**ICE FUTURES U.S.**

**REQUEST FOR EXEMPTION FROM POSITION LIMITS**

Questions related to this form should be directed to:

**FOR ENERGY:**

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**FOR AGRICULTURE / FOREIGN EXCHANGE:**

Tim Reilly, Director or Sasha Herlihy, Manager

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[**Tim.Reilly@ice.com**](mailto:Tim.Reilly@ice.com) [**Sasha.Herlihy@ice.com**](mailto:Sasha.Herlihy@ice.com)

Generally, this form should be submitted prior to exceeding a position limit by email to: [**MarketSurveillance-US@ice.com**](mailto:MarketSurveillance-US@ice.com).

Information for Applicant:

1. The Person this application is submitted on behalf of shall be deemed to be the “Applicant.”
2. To request an exemption for contracts not subject to CFTC Regulation 150.2, an Applicant should endeavor to complete and submit an exemption request form no later than five business days before the first day the position limit is in effect. To request an exemption for contracts subject to CFTC Regulation 150.2, a completed exemption request form must be submitted to and approved by the Exchange prior to exceeding the applicable position limit, subject to Exchange Rule 6.13. An Exemption shall not be deemed valid until the Applicant has received confirmation of approval from the Market Regulation Department for ICE Futures U.S. (“Market Regulation” or “Exchange”).
3. Please refer to the Energy [**Position Limit, Accountability and Reportable Levels**](https://www.theice.com/publicdocs/otc/advisory_notices/IFUS_Energy_Position_Limit_Accountability_and_Reportable_Levels.xlsx) and [**Ag, Metal and Financial Products Position Limits**](https://www.theice.com/publicdocs/futures_us_reports/all/IFUS_Position_Limits_Accountability_and_Reportable_Levels_for_Non-Energy_Products.xlsx) tables for a complete listing of position limits, accountability levels and contract codes.
4. Position limits are effective during the periods detailed in IFUS Rule Chapter 6.
5. Limits are effective on both an inter-day and intra-day basis. When position limits are in effect, a Person may not hold a position above the limit at any time without having an exemption. Options positions are aggregated with the underlying futures contract on a futures-equivalent basis using the delta ratio published by the Exchange in the End of Day Reports located in the [**ICE Report Center**](https://www.ice.com/report-center).
6. The Exchange reserves the right to limit exemption-eligible positions if it determines that such positions are inconsistent with sound commercial practices or exceed levels that can be established and liquidated in an orderly manner.
7. In accordance with IFUS Rule 6.12, Aggregation of Positions, the accounts of a single person or group of entities under common ownership or control will be aggregated for position limit monitoring, unless an exemption from aggregation is requested and approved.
8. For additional guidance regarding the Exchange’s position limits, please review the ICE Futures U.S. [**Guidance on Position Limits FAQ**](https://www.ice.com/publicdocs/futures_us/ICE_Futures_US_PositionLimitGuidance.pdf).

**REQUEST FOR EXEMPTION FROM** **POSITION LIMITS**

1. Applicant Information

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

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

City: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Zip Code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Country: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tel #: (\_\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ E-Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Clearing Member and Account Information

CM Name(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clearing Account Number(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Requested Exemption Period *(select one)*

Annual Spot Month\*

Single Spot Month\*

Single Month/All-Months-Combined[[1]](#footnote-1)

***For Single Month/All-Months-Combined submissions: The level(s) requested within applicable section below should denote Single or All Month levels requested by a “/”. For example, if an applicant is requesting a long Single Month and All Month exemption for 6,000 lots, it should denote “6,000 / 6,000” on the requested long line, and the short line would remain blank.***

***\*The level(s) requested within each section below should be inclusive of the applicable spot month (or position) limit. For example, if an Applicant is requesting a long and short exemption for 4,000 lots in the ICE Henry LD1 Fixed Price Futures contract, it should denote 12,000 lots on the long and short lines above (8,000-lot spot month position limit +4,000-lot exemption request).***

4. Applicant’s Position Monitoring and Risk Management Controls

Attach a statement documenting the policies and procedures currently implemented to monitor and ensure compliance with Exchange rules related to position limits and exempted levels. Please detail the systems used to monitor firm positions, any early warning tools, reports or alerts and the respective thresholds. Provide the most recent date of any position limit training provided to firm traders.

5. Nature of Applicant’s Business and Justification for Exemption

1. Enclose a summary describing the nature of the Applicant’s business. Be specific as to the exposure associated with different segments of the business. A reference to these details in an annual report, if applicable, may be used to satisfy this requirement. If an annual report is provided, please provide references to the descriptions of the relevant business segments.
2. With respect to any application for an exemption from position limits, please provide:
   1. a description of the exemption sought, including whether the exemption is for enumerated bona fide hedging transactions or positions as defined in CFTC Regulation 150.1 (bona fide hedging transaction or position) and listed in Appendix A to Part 150 of the CFTC’s Regulations, non-enumerated bona fide hedging transactions or positions as defined in CFTC Regulation 150.1 (bona fide hedging transaction or position) and 150.3(a)(1), spread positions as defined in CFTC Regulation 150.1 (spread transaction) and Appendix G to Part 150 of the CFTC’s Regulations, risk management positions, or financial distress exemptions; and
   2. a complete and accurate explanation of the underlying exposure related to the exemption request that includes a description of the activity in the cash markets and swaps markets for the commodity underlying the position for which the application is submitted, including, but not limited to, information regarding any offsetting cash position(s).

**Please note that for any exemption(s) renewal, the Exchange requires the Applicant to provide the most updated information in satisfaction of a-b above, as well as the most recent applicable exposures that justify the exemptions requested. The Applicant should not provide prior year(s) exposures or information if no longer relevant. Lastly, if an applicant requests multiple exemptions in one filing, it must ensure all the information is accurate and complete. Exemptions that are incomplete or fail to contain sufficient information will delay the approval process or may result in a denial of a request.**

6. Bona Fide Hedge Exemption

Complete sections 6.a., 6.b., and 6.c. (when applicable) for each Futures Contract as described below:

Section 6.a.: For each Futures Contract report the actual cash commodity, products, or by-products and spot location(s) hedged; and the long and/or short exemption level requested.

Section 6.b.: For each Futures Contract for which an exemption is requested, please report any exposures supporting the request for the exemption in the categories listed in the section below. For each exposure, enter the quantity, time period (daily, monthly, annually), and the units in which the exposure is measured.

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

1. represent a substitute for transactions made or to be made, or positions taken or to be taken, later in a physical marketing channel.
2. be 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.
3. 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.

6.a. Futures Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cash Commodity Hedged: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Short Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

6.b. Inventory (i.e. 1,000 lots)[[2]](#footnote-2): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 (limited to 12 months current or anticipated)[[3]](#footnote-3): \_\_\_\_\_\_\_\_\_\_\_\_

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

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

(Y/N) \_\_\_\_\_\_ The Applicant has provided a written representation from its swap counterparty 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.[[4]](#footnote-4)

6.c. 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 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.***

7. Spread Exemption

Complete the applicable section below and enclose a summary describing the size and nature of the strategy. Be specific as to the methodology employed to establish the positions of the strategy (i.e. manual, automated), units of conversion and existing or past offsetting risks/exposures. The application must include information to support that the legs of the spread have a material economic relationship. Requested spread strategies must conform to those strategies described in CFTC Regulation 150.1 and Appendix G to CFTC Part 150.

7.a. Spread Exemption

Futures Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Short Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Explanation of strategy:

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

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7.b. Cash and Carry Exemption[[5]](#footnote-5)

Futures Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long Exemption Level Requested (in lots\*): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 that would result in an economic profit for the Applicant:

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

Finally, provide the quantity of stocks (in lots) owned by the Applicant that are currently stored in warehouses licensed by the Exchange:

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

For a cash and carry exemption, Applicant agrees to liquidate all long positions in the nearest futures month prior to the nearest futures month rising to a premium with respect to the second futures month.

8. Risk Management Exemption

Risk management exemptions may be granted by the Exchange for those commodities not subject to CFTC Regulation 150.2, and for those commodities subject to federal position limits under CFTC Regulation 150.2, for quantities up to, but not in excess of, the applicable federal limit. An Applicant seeking such exemption shall complete Section 8. and enclose an explanation of the positions or risk/exposure in the underlying cash market, related cash market, related over-the-counter market, or commodity index being replicated and explain the linkage between the futures or options contract. Please include the gross long and/or short exposures.

8.a. Futures Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Short Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

9. 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.

9.a. Futures Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Long Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Short Exemption Level Requested (in lots): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Explanation of circumstances warranting financial distress exemption:

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

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This exemption shall not be effective unless approved in writing by the Exchange and expires pending renewal one year after the date of approval, unless otherwise communicated by the Exchange. The 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.

Applicant agrees to comply with all other Rules and requirements of the Exchange. Additionally, 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.

Applicant attests 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.

By completing this application, the Applicant agrees to comply with any restrictions, limitations, or denials imposed by the Exchange regarding said positions. Further, the Applicant attests that any applicable Federal requirements relating to the proposed positions have been complied with and that any necessary approvals of the Commission have been obtained. Additionally, Applicant attests the exemption is in compliance with all other applicable Rules and requirements.

Additionally, Applicant agrees to initiate and liquidate its positions in an orderly manner and to not cause undue burden on the market. Further, Applicant agrees to provide such further information as the Exchange may request.

The undersigned certifies that this application is executed by an officer of the Applicant, or by one of its duly authorized representatives, as of the date shown below.

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

(Please Print)

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position/Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tel #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ E-Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**](mailto:MarketSurveillance-US@ice.com)

1. Applicable only to non-energy products with a Single Month and/or All-Months-Combined Position Limit. A list of such products can be found here: [**Ag, Metal and Financial Products Position Limits**](https://www.ice.com/publicdocs/futures_us_reports/all/IFUS_Position_Limits_Accountability_and_Reportable_Levels_for_Non-Energy_Products.xlsx). [↑](#footnote-ref-1)
2. For the avoidance of doubt, the Exchange requires for Cotton No. 2 Futures that the Applicant submit a 12-month history of fixed-price cash market positions, including inventory, purchases and sales (attach a separate sheet, as necessary). [↑](#footnote-ref-2)
3. For applications based on hedges of anticipated merchandising: 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 must be 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-3)
4. Subject to Exchange Rule 6.29, the Exchange does not require a prescribed form or manner by which the pass-through swap counterparty obtains the written representation; however, the pass-through swap counterparty may not rely solely upon the fact that the counterparty is a commercial end user. [↑](#footnote-ref-4)
5. Applicable only to non-energy, physically delivered warehoused or tanked products (e.g. Cocoa Futures and Coffee “C” Futures). [↑](#footnote-ref-5)