SUBMISSION COVER SHEET

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

Registered Entity Identifier Code (optional): <u>16-121 (1of 4)</u>

Organization: <u>Chicago Mercantile Exchange Inc. ("CME")</u>

Filing as a: ☒ **DCM** ☐ **SEF** ☐ **DCO** ☐ **SDR**

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): <u>3/18/2016</u> Filing Description: <u>Amendments to Rule 559.E. ("Limited Exceptions to Aggregation for Independently Controlled Accounts") and Issuance of Market Regulation Advisory Notice RA1603-5</u>

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: <u>559.E.</u>

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:

Christopher Bowen
Managing Director and Chief Regulatory Counsel
Legal Department

March 18, 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/COMEX Rule 559.E. ("Limited Exceptions to Aggregation for Independently Controlled Accounts").
CME Submission No. 16-121 (1 of 4)

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 Rule 559.E. ("Limited Exceptions to Aggregation for Independently Controlled Accounts") and the issuance of Market Regulation Advisory Notice RA1603-5 ("RA1603-5"), effective Monday, April 4, 2016.

The amendments are being adopted to provide certain exceptions from aggregation which are recognized in the CFTC's Supplemental Notice of Proposed Rulemaking on position limits, published September 29, 2015 (the "CFTC Proposed Rules"). These exceptions address circumstances where there is common ownership but independent control that is designed to preclude an account controller from gaining access to information about another account controller's trades.

In carrying out the position limit and accountability component of its market surveillance program, the Exchanges identified that certain market participants have requested not to have their positions aggregated, as it would result in the transfer of information about each other's positions and hedge exemptions. The transfer of this information, in some cases, would constitute a violation of regulations applicable to those participants. The amendments to Rule 559.E. will allow firms in this situation to report positions, and apply for hedge exemptions, separately and without aggregating positions, provided that the participants: (1) do not have knowledge of the other's trading decisions; (2) trade separately developed and independent trading strategies; and (3) have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Additionally, aggregation exceptions will be granted only after a review and approval of the entities' controls and consideration of all relevant information by the Exchange. The aggregation exception will not be available to any Exchange contracts that are subject to Federal position limits.

The Exchange has long been an advocate of aggregation relief where there is common ownership but complete independence of control over the trading decisions of an owned entity and no sharing of information regarding those decisions and the resulting positions. As the Commission noted in the CFTC

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Proposed Rules, aggregation of positions held by owned entities in some cases is “impractical, burdensome or not in keeping with modern corporate structures.” The exception to position aggregation contained in the amendments to Rule 559.E. generally tracks the CFTC Proposed Rules except for the proposed requirement that separate risk management systems be utilized. As noted in the Exchange’s comment letter, as well as comment letters of many others entities, filed in response to the CFTC Proposed Rules, the Exchanges do not believe it is practical or necessary to require firms in these circumstances to operate separate risk management systems that preclude even compliance and risk personnel from having access to the trades of an owned entity. Such a standard would significantly undermine the likelihood that the affected market participants would be able to take advantage of the exception provided in the amendments. As a general matter, we do not believe that the personnel charged with monitoring group financial risk are also engaged in trading the accounts whose risk they are tasked to assess. In such case, concerns about improper information sharing seems misplaced, and personnel with compliance or risk functions should be encouraged to access information across owned entities to ensure their responsibilities can be fulfilled effectively.

In relation to the amendments described above, the Exchanges will issue an updated Position Limits and Accountability Levels Market Regulation Advisory Notice, RA1603-5. This notice will include the updated text of Rule 559.E.

The Exchanges reviewed the designated contract market core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the amendments and issuance of RA1603-5 may have some bearing on the following Core Principles:

> Position Limitations or Accountability: As required by this Core Principle, the Exchanges have adopted for each contract, as necessary and appropriate, position limits and position accountability levels. The amendments to Rule 559.E. allow for certain exceptions to the aggregation of positions for position limits and accountability purposes. The Exchanges have not adopted any changes to existing levels in connection with this submission.
>
> Availability of General Information: As required by this Core Principle, the Exchanges are publicly issuing RA1603-5 to ensure that market participants have updated guidance and information attendant Rule 559 (“Position Limits and Exemptions”). RA1603-5 will also be available on the CME Group website.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges certify that the amendments to Rule 559.E. and the issuance of RA1603-5 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 the undersigned at 212.299.2200 or via email at CMEGSubmissionsInquiry@cmegroup.com.

Sincerely,

/s/ Christopher Bowen
Managing Director and Chief Regulatory Counsel

Attachments: Exhibit A: Amendments to CME/CBOT/NYMEX/COMEX Rule 559.E. (blackline format)
Exhibit B: Market Regulation Advisory Notice RA1603-5

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EXHIBIT A

CME

Chapter 5
Trading Qualifications and Practices
(Additions are underscored; Deletions are ~~struckthrough~~.)

559.E. Limited Exceptions to Aggregation for Independently Controlled Positions

Exceptions to aggregation of products with position limits established in accordance with CFTC Regulation 150.2 must comply with CFTC Regulation 150.3.

For all other products, ~~P~~positions carried ~~for an eligible entity as defined in CFTC Regulation §150.1(d)~~ in the separate account(s) ~~or accounts~~ of independent account controllers ~~as defined in CFTC Regulation §150.1(e)~~ shall not be aggregated for position limit purposes provided that the entities:~~positions are not held in the spot month during such time that a spot month position limit is applicable. If an independent account controller is affiliated with the eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements set forth in CFTC Regulation §150.3(a)(4)(i)(A-D).~~

1. Do not have knowledge of one another's trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Positions held by futures commission merchants or their separately organized affiliates in customer discretionary accounts or in guided account programs shall not be aggregated for position limit purposes provided that the accounts are controlled by independent traders and meet the standards set forth in CFTC Regulation §150.4(d).

Any person claiming an exemption from position limits under this Section must, upon request by the Market Regulation Department, provide any information deemed necessary to support the exemption.

CBOT

Chapter 5
Trading Qualifications and Practices
(Additions are underscored; Deletions are ~~struckthrough~~.)

559.E. Limited Exceptions to Aggregation for Independently Controlled Positions

Exceptions to aggregation of products with position limits established in accordance with CFTC Regulation 150.2 must comply with CFTC Regulation 150.3.

For all other products, ~~P~~positions carried ~~for an eligible entity as defined in CFTC Regulation §150.1(d)~~ in ~~the~~ separate account(s) ~~or accounts~~ of independent account controllers ~~as defined in CFTC Regulation §150.1(e)~~ shall not be aggregated for position limit purposes provided that the entities:~~positions are not held in the spot month during such time that a spot month position limit is applicable, or if the positions are Treasury futures positions. If an independent account controller is affiliated with the eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements set forth in CFTC Regulation §150.3(a)(4)(i)(A-D).~~

~~Treasury futures positions carried in independently controlled accounts owned by different legal entities, irrespective of whether the entities qualify as eligible entities, shall not be aggregated for position limit purposes provided that affiliated legal entities must comply with the requirements set forth in CFTC Regulation §150.3(a)(4)(i)(A-D).~~

1. Do not have knowledge of one another's trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Positions held by futures commission merchants or their separately organized affiliates in customer discretionary accounts or in guided account programs shall not be aggregated for position limit purposes provided that the accounts are controlled by independent traders and meet the standards set forth in CFTC Regulation §150.4(d).

Any person claiming an exemption from position limits under this Section must, upon request by the Market Regulation Department, provide any information deemed necessary to support the exemption.

NYMEX/COMEX
Chapter 5
Trading Qualifications and Practices
(Additions are underscored; Deletions are ~~struckthrough~~.)

559.E. Limited Exceptions to Aggregation for Independently Controlled Positions

Exceptions to aggregation of products with position limits established in accordance with CFTC Regulation 150.2 must comply with CFTC Regulation 150.3.

For all other products, ~~P~~positions carried ~~for an eligible entity as defined in CFTC Regulation §150.1(d)~~ in the separate account(s) ~~or accounts~~ of independent account controllers ~~as defined in CFTC Regulation §150.1(e)~~ shall not be aggregated for position limit purposes provided that the entities:~~. If an independent account controller is affiliated with the eligible entity or another independent account controller, each of the affiliated entities must comply with the requirements set forth in CFTC Regulation §150.3(a)(4)(i)(A-D).~~

1. Do not have knowledge of one another's trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Positions held by futures commission merchants or their separately organized affiliates in customer discretionary accounts or in guided account programs shall not be aggregated for position limit purposes provided that the accounts are controlled by independent traders and meet the standards set forth in CFTC Regulation §150.4(d).

Any person claiming an exemption from position limits under this Section must, upon request by the Market Regulation Department, provide any information deemed necessary to support the exemption.

EXHIBIT B

MARKET REGULATION ADVISORY NOTICE

Exchange	**CME, CBOT, NYMEX & COMEX**
Subject	**Position Limits and Accountability Levels**
Rule References	**Rules 559, 560, and 562**
Advisory Date	**March 21, 2016**
Advisory Number	**CME Group RA1603-5**
Effective Date	**April 4, 2016**

Effective on trade date April 4, 2016, and pending all relevant CFTC regulatory review periods, this Advisory Notice supersedes Market Regulation Advisory Notice RA1518-5R from November 13, 2015. It is being issued as a result of changes to the limited exceptions to aggregation for independently controlled accounts pursuant to each Exchange's Rule 559.E. ("Limited Exceptions to Aggregation for Independently Controlled Accounts"). The amended text of Rule 559.E. can be found at the end of this Advisory. Additionally, Q&A #8 provides updated guidance in relation to aggregation exceptions.

The changes to Rule 559.E. include the following:

For products not subject to federal position limits, positions carried in separate account(s) of independent account controllers, subject to approval by the Exchange, shall not be aggregated for position limit purposes provided that the entities:

1. Do not have knowledge of one another's trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Questions regarding this Advisory Notice may be directed to the following individuals in Market Regulation:

For NYMEX and COMEX Products

Tom Dixon, Supervisor, 212.299.2901

Ryne Toscano, Director, 212.299.2879

Nadine Brown, Manager, 212.229.2223

For CME and CBOT Products

Jim Sullivan, Specialist, 312.341.7028

Michael Joubert, Specialist, 312.341.7741

Sandra Valtierra, Manager, 312.347.4137

Chris Reinhardt, Sr Director, 312.435.3665

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or news@cmegroup.com.

<u>FAQ Related to Position Limits, Position Accountability and Reportable Levels</u>

Q1: What is the difference between Position Limits, Accountability and Reportable Levels?

A1: **Position Limits** are levels which a market participant may **<u>not</u>** exceed unless they have an approved exemption. Any positions in excess of these limits would be considered a rule violation pursuant to Rule 562.

Position Limits are calculated on a net futures-equivalent basis by contract, and include contracts that aggregate into one or more base contracts as set forth in the Table.

Position Accountability Levels are levels which a market participant may exceed and not be in violation of an Exchange Rule. A market participant who exceeds an accountability (or reportable) level may be asked by the Market Regulation Department (the "Department") to provide information relating to the position, including, but not limited to, the nature and size of the position, the trading strategy employed with respect to the position, and hedging information, if applicable. Failure to supply the requested information may result in an order to reduce such positions, in addition to disciplinary action as a result of the failure.

Additionally, any market participant who has a position in excess of an accountability level is deemed to have consented, when so ordered by the Department to:

- not further increase the positions;
- comply with any limit on the size of the position; and/or
- reduce any open position which exceeds a position accountability level.

Generally, these actions would be taken only after having been contacted by the Department regarding the open positions.

The Department calculates positions using three separate methods for purposes of its position accountability reviews. Any position that exceeds an accountability level based on any of the three methods is considered by the Department to be in excess of the accountability level. The three methods are as follows:

1. Spot Month/Single Month/All Month Accountability Levels are calculated on a net futures-equivalent basis by contract, and include contracts that aggregate into one or more base contracts as set forth in the Table.

2. Spot Month/Single Month/All Month Accountability Levels are calculated on a net futures-only basis.

3. Spot Month/Single Month/All Month Accountability Levels for options are calculated per option quadrant (long call, long put, short call, short put) on a gross basis.

Reportable Levels are levels at which clearing members, omnibus accounts and foreign brokers are required to submit to the Exchange a daily report of all positions as set forth in the Table. Positions at or above the reportable level in a particular expiration month of a futures contract, or in all puts or in all calls of a particular option contract expiration month, trigger the reportable status. A person who is reportable in a particular product must report **<u>all open positions</u>** in all futures and in all open puts or calls on such futures in the product and in any product that aggregates into the product, **<u>regardless of size</u>**.

Market participants should be aware that not all products have position limits or position accountability levels. Position limits, position accountability levels and reportable levels are listed in each Exchange's Table and may be accessed via the following link:

http://www.cmegroup.com/market-regulation/position-limits.html

Q2: What is the difference between Spot-Month, Second Spot-Month, Single Month and All Month for purposes of position limits and position accountability levels, and when do they go into effect?

A2: **Spot-Month** generally goes into effect as a particular contract month becomes the closest contract month to expiration or as a contract nears expiration. The dates vary by contract and market participants should reference the Table to identify when the spot month limits go into effect. For example, NYMEX Light Sweet Crude Oil futures has a spot month limit of 3,000 net futures equivalent contracts that becomes effective at the close of trading three business days prior to the last trading day of the contract month.

Second Spot-Month limits are lower than spot month limits and go into effect after the initial spot-month limit, as the contract month nears expiration. For example, in CME Live Cattle futures the spot month limit is reduced from 450 net futures equivalent contracts effective at the close of trading on the first business day following the first Friday of the contract month to 300 net futures equivalent contracts effective at the close of trading on the business day immediately preceding the last 5 trading days of the contract month.

Single Month is defined as the position held in any given contract month outside of the spot period effective date. For example, a CBOT December 2016 Corn futures contract has a single month limit of 33,000 net futures equivalent contracts prior to the spot-month effective date.

All Month is defined as the net open position held across all contract months of a particular product and is effective at all times. For example, the CME S&P 500 Stock Price Index futures all month limit is 28,000 net futures equivalent contracts. If a market participant is long 15,000 September 2015 contracts, long 15,000 December 2015 contracts and short 1,000 March 2016 contracts, the all month position is long 29,000 net futures equivalent contracts. They would be over the all month limit by 1,000 contracts.

The Department publishes a monthly notice of spot month effective dates for core products. The notice is posted on the CME Group website and is also available via an email subscription.

Website: Select Category – Market Regulation & Market Surveillance

http://www.cmegroup.com/tools-information/advisorySearch.html#category=SER&cat=advisorynotices:Advisory+Notices

Email: Select Market Regulation Advisories – Market Surveillance Notices

http://pages.cmegroup.com/subscription-center-sign-up.html

Q3: Are there limits for holding delivery instruments?

A3: Yes, for the CBOT products specified below. Where applicable, the limits on holdings of registered and outstanding shipping certificates/warehouse receipts are located in the applicable product chapter in the pertinent Exchange Rulebook.

No person shall own or control more than the below amount of registered and outstanding shipping certificates/warehouse receipts issued by facilities designated by the Exchange as regular to issue shipping certificates unless they have received a hedge exemption from the Exchange. This includes any mini-sized certificates (in futures equivalent contracts).

Corn	600
Soybean	600

Soybean Oil	540
Soybean Meal	720
Wheat	600
Oat	600
Rough Rice	600

Q4: Do deliveries impact the futures position in the spot month for purposes of compliance with spot month position limits?

A4: For Platinum, Palladium, Copper, Silver, Gold, E-micro Gold, KC Hard Red Winter Wheat and Mini-Sized KC HRW Wheat, the spot month position limit is comprised of futures and deliveries. For example if a market participant takes delivery (stops) 50 contracts in the beginning of the month and later in the month adds 100 long spot month futures their spot month position is 150 long for position limit purposes.

Q5: How does aggregation of contracts work?

A5: The aggregation of contracts for single month, all month and spot-month are noted in each Table.

Using the Spot-Month as an example, for a contract that aggregates into only one base contract during the spot-month, the base contract will be identified in the "Spot-Month Aggregate Into Futures Equivalent Leg (1)" column of the Table and will denote a positive correlation with the base contract. The aggregation ratio for the Leg (1) base contract will be identified in the "Aggregate Into Ratio Leg (1)" column of the Table.

For contracts that aggregate into two separate base contracts during the spot month, the base contract noted in the "Spot-Month Aggregate Into Futures Equivalent Leg (1)" column of the Table will denote a positive correlation, and the aggregation ratio for the Leg (1) base contract will be identified in the "Aggregate Into Ratio Leg (1)" column of the Table. The base contract noted in the "Spot-Month Aggregate Into Futures Equivalent Leg (2)" column of the Table will denote a negative correlation with respect to the base contract, and the aggregation ratio for the Leg (2) base contract will be identified in the "Aggregate Into Ratio Leg (2)" column of the Table**.**

While mini-sized futures contracts in CBOT Corn, Soybean, Wheat and KC HRW Wheat aggregate into the respective full-sized contracts, for position limit purposes, full-sized and mini-sized contracts in CBOT Corn, Soybean, Wheat, and KC HRW Wheat may **not** be netted. For example, a long open CBOT Corn position of 610 contracts may not be reduced by a short open CBOT Mini-Sized Corn position of 10 full-sized equivalent contracts for purposes of calculating compliance with the CBOT Corn futures position limit. However, a long open CBOT Corn position of 510 contracts will be aggregated with a long open CBOT Mini-Sized Corn position of 100 full-sized equivalent contracts, resulting in an aggregate open long position of 610 contracts.

Notwithstanding the foregoing, the offsetting of different sized futures positions is available in certain futures contracts. Pursuant to each Exchange's Rule 855, market participants may **offset and liquidate** certain long mini-sized futures positions against short full-sized futures positions or short mini-sized futures positions against long full-sized futures positions that are held in the same account. *See the applicable version of Rule 855 for specific eligible contracts and ratios.*

Q6: How are options on futures counted for purposes of position limits?

A6: Option positions are aggregated into the underlining futures contracts in accordance with the Table on a delta equivalent value.

If a position exceeds position limits as a result of an option assignment, the person who owns or controls such position shall be allowed one business day to liquidate the excess position without being considered in violation of the limits. Additionally, if, at the close of trading, a position that includes options exceeds position limits when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation.

Q7: What does a diminishing balance contract mean and how do you calculate its futures equivalence?

A7: Diminishing balance contracts are specific futures contracts whose front month position in any given contract month diminishes as the contract month progresses towards expiration/month end for purposes of position limits. Typically, a contract diminishes each day a portion of the final settlement price is established. The number of business days can vary and, in calculating a diminishing balance, market participants should take into account holidays and business calendars, including international holiday calendars (where applicable) associated with the contract.

Diminishing balance contracts are typically those where the final settlement price is equal to the arithmetic average of a determined referenced price for each business day that it is determined during the contract month; or the balance of the month average of a determined referenced price for each business day that it is determined during the contract month, starting from the selected start date through the end of the contract month, inclusive.

Diminishing balance contracts are identified as such in the Table.

The below are examples of diminishing balance contracts and their futures equivalent value.

Example 1: Chicago CBOB Gasoline (Platts) Futures (commodity code "2C")

Customer holds 6,600 October 2015 "2C" contracts going into October 2015 and does not add or liquidate any positions during the month.

	Futures Position	Futures Equivalent Position
Start of Day Position	2C October 2015 Contract	2C October 2015 Contract
10/1/2015	6,600	6,600
10/2/2015	6,600	6,300
10/5/2015	6,600	6,000
10/6/2015	6,600	5,700
10/7/2015	6,600	5,400
10/8/2015	6,600	5,100
10/9/2015	6,600	4,800
10/12/2015	6,600	4,500
10/13/2015	6,600	4,200
10/14/2015	6,600	3,900
10/15/2015	6,600	3,600
10/16/2015	6,600	3,300
10/19/2015	6,600	3,000
10/20/2015	6,600	2,700
10/21/2015	6,600	2,400
10/22/2015	6,600	2,100
10/23/2015	6,600	1,800

10/26/2015	6,600	1,500
10/27/2015	6,600	1,200
10/28/2015	6,600	900
10/29/2015	6,600	600
10/30/2015	6,600	300

Example 2: WTI Financial Futures (commodity code "CS")

“CS” aggregates into Crude Oil Last Day Financial Futures (commodity code "26")

Customer holds 110 October 2015 "CS" contracts going into October 2015 and does not add or liquidate any positions during the month. Below are their futures equivalent positions in the November and December 2015 "26" contracts.

“CS" position would be added to any other "26" contracts

	Futures Position	Futures Equivalent Position	
Start of Day Position	CS October 2015 Contract	26 November 2015 Contract	26 December 2015 Contract
10/1/2015	110	70	40
10/2/2015	110	65	40
10/5/2015	110	60	40
10/6/2015	110	55	40
10/7/2015	110	50	40
10/8/2015	110	45	40
10/9/2015	110	40	40
10/12/2015	110	35	40
10/13/2015	110	30	40
10/14/2015	110	25	40
10/15/2015	110	20	40
10/16/2015	110	15	40
10/19/2015	110	10	40
10/20/2015*	110	5	40
10/21/2015	110	0	40
10/22/2015	110	0	35
10/23/2015	110	0	30
10/26/2015	110	0	25
10/27/2015	110	0	20
10/28/2015	110	0	15
10/29/2015	110	0	10
10/30/2015	110	0	5

*Please note that 10/20/2015 is the last trading day for the November 2015 “26” contract

Example 3: RBOB Gasoline BALMO Futures (commodity code “1D”)

“1D” aggregates into RBOB Gasoline Last Day Financial Futures (commodity code “27”)

Customer holds 100 October 19th 2015 "1D" contracts and does not add or liquidate any positions during the month. Below are their futures equivalent positions in the November 2015 "27" contract.

"1D" position would be added to any other "27" contracts

	Futures Positions	Futures Equivalent Positions
Start of Day Position	1D October 19, 2015 Contract	27 November 2015 Contract
10/19/2015	100	100
10/20/2015	100	90
10/21/2015	100	80
10/22/2015	100	70
10/23/2015	100	60
10/26/2015	100	50
10/27/2015	100	40
10/28/2015	100	30
10/29/2015	100	20
10/30/2015	100	10

Q8: How does aggregation of accounts work with respect to position limits and position accountability levels?

A8: Aggregation of positions is based on ownership and control. All positions in accounts for which a person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading shall be included with the positions held by such person. Additionally, positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by a single person.

Any person holding positions in more than one account, or holding accounts or positions in which the person by power of attorney or otherwise directly or indirectly has a 10% or greater ownership or equity interest, must aggregate all such accounts or positions unless such person is a limited partner, shareholder, member of a limited liability company, beneficiary of a trust or similar type of pool participant in a commodity pool. The foregoing exception for pool participants shall not apply if the person is a commodity pool operator, controls the commodity pool’s trading decisions, or has an ownership or equity interest of 25% or more in a commodity pool whose operator is exempt from registration with the CFTC.

There are limited exceptions to aggregation for independently controlled positions under each Exchange’s Rule 559.E. For products not subject to federal limits, positions carried in separate account(s) of independent account controllers shall not be aggregated for position limit purposes provided that the entities:

1. Do not have knowledge of one another’s trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

For products with position limits established in accordance with CFTC Regulation 150.2 (CBOT-Corn, Mini-Corn, Oats, Soybeans, Mini-Soybean, Wheat, Mini-Wheat, Soybean Oil, Soybean Meal, KC HRW Wheat), entities must comply with CFTC Regulation 150.3. Please note that in order to be approved for this exception, the market participant must be an eligible entity as defined in CFTC Regulation §150.1(d) "Definitions."

Please contact the Department staff listed on the first page of this Advisory Notice for further information in order to obtain approval of any exception.

Q9: How can a market participant obtain an exemption from position limits?

A9: A market participant seeking an exemption from position limits must apply by completing a form provided by the Department. Market participants may be eligible to receive an exemption from position limits in accordance with Rule 559 based on having bona fide hedging positions (as defined by CFTC Regulation §1.3(z)(1)), risk management positions and/or arbitrage and spread positions.

A market participant intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Department prior to exceeding such limits. However, a person who establishes an exemption-eligible position in excess of position limits and files the required application with the Department will not be in violation of Rule 559 provided that the filing occurs within five (5) business days after assuming the position, except in circumstances where the Department requires a person to file prior to the fifth business day. In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant and clearing firm will be in violation of speculative position limits for the period of time in which the excess positions remained open.

The Department may approve, deny, condition or limit any exemption request based on factors deemed by the Department to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner given characteristics of the market for which the exemption is sought.

A person who has received written authorization from the Department to exceed position limits must annually file an updated application no later than one year following the approval date of the most recent application. Failure to file an updated application will result in expiration of the exemption.

To obtain an exemption application or for further information on the exemption application process, please contact the Department via the email addresses provided below.

For CME and CBOT products: Hedgeprogram@cmegroup.com

For NYMEX and COMEX products: NYhedgeprogram@cmegroup.com

Q10: Are position limits effective intraday?

A10: Yes, any positions, including positions established intraday, in excess of those permitted under the rules are deemed to be position limit violations.

Q11: Do positions established as a result of Trading at Settlement ("TAS"), Trading at Marker ("TAM") or Basis Trade at Index Close ("BTIC") rules subject to position limits?

A11: Yes, in both intraday and at the end of the day. TAS, TAM and BTIC are pricing conventions for executions occurring in an underlying existing Exchange product, and as such, are included in determining compliance with position limits. For intraday purposes, the position is included immediately upon execution of the trade, and **not** when the settlement, marker or Index price is published.

Q12: Does an order that has been placed but not executed count for purposes of determining compliance with a position limit?

A12: No, unfilled orders do not count constitute an open position for position limit purposes. Notwithstanding the foregoing, market participants should be aware of Rule 575 (“Disruptive Practice Prohibited”) and the associated Market Regulation Advisory Notice with respect to order entries.

Q13: Are Clearing Members in violation of position limits if their clients exceed a limit?

A13: Except as set forth in the answer to FAQ 9, a clearing member shall not be in violation of position limits if it carries positions for its customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions. A reasonable period of time shall generally not exceed one business day.

Q14: What happens if a market participant exceeds a position limit?

A14: Violation of a position limit is a strict liability offense. The Department will take into account a number of factors in determining the appropriate regulatory action, including, but not limited to, the size of the position in excess of the limit, previous violations, length of the violation and profitability.

Text of Rule 559 – (“Position Limits and Exemptions”)

The position limit levels applicable to those contracts with position limits are set forth in the Position Limit, Position Accountability and Reportable Level Table (“Table”) in the Interpretations Section at the end of Chapter 5. A person seeking an exemption from position limits must apply to the Market Regulation Department on forms provided by the Exchange. In order to obtain an exemption from position limits, a person must:

1. Provide a description of the exemption sought, including whether the exemption is for bona fide hedging positions as defined in CFTC Regulation §1.3(z)(1), risk management positions or arbitrage/spread positions;
2. Provide a complete and accurate explanation of the underlying exposure related to the exemption request;
3. Agree to promptly provide, upon request by the Market Regulation Department, information or documentation regarding the person’s financial condition;
4. RESERVED
5. Agree to comply with all terms, conditions or limitations imposed by the Market Regulation Department with respect to the exemption;
6. Agree that the Market Regulation Department may, for cause, modify or revoke the exemption at any time;
7. Agree to initiate and liquidate positions in an orderly manner;
8. Agree to comply with all Exchange rules; and
9. Agree to promptly submit a supplemental statement to the Market Regulation Department whenever there is a material change to the information provided in the most recent application.

A person intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Market Regulation Department prior to exceeding such limits. However, a person who establishes an exemption-eligible position in excess of position limits and files the required application with the Market Regulation Department shall not be in violation of this rule provided the filing occurs within five (5) business days after assuming the position except in circumstances where the Market Regulation Department requires a person to file prior to the fifth business day. In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant and clearing firm will be in violation of speculative limits for the period of time in which the excess positions remained open.

The Market Regulation Department shall, on the basis of the application and any requested supplemental information, determine whether an exemption from position limits shall be granted. The Market Regulation Department may approve, deny, condition or limit any exemption request based on factors deemed by the Department to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner given characteristics of the market for which the exemption is sought.

Nothing in this rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Market Regulation Department to review at any time the positions owned or controlled by any person and to direct that such position be reduced to the position limit provided for in the Table.

A person who has received written authorization from the Market Regulation Department to exceed position limits must annually file an updated application not later than one year following the approval date of the most recent application. Failure to file an updated application will result in expiration of the exemption.

559.A. Bona Fide Hedging Positions

The Market Regulation Department may grant exemptions from position limits for bona fide hedge positions as defined by CFTC Regulation §1.3(z)(1).

Approved bona fide hedgers may be exempted from emergency orders that reduce position limits or restrict trading.

559.B. Risk Management Positions

The Market Regulation Department may grant exemptions from the position limits for risk management positions. For the purposes of this rule, risk management positions are defined as futures and options positions which are held by or on behalf of an entity or an affiliate of an entity which typically buys, sells or holds positions in the underlying cash market, a related cash market, or a related over-the-counter market and for which the underlying market has a high degree of demonstrated liquidity relative to the size of the positions and where there exist opportunities for arbitrage which provide a close linkage between the futures or options market and the underlying market in question. Exemptions related to indexed positions in the over-the-counter market may include corresponding commodity index-based futures and options and/or individual commodity futures and options used as components in replicating an index.

559.C. Arbitrage and Spread Positions

The Market Regulation Department may grant exemptions from the position limits for arbitrage, intracommodity spread, intercommodity spread, and eligible option/option or option/futures spread positions.

559.D. Aggregation of Positions

1. Positions to be Aggregated - The position limits in the Table shall apply to all positions in accounts for which a person by power of attorney or otherwise directly or indirectly owns the positions or controls the trading of the positions. The position limits in the Table shall also apply to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading of the positions was done by, a single person.

2. Ownership of Accounts – Except as set forth in Section E. below, any person holding positions in more than one account, or holding accounts or positions in which the person by power of attorney or otherwise directly or indirectly has a 10% or greater ownership or equity interest, must aggregate all such accounts or positions unless such person is a limited partner, shareholder, member of a limited liability company, beneficiary of a trust or similar type of pool participant in a commodity pool. The foregoing exception for pool participants shall not apply if the person is a commodity pool operator, controls the commodity pool's trading decisions, or has an ownership or equity interest of 25% or more in a commodity pool whose operator is exempt from registration with the CFTC.

559.E. Limited Exceptions to Aggregation for Independently Controlled Positions

Exceptions to aggregation of products with position limits established in accordance with CFTC Regulation 150.2 must comply with CFTC Regulation 150.3.

For all other products, positions carried in the separate account(s) of independent account controllers shall not be aggregated for position limit purposes provided that the entities:

1. Do not have knowledge of one another's trading decisions;
2. Trade pursuant to separately developed and independent trading strategies;
3. Have and enforce written procedures which preclude each from having knowledge of, gaining access to, or receiving data concerning, the trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities.

Positions held by futures commission merchants or their separately organized affiliates in customer discretionary accounts or in guided account programs shall not be aggregated for position limit purposes provided that the accounts are controlled by independent traders and meet the standards set forth in CFTC Regulation §150.4(d).

Any person claiming an exemption from position limits under this Section must, upon request by the Market Regulation Department, provide any information deemed necessary to support the exemption.

559.F. Violations (*CME/CBOT only*)

Violations of position limits and approved exemption limits are subject to the provisions of Rule 562.

559.F. Conditional Limit in NYMEX Last Day Financial Natural Gas Contracts (*NYMEX/COMEX only*)

The Market Regulation Department may grant a Conditional limit in Last Day Financial Natural Gas contracts of up to the equivalent of five thousand (5,000) NYMEX Physical Natural Gas Contracts (NG) during the period that position limits are applicable. Any participant seeking such exemption must agree: (1) not to hold a position in the NG contract during the last three days of trading; (2) provide the Exchange information on the complete book of all positions related to the Henry Hub; and (3) any other information /documentation required by the Exchange 559.G.

559.G. Violations (*NYMEX/COMEX only*)

Violations of position limits and approved exemption limits are subject to the provisions of Rule 562.

Text of Rule 560 – ("Position Accountability")

A person who owns or controls positions in excess of reportable levels or where such Person otherwise holds substantial positions in contracts traded on the Exchange or cleared by the Clearing House (*CBOT only* : in excess of reportable levels or subject to accountability levels) shall keep records, including records of their activity in the underlying commodity and related derivative markets, and make such records available, upon request, to the Exchange.

Upon request by the Market Regulation Department, such person shall also provide information relating to the positions owned or controlled by that person including, but not limited to, the nature and size of the position, the trading strategy employed with respect to the position, and hedging information, if applicable.

For purposes of this rule, all positions in accounts for which a person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading shall be included with the positions held by such person. Additionally, positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions were held by a single person.

If the person from whom such records or information is requested fails to comply as directed, the Market Regulation Department may order the reduction of such position, in addition to taking disciplinary action as a result of such failure.

A person who exceeds position accountability or position limit levels as a result of maintaining positions at more than one clearing firm shall be deemed to have waived confidentiality regarding his position and the identity of the clearing members at which the positions are maintained.

A person who holds or controls aggregate positions in excess of specified position accountability levels or in excess of position limits pursuant to an approved exemption shall be deemed to have consented, when so ordered by the Market Regulation Department, not to further increase the positions, to comply with any prospective limit which exceeds the size of the position owned or controlled, or to reduce any open position which exceeds position accountability or position limit levels. Any order to reduce an open position shall be issued by the Chief Regulatory Officer or his designee, if he determines in his sole discretion, that such action is necessary to maintain an orderly market.

A clearing member that carries positions for another person shall be responsible for taking reasonable and diligent actions to effect the timely compliance with any order issued pursuant to this rule upon notification of such order by the Market Regulation Department.

All positions must be initiated and liquidated in an orderly manner.

Text of Rule 562 – ("Position Limit Violations")

Any positions, including positions established intraday, in excess of those permitted under the rules of the Exchange shall be deemed position limit violations.

If a position exceeds position limits as a result of an option assignment, the person who owns or controls such position shall be allowed one business day to liquidate the excess position without being considered in violation of the limits. Additionally, if, at the close of trading, a position that includes options exceeds position limits when evaluated using the delta factors as of that day's close of trading, but does not exceed the limits when evaluated using the previous day's delta factors, then the position shall not constitute a position limit violation.

A clearing member shall not be in violation of this rule if it carries positions for its customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions. For the purposes of this rule, a reasonable period of time shall generally not exceed one business day.

A customer who exceeds the position limits as a result of maintaining positions at more than one clearing member shall be deemed to have waived confidentiality regarding his positions and the identity of the clearing members at which they are maintained. A clearing member carrying such positions shall not be in violation of this rule if, upon notification by the Market Regulation Department, it liquidates its pro-rata share of the position in excess of the limits or otherwise ensures the customer is in compliance with the limits within a reasonable period of time.