

## **DELIVERY FINANCING CUSTOMER RISK DISCLOSURE STATEMENT**

### **Background**

E D & F Man Capital Markets Inc. (“Exchange Clearing Member,” also referred to as “we,” “us” or “our”) is a member of the Chicago Board of Trade (“CBOT”), the New York Mercantile Exchange (“NYMEX”) (including the COMEX division) and a clearing member of the Chicago Mercantile Exchange (“CME”) authorized to clear futures and options on futures contracts (“futures”) traded on the CBOT, NYMEX and COMEX through the CME Clearing House Division. The CME, through its Clearing House Division, also serves as the central depository for its clearing members for holding via book entry documents of title in the form of: (i) warrants for metals, such as copper, platinum, palladium, gold and silver, that are deliverable under certain physical-delivery futures contracts on such commodities which are listed on the NYMEX or COMEX (the “Warrants”); and (ii) receipts for grains, such as corn, oats, soybean, and wheat, each of which that are deliverable under certain physical-delivery futures contracts on such commodities which are listed on the CBOT (the “Receipts”). We have one or more position accounts at the CME, maintained by the CME in its capacity as the central depository for the Receipts and Warrants, including customer position accounts in which we carry Receipts and Warrants of our futures customers (each, a “Position Account”). (The Position Account is not a segregated account within the meaning of the Commodity Exchange Act or regulations of the Commodity Futures Trading Commission (“CFTC”).

### **Disclosure**

You, as our futures customer, are entering into a short-term financing arrangement with us whereby we will loan you the funds to acquire Receipts and/or Warrants under your expiring long grains and/or metals futures contracts, under terms whereby you will repay us on or before the last date on which such Receipts and/or Warrants may be delivered under the delivery period for the next listed expiration month for the relevant grains and/or metals futures contracts (“Customer Financing Arrangement”).

You should be aware that we have entered into a contractual arrangement with BMO Harris Bank, N.A. (“Bank”) (the “Bank Financing Arrangement”) under which the Bank will provide financing to us that enables us, in turn, to provide short term delivery financing to our futures customers, including you.

Under the terms of the Bank Financing Arrangement, when we borrow funds from the Bank to provide financing to you or other futures customers to acquire Receipts and/or Warrants, we grant the Bank a security interest in the Receipts and/or Warrants that are acquired. In addition, the Bank, Exchange Clearing Member and CME have entered into a Pledged Receipts Custodial Agreement under which the CME will hold the Receipts and/or Warrants that are pledged in “lien status” in the Position Account. The purpose of that agreement is to perfect the Bank’s security interest in all customer Receipts and/or Warrants that we pledge in connection with the Bank Financing Arrangement, by giving the Bank “control” over such Receipts and/or Warrants within the meaning of Sections 7-106 and 9-106(b) of the Illinois Uniform Commercial Code.

When we pledge your Receipt(s) and/or Warrant(s) to the Bank, the Receipt(s) and/or Warrant(s) may become part of a pool of pledged customer Receipts and/or Warrants over which the Bank has a security interest. You should be aware that the Bank has rights under the Bank Financing Arrangement

to sell pledged Receipts and/or Warrants and apply the proceeds of such sale, or to apply the proceeds realized from the retender of pledged Receipts and/or Warrants in the normal course, to meet any of our obligations to the Bank under the Bank Financing Arrangement, including obligations to pay interest, costs and certain expenses generally related to our borrowings under that arrangement (including potentially indemnification costs and expenses). Thus, it is possible that the Bank could assert its rights under its security interest with respect to your Receipt(s) and/or Warrant(s) for matters unrelated to whether you repay the loan we provide you under the Customer Financing Arrangement. Depending upon the circumstances, the Bank's exercise of its rights could impede or prevent retender of your Receipt(s) and/or Warrant(s) under an expiring short futures position, or adversely affect our ability to pay in full any financial obligations we owe you relating to your delivery account with us (as may be adjusted to reflect the financing of your acquisition of the Receipt(s) and/or Warrant(s)).

**You hereby acknowledge and agree that, in the event of the Bank's sale of your pledged Receipt(s) and/or Warrant(s), the Exchange Clearing Member will reflect the sale of the Receipt(s) and/or Warrant(s) on your customer account statement using the sale price realized by the Bank and, further, in the event of the bankruptcy of the Exchange Clearing Member under Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code (11 U.S.C. §§ 101 et seq.), and the Part 190 Regulations of the CFTC (17 C.F.R. §§ 190.01 et seq.), such sale price may be used as the basis for determining the amount of your customer claim as a member of the "delivery account class" (within the meaning of the Part 190 Regulations).**

In addition, you acknowledge that, in the event of the bankruptcy of the Exchange Clearing Member under Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code and the Part 190 Regulations of the CFTC, as a customer, you and the liquidation and/or distribution of proceeds related to your pledged Receipt(s) and/or Warrant(s) may be subject to the rules applicable to members of the "delivery account class" and, with respect to the pledged Receipt(s) and/or Warrant(s), may not be subject to the rules applicable to liquidation and/or distribution of proceeds of a customer futures segregated account.

You should consult with your legal counsel or other advisor to assist you in evaluating the advantages and disadvantages of entering into the Customer Financing Arrangement, including the potential risks you could incur.

**Customer hereby acknowledges that it has read and understands this Delivery Financing Customer Risk Disclosure Statement.**

**Customer Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name / Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_