

First Capitol Group, First Capitol Ag and efutures
Divisions of Penson GHCO

Customer Copy
Uniform Futures and Options on Futures Risk Disclosures

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RISK DISCLOSURE STATEMENT

This brief statement does not disclose all of the risks and other significant aspects of trading in futures and options. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. Trading in futures and options is not suitable for many members of the public. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.

Futures

1. Effect of 'Leverage' or 'Gearing'

Transactions in futures carry a high degree of risk. The amount of initial margin is small relative to the value of the futures contract so that transactions are 'leveraged' or 'geared.' A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit: this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with the firm to maintain your position. If the market moves against your position or margin levels are increased, you may be called upon to pay substantial additional funds on short notice to maintain your position. If you fail to comply with a request for additional funds within the time prescribed, your position may be liquidated at a loss and you will be liable for any resulting deficit.

2. Risk-reducing orders or strategies

The placing of certain orders (e.g., 'stop-loss' orders, where permitted under local law, or 'stop-limit' orders) which are intended to limit losses to certain amounts may not be effective because market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as 'spread' and 'straddle' positions, may be as risky as taking simple 'long' or 'short' positions.

Options

3. Variable degree of risk

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e., put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased options expire worthless, you will suffer a total loss of your investment, which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Selling ('writing' or 'granting') an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the position is 'covered' by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

Additional risks common to futures and options

4. Terms and conditions of contracts

You should ask the firm with which you deal about the terms and conditions of the specific futures or options which you are trading and associated obligations (e.g., the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

5. Suspension or restriction of trading and pricing relationships

Market conditions (e.g., illiquidity) and/or the operation of the rules of certain markets (e.g., the suspension of trading in any contract or contract month because of price limits or 'circuit breakers') may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

Further, normal pricing relationships between the underlying interest and the future, and the underlying interest and the option may not exist. This can occur when, for example, the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge 'fair' value.

6. Deposited cash and property

You should familiarize yourself with the protections accorded money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which had been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

7. Commission and other charges

Before you begin to trade, you should obtain a clear explanation of all commissions, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

8. Transactions in other jurisdictions

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade, you should inquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

9. Currency risks

The profit or loss in transactions in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

10. Trading facilities

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary; you should ask the firm with which you deal for details in this respect.

11. Electronic trading

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risk associated with the system, including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

12. Off-exchange transactions

In some jurisdictions, and only then in restricted circumstances, firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.

CROSS TRADE CONSENT

Penson GHCO, its officers, directors employees or affiliates or other customers of Penson GHCO or of the servicing floor broker may be from time to time on the opposite side of orders for physicals or for purchase or sale of futures contracts and option contracts placed for your Account in conformity with regulations of the Commodity Futures Trading Commission and the by-laws, rules and regulations of the applicable market (and its clearing organization, if any) on which such order is executed.

NOTICE REGARDING Average Price System ("APS")

You should be aware that certain US and non-US exchanges, including the CME and CBOT, may now or in the future allow a futures commission merchant ("FCM") such as Penson GHCO to confirm trades executed on such exchanges to some or all of their customers on an average price basis regardless of whether the exchanges have average price systems of their own. Average prices that are not calculated by an exchange system will be calculated by your FCM. In either case, trades that are confirmed to you at average prices will be designated as such on your daily and monthly statements.

APS enables a clearing firm to confirm to customers an average price when multiple execution prices are received on an order or series of orders for the same accounts. For example, if an order transmitted by an account manager on behalf of several customers is executed at more than one price, those prices may be averaged and the average may be confirmed to each customer. Customers may choose whether to use APS, and may request that APS be used for discretionary or non-discretionary accounts.

An order subject to APS must be for the same commodity. An APS order may be used for futures, options or combination transactions. An APS order for futures must be for the same commodity and month, and for options, it must be for the same commodity, month, put/call and strike.

An APS indicator will appear on the confirmation and monthly statement for a customer whose positions have been confirmed at an average price. This indicator will notify the customer that the confirmed price represents an average price or rounded average price.

The average price is not the actual execution price. APS will calculate the same price for all customers that participate in the order.

APS may be used when a series of orders are entered for a group of accounts. For example, a bunched APS order (an order that represents more than one customer account) executed at 10:00 a.m. could be averaged with a bunched APS order executed at 12:00 p.m. provided that each of the bunched orders is for the same accounts. In addition, market orders and limit orders may be averaged, as may limit orders at different prices, provided that each order is for the same accounts.

The following scenario exemplifies what occurs if an APS order is only partially executed. At 10:00 a.m. an APS order to buy 100 Dec S & P 500 futures contracts is transmitted at a limit price of 376.00; 50 are executed at 376.00, and the balance is not filled. At 12:00 p.m. an APS order to buy 100 Dec S & P 500 futures contracts is transmitted at a limit price of 375.00; 50 are executed at 375.00, and the balance is not filled. Both orders are part of a series for the same group of accounts. In this example, the two prices will be averaged. If the order was placed for more than one account, the account controller must rely on pre-existing allocation procedures to determine the proportions in which each account will share in the partial fill.

Upon receipt of an execution at multiple prices for an order with an APS indicator, an average will be computed by multiplying the execution prices by the quantities at those prices divided by the total quantities. An average price for a series of orders will be computed based on the average prices of each order in that series. The actual average price or the average price rounded to the next price increment may be confirmed to customers. If a clearing member confirms the rounded average price, the clearing member must round the average price up to the next price increment for a sell order. The rounding process will create a cash residual of the difference between the actual average price and the rounded average price that must be paid to the customer.

APS may produce prices that do not conform to whole cent increments. In such cases, any amounts less than one cent may be retained by the clearing member. For example, if the total residual to be paid to a customer on a rounded average price for 10 contracts is \$83.333333, the clearing member may pay \$83.33 to the customer.

If you would like more information on APS orders, please contact Penson GHCO Futures Operations Department.

ELECTRONIC TRADING AND ORDER ROUTING SYSTEMS DISCLOSURE STATEMENT^{*/}

Electronic trading and order routing systems differ from traditional open outcry pit trading and manual order routing methods. Transactions using an electronic system are subject to the rules and regulations of the exchange(s) offering the system and/or listing the contract. Before you engage in transactions using an electronic system, you should carefully review the rules and regulations of the exchange(s) offering the system and/or listing contracts you intend to trade.

DIFFERENCES AMONG ELECTRONIC TRADING SYSTEMS

Trading or routing orders through electronic systems vary widely among the different electronic systems. You should consult the rules and regulations of the exchange offering the electronic system and/or listing the contract traded or order routed to understand, among other things, in the case of trading systems, the system's order matching procedure, opening and closing procedures and prices, error trade policies, and trading limitations or requirements; and in the case of all systems, qualifications for access and grounds for termination and limitations on the types of orders that may be entered into the system. Each of these matters may present different risk factors with respect to trading on or using a particular system. Each system may also present risks related to system access, varying response times, and security. In the case of internet-based systems, there may be additional types of risks related to system access, varying response times and security, as well as risks related to service providers and the receipt and monitoring of electronic mail.

RISK ASSOCIATED WITH SYSTEM FAILURE

Trading through an electronic trading or order routing system exposes you to risks associated with system or component failure. In the event of system or component failure, it is possible that, for a certain time period, you may not be able to enter new orders, execute existing orders, or modify or cancel orders that were previously entered. System or component failure may also result in loss of orders or order priority.

SIMULTANEOUS OPEN OUTCRY PIT AND ELECTRONIC TRADING

Some contracts offered on an electronic trading system may be traded electronically and through open outcry during the same trading hours. You should review the rules and regulations of the exchange offering the system and/or listing the contract to determine how orders that do not designate a particular process will be executed.

^{*/} Each exchange's relevant rules are available upon request from the industry professional with whom you have an account. Some exchanges' relevant rules also are available on the exchange's internet home page.

LIMITATION OF LIABILITY

Exchanges offering an electronic trading or order routing system and/or listing the contract may have adopted rules to limit their liability, the liability of Futures Commission Merchants, and software and communication system vendors and the amount of damages you may collect for system failure and delays. These limitations of liability provisions vary among the exchanges. You should consult the rules and regulations of the relevant exchanges(s) in order to understand these liability limitations.

UNIFORM NOTIFICATION REGARDING ACCESS TO MARKET DATA

As a market user you may obtain access to Market Data available through an electronic trading system, software or device that is provided or made available to you by a broker or an affiliate of such. Market Data may include, with respect to products of an exchange ("Exchange") or the products of third party participating exchanges that are traded on or through the Exchange's electronic trading platform ("Participating Exchange"), but is not limited to, "real time" or delayed market prices, opening and closing prices and ranges, high-low prices, settlement prices, estimated and actual volume information, bids or offers and the applicable sizes and numbers of such bids or offers.

You are hereby notified that Market Data constitutes valuable confidential information that is the exclusive proprietary property of the applicable exchange, and is not within the public domain. Such Market Data may only be used for your firm's internal use. You may not, without the written authorization of the applicable exchange, redistribute, sell, license, retransmit or otherwise provide Market Data, internally or externally and in any format by electronic or other means, including, but not limited to the Internet. Further, you may not, without the written authorization of the applicable exchange, use Exchange Market Data for purposes of determining any price, including any settlement price, for any futures product, options on futures product, or other derivatives instrument traded on any exchange other than an Exchange or a Participating Exchange; or in constructing or calculating the value of any index or indexed product. Additionally, you agree you will not, and will not permit any other individual or entity to, (i) use Exchange Market Data in any way so as to compete with an Exchange or to assist or allow a third party to compete with an Exchange; or (ii) use that portion of Exchange Market Data which relates to any product of a Participating Exchange in any way so as to compete with that Participating Exchange or to assist or allow a third party to compete with such Participating Exchange.

You must provide upon request of the broker through which your firm has obtained access to Market Data, or the applicable exchange, information demonstrating your firm's use of the Market Data in accordance with this Notification. Each applicable exchange reserves the right to terminate a market user's access to Market Data for any reason. You also agree that you will cooperate with an exchange and permit an exchange reasonable access to your premises should an exchange wish to conduct an audit or review connected to the distribution of Market Data.

NEITHER AN EXCHANGE, NOR ANY PARTICIPATING EXCHANGE, NOR THE BROKER, NOR THEIR RESPECTIVE MEMBERS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, GUARANTEE THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF THE DESIGNATED MARKET DATA, MARKET INFORMATION OR OTHER INFORMATION FURNISHED NOR THAT THE MARKET DATA HAVE BEEN VERIFIED. YOU AGREE THAT THE MARKET DATA AND OTHER INFORMATION PROVIDED IS FOR INFORMATION PURPOSES ONLY AND IS NOT INTENDED AS AN OFFER OR SOLICITATION WITH RESPECT TO THE PURCHASE OR SALE OF ANY SECURITY OR COMMODITY.

NEITHER AN EXCHANGE, NOR ANY PARTICIPATING EXCHANGE, NOR THE BROKER NOR THEIR RESPECTIVE MEMBERS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, SHALL BE LIABLE TO YOU OR TO ANY OTHER PERSON, FIRM OR CORPORATION WHATSOEVER FOR ANY LOSSES, DAMAGES, CLAIMS, PENALTIES, COSTS OR EXPENSES (INCLUDING LOST PROFITS) ARISING OUT OF OR RELATING TO THE MARKET DATA IN ANY WAY, INCLUDING BUT NOT LIMITED TO ANY DELAY, INACCURACIES, ERRORS OR OMISSIONS IN THE MARKET DATA OR IN THE TRANSMISSION THEREOF OR FOR NONPERFORMANCE, DISCONTINUANCE, TERMINATION OR INTERRUPTION OF SERVICE OR FOR ANY DAMAGES ARISING THEREFROM OR OCCASIONED THEREBY, DUE TO ANY CAUSE WHATSOEVER, WHETHER OR NOT RESULTING FROM NEGLIGENCE ON THEIR PART. IF THE FOREGOING DISCLAIMER AND WAIVER OF LIABILITY SHOULD BE DEEMED INVALID OR INEFFECTIVE, NEITHER AN EXCHANGE, NOR ANY PARTICIPATING EXCHANGE, NOR THE BROKER, NOR THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS SHALL BE LIABLE IN ANY EVENT,

INCLUDING THEIR OWN NEGLIGENCE, BEYOND THE ACTUAL AMOUNT OF LOSS OR DAMAGE, OR THE AMOUNT OF THE MONTHLY FEE PAID BY YOU TO BROKER, WHICHEVER IS LESS. YOU AGREE THAT NEITHER AN EXCHANGE, NOR ANY PARTICIPATING EXCHANGE, NOR THE BROKER NOR THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, SHALL BE LIABLE TO YOU OR TO ANY OTHER PERSON, FIRM OR CORPORATION WHATSOEVER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, OR COSTS OF LOST OR DAMAGED DATA.

DISCLOSURE STATEMENT ON FUTURES EXCHANGE OWNERSHIP INTERESTS AND INCENTIVE PROGRAMS

You should be aware that your Futures Commission Merchant (“FCM”) or one or more of its affiliates may own stock of, or has some other form of ownership interest in, one or more U.S. or foreign exchanges and clearing houses that you may trade on or that may clear your trades. As a result, you should be aware that your FCM or its affiliate might receive financial benefits related to its ownership interest when trades are executed on such an exchange or cleared at such a clearing house.

In addition, futures exchanges from time to time have in place other arrangements that may provide members with volume or market making discounts or credits, may call for participating members to pre-pay fees based on volume thresholds or may provide other incentive or arrangements that are intended to encourage market participants to trade on or direct trades to that exchange. Your FCM, or one or more of its affiliates, may participate in and obtain financial benefits from such an incentive program.

You should contact your FCM directly if you would like to know whether it has an ownership interest in a particular exchange or clearing house, or whether it participates in any incentive program on a particular exchange or clearing house. You may also contact any particular futures exchange directly to ask if it has any such incentive program for member firms.

CME DISCLOSURE ON PAYMENT FOR ORDER FLOW

When firms provide execution services to customers, either in conjunction with clearing services or in an execution only capacity, they may, in some circumstances, direct orders to unaffiliated market makers, other executing firms, individual floor brokers or floor brokerage groups for execution. When such unaffiliated parties are used, they may, where permitted, agree to price concessions, volume discounts or refunds, rebates or similar payments in return for receiving such business. Likewise, on occasion, in connection with exchanges that permit pre-execution discussions and “off-floor” transactions such as block trading, exchanges of physicals, swaps or options for futures or equivalent transactions, a counterparty solicited to trade opposite customers of an executing firm may make payments described above and/or pay a commission to the executing firm in connection with that transaction. This could be viewed as an apparent conflict of interest. In order to determine whether transactions executed for your account are subject to the above circumstances, please contact your executing firm account representative.

DIRECT ORDER TRANSMITTAL CLIENT DISCLOSURE STATEMENT

This statement applies to the ability of authorized customers of Penson GHCO (“Penson”) to place orders for foreign futures and options transactions directly with non-US entities (each, an “Executing Firm”) that execute transactions on behalf of Penson’s customer omnibus accounts.

Please be aware of the following should you be permitted to place the type of orders specified above:

- The orders you place with an Executing Firm are for Penson’s customer omnibus account maintained with a foreign clearing firm. Consequently, Penson may limit or otherwise condition the orders you place with the Executing Firm.
- You should be aware of the relationship of the Executing Firm and Penson. Penson may not be responsible for the acts, omissions, or errors of the Executing Firm, or its representatives, with which you place your orders. In addition, the Executing Firm may not be affiliated with Penson. If you choose to place orders directly with an Executing Firm, you may be doing so at your own risk.
- It is your responsibility to inquire about the applicable laws and regulations that govern the foreign exchanges on which transactions will be executed on your behalf. Any orders placed by you for execution on that exchange will be subject to such rules and regulations, its customs and usages, as well as any local laws that may govern transactions on that exchange. These laws, rules, regulations, customs and usages may offer different or diminished protection from those that govern transactions on US exchanges. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction. United States regulatory authorities may be unable to compel the enforcement of the rules of regulatory authorities or markets in non-US jurisdictions where transactions may be effected.
- It is your responsibility to determine whether the Executing Firm has consented to the jurisdiction of the courts in the United States. In general, neither the Executing Firm nor any individuals associated with the Executing Firm will be registered in any capacity with the Commodity Futures Trading Commission. Similarly, your contacts with the Executing Firm may not be sufficient to subject the Executing Firm to the jurisdiction of courts in the United States in the absence of the Executing Firm’s consent. Accordingly, neither the courts of the United States nor the Commission’s reparations program will be available as a forum for resolution of any disagreements you may have with the Executing Firm, and your recourse may be limited to actions outside the United States.

Unless you object within five (5) days by giving notice as provided in your customer agreement after receipt of this disclosure, **Penson** will assume your consent to the aforementioned conditions.

FOREIGN TRADER DISCLOSURE STATEMENT

Dear Customer:

In accordance with Rules 15.05 and 21.03 of the Commodity Futures Trading Commission ("CFTC"), 17 C.F.R. §§15.05 and 21.03, we are considered to be your agent for purposes of accepting delivery and service of communications from or on behalf of the CFTC regarding any commodity futures contracts or commodity option contracts which are or have been maintained in your account(s) with us. In the event that you are acting as agent or broker for any other person(s), we are also considered to be their agent, and the agent of any person(s) for whom they may be acting as agent or broker, for purposes of accepting delivery and service of such communications. Service or delivery to us of any communication issued by or on behalf of the CFTC (including any summons, complaint, order, subpoena, special call, request for information, notice, correspondence or other written document) will be considered valid and effective service or delivery upon you or any person for whom you may be acting, directly or indirectly, as agent or broker.

You should be aware that Rule 15.05 also provides that you may designate an agent other than Penson GHCO. Any such alternative designation of agency must be evidenced by a written agency agreement which you must furnish to us and which we, in turn, must forward to the CFTC. If you wish to designate an agent other than us, please contact us in writing. You should consult 17 C.F.R. § 15.05 for a more complete explanation of the foregoing.

Upon a determination by the CFTC that information concerning your account(s) with us may be relevant in enabling the CFTC to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists, the CFTC may issue a call for specific information from us or from you. In the event that the CFTC directs a call for information to us, we must provide the information requested within the time specified by the CFTC. If the CFTC directs a call for information to you through us as your agent, we must promptly transmit the call to you, and you must provide the information requested within the time specified by the CFTC. If any call by the CFTC for information regarding your account(s) with us is not met, the CFTC has authority to restrict such account(s) to trading for liquidation only. You have the right to a hearing before the CFTC to contest any call for information concerning your account(s) with us, but your request for a hearing will not suspend the CFTC's call for information unless the CFTC modifies or withdraws the call. Please consult 17 C.F.R. §21.03 for a more complete description of the foregoing (including the type of information you may be required to provide).

Certain additional regulations may affect you. Part 17 of the CFTC Regulations, 17 C.F.R. Part 17, requires each futures commission merchant and foreign broker to submit a report to the CFTC with respect to each account carried by such futures commission merchant or foreign broker which contains a reportable futures position. (Specific reportable position levels for all futures contracts traded on U.S. exchanges are established in Rule 15.03.) In addition, Part 18 of the CFTC Regulations, 17 C.F.R. Part 18, requires all traders (including foreign traders) who own or control a reportable futures or options position and who have received a special call from the CFTC to file a Large Trader Reporting Form (Form 103) with the CFTC within one day after the special call upon such trader by the CFTC. Please consult 17 C.F.R. Parts 17 and 18 for more complete information with respect to the foregoing.

Very truly yours,
Penson GHCO

NOTICE TO CLIENTS POSITION LIMIT AND LARGE OPEN POSITION REPORTING REQUIREMENTS FOR OPTIONS AND FUTURES TRADED ON THE HONG KONG EXCHANGES

The Hong Kong regulatory regime imposes position limit and reportable position requirements for stock options and futures contracts traded on the Stock Exchange of Hong Kong and on the Hong Kong Futures Exchange.

These requirements are set out in the Hong Kong Securities and Futures (Contracts Limits and Reportable Positions) Rules (as amended, the "**Rules**") made by the Securities and Futures Commission ("**SFC**") under the Securities and Futures Ordinance. The Rules impose monitoring and reporting obligations with regard to large open positions. Where you are holding a reportable position for your client, you must disclose the identity of the client. For the purposes of the Rules, a client is the person who is ultimately responsible for originating instructions you receive for transactions - i.e., the transaction originator.

Further guidance on the Rules and what they require is set out in the SFC's Guidance Note on Position Limits and Large Open Position Reporting Requirements. Copies of the Rules and Guidance Note can be downloaded from the SFC's website (www.sfc.hk).

Purpose of the Rules

The purpose of the Rules is to avoid potentially destabilizing market conditions arising from an over-concentration of futures/options positions accumulated by a single person or group of persons acting in concert, and to increase market transparency.

Some of the major requirements of the Rules and Guidance Note are summarised below. However, you should review the Rules and Guidance Note in their entirety, and consult with your legal counsel in order to ensure that you have a full understanding of your obligations in connection with trading in Hong Kong.

Please note that the Rules make you responsible for ensuring that you comply with the Rules. Section 8 of the Rules makes it a criminal offence not to comply (subject to a maximum fine of HK\$100,000 and imprisonment for up to 2 years).

In 2004, the SFC investigated 6 breaches of the Rules, including a breach by a non-Hong Kong fund manager which was referred to the fund manager's overseas regulator. It should be noted that the SFC has expressly stated that it is not sympathetic to claims by overseas persons that they are not aware of the Hong Kong restrictions, and that a failure to trade within the limits or make reports reflects badly on a firm's internal control measures (which might itself lead to disciplinary action).

Position Limits

The Rules say that you may not hold or control futures contracts or stock options contracts in excess of the prescribed limit, unless you have obtained the prior authorisation of the Hong Kong regulators. For example, the prescribed limit for Hang Seng Index futures and options contracts and Mini-Hang Seng Index futures and options contracts is 10,000 long or short position delta limit for all contract months combined, provided the position delta for the Mini-Hang Seng Index futures contracts or Mini-Hang Seng Index options contracts shall not at any time exceed 2,000 long or short for all contract months combined. For many futures contracts and stock options contracts, the position limit is set at 5,000 contracts for any one contract/expiry month.

The prescribed limit for each contract traded on the Hong Kong exchanges is set out in the Rules.

Reportable Positions

If you hold or control an open position in futures contracts or stock options contracts in excess of the specified level, the Rules require you to report that position in writing to the relevant Hong Kong exchange (i) within one day (ignoring Hong Kong public holidays and Saturdays) of first holding or controlling that position, and (ii) on each succeeding day on which you continue to hold or control that position.

The specified reporting level for each contract traded on the Hong Kong exchanges is set out in the Rules. The report must state:

- (a) the number of contracts held or controlled in respect of the position in each relevant contract month; and
- (b) if the position is held or controlled for a client, the identity of the client, and the number of contracts held or controlled for such person in respect of the reportable position in each relevant contract month.

Scope of the Rules

You should note:

- The prescribed limits and reportable position requirements apply to all positions held or controlled by any person, including positions in any account(s) that such person controls, whether directly or indirectly. The SFC takes the view that a person is regarded as having control of positions if, for example, the person is allowed to exercise discretion to trade or dispose of the positions independently without the day-to-day direction of the owner of the positions. (Section 4 of the Rules and Para. 2.6 of the Guidance Note)
- If a person holds or controls positions in accounts at more than one intermediary, the Rules require him to aggregate the positions for the purposes of applying the prescribed limits and reportable position requirements. (Para. 6.1 of the Guidance Note)
- The person holding or controlling a reportable position in accounts at more than one intermediary has the sole responsibility to notify the relevant exchange of the reportable position. The person may request its intermediary to submit the notice of the reportable position. If a firm agrees to submit the notice on his behalf, the person should provide to the firm its total positions held at other intermediaries so that the firm can submit the notice of the reportable position. Alternatively, the person should ask all of his intermediaries to report the positions in each of the accounts separately to the exchange, even if the positions in the individual accounts do not reach the reportable level. (Paras. 4.6 and 6.2 of the Guidance Note)
- Where you are holding a reportable position for your client, the Rules say that you must disclose the identity of the client. The SFC's view is that, for the purposes of the Rules, a client is the person who is ultimately responsible for originating the transaction instructions - i.e., the transaction originator. (Para. 6.4 of the Guidance Note)
- The Rules apply separately to the positions held by each of the underlying clients of an omnibus account, except where the omnibus account operator has discretion over the positions in which case the account operator must also aggregate these positions with his own positions. Positions held by different underlying clients should not be netted off for purposes of calculating and reporting reportable positions or determining compliance with the prescribed limits. (Para. 6.8 of the Guidance Note)

A GUIDE TO THE STRUCTURE AND MARKET TERMINOLOGY OF THE LONDON METAL EXCHANGE

INTRODUCTION AND PURPOSE

This document is designed to provide customers of the London Metal Exchange (LME) with an overview of the structure of the LME, market terminology, and order execution. It is not a comprehensive trading guide, nor a complete guide to market terminology. Customers should always ensure that their requirements are explained in detail to the member responsible for order execution.

THE LME

Principal Nature

There are two types of contracts traded on the LME - Exchange Contracts and Client Contracts. Exchange Contracts are contracts between clearing members of the LME. Client Contracts are contracts between customers and ring dealing members (RDMs), or associate broker clearing members (ABCMs), or associate broker members (ABMs). Only RDMs, ABCMs and ABMs may issue Client Contracts. Open Position Statements issued to clients must state clearly **“THIS IS AN LME REGISTERED CLIENT CONTRACT”**. Contract criteria relating to LME contracts, including metal/plastic specifications, acceptable currencies, prompt dates, option strike prices for metals etc. are detailed in the LME rulebook and appropriate notices.

Exchange Contracts are traded between members, **matched** in the LME matching and clearing system (LMEMS) and margined by LCH.Clearnet (LCH). Client Contracts are **registered** at the LCH but margining arrangements are left to members to agree with their customers (subject to LME rules).

All LME contracts are between parties acting as principals. This prevents any party entering into an LME Contract as agent for someone else but does not prevent an agent effecting a contract between two parties if the resulting LME contract is between disclosed parties, each acting as a principal. It is an essential requirement of an LME Client Contract that one party must be an RDM, ABCM or ABM. A list of members is available from the LME, and on the LME website: www.lme.com. A principal relationship does not mean that members do not take on quasi-fiduciary responsibilities when they effect trades for customers. In particular, if a member undertakes to deliver a particular service, for example deal a specific number of lots 'in the Ring' (see below), then it should take care to ensure that it complies with all the terms of such a transaction.

In respect of Exchange Contracts, an LME broker buying metal or plastic under an Exchange Contract from another LME broker cannot do so as agent for his customer. Where an LME broker buys metal or plastic under an Exchange Contract with a view to selling that metal or plastic to his customer, this is achieved by entering into a back-to-back Client Contract with the customer. Brokers and customers can agree the conditions that apply to their Client Contracts. For example, a customer may make it a condition of his Client Contract that the broker must enter into a back-to-back Exchange Contract for the metal or plastic being bought or sold. This does not make the customer a party to the Exchange Contract but does create additional duties and obligations owed by the broker under the Client Contract.

Customers should be clear about conditions that apply to their Client Contracts and about the obligations and duties that the broker owes as a result of those conditions.

Brokers should be clear about the duties and obligations they owe as a result of conditions attaching to their Client Contracts. They should also be clear about the duties they owe to their customers under the FSA's Conduct of Business Rules (COB).

Dual Capacity

LME members may act both in the capacity of market maker and broker. They may act in a particular manner depending on a number of circumstances, including the size of the order, the liquidity of the market at the time the order was placed, and, not least, the customer's instructions. Customer orders may be filled directly from a member's 'book' or following the purchase/sale of metal or plastic in the LME market. Furthermore, customer orders may be offset, amalgamated, broken-up or netted for execution. These methodologies apply equally to orders whether any resulting Exchange Contract is effected in the ring, in the inter-office market, or on LME Select.

Customers with specific order requirements must make these known to the member at the time the order is placed. Customers wishing to know how their order was executed should request such information from the member.

Trading on the LME

Trading takes place on the LME by open outcry in the rings and kerbs, between members in the inter-office, and over the Exchange's electronic trading system LME Select.

Open Outcry

Historically, during ring and kerb sessions, the majority of customer business reflects prices traded in the open outcry sessions. Customers can follow the market activity by monitoring quoted and traded prices disseminated via the LME market data

system (MDS), or by listening to the simultaneous floor commentary provided by member(s). The MDS publishes prices traded during ring and kerb times on price vendor information services such as Reuters. Members can continue to 'make a market' when requested by a customer during the ring and kerb sessions, although this is entirely at the member's discretion. Alternatively, the customer can decide whether to place an order using the 'order styles' mentioned below.

Inter-office

Inter-office trading is conducted between members by telephone or by electronic means. On contacting an LME member for a quote, customers will usually be provided with the member's current bid and offer. The customer may trade on this quote, call another member in an attempt to improve the quote, leave a resting order with a member, or wait and monitor prices on the LME market data system. If an order cannot be filled from the member's book, it may be executed via a back-to-back Exchange Contract agreed via a telephone deal with another member or executed via an electronic trading system.

LME Select

LME Select allows members to trade LME futures contracts in metals and plastics, traded options and TAPOs, and an Index future and option. Some brokers offer their customers an order-routing facility via an API where they can view Select prices, execute trades, and place resting orders. All trading on LME Select is in US dollars.

LME Select replaces neither inter-office trading nor trading in the ring. Depending on the time of day, it is possible for members to deal by telephone or electronically in the inter-office, by LME Select, or in the rings. Customers should specify which mechanism their broker should use to effect an order, where they have a preference.

Firm prices of the best bid and offer available on LME Select, the total volumes available at these prices, and the price and volume of each trade transacted are distributed to and displayed in real time by information vendors. Only LME Select prices are displayed, not those of other third party electronic trading systems providing LME prices. Only RDMs and ABCMs are eligible to become LME Select Participants and to have direct access to the system. Customers may effect back-to-back Client Contracts with RDMs and ABCMs based upon prices available on LME Select, whether on the telephone or via electronic order-routing systems.

ORDER STYLES

Ring

Customer orders are not traded in the rings or kerbs, so an order using the term 'in/on/during the ring/kerb' will be executed on the basis of the prices traded/quoted during the particular session. If a customer requires their order to be 'shown' or traded across the ring/kerb then they should make this requirement known to their executor, who may or may not accept this as a term of the order. The equivalent Exchange Contract for a customer order may not replicate its terms. As the customer is **not** a party to any Exchange Contracts i.e. those traded in open outcry between members in the ring/kerb sessions, in specifying ring/kerb, the customer is merely identifying a pricing mechanism. A member which undertakes to match a price traded in the ring/kerb is not necessarily undertaking that it will trade during that ring/kerb, only that it may do so. However, a customer may place an order with the specific request that the member trades an Exchange Contract replicating its order in the ring. In such circumstance the RDM can only trade this order by open outcry in the ring.

If a customer trades at the prevailing market quote proffered in the ring/kerb, their executor is not necessarily obliged to effect an Exchange Contract at the same price. This can lead to situations where the customer has traded at the prevailing market quote, without that same price trading in open outcry across the floor of the Exchange. However, if the instructions from the customer are to achieve a specific price i.e. close of ring 2, then this is the price that should be given, if that specific order is accepted.

Market

In normal circumstances a market order is one executed on a timely basis at the prevailing market price. As mentioned above, at certain times of the business day, trading is taking place simultaneously in the ring or kerb, on LME Select, and in the inter-office market. Traditionally, when open outcry trading is in session, the market is defined by activity within the ring/kerb. At other times, the market is split between inter-office trading and trading on LME Select. During inter-office sessions, indicative quotes are available on the MDS; firm prices are available on LME Select and the LME Select page on information vendors' systems. The indicative prices might not be available to all parties.

Best

Order styles on the LME using the word 'best' confer some discretion upon the members when executing the order, requiring them to use their 'best endeavours' on the customer's behalf. The extent of the discretion is fixed by the terms of the order. This type of order is distinct from 'best execution' as defined by the FSA.

Best orders may be executed both in rings/kerbs, inter-office and on LME Select. Inter-office trades rely upon the members' skill in determining the level of the market at any particular time. Best orders received during ring/kerb times may not result in the customer receiving the 'best' price achieved during the session if the price improves after the member has booked the metal or plastic intended to fill the order. At any given time, the best price on LME Select will be displayed on the system and by the information vendors. Customers should be aware that depending on market conditions, the best price may move during the period from when the order was placed and when it was executed.

Close

Most orders placed 'on the close' are for either the close of the second ring (official LME prices) or the final kerb (closing prices). Both these prices are demonstrable because of the publication of official and closing prices. Closing prices for other sessions are harder to determine, although the LME does publish unofficial prices which are established at the close of the fourth ring. In all circumstances, customers and members need to agree the style of execution i.e. bid/offer, mean or traded price. Members may not always be able to guarantee execution (price or volume) due to prevailing market conditions. A closing price on LME Select is the last price traded before the system closes.

Open

Customers placing orders to trade on the opening of a market session must provide clear instructions to the LME member which indicate how this order should be activated i.e. basis the opening bid/offer or basis the first trade in the session. Customers will also need to inform their executor of their requirements if the executor is unable to fill the order basis the 'opening' price in its entirety, due to market constraints such as insufficient liquidity. Customers may place orders with members for LME Select that can be placed into the system for activation when the market opens.

Resting Orders

When placing resting orders such as 'good 'til cancelled' ('GTC', or any derivations thereof) or stop loss orders, customers should ensure that they are in agreement with their executor's definition of the 'trigger' point of the order. Usually, this is interpreted as being the point when the order price is seen to be trading in the market, but it is possible to request the order be activated when the order level is either bid or offered as appropriate, via the prevailing market quote. Stop loss orders become market orders when a trade, or a bid or an offer triggers the stop, with members then executing the order at the current market price.

It is possible for a customer not to receive a 'fill' on a resting order despite the 'trigger' point being 'touched'. This could be due to a number of circumstances such as order priority, illiquidity, prevailing market conditions etc. Whatever the reason, the executor should be able to provide the customer with a full explanation of why it was unable to fill the order.

Customers should be aware that resting orders might be activated during periods of illiquidity in the market. As previously mentioned, this could result in the trade not being filled, or for 'stop' orders, a worse fill than anticipated ('slippage'). Customers should ensure the executor is fully aware of their requirements regarding the execution of an order, and adheres to any limitations, especially if the customer is not in contact with the market/member when the trigger point is reached.

It is possible for customers to ask members to place resting orders in LME Select. Where the broker has an order routing system into Select, customers will be able to place orders more directly. The system accepts GTC and Good for Day (DAY) orders. DAY orders are automatically deleted from the system at close of trading.

Conclusion

The above order styles do not represent all possible methods of order execution on the LME. Members and customers should ensure that orders are communicated in meaningful terms that deliver the required execution in accordance with LME rules.

For the purposes of this document these categories of members will be referred to as LME members, members or by the appropriate abbreviation

² TAPO traded average price option

³ API Application Protocol Interface

PRIVACY POLICY

Your Privacy Is Important To Us

We are committed to maintaining the confidentiality, integrity, and security of your personal information. When you provide personal information, we believe that you should be aware of our policies to protect the confidentiality of that information. We may collect nonpublic personal information about you from the following sources:

Information That We Collect

- Information we may receive from you on applications or other forms or communications, or from other entities such as commodity exchanges or carrying brokers;
- Information about your transactions with us, our affiliates, or others; and
- Information we may receive from a consumer reporting agency.

Information That We Disclose

We do not disclose any nonpublic personal information about our customers or former customers to anyone except as permitted by law. We may disclose nonpublic personal information to third parties, including, but not limited to, service bureau providers, in connection with the servicing, execution, clearing, and processing of your account and the transactions contained therein.

If you decide to close your account(s) or become an inactive customer, we will adhere to the privacy policies and practices as described in this notice. We restrict access to your personal and account information to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards in accordance with federal standards to guard your nonpublic personal information.

If you have questions about our privacy policy, please contact our compliance department at (312) 356-6000.