

## INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON CFTC FORM 404S

(See Regulations Under the Commodity Exchange Act)

**WHO SHOULD REPORT:** All persons (individuals, partnerships, associations, corporations, or trusts) who hold or control a position in Referenced Contracts,<sup>1</sup> separately or in combination, net long or net short, that are in excess of the position limits pursuant to regulation § 151.4 and relies upon the bona fide hedging exemptions defined in regulation § 151.5(a)(3) and § 151.5(a)(4).

**WHAT TO REPORT:** As of the first business day a position limit specified in § 151.4 is first exceeded and separately for each business day during the month that the same person exceeds the limits up to and through the day the person's position first goes below the position limit, report the following, by each Core Referenced Futures Contract (CRFC)<sup>2</sup>:

the applicable date; the Commodity Reference Price;<sup>3</sup> the notional quantity of the swap; the units measurement of the notional quantity of the swap; and the gross long and short position of swaps that qualify as a bona fide hedging transaction or position pursuant to § 151.5(a)(3) and § 151.5(a)(4). In general, all positions in swap Referenced Contracts should be measured on a futures-equivalent basis in the applicable CRFC. Conversions to CRFC equivalents should use economically reasonable and analytically supported deltas. Use units (e.g., 1000 bu., 1000 bbls., cwt., etc.) and conversion factors usual and common to your business. All positions for a date are those as of the firm's customary end-of-business day. If you have a zero position in a data element, indicate by a zero.

In addition, persons that avail themselves of cross-commodity hedges pursuant to § 151.5(a)(2)(viii) shall submit a description of the conversion methodology consistent with § 151.5(g).

**WHEN TO REPORT:** Report no later than the third business day after a position limit in a Referenced Contract is exceeded for the first time (i.e., you have not filed a monthly report for the last three months). Also, report daily data on the third business day following each calendar month in which the person exceeded such levels. Reports must be received not later than 9:00 a.m. Eastern Time of the applicable due date.

**WHERE TO REPORT:** Generally, a CFTC Form 404S should be submitted via the CFTC's web based Form 404S submission process at [web address]. If submission through the web-based form is impractical, the reporting trader shall contact the Commission at [email address] or [phone number] for further instruction.

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<sup>1</sup> A Referenced Contract is defined in § 151.1 Definitions.

<sup>2</sup> A Core Referenced Futures Contract is 1 of the 28 futures contracts listed in § 151.2.

<sup>3</sup> Commodity Reference Price means the price series (including derivatives contract and cash market prices or price indices) used by the parties to a swap or swaption to determine payments made, exchanged, or accrued under the terms of the contracts (§ 20.1).

**COMMODITY FUTURES TRADING COMMISSION  
FORM 404S: STATEMENT OF PASS-THROUGH SWAPS**

CFTC CODE NO. [INSERT]

OMB No. [INSERT]

Name of Person: \_\_\_\_\_

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false report, may be a basis for administrative action under 7 U.S.C. Section 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Section 13, or 18 U.S.C. Section 1001. Public reporting burden for this collection of information is estimated to average 20 minutes 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.

**Pass-through Swap Exemption, pursuant to § 151.5(a)(3) and § 151.5(a)(4)**

| Core Referenced Futures Contract | Date of Reporting Requirement | Commodity Reference Price for Swap | Notional Quantity for Swap | Reference Swaps Units (Specify Tons, CWT, Lbs., Bu., bbls., etc.) | Gross Long Position | Gross Short Position |
|----------------------------------|-------------------------------|------------------------------------|----------------------------|---|---------------------|----------------------|
|                                  |                               |                                    |                            |   |                     |                      |

Conversion Methodology: In the event that a cross hedge is being claimed for the first time, the person filing this form must provide below a description of the conversion methodology consistent with § 151.5(g).

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