MARKET REGULATION ADVISORY NOTICE

Exchange	**CME, CBOT, NYMEX & COMEX**
Subject	**Exchange for Related Positions**
Rule References	**Rule 538**
Advisory Date	**May 21, 2021**
Advisory Number	**CME Group RA2105-5**
Effective Date	**June 7, 2021**

Effective on trade date Monday, June 7, 2021, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA2016-5 from October 26, 2020. It is being issued to advise the marketplace that effective on June 7, 2021, CME full-sized Standard & Poor's 500 Stock Price Index Options will no longer be eligible as part of an Exchange of Option for Option ("EOO") transaction. CME E-mini Standard & Poor's 500 Stock Price Index Options will remain eligible as the Exchange options component of an EOO.

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, Director, 212.299.2901
Ryne Toscano, Senior Director, 212.299.2879

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
<u>Exchange for Related Positions</u>

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 or TAM 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.

Agricultural Contracts: 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.

Commodity Index Contracts: 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 or TAM transactions, the execution time of the trade is considered to have been determined at the time the quantity and price (TAS- or TAM-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.