

Commodity Futures Trading Commission

§ 1.46

section, the contract market or swap execution facility has petitioned the Commission for, and the Commission has granted, an exemption from the conditions and requirements of paragraph (a) of this section. Any such petition must be accompanied by proposed contract market or swap execution facility rules to implement the large order execution procedures. The petition shall include:

(i) An explanation of why the proposed large order execution rules do not comply with paragraph (a) of this section; and

(ii) A description of a special surveillance program that would be followed by the contract market or swap execution facility in monitoring the large order execution procedures.

(2) The Commission may, in its discretion and upon such terms and conditions as it deems appropriate, grant such petition for exemption if it finds that the exemption is not contrary to the public interest and the purpose of the provision from which explanation is sought. The petition shall be considered concurrently with the proposed large order execution rules.

(c) *Not deemed filling orders by offset.* The execution of orders in compliance with the conditions herein set forth will not be deemed to constitute the filling of orders by offset within the meaning of section 4b(a) of the Act.

[41 FR 3194, Jan. 21, 1976, as amended at 46 FR 63035, Dec. 30, 1981; 47 FR 57008, Dec. 22, 1982; 56 FR 12344, Mar. 25, 1991; 59 FR 5525, Feb. 7, 1994; 77 FR 66329, Nov. 2, 2012]

MISCELLANEOUS

§ 1.40 Crop, market information letters, reports; copies required.

Each futures commission merchant, each retail foreign exchange dealer, each introducing broker, and each member of a contract market or a swap execution facility shall, upon request, furnish or cause to be furnished to the Commission a true copy of any letter, circular, telecommunication, or report published or given general circulation by such futures commission merchant, retail foreign exchange dealer, introducing broker, member or eligible contract participant which concerns crop or market information or conditions

that affect or tend to affect the price of any commodity, including any exchange rate, and the true source of or authority for the information contained therein.

[77 FR 66329, Nov. 2, 2012]

§§ 1.41–1.45 [Reserved]

§ 1.46 Application and closing out of offsetting long and short positions.

(a) *Application of purchases and sales.*
(1) Except with respect to purchases or sales which are for omnibus accounts, or where the customer or account controller has instructed otherwise, any futures commission merchant who, on or subject to the rules of a designated contract market:

(i) Purchases any commodity for future delivery for the account of any customer when the account of such customer at the time of such purchase has a short position in the same future of the same commodity on the same market;

(ii) Sells any commodity for future delivery for the account of any customer when the account of such customer at the time of such sale has a long position in the same future of the same commodity on the same market;

(iii) Purchases a put or call option for the account of any customer when the account of such customer at the time of such purchase has a short put or call option position with the same underlying futures contract or same underlying commodity, strike price, expiration date and contract market as that purchased; or

(iv) Sells a put or call option for the account of any customer when the account of such customer at the time of such sale has a long put or call option position with the same underlying futures contract or same underlying commodity, strike price, expiration date and contract market as that sold—shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall, for futures transactions, promptly furnish such customer a statement showing the financial result