

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 21-240 (3 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): 05/19/21

Filing Description: Amendment to CME, CBOT, and NYMEX/COMEX Rule 853. ("Transfers of Trades and Customer Accounts")

**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:** 853.

**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:**

May 19, 2021

**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. Amendment to CME, CBOT, and NYMEX/COMEX Rule 853. ("Transfers of Trades and Customer Accounts"). COMEX Submission No. 21-240 (3 of 5)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), Chicago Mercantile Exchange Inc. ("CME"), in its capacities as both a designated contract market ("DCM") and a derivatives clearing organization ("DCO" or "CME Clearing"), and The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange Inc. ("COMEX"), in their capacities as DCMs, (each an "Exchange" and collectively, the "Exchanges") hereby certify to the Commission an amendment to CME, CBOT, NYMEX/COMEX Rule 853. ("Transfers of Trades and Customer Accounts") to clarify that all transfers, inclusive of transfers within a clearing member firm, are required to be reported to CME Clearing effective on Monday, June 7, 2021.

As part of the migration to migration to FEC+ in 2016, CME Clearing released [Clearing House Advisory Notice 16-441](#) which codified that transfers between accounts in which underlying beneficial ownership is identical are required to be identified via transfer code C. The Advisory Notice intentionally did not distinguish transfers on the books of the same clearing member firm from transfers between clearing member firms, as all such transfers are required to be submitted to CME Clearing.

The current text of Section A.6. of Rule 853. is being amended to ensure that the Rule text is clear.

The amendment to Rule 853. is set forth in Exhibit A with additions underscored.

The Exchanges and CME Clearing reviewed the DCO Core Principles and the DCM Core Principles (collectively, the "Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act") and identified that the amendment to Rule 853. may have some bearing on the following Core Principles:

**DCO Core Principles**

- **DCO Core Principle L – Public Information**: This Core Principle requires CME Clearing to publicly disclose its rules and procedures. The amendment to Rule 853. will be incorporated into the Exchanges' publicly available rulebook. A Special Executive Report setting forth the amendment will be issued and posted on the CME Group website.

**DCM Core Principles**

- **DCM Core Principle 7 – Availability of General Information**: The amendment to Rule 853. will be incorporated into the Exchanges' publicly available rulebook. A Special Executive Report setting

forth the amendment will be issued and posted on the CME Group website.

- **DCM Core Principle 10 – Trade Information**: CFTC Regulation 38.551 (Audit trail required) requires, in part, that a DCM to be able to track a customer order from the time of receipt through fill, allocation, or other disposition. The Exchanges believe that this regulation requires all transfers to be done through CME Clearing in order to ensure the DCMs' audit trail is accurate.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges and CME Clearing certify that the amendment to Rule 853. complies with the Act and regulations thereunder. There were no substantive opposing views to this proposal.

The Exchanges and CME Clearing 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 [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A: CME, CBOT, NYMEX/COMEX Rule 853. (blackline format)

## **EXHIBIT A**

**CME, CBOT, and NYMEX/COMEX Rulebooks  
Chapter 8  
("Clearing House and Performance Bonds")  
(additions are underscored)**

**853. TRANSFERS OF TRADES AND CUSTOMER ACCOUNTS**

**853.A. Transfers of Trades**

[Subsections A.1. – A.5. are unchanged.]

6. All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The clearing member(s) involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

[The remainder of the Rule is unchanged.]