

SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional) SR-NFX-2012-11

Date: 5/15/12

IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.

ORGANIZATION NASDAQ OMX Futures Exchange

FILING AS A: DCM SEF DCO SDR ECM/SPDC

TYPE OF FILING

- **Rules and Rule Amendments**

Certification under § 40.6 (a) or § 41.24 (a)

“Non-Material Agricultural Rule Change” under § 40.4 (b)(5)

Notification under § 40.6 (d)

Request for Approval under § 40.4 (a) or § 40.5 (a)

Advance Notice of SIDCO Rule Change under § 40.10 (a)

- **Products**

Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)

Swap Class Certification under § 40.2 (d)

Request for Approval under § 40.3 (a)

Novel Derivative Product Notification under § 40.12 (a)

RULE NUMBERS

E38, EFP Transactions

DESCRIPTION

Amends E38 to accommodate EFRP transactions

Rule Self-Certification

May 15, 2012

Office of the Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st St., N.W.
Washington, D.C. 20581

Re: Rule E38, EFP Transactions
Reference File SR-NFX-2012- 11

Ladies and Gentlemen:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Sections 40.6 of the regulations promulgated by the Commodity Futures Trading Commission under the Act, the NASDAQ OMX Futures Exchange, Inc. (“NFX” or “Exchange”) is amending Rule E38, EFP Transactions. The amendment will be effective on May 31, 2012. The text of the amendment to Rule E38 is set forth below.

New language is underlined; deletions are ~~stricken through~~

Rule E38. ~~EFP Transactions~~Exchange for Related Positions

~~EFP Transactions involving Exchange Futures Contracts designated by the Exchange as eligible for EFP Transactions are not required to be made competitively as long as such Transactions comply with the following terms and conditions:~~

~~(a) Transaction Requirements~~

~~(i) At the time such Transaction is effected, the buyer and the seller under the EFP Transaction shall be the seller and the buyer, respectively, in one (1) or more transactions entered into off the Exchange for the delivery of a quantity of the Cash Commodity covered by the Commodity Contracts involved (or any derivative, by product or related product) that has a high degree of correlation to the quantity covered by such Contracts.~~

~~(ii) EFP Transactions executed on the Last Trading Day for any delivery month must be executed and reported before the final half hour of trading.~~

~~(iii) Any Member participating in an EFP Transaction shall provide the Exchange with such material and information with respect thereto as it may~~

~~request, including without limitation copies of the documents evidencing title to, or contracts to buy or sell, the Cash Commodity (or the derivative, by product or related product) involved in such Transaction.~~

~~(iv) With respect to EFPs in foreign currency futures wherein the parties immediately offset a cash transaction ("transitory EFPs"), the Exchange would expect to see confirmation statements issued by any 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 counterparty 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 a 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.~~

~~(v) Exchange Traded Funds ("ETFs") are an acceptable cash or physical component of an EFP for Stock Indexes. The Exchange shall determine which ETFs are an acceptable cash or physical component of an EFP transacted in a particular stock index futures contract.~~

~~(b) Reporting Requirements~~

~~(i) The parties to an EFP Transaction shall cause the Transaction to be reported to the Exchange in accordance with such procedures as are determined by the Exchange from time to time.~~

~~(e) All Commodity Contracts effected as part of EFP Transactions shall be cleared pursuant to the rules and bylaws of the Clearing Corporation.~~

~~(d) For purposes of this Rule E38, the following terms shall have the following meanings:~~

~~(i) "Transaction" shall mean any purchase or sale of any Commodity Contract made in accordance with the Rules of the Exchange.~~

~~(ii) "Cash Commodity" shall mean a physical or actual commodity.~~

~~(iii) "Commodity Contract" shall include any interest or instrument traded on or subject to the Rules of the Exchange.~~

~~(iv) "Carrying Clearing Member" shall mean a Clearing Member who is a futures commission merchant carrying one or more accounts for Customers.~~

~~(v) "Exchange Futures Contract" shall mean any contract for the purchase or sale of a commodity for future delivery traded on the Exchange or subject to the Rules of the Exchange.~~

The following transactions shall be permitted by arrangement between parties in accordance with the requirements of this rule:

Exchange for Physical ("EFP") – A privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding cash position.

Exchange for Risk ("EFR") – A privately negotiated and simultaneous exchange of an Exchange futures position for a corresponding OTC swap or other OTC instrument.

Exchange of Options for Options ("EOO") – A privately negotiated and simultaneous exchange of an Exchange option position for a corresponding OTC option position or other OTC instrument with similar characteristics.

For purposes of this rule, an EFP, EFR or EOO shall be referred to as an Exchange for Related Position ("EFRP"). All contracts listed on the Exchange shall be eligible for EFRP transactions.

(a) Nature of an EFRP

An EFRP consists of two discrete but related simultaneous transactions. One party to the EFRP must be the buyer of (or the holder of the long market exposure associated with) the related position and the seller of the corresponding Exchange contract. The other party to the EFRP must be the seller of (or the holder of the short market exposure associated with) the related position and the buyer of the corresponding Exchange contract.

However, a member firm may facilitate, as principal, the related position on behalf of a customer, provided that the member firm can demonstrate that the related position was passed through to the customer who received the Exchange contract position as part of the EFRP.

(b) Related Positions

The related position (cash, OTC swap, OTC option, or other OTC derivative) must involve the commodity underlying the Exchange contract, or must be a derivative, by-product, or related product of such commodity that has a reasonable degree of price correlation to the commodity underlying the Exchange contract.

(c) Quantity

The quantity covered by the related position must be approximately equivalent to the quantity covered by the Exchange contracts.

(d) Prices and Price Increments

An EFRP transaction may be entered into in accordance with the applicable price increments or option premium increments set forth in the rules governing the pertinent Exchange contracts, at such prices as are mutually agreed upon by the two parties to the transaction.

(e) Date and Time of Transaction

The date and the time of execution of all EFP transactions must be denoted on the record of the transaction.

(f) Termination of Trading in Exchange Contracts

EFRP transactions may be permitted after termination of trading in expiring Exchange contracts, as prescribed in the applicable rules governing such Exchange contracts. Such transactions shall not establish new positions.

(g) Identification and Submission to the Clearing House

Each EFRP transaction shall be designated as such and shall be cleared through the Clearinghouse. Each such transaction shall be submitted to the Exchange within the time period and in the manner specified by the Exchange. Exchange members are responsible for exercising due diligence as to the bona fide nature of EFRP transactions submitted on behalf of customers.

(h) Documentation

Parties to any EFRP transaction must maintain all documents relevant to the Exchange contract and the cash, OTC swap, OTC option, or other OTC derivatives, including all documents customarily generated in accordance with relevant market practices and any documents reflecting payment and transfer of title. Any such documents must be provided to the Exchange upon request, and it shall be the responsibility of the carrying clearing member firm to provide such requested documentation on a timely basis.

(i) Account Requirements

The accounts involved in the execution of an EFRP transaction must be (i) independently controlled accounts with different beneficial ownership; or (ii) independently controlled accounts of separate legal entities with the same beneficial ownership, provided that the account controllers operate in separate

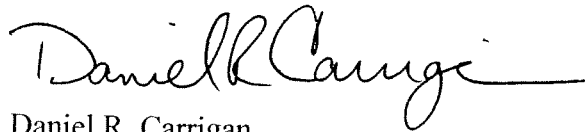
business units; or (iii) independently controlled accounts within the same legal entity, provided that the account controllers operate in separate business units; or (iv) commonly controlled accounts of separate legal entities, provided that the separate legal entities have different beneficial ownership.

(j) However, on or after the first day on which delivery notices can be tendered in a physically delivered Exchange futures contract, an EFRP transaction may not be executed for the purpose of offsetting concurrent long and short positions in the expiring Exchange futures contract when the accounts involved in such transaction are owned by the same legal entity and when the date of the Exchange futures position being offset is not the same as the date of the offsetting transaction.

NFX has determined to replace its existing rule allowing EFP transactions with a more comprehensive rule that would accommodate both EFPs as well as other EFRP transactions. Under the rule, all NFX-listed contracts will be eligible for EFRP transactions which include EFR and EOO transactions as well as EFP transactions.

There were no opposing views among the NFX's Board of Directors, members or market participants. NFX hereby certifies that the amendment complies with the Commodity Exchange Act and regulations thereunder. The Exchange also certifies that notice of pending certification and a copy of this submission have been concurrently posted on the Exchange's website at <http://www.nasdaqomxtrader.com/Micro.aspx?id=PBOToverview>.

Regards,



Daniel R. Carrigan
President

cc: Mr. Glenn Spann
Mr. J. Goodwin
National Futures Association