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February 9, 2011

Mr. David Stawick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

RE: Revisions to NYMEX & COMEX Rule 536.F. and Issuance of NYMEX & COMEX Market Regulation Advisory Notice RA1103-4
NYMEX & COMEX Submission No. 11-064R

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX") and Commodity Exchange, Inc. ("COMEX") (collectively, the "Exchanges") hereby notify the Commodity Futures Trading Commission that they are amending Rule 536.F. ("Violations") effective March 1, 2011. The amendments increase the automatic fines applicable to individual members for second and third audit trail violations within 12 months from $500 to $1,000 for a second offense and from $1,000 to $2,500 for a third offense. Additionally, a provision has been added to remand fifth and subsequent offenses within 12 months to the Probable Cause Committee for the consideration of the issuance of charges. The changes are in response to a recommendation made by the Commission in its recent CME and CBOT rule enforcement review and are harmonized with changes that were recently adopted to CME & CBOT Rule 536.F. ("CTR Enforcement Program and Sanction Schedule").

This revised submission corrects the date that the Market Regulation Department will issue NYMEX & COMEX Market Regulation Advisory Notice RA1103-4 announcing the changes to the marketplace. The Notice will be issued on February 14, not February 10.

The text of the rule revisions with additions underscored and deletions overstruck appears on the next page of this submission. A copy of the Advisory Notice begins on the page following the text of the rule revisions. The Exchanges certify that the amendments and Advisory Notice comply with the Act and regulations thereunder.

If you have any questions regarding the amendments or the Advisory Notice, please contact Robert Sniegowski, Market Regulation, at 312.341.5991 or me at 212.299.2200. Please reference NYMEX/COMEX Submission No. 11-064R in any related correspondence.

Sincerely,

/s/ Christopher Bowen
Managing Director, Chief Regulatory Counsel

536.F. Violations

1. Audit Trail Violations

A Member's failure to comply with any provision of this rule may result in the imposition of summary penalties by the Market Regulation Department.

A letter of warning may be issued for a first infraction. Subsequent infractions within a rolling 12-month period shall result in automatic fines starting at $~~5~~1,000, and then increasing to $~~1,0~~2,500 and $5,000 for each subsequent infraction. Fifth~~Fourth~~ and subsequent offenses~~violations~~ within a 12~~24~~ month~~s~~ period will be referred~~may result in referral~~ to the Probable Cause Committee by the Market Regulation Department~~for the issuance 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. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to warrant a rescission, the letter of warning or fine shall be final and may not be appealed.

[The remainder of the Section is unchanged.]

MARKET REGULATION ADVISORY NOTICE

Exchange	**NYMEX & COMEX**
Subject	**Recordkeeping Requirements for Pit Trades**
Rule References	**Rule 536**
Advisory Date	**February 14, 2011**
Advisory Number	**NYMEX & COMEX RA1103-4**
Effective Date	**March 1, 2011**

This Advisory Notice supersedes NYMEX & COMEX Market Regulation Advisory Notice RA0916-4R from January 6, 2010, and is being issued based on upcoming changes to NYMEX & COMEX Rule 536.F. ("Violations").

Effective on March 1, 2011, NYMEX & COMEX Rule 536.F. will be amended to increase the fines for second and third violations by individual members of audit trail violations from $500 and $1,000 to $1,000 and $2,500, respectively. Beginning on March 1, 201, first violations will result in a letter of warning, followed by fines of $1,000, $2,500 and $5,000, respectively, for second, third and fourth violations.

Additionally, the rule has been further modified to reflect that fifth and subsequent violations within a rolling 12 month period will be referred to the Probable Cause Committee for the consideration of the issuance of charges.

The changes to the sanction schedule are being made in response to recommendations made by the Commodity Futures Trading Commission ("CFTC") in a recent CME and CBOT rule enforcement review of the exchanges' regulatory programs. The same changes have already been implemented at CME and CBOT.

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 remainder of this Advisory Notice provides an overview of the trade recordation and submission requirements for open outcry trades executed by NYMEX and COMEX members. The text of Rule 536, including the amendments to Section F., begins on page 3 of this Advisory Notice.

Trading Cards

Effective October 5, 2009, legacy NYMEX pit card and Trade Management System trade submission requirements were replaced by direct submission of open outcry trade details from a member's trading card directly into the CME Clearing System. Trading cards must continue to reflect all information previously required and, in addition, members must now record the **time of execution of each trade** (whether buy or sell) accurate to the nearest minute. The hour must be recorded at the top of the trading card and the minute in which the trade was executed must be recorded in the appropriate space on each trade line.

The seller or seller's designated representative must, within 30 minutes of the time of execution, 1) enter the trade into the CME Clearing System; and 2) allocate the trade to the correct clearing member firm unless the trade will clear at the seller's qualifying clearing member firm. All material terms of the trade must be entered including the trade time. The information entered by the seller will continue to generate the trade(s) for the buy side.

The buyer or buyer's designated representative must, within 60 minutes of the time of execution 1) review the seller's entry and note any disagreement with the terms of the trade; 2) enter the time of execution to the nearest minute (unless the buyer does not know the trade); and 3) allocate the trade to the correct clearing member firm unless the trade will clear at the buyer's qualifying clearing member firm. <u>Please note that buyers may not allocate a trade until the seller has entered the trade into the CME Clearing System.</u> Additionally, timing information entered by the seller will not be visible to the buyer or his designated representative.

The accuracy of trade time recordation will be assessed monthly by staff of the Market Regulation Department. Members failing to record accurate trade times will be subject to sanctions pursuant to Rule 536.F.1. The original ply of trading cards will be collected in accordance with Rule 536.A. and retained by the Exchange. Trading cards will be reviewed for compliance with the recordkeeping requirements set forth in Rule 536.A. Members must retain the remaining plies of their trading cards in accordance with CFTC record retention requirements.

<u>Order Tickets</u>

Customer orders (including orders for the proprietary account of a member firm) received on the floor must be memorialized in written form on an order ticket or, where appropriate, immediately entered into an approved electronic trading device. Order tickets must contain the terms of the order and an electronic timestamp indicating the date and time the order was received on the floor. The specific account for which the order was placed must be noted on the order ticket, unless it is a bunched order allocated and recorded in accordance with Rule 536.C. ("Bunched Orders and Orders Eligible for Post Execution Allocation"). An electronic timestamp must be added to an order ticket each time an order is modified, returned, confirmed or cancelled.

A member on the trading floor who places an order with another member shall record the order instructions and the time of placement to the nearest minute in sequence with other trades recorded on the members' trading card (unless such order is immediately entered on an approved electronic trading device), unless the member receiving the order prepares a written order ticket conforming to all the requirements for customer orders listed above. Note that orders which involve executing a leg of an options-futures combination or other spread trade, where the initiating member executes at least one leg of the spread or combination, shall not be subject to this requirement.

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

Michael Cerar, Supervisor, Investigations, at 212.299.2895
Wayne Karnatz, Manager, Investigations, at 212.299.2913

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or <u>news@cmegroup.com</u>.

Text of Rule 536

536. RECORDKEEPING REQUIREMENTS FOR PIT, GLOBEX AND NEGOTIATED TRADES

536.A. General Requirements for Open Outcry Pit Trades

At the time of execution, it shall be the duty of every member to record each trade on an approved electronic device or on pre-printed, sequentially pre-numbered trading cards in exact chronological order of execution. If recorded on trading cards, trades must be recorded on sequential lines of the card, and no lines may be skipped except that a member may use additional consecutive lines to record sufficient information concerning a particular trade type, including, but not limited to, spreads, exchange of futures or options for related positions and cabinet trades. Any lines that remain after the last execution recorded on the trading card must be marked through. No more than nine transactions may be recorded on each trading card. Every member must record the date, price, quantity, product, expiration month, opposite trader, time of execution to the nearest minute and, for options, put or call and strike price on the trading card or into the approved electronic device. Additionally, the trader must record a symbol which reflects whether the member was trading i) for his own account or an account controlled by such member, ii) for the proprietary account of his clearing member, iii) for another member present on the trading floor or for an account controlled by such other member, or iv) for any other account. Trades or order executions must either be recorded on an approved electronic device, or, if recorded on trading cards in non-erasable ink. Members using trading cards must use a new card at the start of each half-hour interval and at the start of the post settlement session.

Members must designate on the trading card whether such trade is a spread trade.

A member may correct any errors on written trading records by crossing out erroneous trade information without obliterating or otherwise making illegible any of the originally recorded information.

The seller or his designated representative ("the seller") must enter the trade into the clearing system within 30 minutes of execution. The seller must enter the material terms of the trade, including the information required in the first paragraph of this subsection, including the time of execution. Within 60 minutes of execution, the buyer or his designated representative ("the buyer") must review the seller's entry of the trade and affirmatively note any disagreement with any of the terms of the trade and enter a time of execution to the nearest minute except in a circumstance in which the buyer does not know the trade. The seller must allocate the trade to the correct clearing firm(s) within 30 minutes of the execution of the trade unless the trade will clear at the seller's qualifying clearing member firm. The buyer must allocate the trade to the correct clearing firm(s) within 60 minutes of the execution of the trade unless the trade will clear at the buyer's qualifying clearing member firm, however the buyer may not allocate a trade until the seller has entered the trade into the clearing system.

The original copy of trading cards must be submitted to the Exchange no later than 15 minutes after the end of each half-hour interval or the end of the closing range, whichever is earlier.

In addition, each member must maintain, and is accountable for, documents on which original trade information is recorded.

Trades that are not recorded contemporaneously due to an error or an outtrade shall be recorded on the next available line of a member's pre-printed, sequentially numbered trading card or on a new trading card, and such trades must be denoted as being out of sequence.

1. Customer Orders

At the time of execution, every order received from a customer must be in the form of a written or electronic record and include an electronic timestamp reflecting the date and time such order was received on the floor of the Exchange and, except as provided in Section C, must identify the specific account(s) for which the order was placed. Such record shall also include an electronic timestamp reflecting the date and time such order was modified, returned, confirmed or cancelled.

2. Individual Member Orders

   a. A member on the trading floor who enters an order with another member shall record the order instructions and the time of placement to the nearest minute in sequence with the other trades recorded on his pre-sequenced trading cards, unless such order is immediately entered into an approved electronic device or recorded pursuant to Section 2.b. below. Orders that involve options-futures combinations and other spread trades where the initiating member personally executes at least one leg of the spread shall not be subject to this requirement.

   b. Every written order that is initiated by a member for his own account while on the trading floor must include an electronic timestamp reflecting the date and time such order was transmitted for execution and when such order was modified, returned, confirmed or cancelled.

3. Proprietary Orders of Clearing Members and Certain Member Entities

Upon receipt on the floor of the Exchange, an order placed for the proprietary account of a member firm must be in the form of a written or electronic record that includes an electronic timestamp reflecting the date and time such order was received on the floor and must identify the specific account(s) for which the order was placed. Such record shall also include an electronic timestamp reflecting the date and time such order was modified, returned, confirmed or cancelled.

536.B. Globex Order Entry

1. General Requirement

Each Globex terminal operator entering orders into Globex shall input for each order: a) the user ID assigned him by the Exchange, a clearing member or other authorized entity and b) the price, quantity, product, expiration month, CTI code and account number (except as provided in Section C.), and, for options, put or call and strike price. The Globex terminal operator's user ID must be present on each order entered. For a Globex terminal operator with access pursuant to Rule 574, clearing members authorizing such access will be responsible for the Globex terminal operator's compliance with this rule.

With respect to orders received by a Globex terminal operator which are capable of being immediately entered into Globex, no record other than that set forth above need be made. However, if a Globex terminal operator receives an order which cannot be immediately entered into Globex, the Globex terminal operator must prepare a written order and include the account designation, date, time of receipt and other information required pursuant to section A.1. above. The order must be entered into Globex when it becomes executable.

2. Electronic Audit Trail Requirements for Electronic Order Routing/Front-End Systems

Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the order routing/front-end audit trail for all electronic orders, including order entry, modification, cancellation and responses to such messages (referred to as the "electronic audit trail"), entered into the Globex platform through the CME iLink® gateway. This electronic audit trail must be maintained for a minimum of 5 years, and clearing members must have the ability to produce this data in a standard format upon request of Market Regulation.

This electronic audit trail must contain all order receipt, order entry, order modification, and response receipt times to the highest level of precision achievable by the operating system, but at least to the hundredth of a second. The times captured must not be able to be modified by the person entering the order. The data must also contain all Fix Tag information and fields which should include, but is not limited to the following:

A record of all fields relating to order entry, including transaction date, product, Exchange code, expiration month, quantity, order type, order qualifier, price, buy/sell indicator, stop/trigger price, order number, unique transaction number, account number, session ID, Tag 50 ID, host order number, trader order number, clearing member, type of action, action status code, customer type indicator, origin, and timestamps. For executed orders the audit trail must record the execution time of the trade along with all fill information.

In the case where the Guaranteeing Clearing Firm has a direct connect client that is another Clearing Firm or a Corporate Equity Member, the Clearing Firm may notify the client Clearing Firm or Corporate Equity Member that it is their obligation to maintain the electronic audit trail. Upon execution of this written notice, it shall be the duty of the client Clearing Firm or Corporate Equity Member to maintain an electronic audit trail pursuant to this rule.

536.C. Bunched Orders and Orders Eligible for Post Execution Allocation

Bunched orders must be allocated and recorded in accordance with CFTC Regulation 1.35(a-1)(5) and the NFA's Interpretative Notice related to Compliance Rule 2-10.

A bunched order for pit execution does not require the specific account number to be recorded at the time of order placement or upon the report of execution provided that 1) the order is being placed by an account manager for multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme has been provided to the futures commission merchant accepting or clearing the order prior to the time the order has been placed. Additionally, at the time of receipt on the trading floor, bunched orders that do not contain specific account numbers must contain a series, group, or suspense account indicator which relates directly to the group of accounts for which the order has been placed. A bunched order may be initially cleared into a suspense account provided that the final account-specific allocations are submitted to the clearing system no later than the end of each trading day.

With respect to bunched Globex orders, such orders may be entered using a series designation or suspense account number provided that 1) the order is being placed by an account manager for multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme that defines the series has been provided to the futures commission merchant accepting or clearing the order prior to the time that such order is entered. In the latter case, if such information has not been provided to the futures commission merchant prior to the time of order entry, each specific account number must be entered into Globex. Additionally, for all such bunched orders executed on Globex, the final account specific allocations must be submitted to the clearing system no later than the end of each trading day.

Bunched orders for non-discretionary accounts may be entered either for pit execution or through Globex; however, only the following order types may be bunched: Market on Open, Market on Close, same priced Limit Orders and same priced Stop Orders. Such non-discretionary orders may only be bunched in the following instances:

a. Each order underlying the bunched order must be reduced to writing and include the information required pursuant to Section A.1. above;

b. Allocation of the executions for the bunched orders must be fair and equitable in accordance with the NFA's Interpretative Notice related to Compliance Rule 2-10; and

c. In circumstances where the order is bunched in a member firm's sales office, the party accepting the order must, contemporaneously with the order placement, transmit the individual account numbers and quantities associated with the bunched order to the clearing member firm. Such transmission shall be maintained by the clearing member firm along with the bunched order.

536.D. Customer Type Indicator (CTI) Codes

Each clearing member must identify each transaction executed on the trading floor or on the Globex platform on the record of transactions submitted to the Exchange with the correct customer type indicator (CTI) code. The CTI codes are as follows:

CTI 1: Electronic Trading and Open Outcry – Applies to transactions initiated and executed by an individual member for his own account, for an account he controls, or for an account in which he has an ownership or financial interest. However, transactions initiated and executed by a member for the proprietary account of a member firm must be designated as CTI 2 transactions.

CTI 2: Electronic Trading and Open Outcry – Applies to orders entered or trades executed for the proprietary accounts of a member firm.

CTI 3: Electronic Trading – Applies to orders entered by a member or a nonmember terminal operator for the account of another individual member or an account controlled by such other individual member.

CTI 3: Open Outcry – Applies to orders that a member executes on behalf of another individual member, or for an account such other member controls or in which such other member has an ownership or financial interest.

CTI 4: Electronic Trading and Open Outcry – Applies to all orders and transactions not included in CTI categories 1, 2 or 3. These typically are orders entered by or on behalf of nonmember entities.

536.E. Negotiated Trades

All orders executed in accordance with Rules 526 and 538, unless otherwise exempted by rule, are subject to the recordation requirements pursuant to Section A.1.

536.F. Violations

1. Audit Trail Violations

A Member's failure to comply with any provision of this rule may result in the imposition of summary penalties by the Market Regulation Department.

A letter of warning may be issued for a first infraction. Subsequent infractions within a rolling 12-month period shall result in automatic fines starting at $1,000, and then increasing to $2,500 and $5,000 for each subsequent infraction. Fifth and subsequent offenses within a 12 month period will be referred to the Probable Cause Committee 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. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to warrant a rescission, the letter of warning or fine shall be final and may not be appealed.

2. Floor Order Ticket Reviews

The Market Regulation Department will conduct reviews of clearing member firms, member firms and floor brokerage operations to verify that order tickets are being prepared in compliance with the requirements of this rule. Compliance rates of 89% or lower may result in the following sanctions:

Initial Review:	
89-80%	$500
79-70%	$1,000
69-60%	$1,500
59% and Below	$2,500
Second Review:	
89-80%	$1,000
79-70%	$2,000
69-60%	$3,000
59% and Below	$5,000

Third and Subsequent Reviews:

89-80%	$2,500
79-70%	$5,000
69-60%	$7,500
59% and Below	$10,000

Fines issued pursuant to this section are final and may not be appealed. A clearing member firm, member firm or floor broker will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine rescinded. If the clearing member firm, member firm or floor broker does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to increase the compliance rates above 89%, the fine shall be final and may not be appealed.

Fourth and subsequent violations within 24 months may result in referral to the Probable Cause Committee for the issuance of charges.

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.

536.G. Telephone Recordings

Members and member firms must enter into a trading floor telephone subscriber agreement with the Exchange under which the subscriber agrees to pay the Exchange to record and archive all conversations conducted on their Exchange Floor telephone lines which will be maintained for a minimum period of 10 business days following the day when such recordings are made.

536.H. Retention of Records

Each member and member firm and employees of the foregoing must keep full, complete and systematic records, including records created or transmitted electronically, together with all pertinent data and memoranda, of all transactions relating to its business of dealing in commodity futures, options and cash transactions in accordance with CFTC Regulation 1.35. Such records must be retained for a minimum of five years in permanent form, and shall at all times be open to inspection by Exchange staff or any representative of the CFTC or the United States Department of Justice.