
Advisory Notice

TO: Eris Exchange Participant Firms, Clearing Firms, and Brokers

FROM: Eris Exchange Control Center and Market Regulation

ADVISORY: #11-07

DATE: October 26, 2011

SUBJECT: **Eris Exchange Transition from an Exempt Board of Trade (“EBOT”) to a Designated Contract Market (“DCM”)**

Eris Exchange, LLC (“Eris Exchange” or the “Exchange”) anticipates that it will be designated as a contract market (“DCM”) by the Commodity Futures Trading Commission (the “CFTC”) on Friday, October 28, 2011. As a result, the Exchange will begin operating as a DCM on or after Monday, November 7, 2011. The purpose of this Advisory is to provide Participants with an overview of the changes that will take place as a result of the Exchange’s DCM designation and provide a copy of the new Eris Exchange DCM Rulebook.

Background

Eris Exchange is currently operating as an Exempt Board of Trade (“EBOT”) pursuant to Section 5d of the Commodity Exchange Act (the “Act”) and the Regulations thereunder. Pursuant to Section 734(c)(1) of the Dodd-Frank Act, Eris Exchange petitioned the CFTC to permit Eris Exchange to continue to operate pursuant to Section 5d until July 15, 2012 or when Eris Exchange is designated and begins to operate as a DCM. Upon DCM designation, Eris Exchange will operate pursuant to Section 5 of the Act and the Regulations thereunder. As a general matter, DCMs are subject to enhanced regulatory requirements. As a DCM, positions in Eris Exchange futures contracts will move from the Cleared OTC Derivatives Account Class and be held in the traditional futures, Section 4d Account Class.

Operational Considerations

Beginning on or around Saturday November 5th, CME will move existing positions into 4D accounts. Additionally, clearing firms will need to modify account configuration in back-office and bookkeeping systems (e.g., GMI, UBIX, RANsys) to accommodate the change from COTC Customer Sequestered to 4D Customer Segregation status. House accounts remain unaffected.

The DCM Rulebook

Currently, the Eris Exchange EBOT Rulebook contains 58 rules. In contrast, the new Eris Exchange DCM Rulebook will contain 124 Rules and various organizational requirements. In order to minimize the impact associated with the adoption of the new Rulebook, the Exchange incorporated a number of the existing EBOT Rules into the new DCM Rulebook. Notably, upon designation, all Participants who have previously signed Participant agreements with Eris Exchange will not be required to sign new agreements with the Exchange. However,

Participants must familiarize themselves with the new Rulebook as it contains rules relevant and common to DCMs. On November 7, 2011, when Eris Exchange commences operation as a DCM, all Participants will be subject to the new rules.

Below is a non-exclusive list of the similarities and differences between the EBOT and DCM rulebook.

The Exchange EBOT Rulebook has rules similar to the DCM Rulebook as follows:

- Participant's registration with the Exchange is the same with the EBOT as it will be with the DCM (i.e., a Participant Agreement and Exchange User Licensing Agreement must be entered into; a Participant must be an Eligible Contract Participant; a Participant must have an account at a Clearing Firm (i.e., a FCM) and the FCM accepts financial responsibility for the transaction).
- The Exchange EBOT Rulebook uses the same terminology for Participants as the DCM Rulebook (i.e., Participants, Participant Firms, Clearing Firms, Broker Firms, and Authorized Traders).
- The Exchange may conduct inquiries and investigations into the activities of Participants to monitor and enforce compliance with the Rules.
- The Exchange may bring disciplinary actions against Participants. The EBOT rulebook contains provisions regarding hearing procedures, penalties, and conflicts of interest pertaining to disciplinary proceedings.
- The Contract Specification for the EBOT and DCM are the same.
- The Settlement Price is determined in the same manner for the EBOT as the DCM.
- The Exchange, through the Board, can take emergency actions.
- Participants are required to maintain records in compliance with CFTC regulations and such records must be kept for a period of 5 years.
- The EBOT Rulebook has rules related to position limits, position accountability, block trades, and exchange of derivatives for related positions.
- The EBOT Rulebook has rules on prohibited conduct (i.e., fraud, manipulation, non-competitive trades, wash trades, conduct likely to damage the fairness or integrity of the Exchange; misuse of the Exchange).
- The EBOT Rulebook contains liability provisions for supervision of authorized traders.
- The EBOT Rulebook contains provisions related to restrictions on material, non-public information.

The Exchange DCM Rulebook is different from the EBOT Rulebook in the following ways:

- The DCM Rulebook incorporates a rule on error trades and cancellations. In contrast, under the EBOT Rulebook, such rules appear in the Exchange Error Trade Policy.
- The DCM Rulebook provides rules related to Exchange Ownership and Governance, including Board composition, a Nominating Committee, an Exchange Participant Committee, a Regulatory Oversight Committee, and an Exchange Practices Committee.
- The DCM Rulebook provides rules related to the Technology Services Provider and the Regulatory Services Provider.
- The DCM Rulebook contains additional rules on Trading Practices and Business Conduct, such as handling customer orders (see e.g., Rule 516 (Errors and Omissions in Handling Orders); Rule 518 (Withholding Orders Prohibited); Rule 519 (Priority of Customers' Orders); Rule 520 (Handling of Customer Orders); Rule 521 (Disclosing

Orders Prohibited); Rule 526 (Responsibility for Customer Orders); Rule 527 (Discretionary Orders); Rule 528 (Priority of Execution); Rule 529 (Average Price System); Rule 537 (The Eris Exchange Control Center); and, Rule 538 (The Eris Trading System Algorithms).

- The DCM Rulebook contains rules related to arbitration (Chapter 8).
- The DCM Rulebook contains rules related to gifts and gratuities (Rule 1002).

The Table of Contents is set forth below and the Rulebook is attached with this Advisory:

CHAPTER 1: DEFINITIONS

RULE 101. DEFINITIONS

CHAPTER 2: EXCHANGE OWNERSHIP AND GOVERNANCE

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RULE 202. Board
RULE 203. Officers
RULE 204. Qualifications of Directors, Disciplinary Panel Members, Appeal Panel Members, Committee Members, Owners and Officers
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RULE 206. Nominating Committee
RULE 207. Exchange Participant Committee
RULE 208. Regulatory Oversight Committee
RULE 209. Chief Regulatory Officer
RULE 210. Exchange Practices Committee
RULE 211. Additional Board Committees and Exchange Panels
RULE 212. Emergency Rules
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RULE 214. Maintenance of Books and Records by the Exchange
RULE 215. Information-Sharing Agreements
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RULE 302. Participant Firm Application Process
RULE 303. Trading Privileges of a Participant Firm, Clearing Firm, Broker Firm
RULE 304. Limitations on Access to the Eris Trading System
RULE 305. Dues, Assessments and Fees
RULE 306. Authorized Traders and Authorized Brokers
RULE 307. Authorized Representatives
RULE 308. Recording of Communications
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RULE 311. Application of Rules and Jurisdiction
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- RULE 528. Priority of Execution
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- RULE 530. Position Limits And Exemptions
- RULE 531. Position Accountability
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- RULE 535. Identification of Authorized Traders and Authorized Brokers
- RULE 536. LIMITATION OF LIABILITY, NO WARRANTIES
- RULE 537. The Eris Exchange Control Center
- RULE 538. The Eris Trading System Algorithms
- RULE 539. Trade Cancellations and Price Adjustments

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- RULE 704. Opportunity to Respond
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- RULE 1005. Effect of Amendment, Repeal or New Rule
- RULE 1006. Governing Law, Jurisdiction and Dispute Resolution

CHAPTER 11: CONTRACT SPECIFICATIONS

If you have any questions regarding this Exchange notice, please contact Eris Control Center at 888-587-2699, Option 1, ErisControlCenter@erisfutures.com.

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