

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 16-100 (5 of 5)

Organization: Commodity Exchange, Inc. ("COMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 3/9/2016 Filing Description: Amendments to Rule 806 ("Offset Process") and Rule 854 ("Concurrent Long and Short Positions")

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers: 806 and 854

**New Product**

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Official Product Name:

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected:

Rule Numbers:

March 9, 2016

**VIA ELECTRONIC PORTAL**

Mr. Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: CFTC Regulation 40.6(a) Certification. Amendments to CME, CBOT, NYMEX, and COMEX Rules 806 (“Offset Process”) and 854 (“Concurrent Long and Short Positions”).  
COMEX Submission No. 16-100 (5 of 5)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), Chicago Mercantile Exchange Inc. (“CME”), The Board of Trade of the City of Chicago, Inc. (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”), and Commodity Exchange, Inc. (“COMEX”) (collectively, the “Exchanges”) hereby notify the Commodity Futures Trading Commission (“CFTC” or “Commission”) that they are self-certifying amendments to CME/CBOT/NYMEX/COMEX Rules 806 (“Offset Process”) and 854 (“Concurrent Long and Short Positions”), effective on Thursday, March 24, 2016. The purpose of the amendments is to clarify that it is impermissible to re-open a position that has been closed out at CME Clearing other than through permissible trading activity.

In March of 2014, a provision was added to Rule 854.C. prohibiting a concurrent long and short position that was offset at CME Clearing from being re-opened at the Exchange as an open position<sup>1</sup>. The prohibition was intended to be applicable to all products, as once an open position has been offset and the corresponding change has been made to open interest, the Exchanges and the CME Clearing House do not permit parties to “gross up” those positions, effectively reestablishing them as open positions at the CME Clearing House.

The prohibition contained in Rule 854.C. is misplaced in that it technically applies solely to physically-delivered contracts due to a reference to Section B. of Rule 854 within Section C. The prohibition is product-agnostic, and in order to remedy the matter, the Exchanges are moving the “gross up” restriction to Rule 806 as a more appropriate location, in addition to modifying Rule 854 to eliminate the reference to Section B. and incorporating a cross reference to revised Rule 806.

The Exchanges reviewed the designated contract market core principles (“DCM Core Principles”) and the derivatives clearing organization core principles (“DCO Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the rule amendments may have some bearing on the following principles:

- DCM Core Principle 7 – Availability of General Information. The Exchanges will issue a Special Executive Report (“SER”) to the marketplace regarding the amendments in advance of the effective date. The SER will also be publicly available on the CME Group website.

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<sup>1</sup> See Submission 14-028R from February 21, 2014. <http://www.cmegroup.com/market-regulation/files/14-028R.pdf>

- DCO Core Principle L – Public Information. The amendments will be added to the publicly available CME Rulebook available on the CME Group website. In addition, the Exchange will release an SER to the marketplace regarding the amendments in advance of the effective date.

The amendments to CME/CBOT/NYMEX/COMEX Rules 806 and 854 appear in Exhibit A, with additions underscored and deletions overstruck.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges certify that the amendments to Rules 806 and 854 comply with the Act and regulations thereunder. There were no substantive opposing views to this proposal.

The Exchanges certify that this submission has been concurrently posted on the Exchanges' website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please contact me at 212.299.2200 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A: Amendments to CME/CBOT/NYMEX/COMEX Rules 806 and 854

## EXHIBIT A

### CME/CBOT/NYMEX/COMEX Rulebook

#### Chapter 8 Clearing House and Performance Bonds

(additions underscored; deletions ~~everstruck~~)

##### **806. OFFSET PROCESS**

When a member buys and sells the same commodity for the same delivery month or a put or call option with the same strike price and expiration month and such contracts are cleared through the Clearing House, the purchases and sales are not automatically offset one against the other. Transactions can only be offset against one another by complying with Rule 811, and, once offset (closed-out), may not subsequently be re-opened at the Exchange.

##### **854. CONCURRENT LONG AND SHORT POSITIONS**

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

A. Concurrent long and short positions in the same commodity and month may be held by a clearing member at the direction of a customer or on behalf of an omnibus account; however it shall be the duty of the clearing member to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the Clearing House.

B. Concurrent long and short positions in physically delivered contracts subject to spot month position limits that are held by the same owner during the time that spot month position limits are in effect must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be offset via netting, transfer or position adjustment to correct a bona fide clerical or operational error on the day the error is identified and the quantity of the offset does not represent more than two percent of the reported open interest in the affected futures contract month.

Permissible Exceptions

Notwithstanding the foregoing:

1. Trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date;
2. An account that becomes concurrently long and short as a result of a futures position that results from an option assignment will be allowed one business day to net such positions; or,
3. Where the Chief Regulatory Officer or his designee determines, in their respective sole discretion, that permitting an offset via netting, transfer or position adjustment in excess of two percent of the reported open interest will not adversely impact either the affected market or any persons holding open positions in the affected market.

C. Clearing members which, pursuant to this rule, carry concurrent long and short positions, must report to the Exchange both sides as open positions. When either side or both sides are reduced ~~in accordance with Section B of this rule~~, the open positions as reported to the Exchange must be reduced accordingly, and, pursuant to Rule 806, Once such positions have been reduced, those positions may not subsequently be re-~~opened~~established as concurrent long and short positions at the Exchange.

D. The Exchange takes no position regarding the internal bookkeeping procedures of its clearing members which, for the convenience of a customer, may "hold open" a position only on their books. However, the clearing member must accurately report to the Exchange and the Clearing House, as appropriate, large trader positions, long positions eligible for delivery and open interest.

E. Violations of this Rule may result in summary sanctions in accordance with the provisions of Rule 512 or the matter may be referred to the Probable Cause Committee for the consideration of charges.