

**SUBMISSION COVER SHEET**

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

**Registered Entity Identifier Code (optional):** 16-515 (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):** 12/5/16 **Filing Description:** Amendments to CME/CBOT/NYMEX/COMEX Rule 553. ("Average Price System")

**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:** 553.

**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:**

December 5, 2016

**VIA ELECTRONIC PORTAL**

Mr. Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
3 Lafayette Center  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

**Re: CFTC Regulation 40.6(a) Notification Regarding Amendments to  
CME/CBOT/NYMEX/COMEX Rule 553. (“Average Price System”).  
NYMEX Submission No. 16-515 (3 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 Commission that they are self-certifying amendments to Rule 553. (“Average Price System”), effective Monday, July 31, 2017.

On February 9, 2016, the Exchanges withdrew Submission No. 16-049 concerning amendments to Rule 553. originally submitted on February 4, 2016. Submission No. 16-049 sought to amend Rule 553. to require that Exchange Clearing Member Firms that internally calculated average prices transmit those prices and ultimate customer account allocations back to CME Clearing. The Exchanges withdrew Submission No. 16-049 pending further discussions with Exchange Clearing Member Firms regarding the capabilities and possible limitations of their back office technology systems to comply with the proposed amendment.

Prior to this Submission No. 16-515, there was no defined method whereby Exchange Clearing Member Firms who conducted average pricing outside of CME Clearing to report those allocations back to the Exchanges. The amendment requires the use of the CME Clearing Average Price System (“APS”) even in circumstances where an Exchange Clearing Member Firm calculates average prices using an APS developed by the Exchange Clearing Member Firm. Amendments to Rule 553. are being made to improve the granularity of the Exchange audit trail in accordance with CFTC Regulation 38.551 (“Audit Trail Required) which requires that a designated contract market’s (“DCM”) audit trail records permit the tracking of customer orders from the time of receipt through fill, allocation or other disposition, and CFTC Regulation 38.552 (“Elements of an Acceptable Audit Trail Program”) which requires that a DCM’s electronic transaction history database include the identification of each account to which fills are allocated.

In order to allow sufficient time for affected Exchange Clearing Member Firms to make necessary technology changes, the effective date of the amendments to Rule 553. will be July 31, 2017.

Additionally, the Exchanges are amending Rule 553.B.1. to require that customers request average pricing prior to order entry. This amendment is intended to eliminate any potential abuse that could result if an account manager selected certain accounts to be included or excluded from average pricing as a means of providing preferential fills to any single group of clients.

The Exchanges have 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 may have some bearing on the following Core Principles:

Compliance with Rules: Rule 553. provides the requirements under which transactions may be average priced, including the framework under which Exchange Clearing Member Firms may calculate average prices internally, and the amendments are therefore in compliance with the Core Principle.

Availability of General Information: The Exchanges will disseminate a Special Executive Report (“SER”) concerning the amendments. The SER will also be posted on the CME Group website.

Trade Information: The amendments to Rule 553. are expressly intended to ensure that the Exchanges remain in compliance with CFTC Regulations 38.551 and 38.552 established under this Core Principle.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges certify that the amendments comply with the Act and regulations thereunder. The proposed revisions were discussed with the FIA Law & Compliance Executive Committee and the FIA Operations Executive Committee. While some firms expressed that there would be programming changes and costs that would be incurred, the delayed effective date was determined to mitigate the majority of those views.

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

Should you have any questions concerning the above, please contact the undersigned at 212.299.2200 or [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 553. (blackline format)

## Exhibit A

### CME/CBOT/NYMEX/COMEX Rulebooks Chapter 5 Trading Qualifications and Practices

(additions underlined; deletions are ~~overstruck~~)

#### 553. AVERAGE PRICE SYSTEM

##### 553.A. Application of Average Prices

~~A clearing member may employ t~~The Exchange's Average Price System ("~~APS~~"), ~~or a proprietary average pricing system APS developed by a clearing member, allows a clearing member to calculate~~confirm to customers an average price when multiple execution prices are received on an order or series of orders for futures, options or combination transactions. An order or series of orders executed during the same trading day at more than one price may be averaged pursuant to ~~this Rule~~APS only if each order is for the same account or group of accounts and for the same product and expiration month for futures, or for the same product, expiration month, put/call and strike price for options.

##### 553.B. Average Price System Requirements for APS Trades

~~A clearing member may have the Exchange calculate average prices or a clearing member may calculate average prices internally for contracts executed on the Exchange.~~The requirements enumerated below must be met for APS transactions that are average priced.

1. The customer must have requested average price reporting prior to order entry.
2. Each individual trade must be submitted and cleared by the Exchange at the executed price. The average price must be confirmed to each customer account.
3. The clearing member carrying the account(s) must submit final account specific allocations in the Exchange's clearing system no later than the end of each trading day.
4. If a clearing member computes ~~and confirms the~~ average prices internally to its customers, it must:
  - a. Compute the weighted mathematical average price, as set forth in Section C.;
  - b. Subsequently employ the Exchange's Average Price System to 1) facilitate the allocations and 2) ensure that final account specific allocations are submitted to the Exchange's clearing system no later than the end of each trading day; and
  - c. Create
4. ~~If a clearing member calculates the average price, it must possess the~~ records to support the calculations and allocations to customer accounts and ~~must~~ maintain these records pursuant to CFTC regulations.
5. Proprietary trades of a clearing member may not be~~must ensure that its proprietary trades are not~~ averaged priced with customer ~~APS~~ trades.

##### 553.C. Computation of Average Price

Upon receipt of an execution or match at multiple prices for an APS order that is to be average priced, the weighted mathematical average must be computed by: (a) multiplying the number of contracts purchased or sold at each execution price by that price, (b) adding the results together and (c) dividing by the total number of contracts. An average price for a series of orders will be computed based on the average prices of each order in that series. The actual average price or the average price rounded to the next price increment may be confirmed to customers. If a clearing member confirms the rounded average price, the clearing member must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order. The residual created by the rounding process must be paid to the customer. An average pricing systemAPS may produce prices that do not conform to whole cent increments. In such cases, any amounts less than one cent may be retained by the clearing member.

##### 553.D. Disclosure

Each clearing member that confirms an average price to a customer must indicate on the confirmation and monthly statement that the price represents an average price.