

# CFTC FORM 604

## Statement of Pass-Through Swap Exemptions



**NOTICE:** Failure to file a report required by the Commodity Exchange Act (“CEA” or the “Act”)<sup>1</sup> and the regulations thereunder,<sup>2</sup> or the filing of a report with the Commodity Futures Trading Commission (“CFTC” or “Commission”) that includes a false, misleading or fraudulent statement or omits material facts that are required to be reported therein or are necessary to make the report not misleading, may (a) constitute a violation of § 6(c)(2) of the Act (7 USC 9), § 9(a)(3) of the Act (7 U.S.C. 13(a)(3)), and/or § 1001 of Title 18, Crimes and Criminal Procedure (18 U.S.C. 1001) and (b) result in punishment by fine or imprisonment, or both.

### PRIVACY ACT NOTICE

The Commission’s authority for soliciting this information is granted in sections 4a, 4c(b), 4i, 4t and 8a(5) of the CEA and related regulations (see, e.g., 17 CFR § 19.00). The information solicited from entities and individuals engaged in activities covered by the CEA is required to be provided to the CFTC, and failure to comply may result in the imposition of criminal or administrative sanctions (see, e.g., 7 U.S.C. §§ 9 and 13a-1, and/or 18 U.S.C. 1001). The information requested is most commonly used in the Commission’s market and trade practice surveillance activities to (a) provide information concerning the size and composition of the commodity derivatives markets, (b) permit the Commission to monitor and enforce speculative position limits and (c) enhance the Commission’s trade surveillance data. The requested information may be used by the Commission in the conduct of investigations and litigation and, in limited circumstances, may be made public in accordance with provisions of the CEA and other applicable laws. It may also be disclosed to other government agencies and to contract markets to meet responsibilities assigned to them by law. The information will be maintained in, and any additional disclosures will be made in accordance with, the CFTC System of Records Notices, available on [www.cftc.gov](http://www.cftc.gov).

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<sup>1</sup> 7 U.S.C. section 1, *et seq.*

<sup>2</sup> Unless otherwise noted, the rules and regulations referenced in this notice are found in chapter 1 of title 17 of the Code of Federal Regulations; 17 CFR Chapter 1 *et seq.*

## BACKGROUND & INSTRUCTIONS

17 CFR § 19.00(a) requires each person subject to the provisions of this paragraph to report its cash positions to the Commission by filing series '04 reports. 17 CFR § 19.00(b) specifies the manner of reporting on Form '04 series. 17 CFR § 19.01(a)(3) specifies the information required on Form 604. 17 CFR § 19.01 (b) (1) specifies the frequency (**monthly**), the as of report date (close of business on the last Friday of the month), and the time (9 a.m. Eastern Time on the third business day following the date of the report) for filing the reports pursuant to § 19.00(a)(1)(ii)(A) for pass-through swaps with non-referenced-contract swap offset. CFR § 19.01(b)(2) specifies the frequency (**each day during the spot month**), the as of report date (close of business for each day during the spot month), and the time (9 a.m. Eastern Time on the next business day) for filing the Form 604 spot-month swap offset reports pursuant to § 19.00(a)(1)(ii)(B) for pass-through swaps with spot-month swap offset. As appropriate, please follow the instructions below to generate and submit the required report or filing. Unless the context requires otherwise, the terms used herein shall have the same meaning as ascribed in parts 15 to 21 of the Commission's regulations. .

### **Complete Form 604 as follows:**

General & Identifying Information:	All filers.
Section A:	Complete for Non-referenced contract swap offset
Date	As of date for reported position
Non-referenced contract	Underlying Commodity or Commodity Reference Price that is not a Referenced Contract (RC) - § 19.01(a)(2)(i)(A)
CRFC	Corresponding Core Referenced Futures Contract
Applicable Clearing Identifier	§ 19.01(a)(2)(i)(B)
Commodity Quantity Unit – CQU	Unit of Measurement for Commodity
Notional Quantity	§ 19.01(a)(2)(i)(C) in CQU
Position in FE in CRFC	§ 19.01(a)(2)(i)(D), gross long or short positions
Position in RC for offsetting risk	§ 19.01(a)(2)(i)(E), gross long or short positions
Section B:	Complete for Spot-month swap offset
Date	As of date for reported position
Non-referenced contract	Underlying Commodity or Commodity Reference Price that is not a Referenced Contract (RC) - § 19.01(a)(2)(i)(A)
Applicable Clearing Identifier	§ 19.01(a)(2)(i)(B)
Commodity Quantity Unit – CQU	Unit of Measurement for Commodity
Notional Quantity	§ 19.01(a)(2)(i)(C)
Position in FE for cash-settled swaps	§ 19.01(a)(2)(ii)(A), gross long or short positions
Position in p-d RC for offsetting risk	§ 19.01(a)(2)(ii)(B), gross long or short positions in physical-delivery (p-d) referenced contracts (RC)
Signature/Authentication:	All filers.

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**Submitting Form 604:** Once completed, please submit this form to the Commission pursuant to the instructions on [[www.cftc.gov](http://www.cftc.gov)] or as otherwise directed by Commission staff. If submission attempts fail, the reporting trader shall contact the Commission at [[techsupport@cftc.gov](mailto:techsupport@cftc.gov)] for further technical support.

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Please be advised that pursuant to 5 CFR § 1320.5(b)(2)(i), you are not required to respond to this collection of information unless it displays a currently valid OMB control number.



	counterpart								

Please sign/authenticate the Form 604 prior to submitting.

Signature/ Electronic Authentication:

By checking this box and submitting this form (or by clicking "submit," "send," or any other analogous transmission command if transmitting electronically), I certify that I am duly authorized by the reporting trader identified below to provide the information and representations submitted on this Form 604, and that the information and representations are true and correct.

Reporting Trader Authorized Representative (Name and Position):

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Position)

Submitted on behalf of:

\_\_\_\_\_ (Reporting Trader Name)

Date of Submission:

\_\_\_\_\_

Form 604, Example A. A person offsets a long position in a cash-settled milo swap with a notional size of 5,000,000 bushels, using the CBOT Corn futures contract, as a cross-commodity hedge. The milo swap was a bona fide hedging position for the swap counterparty, and was not cleared. For illustrative purposes, the hedge ratio is assumed to be one-to-one between milo and corn.

A. Non-referenced contract swap offset pursuant to § 19.01(a)(2)(i), reported and submitted <b>monthly</b> pursuant to § 19.01(b)(1)									
Date	Underlying Commodity or Commodity Reference Price that is not a Referenced Contract (RC)	Core Referenced Futures contract (CRFC)	Applicable Clearing Identifier	Commodity Quantity Units of Measurement (Specify Tons, Lbs., Bu., Bbls., etc.)	Notional Quantity in CQU	Gross Long Position in Futures Equivalent in the CRFC	Gross Short Position in Futures Equivalent in the CRFC	Gross Long Position in the RC for the Offsetting Risk Position in CQU	Gross Short Position in the RC for the Offsetting Risk Position in CQU
6/28/2013	Milo	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000

Form 604, Example B. A person offsets a cash-settled corn swap with a notional size of 5,000,000 bushels, using the CBOT Corn futures contract during the spot month. An exemption for swap offsets is not permitted in the physical-delivery CBOT Corn futures contract in the last five days of trading. For the May 2013 CBOT Corn futures contract, the last day of trading is May 14 (CBOT rules specify the last trading day as the business day preceding the fifteenth calendar day of the contract month). Hence, the spot month swap offset exemption is not available in the May 2013 CBOT Corn futures contract as of the close of business on May 7, 2013. At that time, the trader must comply with the 600 contract spot month limit, equivalent to 3,000,000 bushels of corn, absent another exemption. Each line represents each day's report for this swap offset position. The spot month for the CBOT Corn futures contract begins at the close of trading two business days prior to the first trading day of the delivery month; hence, April 29, 2013, was the start of the spot month for the May 2013 CBOT Corn futures contract. The corn swap was a bona fide hedging position for the swap counterparty, and was not cleared.

B. Spot-month swap offset pursuant to § 19.01(a)(2)(ii), reported and submitted <b>daily</b> pursuant to § 19.01(b)(2) for non-referenced and referenced cash-settled swaps									
Date	Non-referenced or referenced contract for cash-settled	Core Referenced Futures	Applicable Clearing Identifier	Commodity Quantity Units of Measurement (Specify	Notional Quantity in CQU	Gross Long Position for Cash-settled Swap in Futures	Gross Short Position for Cash-settled Swap in Futures	Gross Long Position in the Physical-delivery RC	Gross Short Position in the Physical-delivery RC

	swap offsetting BFH exemption of counterparty	contract (CRFC)	counterparty	Tons, Lbs., Bu., Bbls., etc.) - CQU		Equivalent in the CRFC	Equivalent in the CFRC	for the Offsetting Risk Position in CQU	for the Offsetting Risk Position in CQU
4/29/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/30/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/01/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/02/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/03/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/06/2013	Corn swap	C-CBOT	NA	Bu	5,000,000	1,000	0	0	5,000,000
5/07/2013	Corn swap	C-CBOT	NA	Bushels-Bu	5,000,000	1,000	0	0	3,000,000