

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 14-356 (3 of 4)

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): September 2, 2014 Filing Description: Revision to CME/CBOT/NYMEX/COMEX Rule 623 ("Right to Counsel") to Disallow Certain Persons from Representing Parties to an Arbitration Claim and Elimination of Two Legacy NYMEX Board Resolutions Concerning Arbitration.

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- |                                     |                                     |            |
|-------------------------------------|-------------------------------------|------------|
| <input checked="" type="checkbox"/> | Certification                       | § 40.6(a)  |
| <input type="checkbox"/>            | Approval                            | § 40.5(a)  |
| <input type="checkbox"/>            | Notification                        | § 40.6(d)  |
| <input type="checkbox"/>            | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/>            | SIDCO Emergency Rule Change         | § 40.10(h) |

Rule Numbers: Rule 623

**New Product**

Please note only ONE product per Submission.

- |                          |                                       |            |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Certification                         | § 40.2(a)  |
| <input type="checkbox"/> | Certification Security Futures        | § 41.23(a) |
| <input type="checkbox"/> | Certification Swap Class              | § 40.2(d)  |
| <input type="checkbox"/> | Approval                              | § 40.3(a)  |
| <input type="checkbox"/> | Approval Security Futures             | § 41.23(b) |
| <input type="checkbox"/> | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/> | Swap Submission                       | § 39.5     |

**Official Product Name:**

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

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

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

Rule Numbers:

September 2, 2014

**VIA ELECTRONIC PORTAL**

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. Revision to Rule 623 and Elimination of Two Legacy NYMEX Board Resolutions.  
NYMEX Submission No. 14-356 (3 of 4)**

Dear Mr. Kirkpatrick:

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 will be adopting a revision to Rule 623 ("Right to Counsel") effective Tuesday, September 16, 2014. The revision disallows certain parties and witnesses involved in Exchange disciplinary proceedings from being represented by a member of any Exchange disciplinary committee, a member of the Board of Directors or an employee of CME Group. Additionally, two legacy NYMEX Board resolutions will be eliminated as they were superseded by NYMEX's adoption of Chapter 6 ("Arbitration") at the time the NYMEX and COMEX Rulebooks were harmonized with the Rules of CME and CBOT.

The Market Regulation Department and the Legal Department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act"). During the review, we have identified that the revision to Rule 623 may have some bearing on the following Core Principles:

Availability of General Information: As required by this Core Principle, the Exchanges will publicly disseminate a Special Executive Report to the marketplace in advance of the revision becoming effective.

Dispute Resolution: Current disciplinary procedures prohibit parties and witnesses involved in Exchange disciplinary proceedings being represented by a member of any Exchange disciplinary committee, a member of the Board of Directors, or an employee of CME Group. The amendment to Rule 623 adds a similar restriction with respect to representation for persons involved in Exchange arbitration proceedings.

Conflicts of Interest: In order to minimize conflicts of interest with respect to arbitration hearings, that no person involved in an arbitration proceeding will be permitted to be represented by a member of the Arbitration Committee, a member of the Board of Directors, an employee of CME Group or any person related to the arbitration. As such, the revision to Rule 623 is in compliance with this Core Principle.

The revisions to Rule 623 and the elimination of the two legacy NYMEX Board resolutions appear in Exhibit A. The Exchanges certify that the revisions to Rule 623 complies with the Act and the regulations

thereunder and NYMEX certifies that the elimination of the legacy Board resolutions 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 have any questions regarding this submission, please contact me at 212-299-2200 or via e-mail at [Christopher.Bowen@cmegroup.com](mailto:Christopher.Bowen@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A – Revisions to Rule 623 and Deletions to NYMEX Board Resolutions

## Exhibit A

### CME, CBOT, NYMEX and COMEX

#### 623. RIGHT TO COUNSEL

Every person is entitled to represent his own interests, be represented by an attorney at law of his choosing and at his own expense who is admitted to practice before the highest court in any State, or be represented by any other non-compensated representative at any stage of an arbitration proceeding at the Exchange. An entity must be represented by an officer or owner of the entity or by an attorney at law. Notwithstanding the above, no person may be represented by a member of the Arbitration Committee, a member of the Board, an employee of CME Group or any person related to the arbitration.

### NYMEX Resolutions

#### ~~I. Resolution of Board of Directors with Respect to Adjudication and Arbitration Panel Members~~

~~The Board of Directors hereby RESOLVES that any member who, at end of a term of the Arbitration or Adjudication Committees, is serving on a panel of said Committees with respect to a particular matter shall continue to serve in that capacity until the completion of the assigned matter even if said member is not reappointed to the Committee for the succeeding year's term.~~

[Resolutions II and III are unchanged.]

#### ~~IV. Representation by Committee Members of Parties to Arbitration~~

~~As arbitrators on the New York Mercantile Exchange, each of us may be asked to serve on a panel to resolve one of a variety of disputes that may arise between members. Additionally, these disputes may involve public customers as well. Arbitrations can involve large sums of money, and potentially can have an adverse effect on the reputations of your fellow members. Much is at stake from the point of view of the parties to each arbitration. In light of the importance of the arbitration process, and to preserve fairness, and the appearance of fairness, it shall be the policy of the Arbitration Committee that a non-sitting Committee Member may not represent a party to an arbitration in any capacity. Of course, this new policy does not affect the ability of a member of this Committee to be a witness or party to a proceeding, but merely prohibits the representation of others by a Committee~~