

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 19-018 (4 of 5)

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 07/17/19

Filing Description: Amendments to CME, CBOT, NYMEX/COMEX Rule 435. ("Effect of Suspension or Expulsion")

**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: 435.

**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:

June 17, 2019

**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. Notification Regarding Amendments to CME, CBOT, NYMEX/COMEX Rule 435. ("Effect of Suspension or Expulsion"). NYMEX Submission No. 19-018 (4 of 5)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), Chicago Mercantile Exchange Inc., in its capacities as both a designated contract market ("DCM") ("CME") and a derivatives clearing organization ("DCO") ("Clearing House"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc., and Commodity Exchange, Inc. ("COMEX"), each in their capacities as a DCM (each an "Exchange" and collectively, the "Exchanges"), hereby notify the Commission that they are self-certifying amendments to CME, CBOT, NYMEX/COMEX Rule 435. ("Effect of Suspension or Expulsion") to limit the scope of suspensions or expulsions to access to CME Group's CFTC-regulated entities (the "Rule Amendments"), effective on trade date Thursday, August 1, 2019.

The current language of Rule 435. provides that any suspension or expulsion of a Member<sup>1</sup> extends to "access to the Globex platform or any other electronic trading or clearing platform or facility owned or controlled by CME Group." Absent the amendments, any suspension or expulsion would include denial of access to all the entities acquired by CME Group as part of the NEX acquisition. The Exchanges and the Clearing House do not believe a suspension or an expulsion should have such broad application. Nonetheless, the Exchanges and the Clearing House do believe that access to NEX SEF, in its capacity as a CFTC-regulated entity, should be covered by Rule 435. NEX SEF will be adopting a similar provision into its Rulebook.

The Rule Amendments to CME, CBOT, NYMEX/COMEX Rule 435. are set forth in Exhibit A with additions underscored and deletions ~~overstruck~~.

The Clearing House and the Exchanges 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 Rule Amendments may have some bearing on the following Core Principles:

**DCO Core Principles**

DCO Core Principle H – Rule Enforcement: The Rule Amendments concern access to the Clearing House by Clearing Members which are encompassed by the definition of Member in Chapter 4. As

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<sup>1</sup> For purposes of CME, CBOT, NYMEX/COMEX Chapter 4, the term "Member" includes any Person subject to the jurisdiction of the Exchange pursuant to Rule 418. ("Consent to Exchange Jurisdiction").

such, the amendments remain in compliance with this Core Principle which requires that the Clearing House have authority to discipline Clearing Members, inclusive of suspensions.

DCO Core Principle L - Public Information: The Rule Amendments will be posted publicly on the CME Group website in satisfaction of this Core Principle. In addition, a Special Executive Report will be posted publicly on the CME Group website and emailed to subscribers.

## **DCM Core Principles**

DCM Core Principle 2 – Compliance with Rules: The Rule Amendments to Rule 435. concern restrictions on access to the Exchanges, and, as such, remain in compliance with this Core Principle.

DCM Core Principle 7 – Availability of General Information: The Rule Amendments will be posted publicly on the CME Group website in satisfaction of this Core Principle. In addition, a Special Executive Report will be posted publicly on the CME Group website and emailed to subscribers.

DCM Core Principle 13 – Disciplinary Procedures: The Rule Amendments directly concern the effect of a suspension or an expulsion on a Member and, as such, remain in compliance with this Core Principle.

There were no substantive opposing views to this proposal.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Clearing House and the Exchanges certify that the Rule Amendments to Rule 435. comply with the Act and regulations thereunder.

The Clearing House and 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 [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 435. (blackline format)

## **EXHIBIT A**

**CME, CBOT, NYMEX/COMEX**

**Chapter 4**

**("Enforcement of Rules")**

(additions are underscored; deletions are ~~overstruck~~.)

### **435. EFFECT OF SUSPENSION OR EXPULSION**

Unless otherwise determined by the committee with jurisdiction over such matters, a suspended or expelled Member shall not be entitled to any of the privileges of membership during the period of such suspension or expulsion, including, but not limited to, the right to:

- A. access any trading floor ~~or facility~~ owned or controlled by CME Group;
- B. direct and indirect access to ~~the Globex platform or any other electronic trading or clearing platform or facility~~ any designated contract market, derivatives clearing organization or swap execution facility owned or controlled by CME Group;
- C. obtain member rates; and
- D. any applicable cross-exchange trading privileges.

A member who has been expelled may not lease out an owned membership in any exchange owned or controlled by CME Group and must relinquish ownership of such membership(s) within 30 days of the date that the expulsion becomes the final decision of the Exchange.