

CFTC Form 205 Exempt Commercial Market ("ECM") Annual Certification

NOTICE: Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this, to Agency Clearance Officer, Office of General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Instructions: The Commodity Exchange Act (CEA) and CFTC regulatory requirements are shown under column one. Please provide your responses under column two, and sign and date at the bottom of the form, confirming that all of the information provided in the certification is correct.

CEA Section 2(h)(5) Provisions	Update of Information & Confirmation of Compliance	
<p>Section 2(h)(5)</p> <p>An electronic trading facility relying on the exemption provided in paragraph (3) shall notify the Commission of its intention to operate as an electronic trading facility in reliance on the exemption set forth in paragraph (3) and include (i) the name and address of the facility and a person designated to receive communications from the Commission.</p>	<p>Name of ECM:</p>	
	<p>Address:</p>	
	<p>Web URL:</p>	
	<p>Contact Person:</p>	
	<p>Phone #:</p>	
	<p>Email Address:</p>	
	<p>Any trading on the ECM during this calendar year?</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>(ii) the commodity categories that the facility intends to list or otherwise make available for trading on the facility in reliance on the exemption set forth in paragraph (3).</p>		
<p>(iii) certifications that – (I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the facility is a person described in any of subparagraphs (A) through (H) of section 8a(2); (II) the facility will comply with the conditions for exemption under this paragraph; and (III) the facility will notify the Commission of any material change in the information previously provided by the facility to the Commission pursuant to this paragraph; and</p>	<p>Please check the appropriate box below. Please provide an explanation on a separate sheet if any answer is "no".</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>(iv) the identity of any derivatives clearing organization to which the facility transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the facility in reliance on the exemption set forth in paragraph (3);</p>	<p>Are any products cleared? If so, identify the clearing organization (or indicate if not applicable):</p>	
<p>2(h)(5)(B)(i)—See 36.3(b) below</p>		
<p>2(h)(5)(E) - have a reasonable basis for believing that participants authorized to conduct transactions on the facility in reliance on the exemption set forth in paragraph (3) are eligible commercial entities (ECEs) (See also § 36.3(c)(3)).</p>	<p>Please explain the basis for believing that participants are ECEs.</p>	

CFTC Regulatory Provisions (§36.3)	Confirmation of Compliance
<p>§36.3(b) <u>Required information.</u> (1) A facility operating in reliance on the exemption in section 2(h)(3) of the Act, initially and on an on-going basis, must: (i) Identify to the Commission those transactions conducted on the facility with respect to which it</p>	

<p>intends, in good faith, to rely on the exemption in § 2(h)(3), and which averaged 5 trades per day or more over the most recent calendar quarter, and, with respect to such trades, either:</p> <p>(A) Submit, in a form and manner acceptable to the Commission, a report for each business day, showing for each transaction executed in reliance on § 2(h)(3), and meeting the five trades per day or more threshold test, the following information: the commodity, the location, the maturity date, whether it is a financially settled or physically delivered instrument, the date of execution, the time of execution, the price, the quantity, and such other information as the Commission may determine, and for an option instrument, in addition to the foregoing, the type of option (call or put) and the strike price. Each such report shall be electronically transmitted weekly within such time period as is acceptable to the Commission; or</p> <p>(B) Provide the Commission with electronic access to transactions on the facility conducted in reliance on § 2(h)(3) and meeting the five trades per day test, which access would allow the Commission to compile the information described in (A) above and create a permanent record thereof.</p>	<p><input type="checkbox"/> No transactions on the facility meet the 5 trades per day threshold (please provide explanation)</p> <p><input type="checkbox"/> All transactions meeting the 5 trades per day threshold have already been identified to the CFTC</p> <p><input type="checkbox"/> Some transactions meeting the 5 trades per day threshold have recently been identified by the ECM and have not yet been identified to the CFTC (Please list the transactions on a separate sheet indicating the commodity, the location, the maturity date and whether it is financially settled or physically delivered)</p> <p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> Electronic access has already been provided to the CFTC</p>
<p>(iii) Maintain a record of allegations or complaints received by the trading facility concerning instances of suspected fraud or manipulation in trading activity conducted in reliance on the exemption set forth in § 2(h)(3) of the Act. The record shall contain the name of the complainant, if provided, the date of the complaint, the market instrument, the substance of the allegations, and the name of the person at the trading facility who received the complaint.</p>	<p><input type="checkbox"/> No complaints of fraud or manipulation have been received</p> <p><input type="checkbox"/> Complaints of fraud or manipulation received have been identified to the CFTC</p> <p><input type="checkbox"/> Some complaints of fraud or manipulation received by the ECM have not yet been identified to the CFTC (Please list, with all required information, on a separate sheet)</p>
<p>§36.3(c)(2) Market data dissemination. (i) Criteria for price discovery determination. . .</p> <p>(ii) Notification. An electronic trading facility operating in reliance on section 2(h)(3) of the Act shall notify the Commission when:</p> <p>(A) It has reason to believe that the cash market bids, offers, or transactions are directly based on, or quoted at a differential to, the prices generated on the market on a more than occasional basis;</p> <p>(B) It has reason to believe that the market's prices are routinely disseminated in a widely distributed industry publication and are routinely consulted by industry participants in pricing cash market transactions; or</p> <p>(C) The market holds itself out to the public as performing a price discovery function for the cash market for the commodity.</p>	<p>Identify any products that serve as a significant source of price discovery for transactions in the cash market for the commodity underlying any contract.</p>

I certify that _____ continues to operate as an ECM in reliance upon section 2(h)(3) of the Act and all of the information contained in the Notification of Operation as an Exempt Commercial Market is correct or has been corrected as a result of this certification.

Signature _____

Position _____

Date _____