt by CFTC Regulations or Guidelines (including Regulation 150.3).

(b) For the purposes of this Chapter, “Independent Account Controller” means a Person who (i) is registered with the CFTC as a Futures Commission Merchant, introducing broker, commodity trading advisor, or as an associated person of any such registrant; (ii) is authorized by the Eligible Entity to control independently trading by, and on behalf of, but without the day-to-day direction of the Eligible Entity; (iii) trades independently of the Eligible Entity and of any other Independent Account Controller trading for the Eligible Entity; (iv) is supervised by the Eligible Entity only to the minimal degree necessary to fulfill its fiduciary responsibilities and duty to supervise diligently the trading done on its behalf; and (v) has no knowledge of trading decisions by any other Independent Account Controller.

(c) Except for Cotton No. 2 Futures and Options Contracts, an Eligible Entity may carry positions that exceed speculative position limits if (i) such positions (A) are not for the spot month if there is a position limit which applies to individual trading months during their expiration, and (B) are carried for the Eligible Entity in the separate account or accounts of an Independent Account Controller; provided, however, that the overall positions held or controlled by each such Independent Account Controller may not exceed the speculative positions limits; and (ii) such Eligible Entity provides the Exchange with information respecting the Eligible Entity and the Independent Account Controller.

(d) If an Independent Account Controller is affiliated with the Eligible Entity or another Independent Account Controller, each of the affiliated entities must:

(i) have, and enforce, written procedures to preclude the affiliated entities from having knowledge of, gaining access to, or receiving data about trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities; provided, however, that such procedures may provide for the disclosure of information which is reasonably necessary for an Eligible Entity to maintain the level of control consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf;

(ii) trade such accounts pursuant to a separately developed and independent trading systems;

(iii) market such systems separately; and

(iv) solicit funds for such trading by separate Disclosure Documents that meet the standards of CFTC Regulation 4.21 or 4.31, as applicable, where such Disclosure Documents are required under Part Four of the Regulations.

(e) Upon call by Exchange staff, any Person claiming an exemption from speculative position limits under this Rule must provide to the Exchange such information as specified in the call relating

to the positions owned or controlled by that Person; trading done pursuant to the claimed exemption; the Futures, Options or cash market positions which support the claim of exemption; and the relevant business relationships supporting a claim of exemption.

(f) The Exchange may at any time condition an exemption on the Eligible Entity's business needs, financial status and integrity and on the liquidity, depth and volume of the market for which the exemption is sought. The Exchange may at any time modify or revoke the exemption if-it is found that the Eligible Entity's status or market conditions have changed.

#### **Rule 6.29 Reserved Risk Management Exemption**

(a) The position limits for Exchange Futures and Options Contracts specified in this Chapter shall not apply to risk management positions described in sub-paragraph (vii) below.

(b) To be eligible for an exemption under this Rule, a Member must submit to the Exchange a written request in the form provided by the Exchange which shall include the following:

(i) a description of the size and nature of the proposed Transactions;

(ii) a statement that the intended positions will be risk management positions;

(iii) a statement that the Person on whose behalf the request is made complies with whatever limitations are imposed by the Exchange with regard to said positions;

(iv) a statement that the Person on whose behalf the request is made agrees to submit immediately a supplemental statement explaining any change in circumstances affecting the position;

(v) a statement that the Person on whose behalf the request is made complies with all other Rules and requirements;

(vi) a statement that such positions will be moved in an orderly manner and will not be initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. The Person on whose behalf the request is made will not use said position in an attempt to violate or avoid the Rules, or otherwise impair the good name or dignity of the Exchange; and

(vii) when applying for a risk management exemption, the trader must provide an explanation of the positions in the underlying cash market, related cash market, or related over-the-counter market where there exists a close linkage between the futures or options market and the underlying market in question, or, where applicable, an explanation of the corresponding commodity index being replicated.

(c) Written requests for exemptions to the position limits specified in this Chapter must be received by the Exchange no later than five (5) Business Days prior to the first (1st) day such position limits are in effect. Failure to file position limit exemption requests on a timely basis shall subject the Member and/or the Carrying Member to disciplinary action pursuant to the Rules.

(d) Within five (5) Business Days of the submission of the information set forth above, the Exchange shall notify the Member whether the exemption has been granted and the limitations placed thereon. An exemption will remain in full force and effect until (i) the Member requests a withdrawal; or (ii) the Exchange revokes, modifies or places further limitations thereon.

### **Rule 6.33. Position Accountability for Cleared Only Swaps**

~~(a) [A Person holding or controlling six thousand (6,000) Cocoa Cleared Only Swap positions submitted for clearing pursuant to Rules 23.20-23.26 net long or net short in any single Cocoa Cleared Only Swap month or all Cocoa Cleared Only Swap months combined:~~

~~(i) automatically consents not to increase further and automatically consents to decrease those positions when so ordered by the Exchange acting in its own discretion; and~~

~~(ii) shall provide, in a timely manner, information on the nature of that Person's related cash, Exchange Futures and Options Contracts and Cocoa Cleared Only Swap positions, trading strategy and/or hedging strategy. Nothing in this Rule limits the authority of the Exchange to take action under Rules 6.11, 6.12 and 6.13 or to request and collect any information regarding that Person's related cash and Exchange Futures and Options Contracts and Cocoa Cleared Only Swap positions.~~

~~(b) A Person holding or controlling five thousand (5,000) Coffee Cleared Only Swap positions submitted for clearing pursuant to Rules 23.05-23.11 net long or net short in any single Coffee Cleared Only Swap month or all Coffee Cleared Only Swap months combined:~~

~~(i) automatically consents not to increase further and automatically consents to decrease those positions when so ordered by the Exchange acting in its own discretion; and~~

~~(ii) shall provide, in a timely manner, information on the nature of that Person's related cash, Exchange Futures and Options Contracts and Coffee Cleared Only Swap positions, trading strategy and/or hedging strategy. Nothing in this Rule limits the authority of the Exchange to take action under Rules 6.11, 6.12 and 6.13 or to request and collect any information regarding that Person's related cash and Exchange Futures and Options Contracts and Coffee Cleared Only Swap positions.~~

~~(c) A Person holding or controlling ten thousand (10,000) Sugar Cleared Only Swap positions submitted for clearing pursuant to Rules 23.01 and 23.30-23.36 net long or net short in any single Sugar Cleared Only Swap month or all Sugar Cleared Only Swap months combined:~~

~~(i) automatically consents not to increase further and automatically consents to decrease those positions when so ordered by the Exchange acting in its own discretion; and~~

~~(ii) shall provide, in a timely manner, information on the nature of that Person's related cash, Exchange Futures and Options Contracts and Sugar Cleared Only Swap positions, trading strategy and/or hedging strategy. Nothing in this Rule limits the authority of the Exchange to take action under Rules 6.11, 6.12 and 6.13 or to request and collect any information regarding that Person's related cash and Exchange Futures and Options Contracts and Sugar Cleared Only Swap positions.~~