

**ICE FUTURES U.S.**

**AGRICULTURAL SPOT MONTH[[1]](#footnote-1) (OR NOTICE PERIOD)**

**EXEMPTION REQUEST FORM**

Information for Applicant

1. The Person submitting this application shall be deemed to be the “Applicant.”
2. The position limits for Exchange Futures and Options contracts specified in Chapter 6 of the Exchange Rules shall not apply to (i) enumerated bona fide hedging positions (as listed in Appendix A to Part 150 of the CFTC Regulations) or non-enumerated hedging positions which are otherwise determined by the Exchange to be consistent with the purposes of hedging, as defined in and subject to CFTC Regulations 150.1 and 150.3(a)(1), and are approved in accordance with Rule 6.29, (ii) spread positions, as defined in CFTC Regulation 150.1 and consistent with Appendix G to Part 150 of the CFTC Regulations, (iii) risk management positions: (A) for Commodities not subject to position limits under CFTC Regulation 150.2 or (B) beginning January 1, 2023, for those Commodities that are subject to federal position limits under CFTC Regulation 150.2, for quantities up to, but not exceeding, the applicable federal position limit for which an exemption has been granted by the Exchange, and (iv) financial distress positions: (A) for Commodities not subject to position limits under CFTC Regulation 150.2 or (B) for those Commodities that are subject to federal position limits under CFTC 150.2 and CFTC Regulation 150.3(a)(3).
3. To be eligible for an exemption to the position limit rules of the Exchange, a written request, in the form provided by the Exchange, must be submitted to the Market Surveillance Department.
4. To apply for an exemption for a position which may include a combination of hedge and spread positions, please be aware that the position limits which are requested in answer to question 2 below should reflect the total position limit which the Applicant may require. In answering question 3, please provide details regarding what portion of the position may include spread positions.
5. Position limits are effective on both an inter-day and intra-day basis and a Person may not hold a position above the limit at any time without having an exemption.

**ICE FUTURES U.S.**

**REQUEST FOR EXEMPTION FROM POSITION LIMITS FOR**

**NOTICE PERIOD OR SPOT MONTH**

1. Name of Applicant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 City: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State/Country: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Zip/Postal Code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 E-mail Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. What spot month (or notice period) position limits are needed for the Applicant’s bona fide hedging or spread requirements?

Commodity and Contract Month: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long position during upcoming period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Short position during upcoming period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. a. Exemption for Bona Fide Hedge

For all applications for exemption(s) from position limits related to a bona fide hedging transaction or position, such transaction or position must:

(i) represent a substitute for transactions made or to be made, or positions taken or to be taken, at a later time in a physical marketing channel; and

(ii) the position is economically appropriate to the reduction of price risks in the conduct and management of a commercial enterprise; and arises from the potential change in the value of any of the exposures provided in CFTC Regulation 150.1 or is otherwise consistent with the definition of bona fide hedging transaction or position in CFTC Regulation 150.1.

(iii) For applications based on hedges of anticipatory exposures: the exemption(s) requested must not exceed the amount of the applicable anticipated exposures of the cash commodity.

Please provide specific information which will demonstrate that the proposed positions are bona fide hedging positions as defined in CFTC Regulation 150.1 and consistent with hedging strategies for the relevant commercial market. In particular, describe the size and nature of the offsetting cash transactions, physical positions and swaps to be hedged including information about the pricing structure of the cash transactions. Also include information about delivery intentions and capability. (Attach separate sheet, if necessary).

Please include whether the cash market transactions described within will take place during the delivery period for which the hedge exemption is required (i.e., Yes or No)? If “No”, explain why the exemption is required for this period.

Additionally, for all spot month position limit, please detail the positions described above in the enumerated exemption categories listed in the section below. **Exemptions that are incomplete or fail to contain sufficient information will delay the approval process or may result in a denial of a request.**

Inventory: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fixed-price sale commitment of cash commodity:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fixed-price purchase commitment of cash commodity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Unfixed-price sale of cash commodity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Unfixed-price purchase of cash commodity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Unfilled anticipated requirements of the cash commodity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Unsold anticipated production of the cash commodity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Anticipated merchandising positions[[2]](#footnote-2): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Anticipated services: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Pass-through swap positions: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Y/N) \_\_\_\_\_\_ The applicant has provided a written representation that the swap of the pass-through swap counterparty qualifies as a bona fide hedging transaction in accordance with CFTC Regulation 150.1 to the Exchange. The applicant has also provided an explanation of such counterparty’s 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. The written representation and explanation must be provided to the Exchange.

1. Exemption for Spread

Qualifying spread strategies must conform to those strategies described in CFTC Regulation 150.1 and Appendix G to CFTC Part 150.

For a cash and carry spread exemption, provide the Applicant’s cost of carry (in points per pound or metric ton) \_\_\_\_\_\_\_\_\_\_\_, which includes financing, warehousing, insurance and, for Coffee “C”, expected aging discounts. Also provide the minimum price level of the spread (points) at which the Applicant will enter into a spread position and which would result in an economic profit for the Applicant:

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Finally, provide the quantity of stocks owned by the Applicant that currently are stored in warehouses of storage companies licensed by the Exchange:

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For a cash and carry exemption, all long positions in the nearest futures month must be liquidated prior to the nearest futures month rising to a premium with respect to the second futures month.

1. Non-enumerated bona fide hedge positions - CFTC Regulation 150.9:

Please provide the following information for each of the components below:

A description of position in the relevant contract, which includes the name of the underlying commodity, size of the position in such commodity, and size of the position in the relevant contract:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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An explanation of the hedging strategy, including a statement and information to support that the position complies with Exchange Rule 6.29, CFTC Regulation 150.1, and section 4a(c)(2) of the Act, where applicable:

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A statement concerning the maximum size of all gross positions in commodity derivative contracts for the relevant contract:

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A description of the applicant’s activity in the cash markets and the swaps markets for the commodity underlying the position for which the request is submitted, including, but not limited to, information regarding the offsetting cash positions:

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***For those contracts subject to federal position limits under CFTC Regulation 150.2 and exemptions approved under CFTC Regulation 150.9, the Exchange will, in parallel, send the approval letter to both the market participant and the CFTC. At which point, the CFTC will have 10 business days (or 2 business days, if deemed a retroactive exemption associated with sudden or unforeseen increases in its bona fide hedging needs) to review the exemption. Additional guidance and expectations are provided in IFUS’s*** [***Guidance on Position Limits***](https://www.theice.com/publicdocs/futures_us/ICE_Futures_US_PositionLimitGuidance.pdf) ***document.***

1. Financial Distress Exemption:

Exemptions may be requested for positions held by the applicant as a result of the financial distress of another market participant: (i) for commodities not subject to CFTC Regulation 150.2, (ii) for commodities subject to federal position limits under CFTC Regulation 150.2 for quantities up to, but not exceeding, the applicable federal limit, or (iii) for commodities subject to federal position limits under CFTC Regulation 150.2 for quantities in excess of the applicable federal limit, provided, in such circumstances under (iii), the exemption has been approved by the Commission pursuant to CFTC Regulation 150.3(a)(3) and evidence of such approval has been furnished to the Exchange.

Explanation of circumstances warranting financial distress exemption:

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4. Please provide the names of all Clearing Member(s) or Futures Commission Merchant(s) where the Applicant maintains accounts trading the futures and/or options for which an exemption is requested. Please additionally list all relevant Clearing Account Number(s) at the aforementioned Clearing Member(s) or Futures Commission Merchant(s). (If necessary, attach an additional sheet to list all Clearing Accounts.)

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**The exemption shall not be effective unless approved in writing by the Exchange and expires on the last trading day of the spot month (or notice period) to which it applies. Approval of this application shall not in any way limit the authority of the Exchange to take emergency or discretionary non-emergency action. The Exchange may condition or revoke an exemption based on the Applicant’s business needs, financial status and integrity, or on the liquidity, depth and volume of the market for which the exemption is requested.**

1. The Applicant agrees to the following:
	1. That the positions held pursuant to this application comply with the requirements of section 4a(c)(2) of the Act and the relevant definitions in CFTC Regulation 150, where applicable.
	2. That the intended transactions are enumerated bona fide hedging transactions included in Appendix A to Part 150 of the CFTC Regulations or non-enumerated bona fide hedge transactions which are determined to be consistent with bona fide hedging strategies and are approved in accordance with Exchange Rule 6.29 and CFTC Regulation 150.9, where applicable, and/or spread transactions consistent with Appendix G to Part 150 or risk management positions for quantities up to, but not exceeding, the applicable federal position limit;
	3. That the Applicant will comply with whatever restrictions or limitations are imposed by the Exchange with regard to said positions;
	4. That the proposed positions comply with any applicable Federal requirements;
	5. That the Applicant agrees to comply with all other Rules and requirements of the Exchange;
	6. That the applicant agrees to submit immediately a supplemental statement informing the Exchange of any material changes to the information provided in this application or circumstances affecting the positions and provide documentation of such changes, pursuant to Exchange Rule 6.29. Applicant agrees to submit immediately a supplemental statement to the Exchange explaining any change in circumstances affecting the positions; and
	7. That such positions will be initiated and liquidated in an orderly manner.
	8. That the Applicant will provide such further information as the Exchange may request.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-Mail Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please designate a person to be contacted regarding questions on this request, if other than above:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-Mail Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please return completed forms to:

Market Surveillance Department

**MarketSurveillance-US@ice.com**

1. Please use the Single and Net Overall Months exemption form when applying for exemptions that fall in those categories. Forms are available upon request from the Market Surveillance Department at **MarketSurveillance-US@ice.com**. [↑](#footnote-ref-1)
2. For applications based on hedges of anticipated merchandising: CFTC requirements provide that the position requested must not exceed 12 months of current or anticipated purchase or sale requirements of the same cash commodity that is anticipated to be purchased or sold. The applicant seeking such exemption is a merchant handling the underlying commodity that is subject to the anticipatory merchandising hedge, and such merchant must be entering into the position solely for purposes related to its merchandising business, for which it has a demonstrated history of buying and selling the underlying commodity pursuant to such business’ operations. [↑](#footnote-ref-2)