

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 19-425 (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): 12/16/19

Filing Description: Amendments to CME, CBOT, NYMEX/COMEX Definitions and Various Rules in Chapters 3, 4, 5, and 8 and Issuance of Six Revised Market Regulation Advisory Notices

**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:** various.

**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 16, 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 Definitions and Various Rules in Chapters 3, 4, 5, and 8, and Issuance of Six (6) Market Regulation Advisory Notices. NYMEX Submission No. 19-425 (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 dual as 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. (“NYMEX”), 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 the Definitions Section and various rules in CME, CBOT, NYMEX/COMEX Chapters 3 (“Exchange Committees”), 4 (“Enforcement of Rules”), 5 (“Trading Qualifications and Practices”), and 8 (“Clearing House and Performance Bonds”), and the issuance of six (6) Market Regulation Advisory Notices (collectively, the “Rule Amendments”) effective on Thursday, January 2, 2020.

The Rule Amendments eliminate the Probable Cause Committee (“PCC”) which currently approves the issuance of charges against respondents in Exchange disciplinary proceedings where there is a reasonable basis to believe that a rule violation has been committed, and where Market Regulation has been unable to reach an agreed upon settlement of a matter. Pursuant to the Rule Amendments, the authority to issue charges will rest with the Chief Regulatory Officer (“CRO”). The purpose of the Rule Amendments is to increase the efficiency of the disciplinary process without depriving market participants of any significant due process since respondents will maintain the right to take a formal disciplinary proceeding to a contested hearing before the Business Conduct Committee. Another factor in the decision to eliminate the PCC is that as disciplinary cases have become more complex, it has become increasingly difficult for the PCC to assess the matter and determine the appropriateness of the charges recommended by Market Regulation during a short presentation at the PCC meeting.

In addition to the elimination of the PCC, the Rule Amendments add a new provision to Rule 408. (“Conduct of Hearings”) setting forth the default process where a respondent fails to timely answer charges issued by the CRO. This new provision adds transparency to the default process but does not represent a substantive change from the manner in which default proceedings are currently handled by Market Regulation.

The Rule Amendments were discussed with, and supported by, the Market Regulation Oversight Committee, the disciplinary committee co-chairs and panelists, and the Exchange Legal Department.

The Rule Amendments are set forth in Exhibit A with additions underscored and deletions ~~overstruck~~.

In connection with the amendments, the Exchanges will issue six (6) Market Regulation Advisory Notices to eliminate references to the PCC, which are set forth in Exhibits B – G.

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 amendment to Rule 403.A (“Clearing House Risk Committee – Jurisdiction and General Provisions”) replaces a reference to the PCC with a reference to the CRO and remains in compliance with this Core Principle.

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 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 as well as the revised MRANs 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 Exchange disciplinary process and procedures and 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 and the issuance of the Market Regulation Advisory Notices 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

Attachments: Exhibit A: CME, CBOT, NYMEX/COMEX Rule Amendments (blackline format)  
Exhibit B: CME Group Market Regulation Advisory Notice RA1909-5  
Exhibit C: CME Group Market Regulation Advisory Notice RA1910-5  
Exhibit D: CME Group Market Regulation Advisory Notice RA1911-5  
Exhibit E: CME & CBOT Market Regulation Advisory Notice RA1902-3  
Exhibit F: CME & CBOT Market Regulation Advisory Notice RA1903-3  
Exhibit G: CME Market Regulation Advisory Notice RA1902-2

## **EXHIBIT A**

### **CME, CBOT, NYMEX/COMEX ("Definitions")**

#### **INVESTIGATIVE AND HEARING COMMITTEES**

The investigative and hearing committees of the Exchange are the Business Conduct Committee, the Clearing House Risk Committee, the Floor Conduct Committee, ~~the Probable Cause Committee~~, Hearing Panels of the Board of Directors and such other committees created for this purpose by the Board.

### **CME, CBOT, NYMEX/COMEX Chapter 3 ("Exchange Committees")**

#### **300. COMMITTEES**

[Sections A. – C. are unchanged.]

##### **300.D. Disqualification from Certain Committees and Governing Boards**

No person shall serve on the Board of Directors or any Board level committee; the Clearing House Risk Committee; the IRS Risk Committee; the Business Conduct Committee; ~~the Probable Cause Committee~~; any Pit Committee; the Floor Conduct Committee or the Arbitration Committee

- 1) who is found by a final decision or settlement agreement (or absent a finding in the settlement agreement if any acts charged included a disciplinary offense) to have committed a disciplinary offense, as defined in Section E. below; or
- 2) whose CFTC registration in any capacity has been revoked or suspended; or
- 3) who is subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration or membership; or
- 4) who is subject to a denial, suspension or disqualification from serving on a disciplinary committee, oversight committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in Section 3(a)(26) of the Securities Exchange Act of 1934; or
- 5) who has been convicted of any felony listed in Section 8a(2)(D)(ii) through (iv) of the Commodity Exchange Act;

for a period of three years from the date of such final decision or for such a time as the person remains subject to any suspension, expulsion or has failed to pay any portion of a fine imposed for committing a disciplinary offense, whichever is longer.

[The remainder of the Rule is unchanged.]

### **CME, CBOT, NYMEX/COMEX Chapter 4 ("Enforcement of Rules") (additions are underscored; deletions are ~~overstruck~~.)**

#### **401. THE CHIEF REGULATORY OFFICER**

It shall be the duty of the Chief Regulatory Officer to enforce Exchange Rules, and he shall have available to him at all times the resources of the Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of potential or alleged Rule violations and market conditions. The Chief Regulatory Officer shall have the authority to inspect the books and records of all parties subject to the jurisdiction of the Exchange pursuant to Rule 418 and the authority to require any such party to appear before him and produce his or its books and records and answer questions regarding alleged violations of Exchange Rules, at the time, place and in the manner he designates. The Chief Regulatory Officer shall be authorized to issue charges at the request of the Market Regulation Department pursuant to the provisions of Rule 406. The Chief Regulatory Officer may also delegate his authority to staff of the Market Regulation Department.

403. **CLEARING HOUSE RISK COMMITTEE**

**403.A. Jurisdiction and General Provisions**

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall review each applicant's qualifications for status as a Clearing Member and refer each such application for Clearing Membership along with the CHRC's feedback to the Clearing House Oversight Committee for approval. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as Rules of the Exchange. The CHRC shall review any changes to the Clearing Membership requirements and new types of clearing membership and shall approve all substantive changes and recommend them to the Clearing House Oversight Committee for its approval.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider offers of settlement on its own initiative or by referral from Exchange staff, the PGC Chief Regulatory Officer, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408. [The remainder of the Rule is unchanged.]

406. **PROBABLE CAUSE COMMITTEE ISSUANCE OF CHARGES**

The ~~Probable Cause Committee ("PCC")~~Chief Regulatory Officer shall receive and review investigation reports from the Market Regulation Department when the Market Regulation Department has reasonable cause to believe a violation of an Exchange Rule has occurred. ~~The PCC shall act through a Panel comprised of a Hearing Panel Chair, two exchange members or employees of member firms and two non-members. At least one of the exchange members or employees of member firms must be from the designated contract market where the case originated. A quorum of a Panel shall consist of a majority of the Panel, but must include at least the Hearing Panel Chair, an exchange member or employee of a member firm from the designated contract market where the case originated and one non-member. Each Panel shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.~~

~~Production of the investigation report to a PCC Panel shall not constitute a waiver of the protected and/or privileged nature of such report. The Market Regulation Department's presentation to the PCC Panel shall not constitute an ex parte communication as described in Rule 417.~~

The Market Regulation Department is not required to provide a respondent notice of its intent to ~~appear before the PCC to~~ request the Chief Regulatory Officer to issue charges.

No party or subject of an investigation shall have the right to appear before the PGC Chief Regulatory Officer or make any written submission on his behalf.

The ~~Panel~~Chief Regulatory Officer shall, ~~by majority vote,~~ take one of the following actions:

- A. If the ~~Panel~~Chief Regulatory Officer determines that a reasonable basis exists for finding that a violation of an Exchange Rule may have occurred which warrants disciplinary action, ~~the~~ shall issue appropriate charges.
- B. If the ~~Panel~~Chief Regulatory Officer determines that no reasonable basis exists for finding that a violation of an Exchange Rule may have occurred, ~~the~~ shall direct that no further action be taken.
- C. Direct that the Market Regulation Department investigate the matter further.

The ~~Panel~~Chief Regulatory Officer shall direct the Market Regulation Department to give notice of the charges to the respondent in accordance with Rule 407.B.

~~If the Panel refuses to issue any charge requested by the Market Regulation Department, the Panel shall explain the reason(s) for such refusal in writing. The Market Regulation Department may appeal to the Board any refusal by a Panel to issue those charges requested by the Market Regulation Department as set forth in Rule 411.~~

~~No Person shall serve on the PCC unless he has agreed in writing that he will not publish, divulge or make known in any manner, any facts or information regarding the business of any Person or entity or any other information which may come to his attention in his official capacity as a member of the PCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.~~

All information, records, materials and documents provided to the PCCChief Regulatory Officer and all ~~deliberations, testimony,~~ information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

#### 407. INVESTIGATION, CHARGING MEMORANDUM AND NOTICE OF CHARGES

[The introduction and Section A. are unchanged.]

##### 407.B. Notice of Charges; Opportunity for Hearing

Where the PCCChief Regulatory Officer has issued charges for an alleged Rule violation, the Market Regulation Department shall issue a charging memorandum to the respondent with a brief statement of factual allegations that identifies the charged Rule violation(s). In addition, the Market Regulation Department will send a notice of charges to the respondent. The notice of charges shall set forth the Rule(s) alleged to have been violated, and shall advise the respondent regarding the submission of a responsive answer to each charge in accordance with Rule 407.C. Further, the notice of charges shall advise the respondent that the matter will be heard by a BCC Panel and of the time and place for the hearing, if known. The respondent shall also be advised of his right to appear personally at the hearing and of his right to be represented, at his own cost, by legal counsel or a member of the Exchange, other than a member of any exchange disciplinary committee, a member of the Board, an employee of CME Group or a Person related to the investigation.

A respondent may waive his right to a hearing at any time after receipt of the notice of charges. A respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the BCC Panel will render its decision. Upon a finding of guilt on any charge, the BCC Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

##### 407.C. Answer to Charges

The respondent shall have 21 days after notice to submit a written answer to the charges. The Market Regulation Department and the respondent may agree in writing to an extension of the period of time to submit an answer to such charges. Absent such agreement, upon a showing of good cause, the BCC Hearing Panel Chair may extend the period of time in which the respondent is required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. ~~Pursuant to a written request by the Market Regulation Department, any charge not denied in whole or in part by the respondent shall be deemed admitted by the Hearing Panel Chair, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted, the respondent shall be deemed to waive his right to a hearing on the charges and the BCC Panel shall find that the violations alleged in the notice have been committed. The BCC Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented at his own cost by legal counsel or anyone other than a member of any disciplinary committee, a member of the Board, an employee of CME Group or a Person related to the investigation.~~

~~If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time that the charges denied by the respondent are considered.~~

If a respondent fails to answer the charges in accordance with this Rule, the Market Regulation Department may seek a default finding and sanctions in accordance with Rule 408.F.

##### 407.D. Amendment to Charging Memorandum; Non-Prosecution of Charges

The issuance of charges shall not prevent the Market Regulation Department from continuing to investigate the activity underlying the charges or investigating other potential violations by the respondent. The Market Regulation Department reserves the right to modify the charging memorandum ~~without the consent of the PCC.~~ Notwithstanding the prior sentence, no charges may be added to the charging memorandum absent the consent of the PCCChief Regulatory Officer. The Respondent shall have 21 days from notice of an amended charging memorandum to file an answer to any new or modified charges in the amended memorandum.

The Market Regulation Department may, in its sole discretion, decline to prosecute any one or more of the charges previously issued by the PCCChief Regulatory Officer. If the Market Regulation Department declines to prosecute any previously issued charge after the Respondent has received a

Notice of Charges, the Market Regulation Department shall provide notice to the Respondent of such decision. Further the Market Regulation Department may, in its sole discretion, resolve a previously issued charge through issuance of a letter of warning.

**408. CONDUCT OF HEARINGS**

[Section A. is unchanged.]

**408.B. Pre-Hearing**

1. Procedural Matters

Prior to the hearing, but subsequent to the timely filing of an answer, a party charged ~~by the PCC~~ with a violation of an Exchange rule may examine all evidence in the investigation file that is relevant to the violation(s) charged ~~by the PCC~~ and all evidence which is to be relied upon by the Market Regulation Department during the hearing. However, the respondent shall not be entitled to examine protected attorney work product, attorney-client communications or investigative work product, including, but not limited to, the investigation report and any exception reports. The respondent may obtain a copy of all such evidence, and any copying costs shall be the sole responsibility of the respondent. The Market Regulation Department is not required to produce or obtain any documents that are not in its possession. A respondent who seeks documents that are not in the possession of the Market Regulation Department may request the documents from the custodian of such documents. Upon a showing of good cause, the respondent may petition the Hearing Panel Chair, in writing, for an order compelling the production of documents by a custodian, provided that the custodian is subject to the jurisdiction of the Exchange, the custodian has refused voluntarily to provide the documents and the documents are relevant to the charges. The Market Regulation Department or the custodian may object, in whole or in part, to any such petition.

[The remainder of Section B. through Section E. is unchanged.]

**408.F. Default Proceedings**

If a respondent fails to submit a written answer to the charges pursuant to Rule 407.C., or answers but fails to deny the charges, Market Regulation may serve the respondent with a motion for default and a request for sanctions. The motion for default shall request that a BCC Panel Chair find that the respondent is deemed to have admitted the charges, and the request for sanctions shall request that a BCC Panel impose sanctions on the admitted charges. A copy of the motion for default and request for sanctions shall also be filed with the CME Group Legal Department, which serves as counsel to the BCC Panel.

The Respondent shall have 21 days from notice to respond to the motion for default and request for sanctions. Thereafter, the respondent will be provided at least seven days' notice of the date of a hearing to consider the motion for default and request for sanctions. The respondent shall have the right to be represented at the hearing at his own cost by legal counsel or anyone other than a member of a disciplinary committee, a member of the Board, or a Person related to the investigation.

At the hearing, based on the written filings of the parties, except where the BCC Panel Chair determines that oral argument is necessary, the BCC Panel Chair will first decide if the respondent has failed to answer the charges in accordance with Rule 407.C., and, if so, the respondent shall be deemed to have admitted the charges. If the BCC Panel Chair finds that the respondent has admitted the charges, the respondent will be deemed to have waived his right to a hearing on the merits of the charges, the BCC Panel shall find that the violations alleged in the charging memorandum have been committed, and the BCC Panel will then determine the sanctions, if any, to be imposed, after permitting both parties to present arguments and information regarding the appropriate nature and amount of any such sanctions.

If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time that the charges denied by the respondent are considered.

If the BCC Panel Chair does not find that the respondent has failed to answer the charges, no further action on the charges will occur at the hearing.

Decisions on the Motion for Default and the sanctions imposed shall be issued in accordance with Rule 408.E.

**409. SUMMARY PROCEEDINGS BEFORE THE FLOOR CONDUCT COMMITTEE**

[Sections A. and B. are unchanged.]

**409.C. Conduct of Summary Proceedings**

A summary proceeding before the Floor Conduct Committee shall be conducted in a fair and impartial

manner.

A summary proceeding before the Floor Conduct Committee shall take place as soon as practicable after the issuance of charges. The proceeding will not be recorded. The respondent shall be entitled to appear personally and answer the charges issued. Respondents and witnesses may not be represented by counsel at a summary proceeding. However, an employee without membership privileges who is a respondent may be represented by a single representative of his employer. A panel shall decide by a majority vote whether the individual is guilty of the violation or offense charged. If the accused individual is found guilty, a panel may impose fines in accordance with Exchange Rules. A witness who fails to appear at a summary proceeding after being directed to do so by the Chairman of the panel or by staff may be charged with a violation of Rule 432.

If a panel of the Floor Conduct Committee, by a majority vote, decides that the matter is of major importance or might warrant a penalty in excess of its own authority, the Chairman of the Panel shall refer the matter to the PGC Chief Regulatory Officer and shall inform the individual of this referral in writing.

[The remainder of the Rule is unchanged.]

#### 411. **APPEAL TO A HEARING PANEL OF THE BOARD OF DIRECTORS**

The Market Regulation Department may appeal to a hearing panel of the Board ("Appellate Panel") regarding a final decision of or sanction imposed by the BCC, ~~or any refusal by the PCC to issue those charges requested by the Market Regulation Department,~~ by filing a written notice of appeal with the Exchange Legal Department within 10 business days after receiving notice of such decision, sanction or refusal. A copy of such notice of appeal shall be provided to the Respondent at the time it is filed with the Legal Department, ~~unless it is an appeal of the PCC decision not to issue charges in which case no notice is required.~~ Filing of a notice of appeal by the Market Regulation Department shall stay any decision that is appealed unless the Chairman of the Board or the BCC Hearing Panel Chair from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

A Member found guilty of an offense or otherwise aggrieved by a final decision of the BCC, may appeal to an Appellate Panel provided that the decision assesses a monetary sanction (including a fine, disgorgement or restitution) greater than \$25,000 and/or an access denial or suspension of any membership privileges for greater than ten business days against the Member. The notice shall be filed in writing with the Exchange's Legal Department within 10 business days after Notice of any such decision. A copy of such notice shall be provided to the Market Regulation Department at the time it is filed with the Legal Department. Filing of a notice of appeal by a Member shall stay the decision appealed unless the Market Regulation Department objects to such a stay and the Chairman of the Board or the BCC Hearing Panel Chair from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

A notice of appeal must specify the grounds for the appeal and the specific error(s) or impropriety of the original decision. Upon receiving the notice of appeal the parties, in conjunction with the Exchange Legal Department shall determine a briefing schedule for the appeal. If agreement on the schedule cannot be reached the Appellate Panel Chair shall set the schedule. The Appellate Panel Chair shall determine, in his sole discretion, whether to hold oral argument on the appeal or whether to decide the appeal on the papers submitted by the parties

The appellate hearing shall be limited to the record from the appealed proceeding. The Appellate Panel shall not entertain any new evidence or new legal theory not raised in the prior proceeding except upon a clear showing by the appellant that such new evidence or new legal theory did not exist or was not ascertainable by due diligence at the time of the proceeding, and that there was insufficient time within the intervening period prior to the hearing of the Appellate Panel for the appellant to bring such new evidence or legal theory to the attention of the BCC ~~or the PCC, as applicable.~~

~~The Appellate Panel shall review the investigation report in connection with the appeal of a refusal by the PCC to issue those charges requested by the Market Regulation Department.~~

No member of the Board may serve on a particular Appellate Panel if he participated on the PGC Panel that issued, or considered issuing, the charges, or on the BCC Panel that issued the decision, or if he has a personal, financial, or other direct interest in the matter under consideration or is a member of the same broker association as the respondent or potential respondent.

The Chairman of the Board shall appoint a director to serve as the Appellate Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Appellate Panel. One of these directors shall be a non-member. Any party to the appeal may request the Chairman of the Board to strike any director for good cause shown. The Chairman of the Board may then excuse such director



and shall then select an alternate director from the Board. An Appellate Panel shall consist of directors that possess sufficiently diverse interests so as to ensure fairness.

The Appellate Panel shall not set aside, modify or amend the appealed decision or the refusal to issue charges unless it determines, by a majority vote that the decision or the refusal to issue charges was:

- A. Arbitrary, capricious, or an abuse of the committee's discretion;
- B. In excess of the committee's authority or jurisdiction; or
- C. Based on a clearly erroneous application or interpretation of Exchange Rules.

In the case of an appeal of a disciplinary decision, the Appellate Panel shall promptly issue a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Appellate Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is not affirmed in whole, the Appellate Panel's determination of the order or penalty to be imposed, if any. The decision of the Appellate Panel shall be deemed a decision of the Board and shall be a final decision of the Exchange. If a disciplinary sanction results from the decision of the Appellate Panel, the party against whom such sanction was imposed shall be notified of its potential ability to appeal to the Commodity Futures Trading Commission.

~~In the case of an appeal by the Market Regulation Department of a decision by the PCC not to issue those charges requested by the Market Regulation Department, the Appellate Panel shall either affirm or set aside the decision of the PCC. If the decision is set aside, the Appellate Panel shall issue the charges it deems appropriate or remand the matter to the same Panel of the PCC for the issuance of charges. If the decision is affirmed, the Appellate Panel shall direct that no further action be taken and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.~~

This Rule shall not apply to appeals of Arbitration Committee decisions, which shall be governed by the Rules contained in Chapter 6.

**CME, CBOT, NYMEX/COMEX**  
**Chapter 5**  
**("Trading Qualifications and Practices")**  
(additions are underscored; deletions are ~~overstruck~~.)

**501. EMPLOYEES OF MEMBERS**

[The first three paragraphs are unchanged.]

Members shall be responsible for ensuring that their employees comply with all Exchange rules and may, subject to a determination by an Exchange disciplinary committee, be liable for any fines imposed upon such employees by the Exchange. The Exchange may, in its sole discretion, notify a member of the existence of an Exchange investigation and the conduct which is the subject of the investigation involving one of the member's employees when the Market Regulation Department interviews such employee or, if no such interview occurs, when charges are issued against the employee by the Probable Cause Committee~~Chief Regulatory Officer~~.

No person shall be registered as an employee pursuant to this rule if such person is determined by Exchange staff not to be of good moral character or if it is determined that such registration may be detrimental to the interest or welfare of the Exchange.

**512. REPORTING INFRACTIONS**

[Sections A. and B. are unchanged.]

**512.C. Hearings and Appeals**

If the Chief Regulatory Officer or his designee determines that evidence submitted by an individual or firm pursuant to Section B.2. is insufficient to support the requested rescission or reduction of the fine, the individual or firm may, within 10 days of the decision, file a written appeal with the Market Regulation Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may

have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the Exchange staff's discretion;
2. In excess of the Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application of Exchange rules.

Notwithstanding the provisions of Sections B.1. and B.2. above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer for consideration of charges.

**CME, CBOT, NYMEX/COMEX**  
**Chapter 8**  
**("Clearing House and Performance Bonds")**  
(additions are underscored; deletions are ~~overstruck~~.)

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

**853.A. Transfers of Trades**

[Sections 1. – 3. are unchanged.]

4. Notwithstanding the foregoing, the Chief Regulatory Officer or his designee may, (and, with respect to cleared-only products, the President of the Clearing House or his designee also may), with the consent of the clearing member(s) involved, permit the transfer and/or offset of existing trades if, in his designee's opinion, the situation so requires and such transfer is in the best interests of the Exchange, which may include, but is not limited to, the remedying of an error resulting from the good faith acts or omissions by a party as a means of avoiding a market disruption. The foregoing does not relieve a clearing member of its responsibility under the Rules for circumstances leading to such transfer and/or offset, and the clearing member may be responsible for demonstrated claims of realized losses incurred by other parties as a result of such errors or omissions in accordance with the provisions of Chapter 6. Additionally, notwithstanding permission for the transfer being granted by the Chief Regulatory Officer or his designee, parties involved in the transfer remain responsible for any violation of Exchange rules resulting from the transfer and may either be summarily sanctioned in accordance with the provisions of Rule 512 or the matter may be referred to the ~~Probable Cause Committee~~Chief Regulatory Officer for the consideration of charges.

[The remainder of the Rule is unchanged.]

**854. CONCURRENT LONG AND SHORT POSITIONS**

[The introduction and Sections A. – D. are unchanged.]

E. Violations of this Rule may result in summary sanctions in accordance with the provisions of Rule 512 or the matter may be referred to the ~~Probable Cause Committee~~Chief Regulatory Officer for the consideration of charges.

**CME and CBOT**  
**Chapter 5**  
**("Trading Qualifications and Practices")**  
(additions are underscored; deletions are ~~overstruck~~.)

**513. CONDUCT, APPAREL AND BADGES**

[Section A. is unchanged.]

Members and their employees are expected to conduct themselves on Exchange premises with dignity

**513.B. Sanctions**

1. Designated Exchange officials may impose fines on members or their employees for violations of the Exchange policy concerning access, conduct, and appearance. Fines imposed pursuant to Rule 513.B.1. are final and may not be appealed.
2. A fourth violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be subject to a \$1,000 fine.
3. A fifth or subsequent violation of the Exchange policy concerning access, conduct, and appearance

within a rolling 18-month period will be referred to a summary proceeding before a Panel of the Floor Conduct Committee. The Panel may impose a fine not to exceed \$5,000 per violation.

4. Notwithstanding any other provision in this Rule, the Chief Regulatory Officer shall have the authority to impose a fine not to exceed \$5,000 per offense on members and their employees for egregious violations of Rule 513.A.
5. The Market Regulation Department, at its discretion, may refer any alleged violation of Rule 513 to the [Probable Cause Committee Chief Regulatory Officer](#) for consideration of charges.

[The remainder of the Rule is unchanged.]

#### 514. TRADING INFRACTIONS

[The introduction and Section A. are unchanged.]

##### 514.B. Floor Conduct Committee Fining Authority

A Panel of the Floor Conduct Committee that finds a member or his employee guilty of violating Rule 514 may impose a fine of up to \$10,000 per offense on such member or employee, except that an egregious violation of Rule 514.A.6., 7., 8. or 9. may result in a fine of up to \$20,000. Notwithstanding the above, the total fine levied by a Panel against a respondent may not exceed \$20,000 based on the single issuance of charges.

If an individual is found guilty of three violations of Rule 514.A. within a rolling one-year period, or any three violations of Rule 514.A.6., 7., 8., and/or 9., within a rolling five-year period, any subsequent alleged violation under Part A. of this rule within such period shall be reviewed by the Market Regulation Department to determine whether to forward the alleged violation to a Panel of the Floor Conduct Committee for adjudication or to investigate and refer the matter to the [Probable Cause Committee Chief Regulatory Officer](#) for review. Notwithstanding the above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the [Probable Cause Committee Chief Regulatory Officer](#).

#### 536. RECORDKEEPING REQUIREMENTS FOR PIT, GLOBEX, AND NEGOTIATED TRADES

[Sections A. – E. are unchanged.]

##### 536.F. CTR Enforcement Program and Sanction Schedule

CTR Monthly Enforcement Program

The CTR threshold levels for members with 100 or more transactions per month are as follows:

Exception Type	Threshold Level
Bracket Exceptions	8% and above
Time of Execution for Verbal Orders	8% and above
Sequence Errors	8% and above

A letter of warning shall be issued for a first occurrence of exceeding any threshold. Subsequent occurrences within 12 months of exceeding a threshold shall result in automatic fines starting at \$1,000, and then increasing to \$2,500 and \$5,000 for each subsequent occurrence. Fifth and subsequent offenses within a 12 month period will be referred to the [Probable Cause Committee Chief Regulatory Officer for consideration of charges by the Market Regulation Department](#).

A member will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed showing that administrative, clerical, or other errors by the clearing firm caused the member to exceed the threshold level. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

The monthly CTR threshold for timestamp exceptions for firms with 1,000 or more transactions per month is 8% and above. A letter of warning shall be issued for a first occurrence of exceeding the threshold. Subsequent occurrences within 12 months of exceeding the threshold shall result in automatic fines starting at \$1,500 for the second occurrence, then increasing to \$5,000 and \$10,000 for each subsequent

occurrence.

A firm will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

#### CTR Clearing Member Back Office Audit Enforcement Program

The Market Regulation Department will conduct audits of clearing members to verify that required audit trail information has been accurately recorded and submitted. The CTR audit threshold level for firms failing to pick up and timestamp sequenced cards, verbal order cards and floor orders is 20%. The threshold for all other firm audit trail or recordkeeping deficiencies is 10%.

Percentage calculations will be made based on an examination of a combination of sequenced cards, verbal orders and floor orders totaling 150 documents. The number of documents containing a deficiency(ies) will be divided by the total number of documents examined in determining the deficiency percentage.

Violations of each threshold within 24 months shall be subject to automatic fines starting at \$2,500 for a first occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the fine shall be final and may not be appealed.

Notwithstanding the provisions of this Section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~[Chief Regulatory Officer for consideration of charges](#).

[The remainder of the Rule is unchanged.]

**CME**  
**Chapter 5**  
**(“Trading Qualifications and Practices”)**  
(additions are underscored; deletions are ~~overstruck~~.)

## 515. REGISTRATION AND IDENTIFICATION OF BROKER ASSOCIATIONS

[Sections A. – D. are unchanged.]

### 515.E. Trading Restrictions

The Exchange may impose limits on the percentage of personal trading and/or brokerage volume that members of a broker association may execute with one another. Violations of such restrictions will result in summary action according to the following schedule on a rolling 12 month period:

First Occurrence	Letter of Warning
Second Occurrence	\$5,000 fine
Subsequent Occurrence	\$10,000 fine

The Exchange may restrict a member of a Revenue Sharing Association from trading for any account such member owns, controls or in which such member has a financial interest opposite other members of the association executing orders. Violation of such restrictions will result in summary action according to the following schedule on a rolling 24 month period:

First Occurrence	Letter of Warning
Second Occurrence	\$500 fine
Third Occurrence	\$1,000 fine
Subsequent Occurrence	\$5,000 fine

Actions taken pursuant to this section are final and may not be appealed; however members will have 15 days following receipt of notification of the action to present evidence to the Market Regulation Department that administrative, clerical or other errors caused the apparent rule violation.

Notwithstanding the provisions of this section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~[Chief Regulatory Officer for consideration of charges](#).

**555. TOP STEP TRADING RESTRICTIONS**

[Sections A. – C. are unchanged.]

**555.D. Violations**

A single violation of this rule may be deemed a trading infraction under Rule 514.A.9. subject to the jurisdiction and fining authority of the Floor Conduct Committee, except for those violations involving Rule 552. Multiple or egregious violations of this rule may be referred to the ~~Probable Cause Committee by the Market Regulation Department~~Chief Regulatory Officer for the consideration of charges.

**CBOT**

**Chapter 5**

**(“Trading Qualifications and Practices”)**

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

**515. REGISTRATION AND IDENTIFICATION OF BROKER ASSOCIATIONS**

[Sections A. – E. are unchanged.]

**515.F. Broker Association Enforcement Program**

Percentage Restrictions on Personal Trading and the Execution of Orders

A letter of warning shall be issued for a first occurrence of exceeding the percentage restriction on personal trading or the execution of customer orders in contracts subject to the trading restrictions in Section E. Subsequent occurrences within 24 months shall result in automatic fines in accordance with the following schedule:

Second occurrence	\$1,000
Third occurrence	\$5,000
Subsequent occurrences	\$10,000

Letters of warning and fines issued pursuant this section are final and may not be appealed; however members will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department that administrative, clerical or other errors caused the apparent rule violation.

Notwithstanding the provisions of this section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer for the consideration of charges.

## EXHIBIT B

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME, CBOT, NYMEX &amp; COMEX</b>
<b>Subject</b>	<b>Consent to Exchange Jurisdiction</b>
<b>Rule References</b>	<b>Rule 418</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME Group RA1909-5</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA1704-5 from April 19, 2017. It is being issued to remove a reference to the Probable Cause Committee, which is being eliminated.<sup>1</sup>

On August 20, 2012, CFTC Regulation 38.151(a) became effective. CFTC Regulation 38.151(a) is set forth below.

#### **§38.151 Access requirements.**

(a) *Jurisdiction.* Prior to granting any member or market participant access to its markets, a designated contract market must require that the member or market participant consent to its jurisdiction.

In response to CFTC Regulation 38.151(a), CME, CBOT, NYMEX and COMEX adopted Rule 418 (“Consent to Exchange Jurisdiction”), which also became effective on August 20, 2012. Rule 418 is set forth below:

#### **418. CONSENT TO EXCHANGE JURISDICTION**

Any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange in relation to such transactions, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes.

All market participants are reminded that failure to fully cooperate and participate in any CME Group Market Regulation Department investigation or disciplinary enforcement matter may result in charges being issued for a violation of Rule 432.L. pursuant to the provisions of Rule 406 (“Issuance of Charges”). Rule 432.L. is set forth below:

#### **432. GENERAL OFFENSES**

It shall be an offense:

- L. 1. to fail to appear before the Board, Exchange staff or any investigative or hearing committee at a duly convened hearing, scheduled staff interview or in connection with any investigation;

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<sup>1</sup> Please see Special Executive Report S-8475 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.

2. to fail to fully answer all questions or produce all books and records at such hearing or in connection with any investigation, or to make false statements;
3. to fail to produce any books or records requested by duly authorized Exchange staff, in the format and medium specified in the request, within 10 days after such request is made or such shorter period of time as determined by the Market Regulation Department in exigent circumstances;

Sanctions for violations of Rule 432 may include monetary penalties and/or restrictions or denial of access to any or all products of any Designated Contract Market, Derivatives Clearing Organization, or Swap Execution Facility owned or controlled by CME Group.

Market participants are reminded that access to CME, CBOT, NYMEX and COMEX markets is conditioned on compliance with Rule 418. Market participants should be aware that refusal to cooperate or provide requested information based on privacy or other applicable laws of any foreign jurisdiction will in no manner affect the Market Regulation Department's forwarding of the matter for the issuance of charges pursuant to the provisions of Rule 406 for a violation of rule 432.L or any other applicable Rule.

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

Steve Schwartz, Executive Director, Enforcement, 212.299.2853

Robert Sniegowski, Executive Director, Rules & Regulatory Outreach, 312.341.5991

Andrew Vrabel, Executive Director, Investigations, 312.435.3622

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

## EXHIBIT C

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME, CBOT, NYMEX &amp; COMEX</b>
<b>Subject</b>	<b>Summary Fines for Reporting Infractions</b>
<b>Rule References</b>	<b>Rule 512</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME Group RA1910-5</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA1812-5 from November 5, 2018. It is being issued based on an amendment to Rule 512.C. (“Hearings and Appeals”) that replaces a reference to the Probable Cause Committee, which is being eliminated, with a reference to the Chief Regulation Officer.<sup>2</sup>

Rule 512 (“Reporting Infractions”) requires that all data, records and other information required to be reported to the Exchanges or CME Clearing be submitted in an accurate, complete and timely manner. The Rule authorizes the Chief Regulatory Officer or his designee to issue summary fines based on the inaccurate, incomplete or untimely submission of data or records. The summary fines may not be less than \$1,000 or in excess of \$5,000 per offense for individuals or \$10,000 per offense for firms or facilities.

Infractions subject to sanctions under Rule 512 include, but are not limited to, deficiencies related to the following types of submission or reporting requirements:

- reporting concerning large trader, open interest and long positions eligible for delivery
- Registrar reports
- block trade and EFRP reporting
- user IDs on CME Globex trades (Tag 50)
- automated/manual indicator on CME Globex trades (Tag 1028)
- sender location on CME Globex trades (Tag 142)
- CTI (customer type indicator) codes
- Front-End audit trail requirements
- reporting related to accounts, including suspense account usage, account changes, and transfer reason codes
- CME Brokerage Reassignment (“BK”) trade recordation requirements (please see Special Executive Report S-7611 from March 4, 2016 for information on BK Trades)

The Department will continue, in its discretion, to issue warning letters for a first offense. However, consistent with CFTC regulations for designated contract markets, no more than one warning letter will be issued to an individual or entity for the same offense within a rolling 12-month period. Factors affecting the amount of the sanction under Rule 512 will include the magnitude, frequency and impact of the reporting infraction, the party’s prior disciplinary history for similar infractions and remedial actions taken to correct the identified reporting issues. The Department, in its discretion, may refer matters that it

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<sup>2</sup> Please see Special Executive Report S-8475 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.



deems egregious to the Chief Regulatory Officer for consideration of charges pursuant to the provisions of Rule 406 ("Issuance of Charges").

Rule 512 will allow parties 15 calendar days following the receipt of a summary fine to present evidence to the Department demonstrating that the fine should be rescinded or reduced. The Rule also allows parties to appeal the Department's determination that the evidence submitted was insufficient to warrant a rescission or reduction in the summary fine to the BCC if the party provides evidence of a valid basis for the appeal as set forth in the rule.

A summary fine issued pursuant to the provisions of Rule 512 constitutes a formal Exchange disciplinary action which requires the Exchange to report the matter to the CFTC pursuant to CFTC Regulation 9.11(a), and to enter the disciplinary action into the National Futures Association Basic System. Individuals and firms will not be subject to both a fine under Rule 512 and a surcharge levied by CME Clearing pursuant to Rule 852 ("Surcharges for Errors, Delays and Omissions") based on the same underlying activity.

The texts of Rules 512 and 852 appear below.

## **512. REPORTING INFRACTIONS**

### **512.A. General**

All data, records and other information required by the rules to be reported to the Exchange or the Clearing House, as applicable, must be submitted in an accurate, complete and timely manner.

### **512.B. Sanctions**

1. Except as otherwise provided in Rule 536, the Chief Regulatory Officer or his designee shall have the authority to impose summary fines on parties who have consented to the jurisdiction of the Exchange. Summary fines shall not be less than \$1,000 per offense and shall not exceed \$5,000 per offense for individuals or \$10,000 per offense for firms for the inaccurate, incomplete or untimely submission of data, records or information required to be submitted to the Exchange or the Clearing House.
2. Individuals and firms shall have 15 days following receipt of the notice of a summary fine to present evidence to the Market Regulation Department that the fine should be rescinded or reduced. Absent the submission of such evidence within the designated time period, the fine shall be deemed final and may not be appealed.

### **512.C. Hearings and Appeals**

If the Chief Regulatory Officer or his designee determines that evidence submitted by an individual or firm pursuant to Section B.2. is insufficient to support the requested rescission or reduction of the fine, the individual or firm may, within 10 days of the decision, file a written appeal with the Market Regulation Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the Exchange staff's discretion;
2. In excess of the Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application of Exchange rules.

Notwithstanding the provisions of Sections B.1. and B.2. above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Chief Regulatory Officer for consideration of charges.

## **852. SURCHARGES FOR ERRORS, DELAYS AND OMISSIONS**

Exchange staff may establish, and from time to time revise, schedules of surcharges to be imposed upon clearing members for errors, delays and omissions with respect to trade data and certain other information required to be provided to the Clearing House. These surcharges are to be collected by the Clearing House and are in addition to any disciplinary sanctions that may be imposed by Market Regulation, the BCC or CHRC for the violation of Exchange rules.

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

Erin Middleton, Manager, Rules & Regulatory Outreach, at 312.341.3286

Robert Sniegowski, Executive Director, Rules & Regulatory Outreach, at 312.341.5991

For media inquiries concerning this Market Regulation Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

## EXHIBIT D

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME, CBOT, NYMEX &amp; COMEX</b>
<b>Subject</b>	<b>Exchange for Related Positions</b>
<b>Rule References</b>	<b>Rule 538</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME Group RA1911-5</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA1901-5 from March 5, 2019. It is being issued to remove a reference to the Probable Cause Committee, which is being eliminated, in the answer to Q20 in the FAQ<sup>3</sup>.

No other material changes have been made to the Advisory Notice.

Market participants should note that no changes have been made with respect to the continued prohibition on the execution of transitory EFRPs in any products.

The execution of transitory EFRPs, which prior to August 4, 2014, had been permitted in CME foreign currency products, NYMEX energy products and COMEX and NYMEX metals products remain strictly prohibited.

As defined in Rule 538, transitory EFRPs are EFRPs in which the execution of an EFRP is contingent upon the execution of another EFRP or related position transaction between the parties and where the transactions result in the offset of the related positions without the incurrence of market risk that is material in the context of the related position transactions. Questions 14-17 in the FAQ provide additional guidance in this regard.

The time-period between the transactions is a factor considered in assessing whether the EFRP is a transitory EFRP; however, the legitimacy of the transactions will be evaluated based on whether the transactions have integrity as independent transactions exposed to market risk that is material in the context of the transactions.

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

**For NYMEX and COMEX Products**

Tom Dixon, Manager, 212.299.2901

Ryne Toscano, Senior Director, 212.299.2879

**For CME and CBOT Products**

Michael Joubert, Manager, 312.341.7714

William Lange, Director, 312.341.7757

Chris Reinhardt, Executive Director, 312.435.3665

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<sup>3</sup> Please see Special Executive Report S-8475 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

### **Text of Rule 538 – (“Exchange for Related Positions”)**

An Exchange for Related Position (“EFRP”) transaction involves a privately negotiated off-exchange execution of an Exchange futures or options contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product, or OTC derivative instrument corresponding to the asset underlying the Exchange contract.

The following types of EFRP transactions are permitted to be executed outside of the Exchange’s centralized market in accordance with the requirements of this rule:

Exchange of Futures for Physical (“EFP”) – the simultaneous execution of an Exchange futures contract and a corresponding physical transaction or a forward contract on a physical transaction.

Exchange of Futures for Risk (“EFR”) – the simultaneous execution of an Exchange futures contract and a corresponding OTC swap or other OTC derivative transaction.

Exchange of Option for Option (“EOO”) – the simultaneous execution of an Exchange option contract and a corresponding transaction in an OTC option.

For purposes of this rule, EFPs, EFRs and EOOs shall collectively be referred to as EFRP transactions.

#### **538.A. Parties to an EFRP**

One party to the EFRP must be the buyer of the Exchange contract and the seller of (or the holder of the short market exposure associated with) the related position; the other party to the EFRP must be the seller of the Exchange contract and the buyer of (or the holder of the long market exposure associated with) the related position. The Exchange contract and the corresponding related position must be executed for accounts with the same beneficial ownership.

A third party may facilitate, as principal, the related position component of an EFRP on behalf of a customer. Except for immediately offsetting foreign currency EFPs executed pursuant to Section K., such third party must be able to demonstrate that the related position was passed through to the customer who received the Exchange contract as part of the EFRP.

Specifically with respect to the execution of immediately offsetting foreign currency EFPs pursuant to Section K. by CTAs, account controllers, or other Persons acting on behalf of another party, the initiating and offsetting cash legs are not required to be passed through to the customer who received the Exchange contract as part of the EFRP. However, in a circumstance where the futures leg of the transaction fails to clear, the underlying customer must receive the profit or loss, if any, attendant to the offset of the offsetting cash leg.

Parties to an EFR or EOO transaction must comply with all relevant CFTC regulations governing eligibility to participate in the related position component of such transactions.

#### **538.B. Independently Controlled Accounts**

The opposing accounts to an EFRP transaction must be (a) independently controlled accounts with different beneficial ownership; (b) independently controlled accounts of separate legal entities with common beneficial ownership; or (c) independently controlled accounts of the same legal entity, provided that the account controllers operate in separate business units.

For EFRP transactions between accounts with common beneficial ownership, the parties to the trade must be able to demonstrate the independent control of the accounts and that the transaction had economic substance for each party to the trade.

#### **538.C. Related Position**

The related position component of an EFRP must be the cash commodity underlying the Exchange contract or a by-product, a related product or an OTC derivative instrument of such commodity that has a reasonable degree of price correlation to the commodity underlying the Exchange contract. The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Each EFRP requires a bona fide transfer of ownership of the underlying asset between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related position transaction.

The execution of an EFRP transaction may not be contingent upon the execution of another EFRP or related position transaction between the parties where the transactions result in the offset of the related position without the incurrence of market risk that is material in the context of the related position transactions.

The facilitation of the execution of an EFRP by any party that knows such EFRP is non bona fide shall constitute a violation of this Rule.

#### **538.D. EFPs in Connection with Inventory Financing of Storable, Non-Financial Commodities**

A party providing inventory financing for a storable agricultural, energy or metals commodity may, through the execution of an EFP, purchase the commodity and sell the equivalent quantity of futures contracts to a counterparty, and grant to the counterparty the non-transferable right, but not the obligation, to execute a second EFP during a specified time period in the future which will have the effect of reversing the original EFP.

#### **538.E. Quantity Equivalence**

The quantity of the related position component of the EFRP must be approximately equivalent to the quantity of the Exchange component of the EFRP. Appropriate hedge ratios between the Exchange and related position components of the EFRP may be used to establish equivalency.

#### **538.F. Prices and Price Increments**

The Exchange component of the EFRP transaction must be priced in accordance with the applicable futures price increments or option premium increments as set forth in the rules governing the Exchange contract.

EFRPs may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction. EFRPs may not be priced to facilitate the transfer of funds between parties for any purpose other than as the consequence of legitimate commercial activity.

#### **538.G. EFRPs Following the Termination of Trading in Exchange Contracts**

EFRP transactions in certain Exchange contracts may be executed for a defined period of time following the termination of trading in accordance with the applicable product rules governing each Exchange contract. Such transactions may be executed only to liquidate Exchange positions.

#### **538.H. Recordkeeping**

Parties to an EFRP transaction must maintain all records relevant to the Exchange contract and the related position transaction, including order tickets, records customarily generated in accordance with relevant market practices, records reflecting payments between the parties and, where appropriate, transfer of title, as well as any other records required to be kept pursuant to CFTC Regulation 1.35. Brokers who facilitate EFRP transactions must maintain all records corresponding to their facilitation of the transactions.

Records related to EFRP transactions must be provided to the Exchange upon request. It shall be the responsibility of the carrying clearing member firm to obtain and submit the requested records of their clients to the Exchange on a timely basis.

#### **538.I. Submission to the Clearing House**

Each EFRP transaction shall be submitted to the Clearing House within the time period and in the manner specified by the Exchange and the Clearing House. In all cases, the record submitted to the Clearing House must reflect the correct EFRP transaction type and must reflect the accurate date and time at which the relevant terms of the transaction were agreed upon by the parties to the trade.

An EFRP transaction submitted to the Clearing House shall not be considered accepted by the Clearing House until the transaction has cleared and the first payment of settlement variation and performance bond has been confirmed.

#### **538.J. EFRP Volumes Required to be Reported with Daily Large Trader Positions**

Each clearing member, omnibus account and foreign broker responsible for submitting daily large trader positions in accordance with Rule 561 must submit for each reportable account the EFRP volume bought and sold in the reportable instrument. This information must be included in the daily Large Trader report to the Exchange.

#### **538.K. Immediately Offsetting EFPs in Foreign Currency Futures**

EFPs in foreign currency futures wherein the parties immediately offset the cash transaction are permitted and the Exchange would expect to see confirmation statements issued by the bank/foreign exchange dealer party to the Transaction. These confirmation statements should be the type normally produced by the bank/foreign exchange dealer for confirmation of currency deals and should indicate, by name, the identity of the counter party principal to the Transaction. However, in circumstances where the EFP Transaction is between a bank/foreign exchange dealer and a CTA, account controller, or other Person acting on behalf of a third party (such as a commodity pool or fund), the cash side confirmation statement must identify, at minimum, the name of the third party's Carrying Clearing Member and the third party's account number (or other account specific designation), but need not identify the third party by name. These transactions are only permissible as EFPs in foreign currency futures and not in any other asset class or in EFRs or EOOs in foreign currency futures.

## **FAQ Related to Rule 538**

### **Exchange for Related Positions**

**Q1: What are EFRP transactions?**

A1: EFRP is an acronym for Exchange for Related Position, and EFRPs are one of the permitted exceptions to the requirement that futures and options on futures be executed openly and competitively on the Exchange.

An EFRP transaction involves the off-exchange execution of an Exchange futures or options on futures contract and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of the cash product, by-product, related product or OTC derivative instrument corresponding to the asset underlying the Exchange contract.

**Q2: What is the difference between EFRP transactions and "Ex-Pit" transactions?**

A2: The term "Ex-Pit Transaction" refers broadly to transactions that Exchange rules permit to be executed outside of the Exchange's centralized market. Permissible Ex-Pit transactions include EFRPs, block trades and transfer trades. EFRPs are addressed in Rule 538; block trades are addressed in Rule 526, and transfer trades are addressed in Rule 853.

**Q3: What are the different types of EFRPs permitted by the CME Group Exchanges?**

A3: The following types of Exchange for Related Position ("EFRP") transactions are permitted to be executed outside of the Exchange's centralized market in accordance with the requirements of Rule 538, the application guidance in this advisory, and any applicable CFTC regulations.

Exchange of Futures for Physical ("EFP") – the simultaneous execution of an Exchange futures contract and a corresponding physical transaction or a forward contract on a physical transaction.  
Exchange of Futures for Risk ("EFR") – the simultaneous execution of an Exchange futures contract and a corresponding OTC swap transaction or other OTC derivative transaction.

Exchange of Option for Option ("EOO") – the simultaneous execution of an Exchange option contract and a corresponding transaction in an OTC option. No other instrument other than an OTC option is eligible as the related position component of an EOO.  
The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Where the related position component of an EFRP is a physical transaction, a forward contract that is not otherwise defined as a swap under federal regulations, an Exchange Traded Fund ("ETF") or an Exchange Traded Note ("ETN"), the transaction should be submitted for clearing as an EFP transaction type.

Where the related position component of an EFRP is an instrument defined as a swap pursuant to federal regulations, or is another OTC derivative transaction, the transaction must be submitted as an EFR or an EOO transaction type, as applicable, and must be reported as required under Parts 43 and 45 of Commodity Futures Trading Commission Regulations. For further information regarding CFTC/SEC product definitions, market participants should reference the August 13, 2012 Federal Register release (77 FR 48207) that defines swaps and the scope of the forward contract exclusion.

A swap that is traded on, or subject to the rules of, a designated contract market (“DCM”) or a swap execution facility (“SEF”) is ineligible to be the related position component of an EFR or EOO transaction executed pursuant to Rule 538.

The above-referenced exclusion does not apply to swaps that are bilaterally negotiated and submitted for clearing-only to a DCO provided such swaps have a reasonable degree of correlation to the underlying CME Group Exchange product.

**Q4: May EFRPs be executed in any of the CME Group Exchanges’ futures and options contracts?**

A4: EFRPs may be executed in any of the CME Group Exchanges’ futures and futures options contracts provided the transaction conforms to the requirements of Rule 538 and any associated advisories, as well as with any applicable CFTC regulations.

Notwithstanding the foregoing, CBOT Soybean Crush Spread Options are not able to be submitted to CME Clearing through CME ClearPort or CME Direct, and are therefore ineligible to be executed as EFRPs.

**Q5: May EFRPs be transacted on electronic systems?**

A5: It is not permissible to facilitate the execution of EFRPs on a system or facility accessible to multiple parties that allows for the electronic matching of or the electronic acceptance of bids and offers. Parties may use communication technologies to bilaterally request EFRP quotes from one or more participants and to conduct privately negotiated EFRPs. Parties may also utilize technologies supported by third parties which allow for the electronic posting of indicative EFRP markets displayed to multiple market participants. However, EFRPs executed between parties based on such electronically displayed indicative markets may be transacted only through direct bilateral communications involving the broker, where applicable, and the parties to the trade.

**Q6: Are there specified trading hours during which EFRP transactions may be executed?**

A6: EFRPs may be executed at any time. However, an EFRP transaction submitted to the Clearing House shall not be considered to have been accepted by the Clearing House until the transaction has cleared and the first payment of settlement variation and performance bond has been confirmed.

**Q7: May an EFRP be executed after trading has ceased in an expiring contract?**

A7: EFRP transactions in certain Exchange contracts may be executed for a defined period of time following the termination of trading only to liquidate Exchange positions and only in accordance with the applicable product rules governing each Exchange contract. The applicable product chapter of the relevant Exchange’s rulebook will specify if such transactions are permitted and, if so,

the time period following the cessation of trading during which such transactions are eligible to be executed.

**Q8: Are there restrictions on who may participate in EFRP transactions?**

A8: EFP Transactions – There are no specific eligibility requirements for participation in an EFP transaction.

EFR and EOO Transactions – Participants to EFR and EOO transactions must comply with applicable CFTC requirements governing eligibility to transact the related position component of an EFR or EOO, and participants should consult with counsel as appropriate to determine eligibility. In this regard, market participants should be mindful of all eligibility standards applicable to related positions, including, where applicable, CFTC Regulations Part 32-Regulation of Commodity Option Transactions and Part 35-Swaps In An Agricultural Commodity.

**Q9: May EFRPs be executed between affiliated accounts?**

A9: The opposing accounts involved in the execution of an EFRP must be:

- a) independently controlled accounts with different beneficial ownership; or
- b) independently controlled accounts of separate legal entities with common beneficial ownership; or
- c) independently controlled accounts of the same legal entity provided that the account controllers operate in separate business units.

Accounts with the same beneficial ownership include accounts owned by the same person or entity, accounts of a parent and its wholly owned subsidiaries, and accounts of subsidiaries that are wholly owned by the same parent. Common beneficial ownership is more inclusive and includes not only accounts with the same beneficial ownership, but also accounts with common beneficial ownership that is less than 100%.

Parties to an EFRP transaction involving the same legal entity or common beneficial owner must be able to demonstrate the independent control of decision making for the respective accounts and that the EFRP had economic substance for each party to the trade.

**Q10: Are multi-party EFRP transactions permitted?**

A10: Typically, there may be only two parties involved in an EFRP transaction. One party to the EFRP must be the buyer of the Exchange contract and the seller of (or the holder of the short market exposure associated with) the related position; the other party to the EFRP must be the seller of the Exchange contract and the buyer of (or the holder of the long market exposure associated with) the related position. The Exchange contract and corresponding related position of an EFRP must be executed for accounts with the same beneficial ownership.

Any third party may facilitate, as principal, the related position component of an EFRP on behalf of a customer provided that the third party can demonstrate that the related position was passed through to the customer who received the Exchange contract as part of the EFRP.

With respect to the execution of immediately offsetting foreign currency EFPs pursuant to Section K. by CTAs, account controllers, or other Persons acting on behalf of another party, the initiating and offsetting cash legs are not required to be passed through to the customer who received the Exchange contract as part of the EFRP. However, in a circumstance where the futures leg of the



transaction fails to clear, the underlying customer must receive the profit or loss, if any, attendant to the offset of the offsetting cash leg.

**Q11: Are there restrictions on the price at which an EFRP transaction may be executed?**

A11: EFRPs may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction, provided that the price conforms to the applicable futures price increments or option premium increments set forth in the product chapter rules for the relevant Exchange contract.

The futures leg of EFP and EFR transactions in those commodities and contract months permitted to be priced at the settlement or marker price or any permissible price increment above or below the settlement or marker price pursuant to the provisions of Rule 524 will be eligible for TAS or TAM pricing. Please note that the futures leg of spot month Copper EFPs and EFRs may be priced solely at the settlement price, or TAS flat.

Please see the TAS Table set forth in the Interpretations & Special Notices Section at the end of Chapter 5 of each Exchange's Rulebook for information on the specific products, contract months and permissible price increments, which may also be accessed [here](#).

EFRPs executed at off-market prices are more likely to be reviewed by Market Regulation to determine the purpose for the pricing. EFRPs may not be priced off-market for the purpose of shifting substantial sums of cash from one party to another, to allocate gains and losses between the futures or options on futures and the cash or OTC derivative components of the EFRP, to evade taxes, to circumvent financial controls by disguising a firm's financial condition, or to accomplish some other unlawful purpose.

**Q12: May EFRPs be average priced?**

A12: Yes. EFRP transactions designated for average pricing must conform to the requirements of Rule 553 ("Average Price System") and Rule 538.

**Q13: Are the prices and quantities of EFRP transactions publicly reported?**

A13: The price of the Exchange leg of an EFRP transaction is not publicly reported. EFRP volumes are reported daily, by instrument, on the CME Group website.

Parties to an EFR or EOO transaction should consult CFTC regulations regarding the swap reporting requirements associated with their execution of the related position transaction.

**Q14: Are transitory EFRPs permitted in any products listed on CME Group exchanges?**

A14: No.

Transitory EFRPs are EFRPs in which the execution of an EFRP is contingent upon the execution of another EFRP or related position transaction between the parties and where the transactions result in the offset of the related positions without the incurrance of market risk that is material in the context of the related position transactions.

The time period between the transactions is a factor considered in assessing whether the EFRP is a transitory EFRP; however, the legitimacy of the transactions will be evaluated based on

whether the transactions have integrity as independent transactions exposed to market risk that is material in the context of the transactions.

Where economically equivalent futures products trade on a CME Group Exchange and another exchange, the contingent execution between two parties of equal and opposite EFRPs on each exchange where the related position components offset and are not subject to market risk shall be considered a prohibited transitory EFRP at the applicable CME Group Exchange.

**Q15: May a swap be negotiated to settle via an EFR?**

A15: Parties to a swap may agree to settle the swap via an EFR provided that the determination of the settlement value of the swap (floating price) is subject to market risk that is material in the context of the transaction. For example, parties may negotiate a swap to settle via EFR on a specific date in the future at the futures settlement price or the average settlement price over a prescribed time period.

**Q16: Can an EFRP incorporate multiple legs on the Exchange component of the transaction or incorporate multiple legs on the related position component of the EFRP?**

A16: An EFRP may incorporate multiple Exchange components provided that the EFRP is not a prohibited transitory EFRP as defined in Section C. and in the answer to Question 14 of this Advisory Notice. Accordingly, an EFRP with multiple Exchange components where the related position components offset without the incurrance of market risk that is material in the context of the related position transactions would not be permissible. Alternatively, an EFRP with multiple Exchange components where the related position components do not offset and where those related position components incur material market risk are permitted.

An EFRP may incorporate multiple related position components provided that the net exposure of the related position components is approximately equivalent to the quantity of futures exchanged or, in the case of an EOO, the net delta-adjusted quantity of the OTC option components is approximately equivalent to the delta-adjusted quantity of the Exchange-listed option.

**Q17: May EFPs be utilized to facilitate inventory financing in storable non-financial commodities?**

A17: EFP transactions entered into for the purpose of obtaining inventory financing for storable agricultural, metals and energy commodities are permitted in accordance with the following: A party providing inventory financing for a storable, non-financial commodity may, through the execution of an EFP, purchase the commodity and sell the equivalent quantity of futures contracts to a counterparty, while simultaneously granting to the counterparty the non-transferable right, but not the obligation, to execute a second EFP that reverses the original EFP during a specified time period in the future.

**Q18: What types of instruments are considered acceptable for use as the related position side of EFRPs?**

A18: The related position component of the EFRP must involve the product underlying the Exchange contract or a by-product, related product or OTC derivative instrument that is reasonably correlated to the corresponding Exchange instrument.  
The related position component of an EFRP may not be a futures contract or an option on a futures contract.

Where the risk characteristics and/or maturities of the related position differ from the instrument underlying the Exchange contract, the parties to the EFRP may be required to demonstrate the correlation between the products and the methodology used in equating the futures to the related

position. In all cases, the related position transaction must be comparable with respect to quantity, value or risk exposure of the corresponding Exchange contract.

Each EFRP requires a bona fide transfer of ownership of the cash commodity between the parties or a bona fide, legally binding contract between the parties consistent with relevant market conventions for the particular related position transaction.

Where the related position component of an EFRP is a physical transaction, a forward contract that is not otherwise defined as a swap under federal regulations, an Exchange Traded Fund ("ETF") or an Exchange Traded Note ("ETN"), the transaction should be submitted for clearing as an EFP transaction type.

Where the related position component of an EFRP is an instrument defined as a swap pursuant to federal regulations, or is another OTC derivative transaction, the transaction must be submitted as an EFR or an EOO transaction type, as applicable, and must be reported as required under Parts 43 and 45 of Commodity Futures Trading Commission Regulations. For further information regarding CFTC/SEC product definitions, market participants should reference the August 13, 2012 Federal Register release (77 FR 48207) that defines swaps and the scope of the forward contact exclusion.

Generally acceptable related position instruments for EFRPs in the following product groups include, but are not limited to, the following:

Foreign Exchange Contracts: Instruments acceptable as the related position component of an FX EFRP transaction include spot, forwards, non-deliverable forwards ("NDFs"), swaps and swaptions, cross-currency basis swaps, OTC FX options, non-deliverable options ("NDOs"), currency baskets, ETFs and ETNs.

Interest Rate Contracts: Instruments acceptable as the related position component of an interest rate EFRP include Treasuries, Agencies, investment grade corporates, money market instruments, interest rate swaps and swaptions, forward rate agreements (FRAs), mortgage instruments including collateralized mortgage obligations, OTC interest rate options, ETFs and ETNs.

Equity Index Contracts: Instruments acceptable as the related position component of a stock index EFRP include stock baskets provided the basket is highly correlated to the index and, further, that the basket represents at least 50% of the underlying index by weight or includes at least 50% of the stocks in the underlying index. The notional value of the basket must be approximately equal to the value of the corresponding exchange contract. Other acceptable instruments include equity index swaps and swaptions, OTC equity index options, ETFs and ETNs.

Agricultural Contracts: Instruments acceptable as the related position component of an EFRP in agricultural products include the commodity underlying the futures contract or a by-product or related product that is reasonably correlated to the futures being exchanged, physical forwards, cash-settled forwards, agricultural commodity swaps or swaptions, OTC agricultural options, ETFs and ETNs.

Commodity Index Contracts: Instruments acceptable as the related position component of an EFRP involving an Exchange contracts based on a commodity index (e.g., S&P GSCI, Bloomberg Commodity Index) include a corresponding commodity index swap or swaption, ETFs or ETNs.

Energy Contracts: Instruments acceptable as the related position component of an EFRP in energy products include the commodity underlying the futures contract or a by-product or related product that is reasonably correlated to the futures being exchanged, physical forwards, cash-settled forwards, energy commodity swaps or swaptions, OTC energy options, ETFs and ETNs.

Metals Contracts: Instruments acceptable as the related position component of an EFRP in metals products include related spot transactions, physical forwards, cash-settled forwards, swaps and swaptions, OTC metals options, ETFs and ETNs.

Questions regarding the acceptability of related position instruments may be addressed to the Market Regulation contacts listed in this Advisory Notice.

**Q19: What are the recordkeeping requirements for EFRPs?**

A19: Parties to an EFRP must maintain all records relevant to the Exchange contract and the corresponding related position transaction, including any records required to be kept pursuant to CFTC Regulation 1.35. Upon request, such records must be provided to Market Regulation in a timely manner.

Records that may be requested include, but are not limited to, the following:

- A. All order tickets, trade blotters, e-mails, instant messages, telephone recordings or other records related to the order placement, negotiation, execution and/or confirmation of the EFRP.
- B. All cash confirmations and signed contracts corresponding to the cash or derivative component of the EFRP. The documentation must contain all of the relevant terms of the transaction and counterparty information.
- C. For EFPs, third party proof of payment evidencing settlement and documentation representing the transfer of ownership of the commodity. For EFPs involving forward contracts, such information may be requested if the forward contract has settled at the time of the request. For EFRs and EOOs, where applicable, proof of payment evidencing settlement between the parties.
- D. Futures account statement reflecting confirmation of the EFRP.
- E. Records reflecting the booking of the cash or derivative transaction in the firm's internal bookkeeping systems.

Parties who facilitate EFRP transactions must maintain all records corresponding to their facilitation of the transactions.

**Q20: Who is responsible for submitting EFRP records when a request for such records is made by the Market Regulation Department?**

A20: Upon request, related position documentation for an EFRP must be provided on a timely basis and in the form and manner requested, to the Market Regulation Department. The clearing firm carrying the account shall be responsible for obtaining relevant EFRP records from its client and submitting the records to Market Regulation.

Pursuant to Rule 418 ("Consent to Exchange Jurisdiction"), any party initiating or executing a transaction subject to the rules of the Exchange, or for whose benefit such transaction has been executed, is subject to the jurisdiction of the Exchange and may be required by Market Regulation to produce records and cooperate fully with any investigation.

Failures to provide requested records in a complete or timely manner may result in the issuance of charges pursuant to the provisions of Rule 406 ("Issuance of Charges").

**Q21: Must transactions executed as EFRPs be designated as EFRPs on customer account statements?**

A21: Account statements must accurately identify EFRP transactions as such. It is not acceptable to designate the trades as “Ex-Pit” or “ClearPort” trades as such terms may reflect transaction types other than EFRPs.

**Q22: How are EFRPs submitted to the Clearing House?**

A22: EFRPs must be submitted via CME Direct or CME ClearPort.

Information on the various methods of registration for access to CME Direct or CME ClearPort may be via the following links:

<http://www.cmegroup.com/trading/cme-direct/registration.html#newFirmUserRegistration>

<http://www.cmegroup.com/clearport/registration.html>

EFRPs in CME and CBOT Products

EFRPs may be entered in CME Direct or CME ClearPort from 6:00 p.m. CT through 5:45 p.m. CT each business day. CME Direct and CME ClearPort do not permit the entry of CME and CBOT EFRPs between 5:45 p.m. CT and 6:00 p.m. CT each business day and at all times on weekends.

EFRPs in NYMEX and COMEX Products

EFRPs may be entered in CME Direct or CME ClearPort from 5:00 p.m. CT/6:00 p.m. Eastern Time (“ET”) through 4:00 p.m. CT/5:00 p.m. ET each business day. CME Direct and CME ClearPort do not permit the entry of NYMEX and COMEX EFRPs between 4:00 p.m. CT/5:00 p.m. ET and 5:00 p.m. CT/6:00 p.m. ET each business day and at all times on weekends.

EFRPs may also be reported to the CME ClearPort Facilitation Desk/Global Command Center via email at [FacDesk@cmegroup.com](mailto:FacDesk@cmegroup.com). **Please note that for the Facilitation Desk to submit the trade, the counterparty accounts must be registered with credit limits and product permissions set up in CME Account Manager.**

The Facilitation Desk is closed from 4:30 p.m. CT/5:30 p.m. ET Friday through 5:00 p.m. CT/6:00 p.m. ET Sunday.

Please contact the Enterprise Application & Systems Entitlements (EASE) Team with any additional registration questions in the U.S. at 312.456.1560, in Europe at +44 20 3379 3802 or in Asia at +65 6593 5536.

If you have any trade submission issues, please contact the CME ClearPort Facilitation Desk/Global Command Center in the U.S. at +1 800 438 8616, in Europe at +44 20 7623 4747 or in Asia at +65 6532 5010.

**Q23: How soon after execution must the EFRP be submitted to the Clearing House?**

A23: Absent mitigating circumstances, EFRP transactions must be submitted to the Exchange as soon as

possible, but no later than the end of the business day on which the EFRP was executed.

The relevant terms of the EFRP are considered to have been determined at the time the price and quantity of the Exchange contract and the corresponding related position component of the transaction are agreed upon by the parties to the EFRP. For EFPs and EFRs eligible to be priced as TAS or TAM transactions, the execution time of the trade is considered to have been determined at the time the quantity and price (TAS- or TAM-flat or any permissible price increment above or below the settlement or marker price) have been agreed upon by the parties to the EFP or EFR.

However, where the actual delivery quantity may not be precisely determined by the parties until the time of delivery, the parties may contractually agree to submit the transaction to the Clearing House within the required reporting period following the time at which the actual delivery quantities are determined, rather than reporting the EFRP at the time of pricing. Absent such contractual arrangement, the transaction must be reported at the time of pricing.

Notwithstanding the foregoing, EFRPs may not, under any circumstances, be submitted for clearing later than the end of the permissible posting period for EFRP transactions following the expiration of the underlying futures contract as specified in the relevant product chapter of the applicable Exchange rulebook.

**Q24: Must the execution date and time be submitted for EFRPs?**

A24: The date and time of execution must be accurately submitted for each EFRP transaction. The execution date and time to be submitted are the date and time at which the relevant terms of the transaction were determined by the parties to the trade as described in Q22.

The execution time for EFRPs must be entered in CME Direct or CME ClearPort in the local time of the party(ies) entering the EFRP.

**Q25: What information regarding EFRPs must be submitted in a reporting firm's daily Large Trader position file?**

A25: A firm's daily Large Trader position file must include for each reportable account the EFRP volume bought and sold in the reportable instrument.

**Q26: What are the responsibilities of firms in connection with EFRPs executed or cleared on behalf of a customer?**

A26: Firms that execute or clear EFRPs on behalf of customers are responsible for ensuring that their customers who execute EFRPs are fully informed regarding Exchange EFRP requirements. Upon request by the Market Regulation Department, firms carrying accounts that execute EFRPs are responsible for obtaining and submitting records of their clients' EFRP transactions in a timely and complete manner.

If a clearing member has actual or constructive notice or knowledge of the execution of non-bona fide EFRPs by its customer and the clearing member fails to take appropriate action, the clearing member will be found to have violated Rule 538.C.

**Q27: Is an Immediately Offsetting EFP in Foreign Currency Futures prohibited as a transitory EFRP in Foreign Currency Futures?**

A27: No. An immediately offsetting FX EFP as expressly permitted under Rule 538.K. is not prohibited as a transitory EFRP because the offsetting physical transaction is not contingent on the EFP in any way. If, for example, the futures leg of an immediately offsetting EFP in foreign currency is not accepted for clearing, the futures transaction is void ab initio and the counterparties would be left with the stand-alone physical transaction. Nevertheless, Rule 538.K. makes clear that the stand-alone physical and EFP transactions may occur immediately and result in the offset of the physical transactions without being prohibited as a transitory EFRP.

## EXHIBIT E

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME &amp; CBOT</b>
<b>Subject</b>	<b>Computerized Trade Reconstruction (“CTR”) Monthly Edit Programs</b>
<b>Rule References</b>	<b>Rule 536</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME &amp; CBOT RA1902-3</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME & CBOT Market Regulation Advisory Notice RA1009-3 from December 7, 2010. It is being issued to remove a reference to the Probable Cause Committee based on its elimination.<sup>4</sup>

Members active on the trading floor should ensure that their recordkeeping practices comply with all audit trail requirements. Market Regulation Department (“Department”) staff is available to assist members in addressing compliance with these requirements and members are encouraged to contact the Department if they are interested in obtaining additional information or guidance.

The text of Rule 536.F. pertaining to the CTR enforcement program appears below, followed by an FAQ section.

Questions regarding this Advisory Notice should be directed to David Peloquin, Senior Data Investigator, Market Regulation, at 312.341.3165.

#### **536.F. CTR Enforcement Program and Sanction Schedule**

##### CTR Monthly Enforcement Program

The CTR threshold levels for members with 100 or more transactions per month are as follows:

Exception Type	Threshold Level
Bracket Exceptions	8% and above
Time of Execution for Verbal Orders	8% and above
Sequence Errors	8% and above

A letter of warning shall be issued for a first occurrence of exceeding any threshold. Subsequent

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<sup>4</sup> Please see Special Executive Report S-3485 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.



occurrences within 12 months of exceeding a threshold shall result in automatic fines starting at \$1,000, and then increasing to \$2,500 and \$5,000 for each subsequent occurrence. Fifth and subsequent offenses within a 12 month period will be referred to the Chief Regulatory Officer for consideration of charges.

A member will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed showing that administrative, clerical, or other errors by the clearing firm caused the member to exceed the threshold level. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

The monthly CTR threshold for timestamp exceptions for firms with 1,000 or more transactions per month is 8% and above. A letter of warning shall be issued for a first occurrence of exceeding the threshold. Subsequent occurrences within 12 months of exceeding the threshold shall result in automatic fines starting at \$1,500 for the second occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

#### CTR Clearing Member Back Office Audit Enforcement Program

The Market Regulation Department will conduct audits of clearing members to verify that required audit trail information has been accurately recorded and submitted. The CTR audit threshold level for firms failing to pick up and timestamp sequenced cards, verbal order cards and floor orders is 20%. The threshold for all other firm audit trail or recordkeeping deficiencies is 10%.

Percentage calculations will be made based on an examination of a combination of sequenced cards, verbal orders and floor orders totaling 150 documents. The number of documents containing a deficiency(ies) will be divided by the total number of documents examined in determining the deficiency percentage.

Violations of each threshold within 24 months shall be subject to automatic fines starting at \$2,500 for a first occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the fine shall be final and may not be appealed.

Notwithstanding the provisions of this Section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Chief Regulatory Officer for consideration of charges.

### **FAQ Related to CME and CBOT Rule 536.F. CTR Monthly Edit Programs**

**Q1: What time period does the CTR Program use to determine whether the threshold levels have been exceeded?**

A1: Both the individual edit programs and firm edit program are run for each calendar month.

**Q2: How many categories of error exceptions (edits) are measured in the Bracket Exception Program?**

A2: Three: "No Time Bracket," "No Quote Found Within Bracket" and "Price Not Quoted Within Trade Day."

**Q3: Are there separate percentages calculated for each of the three edits in the Bracket Exception Program?**

A3: No. There is only one error percentage calculated in this program and it is based on the total number of combined edits (“No Time Bracket,” “No Quote Found Within Bracket” and “Price Not Quoted Within Trade Day”) divided by the total number of trades for the month. For example, a member who executes 300 trades and has 8 citations for “No Time Bracket,” 7 citations for “No Quote Found Within Bracket” and 2 citations for “Price Not Quoted Within Trade Day” will have a total of 17 exceptions and a “Bracket Exception” percentage of 5.66% (17/300).

**Q4: How does spread price reporting affect the Bracket Exception Program?**

A4: Any spread price which does not appear in Time and Sales during the bracket designated by the member executing the spread will be considered a bracket error.

CME and CBOT Rule 528 require that parties to a pit transaction properly notify the price reporting staff of the price at which trades have been consummated. Every spread transaction must be reported **each** time the spread is traded, regardless of whether there has been a change in the last reported price. In addition to the spread price, members must report the quantity of the spread to price reporting staff who will record the acronym of the member making the price report.

**Q5: How many categories of error exceptions (edits) are measured in the Time of Execution Program?**

A5: Two. The Time of Execution Program includes edits for “Invalid Time of Execution” and “Execution Time Not within Bracket.” An edit for “Invalid Time of Execution” is cited if the broker filling a verbal order for another member fails to record the time of execution to the nearest minute on his trading card. An edit for “Execution Time Not within Bracket” is cited if the recorded execution time does not agree with the reported time bracket.

**Q6: How is the error percentage calculated for the Time of Execution Program?**

A6: The percentage represents the total number of combined edits (“Invalid Time of Execution” and “Execution Time Not within Bracket”) divided by the total number of process type “E” trades (CTI 3 trades).

**Q7: How many categories of error exceptions (edits) are measured in the Sequence Program?**

A7: Two. The Sequence Program includes edits for “Card/Bracket Sequence” and “Multiple Brackets per Card.”

**Q8: When is a trade considered out of sequence for the purposes of the Sequence Errors Program?**

A8: The program analyzes time brackets and card sequence numbers. For example, if Card 1 is B bracket, Card 2 is C bracket and Card 3 is B bracket, all B bracket trades on Card 3 would be deemed out of sequence.

**Q9: What is the requirement for the Multiple Brackets per Card edit?**

A9: This edit applies to local traders and to proprietary traders who record trades in the same manner as local traders. The requirement is that all trades on a particular trading card must be from the

same time bracket. The only exception is that trades in the opening bracket "\$" and the corresponding 15-minute bracket period may be on the same card.

**Q10: How does the CTR Edit Program apply to firms?**

A10: The Timestamp Exception Program applies to firms, and violations of the 8% threshold will result in sanctions in accordance with the enforcement schedule set forth in Rule 536.F.

**Q11: How many categories of edits are measured in the Timestamp Exception Program?**

A11: Eight. These edits include: 1) "Time In = Time Out," 2) "Invalid Timestamps" (times are blank or 999999), 3) "Time In > Time Out," 4) "Timestamps > Clearing Receipt Time," 5) "Timestamp In > Commodity End Time," 6) "Time Out < Commodity Start Time," 7) "Time In > Keypunch Bracket" and 8) "Time Out < Keypunch Bracket."

**Q12: How is the error percentage calculated for the Timestamp Exception Program?**

A12: The percentage represents the total number of combined edits (set forth in the answer to Question 11 above) divided by the total number of process type "T" trades (CTI 2, 3 & 4 orders).

**Q13: Who issues CTR warnings and fines?**

A13: All warnings and fines are issued automatically based on the results of the CTR programs and are issued by staff of the Market Regulation Department.

**Q14: Can a CTR warning or fine be appealed?**

A14: Individuals have 15 days after receipt of a notice of violation to present evidence to the Market Regulation Department showing that errors beyond the member's control (for example, data entry errors by firm personnel) caused the threshold to be exceeded. If Market Regulation staff determines that the evidence is sufficient to reduce the error percentage below the threshold level, the violation will be dismissed.

Firms also have 15 days after receipt of a notice of violation to present evidence to the Market Regulation Department to have the violation dismissed. The Market Regulation Department will determine if such evidence is sufficient to reduce the error percentage below the threshold level.

The decisions of Market Regulation regarding CTR actions are final and may not be appealed. Additionally, fines will be issued in accordance with the reported sanction schedule and will not be reduced.

**Q15: How does the 12-month period referenced in the enforcement schedule work?**

A15: The 12-month period in the enforcement schedule is a rolling 12-month period. For example, if a member were above the error threshold level for the Bracket Exception Program for the first time in a 12-month period in January 2020, a warning letter would be sent. Subsequent violations of *that program* through December 2020 would result in fines in accordance with the amended

sanction schedule. If this member were to also violate the Sequence Program one time during that 12-month period, a warning letter rather than a fine would be issued for that violation because the violation occurred in a different exception program.

**Q16: Do the exception programs apply across both exchanges if an individual or firm is a member of both exchanges?**

A16: Because CME and CBOT are separate self-regulatory organizations, activity on each exchange is evaluated separately. As such, an individual or firm active on both exchanges could be sanctioned by each exchange in the same month if the thresholds were violated on both exchanges.

**Q17: Do the programs use both outrights and spreads when calculating total trade count?**

A17: Yes. All trades are used for total trade calculation.

**Q18: Are members and member firms able to view statistical reports during the month to monitor their exception rates?**

A18: Yes. CME and CBOT members can view and, if desired, print their reports by logging onto the Enterprise Reporting Portal (“EREP”). The address is <https://login.chicago.cme.com>. Login information may be obtained by contacting the EASE Team at 312.456.1560 or [EASE.AtYourService@cmegroup.com](mailto:EASE.AtYourService@cmegroup.com).

## EXHIBIT F

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME &amp; CBOT</b>
<b>Subject</b>	<b>Reminder Regarding the Prohibition of Food and Beverages on the Trading Floor</b>
<b>Rule References</b>	<b>Rule 513 and the Access, Conduct and Appearance Code</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME &amp; CBOT RA1903-3</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME & CBOT Market Regulation Advisory Notice RA1801-3 from February 6, 2018. It is being issued based on an amendment to Rule 513.B. that replaces a reference to the Probable Cause Committee, which is being eliminated, with a reference to the Chief Regulatory Officer.<sup>5</sup>

As a reminder, Rule 513 (“Conduct, Apparel and Badges”) and the Access, Conduct and Appearance Code (“Code”) expressly prohibit carrying or consuming food and beverages on the trading floor. The only exception to the prohibition allows for water, in an approved container, and individually-wrapped (non-chocolate) hard candy and gum on the trading floor.

Members and their employees are reminded that violations of this prohibition are subject to sanctions pursuant to 513.B. (“Sanctions”), which is set forth below.

#### **513.B. Sanctions**

1. Designated Exchange officials may impose fines on members or their employees for violations of the Exchange policy concerning access, conduct, and appearance. Fines imposed pursuant to Rule 513.B.1. are final and may not be appealed.
2. A fourth violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be subject to a \$1,000 fine.
3. A fifth or subsequent violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be referred to a summary proceeding before a Panel of the Floor Conduct Committee. The Panel may impose a fine not to exceed \$5,000 per violation.
4. Notwithstanding any other provision in this Rule, the Chief Regulatory Officer shall have the authority to impose a fine not to exceed \$5,000 per offense on members and their employees for egregious violations of Rule 513.A.
5. The Market Regulation Department, at its discretion, may refer any alleged violation of Rule 513 to the Chief Regulatory Officer for consideration of charges.

Questions regarding this Advisory Notice may be directed to Barry Schauer, Trading Floor Investigations Specialist, Market Regulation, at 312.341.7640.

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

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<sup>5</sup> Please see Special Executive Report S-8475 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.

## EXHIBIT G

### MARKET REGULATION ADVISORY NOTICE

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<b>Exchange</b>	<b>CME</b>
<b>Subject</b>	<b>Registration and Identification of Broker Associations</b>
<b>Rule References</b>	<b>Rule 515</b>
<b>Advisory Date</b>	<b>December 17, 2019</b>
<b>Advisory Number</b>	<b>CME RA1902-2</b>
<b>Effective Date</b>	<b>January 2, 2020</b>

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Market Regulation Advisory Notice RA1602-2 from March 14, 2016. It is being issued based on an amendment to Rule 515.F. (“Broker Association Enforcement Program”) that replaces a reference to the Probable Cause Committee, which is being eliminated, with a reference to the Chief Regulatory Officer.<sup>6</sup>

The complete text of Rule 515 begins on page 3 of this Advisory Notice.

#### Eurodollar Options Trading Restrictions

The intra-association trading restrictions among members of CME broker associations operating in Eurodollar options are set forth below.

##### **Contract Months Subject to the Restrictions**

All listed contract months from the first day of trading through the last day of trading.

##### **Restrictions**

Order executions in restricted contract months by members of a broker association opposite other members of the same broker association will be limited to 20% per month.

#### Standard & Poor’s 500 Stock Price Index Futures Trading Restrictions

Restrictions on the intra-association trading among members of CME broker associations operating in Standard & Poor’s 500 Stock Price Index futures are set forth below.

##### **A. Contract Months Subject to the Restrictions**

The lead contract month. The second contract month becomes restricted on the first business day that lead contract month becomes the spot month.

##### **B. Restrictions**

###### **1. Revenue Sharing Associations**

A member is prohibited from trading for any account such member owns, controls or in which such member has a financial interest opposite other members of the association executing orders.

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<sup>6</sup> Please see Special Executive Report S-8475 from December 17, 2019, for additional information on the elimination of the Probable Cause Committee.

- a. Personal trading by a member opposite personal trading by other members of the association is limited to 15% per month.
  - b. Order executions by a member opposite order executions by other members of the association are limited to 25% per month, except for associations and members primarily involved in the execution of spread orders where the limit is 30%.
2. Non-Revenue Sharing Associations
    - a. Personal Trading by a member opposite other members of the association is limited to 15% per month, of which no more than 10% may be opposite order executions by other members of the association.
    - b. Order executions by a member opposite other members of the association are limited to 25% per month, except for associations and members primarily involved in the execution of spread orders where the limit is 30%.

### **Best and Only Bid and Offer Documentation**

In circumstances where two members of the same broker association trade opposite one another in a contract month subject to the trading restrictions set forth above, and at the time the trade is executed one member is the best and only bid and the other member is the best and only offer, the quantity associated with the execution will be removed from each member's monthly intra-association percentage restrictions **provided that all of the following requirements are met:**

1. A note is made on the trading document by one of the two members involved in the trade indicating that at the time the trade was executed, one member was the best and only bid and the other member was the best and only offer in the pit. Noting "B&O" on the trading document is sufficient for this purpose. That notation must be made contemporaneously with the trade being made.
2. The time of the trade to the nearest minute is recorded on the trading document containing the B&O notation.
3. A signature and a **legible** acronym of a member (or the signature of an Exchange official) attesting to the fact that the members were the best and only bid and best and only offer at the time the trade was made **must be** noted on the trading document. The signature and acronym of the member (or the signature of the Exchange official) must be obtained as soon as possible after the trade has been made. **Members executing the trade may request signatures only from members (or Exchange officials) who were present when the trade was made. Members signing such trading documents may do so only if they were present and can attest to the fact that the trade was a best and only bid and offer at the time it was made.** Members of the same broker association are not eligible to sign as a witness for this purpose.
4. Copies of the documentation are forwarded to the Market Regulation Department, marked to the attention of Jeffrey Nierman.

**Properly documented** best and only bids and offers will be removed from each member's intra-association trading volume and total trade volume when calculating compliance with the applicable trading restrictions. If the removal of the volume associated with the best and only bids and offers results in the reduction of a member's intra-association trading percentage to a non-violative level, the member will not be deemed to have violated Rule 515.E.

**Documentation that does not meet all the requirements set forth above will not be accepted by the Market Regulation Department.**

Questions regarding this advisory may be directed to Jeffrey Nierman, Senior Data Investigator, at 312.341.3195.

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

CME Rule 515

## **REGISTRATION AND IDENTIFICATION OF BROKER ASSOCIATIONS**

### **515.A. Definitions**

1. Floor Brokerage Activity - The execution or pre-execution handling of orders on the trading floor.
2. Broker Association - A broker association shall include the following associations between two or more members with trading floor access privileges, at least one of whom is engaged in floor brokerage activity:
  - a. Revenue Sharing Association: Associations between members who:
    - i. share profits or losses associated with their brokerage and/or error account activity; and/or
    - ii. have an employer and employee relationship which relates to floor brokerage activity;
  - b. Non-Revenue Sharing Association: Associations between members who:
    - i. regularly share a deck of orders; and/or
    - ii. share employee salary expenses.
  - c. Any other group or combination deemed by the Exchange to be a broker association.
3. Principal of a Revenue Sharing Association – Each individual who has formal or de facto control over the affairs of, or has a ten percent or greater ownership interest in, a Revenue Sharing Association not owned by a clearing member firm.
4. Spokesperson of a Non-Revenue Sharing Association and Revenue Sharing Associations owned by a clearing member firm – An individual authorized to represent a Non-Revenue Sharing Association or Clearing Firm owned Revenue Sharing Association in connection with its registration obligations set forth in Section B.
5. Investor – An individual who has a direct beneficial interest in a Revenue Sharing Association but is not a principal as defined in A.3. above.

### **515.B. Registration Requirements**

1. A member of a broker association shall not handle or execute an order unless that association has registered with the Exchange.
2. Members or Member Firms must have majority ownership interest in any broker association.
3. Principals involved in floor brokerage activity must have trading privileges in the membership division required for access to the products handled by the members of the association. Principals who are not involved in floor brokerage activity must own a membership in the membership division required for access to the products handled by the members of the association. Notwithstanding the above, principals not regularly involved in floor brokerage activity may hold a membership in any division in circumstances where the association is owned by a Member Firm and such Member Firm owns a membership in the membership division required for access to the products handled by the members of the association.
4. No registered broker association or member thereof shall permit a party to have any direct or indirect profit or ownership interest in a broker association unless such party is registered in the association in accordance with this rule.
5. Registration shall be accomplished by filing the appropriate registration forms with the Market Regulation Department.
6. It shall be the responsibility of the broker association and its principals or spokespersons to ensure that the association is properly registered. Any additions, deletions or other changes to the information already reported must be provided to the Market Regulation Department within two business days after the event giving rise to such changes.
7. The Exchange may request any additional information from a broker association as deemed appropriate.

### **515.C. Prohibition on Sharing of Personal Trading Profits**

Registrants in a broker association may not share profits or losses associated with their personal trading activity by direct or indirect means, except for profits and losses related to brokerage errors.

### **515.D. Supervision**

Each principal of a Revenue Sharing Association must diligently supervise the association's member registrants and non-member employees and may be held directly liable for violations of any rule of the Exchange by such registrants and employees. Regardless of whether the principal is held responsible for the act or acts constituting the violation, each principal is jointly liable for the payment of any fines assessed against another principal, registrant or employee of the association provided that the violation occurred while that person was functioning in his capacity with the association.

### **515.E. Trading Restrictions**



The Exchange may impose limits on the percentage of personal trading and/or brokerage volume that members of a broker association may execute with one another. Violations of such restrictions will result in summary action according to the following schedule on a rolling 12 month period:

First Occurrence Letter of Warning

Second Occurrence \$5,000 fine

Subsequent Occurrence \$10,000 fine

The Exchange may restrict a member of a Revenue Sharing Association from trading for any account such member owns, controls or in which such member has a financial interest opposite other members of the association executing orders. Violation of such restrictions will result in summary action according to the following schedule on a rolling 24 month period:

First Occurrence Letter of Warning

Second Occurrence \$500 fine

Third Occurrence \$1,000 fine

Subsequent Occurrence \$5,000 fine

Actions taken pursuant to this section are final and may not be appealed; however members will have 15 days following receipt of notification of the action to present evidence to the Market Regulation Department that administrative, clerical or other errors caused the apparent rule violation.

Notwithstanding the provisions of this section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Chief Regulatory Officer for the consideration of charges.