

October 9, 2012

SENT VIA E-MAIL

David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Submission pursuant to CFTC Regulation 40.6(a)

Dear Mr. Stawick:

- I. **Certification.** The Kansas City Board of Trade (“KCBT”) hereby gives notification to the Commission pursuant to Commission Regulation Section 40.6(a), of its intention to amend Rule 917.00 pertaining to Globex limitation of liability. The KCBT Board of Directors, in a special meeting held on October 9, 2012 and acting pursuant to authority granted them under Rule 233.01(o), unanimously approved the aforementioned amendment. KCBT certifies to the Commission that to the best of its knowledge, the amendment to Rule 917.00 is in compliance with the Commodity Exchange Act and the regulations thereunder.
- II. **Date of Implementation.** KCBT intends to make amended Rule 917.00 effective Wednesday, October 24, 2012, which is ten business days following Commission receipt of this submission.
- III. **Substantive Opposing Views.** To the knowledge of the Board of Directors and staff, no substantive opposing views were expressed by members or others regarding amended Rule 917.00.
- IV. **Text of Amended Rules.** The text of amended Rule 917.00 is shown as follows, with additions underlined and deletions lined out.

917.00 Limitation of Liability, No Warranties.

A. EXCEPT AS PROVIDED BELOW, KCBT, THE CHICAGO MERCANTILE EXCHANGE, INC. (“CME”)(INCLUDING EACH OF THEIR RESPECTIVE SUBSIDIARIES, ~~AND AFFILIATES~~ AND SHAREHOLDERS), THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, MEMBERS, AND CLEARING MEMBERS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM:

(i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE,

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OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE CME'S SYSTEMS, SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY MEMBERS AND AUTHORIZED EMPLOYEES OF MEMBERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING; OR

(ii) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE CME OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR

(iii) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE CME OR ANY CME SYSTEM, SERVICE OR FACILITY; ~~EXCEPT FOR INCORRECT ORDER STATUSING INFORMATION AS PROVIDED IN CME RULE 579 (GLOBEX CONTROL CENTER AND ORDER STATUSING);~~ OR

(iv) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY CME SYSTEM, SERVICE OR FACILITY BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE COMMODITY EXCHANGE ACT AND REGULATIONS THEREUNDER. A PARTY WHO HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT MAY NOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE.

B. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) PROVIDED BY CME (INCLUDING ITS RESPECTIVE SUBSIDIARIES AND AFFILIATES), ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS, RELATING TO ANY SYSTEMS OR SERVICES OF CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE GLOBEX SYSTEM.

C. ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE CME OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH CME (INCLUDING ANY OF ITS SUBSIDIARIES AND AFFILIATES), OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY SHALL BE ARBITRATED PURSUANT TO CME RULES 624. ANY ARBITRATION SHALL BE BROUGHT WITHIN THE PERIOD PRESCRIBED BY CME RULES. ANY OTHER ACTIONS, SUITS, OR PROCEEDINGS AGAINST ANY OF THE ABOVE MUST BE BROUGHT WITHIN TWO YEARS FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. THIS PARAGRAPH C SHALL IN NO WAY BE CONSTRUED TO LIMIT A PARTY'S OBLIGATION TO ARBITRATE ITS CLAIM OR TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY CME RULES. IF FOR ANY REASON, A COURT OF COMPETENT JURISDICTION FINDS THAT SUCH DISPUTE IS NOT ARBITRABLE, SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ANY PROVISIONS OF ILLINOIS LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION.

D. THE CME MAY, IN THEIR RESPECTIVE SOLE DISCRETION, ASSUME RESPONSIBILITY FOR DIRECT, OUT-OF-POCKET LOSSES DIRECTLY CAUSED BY THE NEGLIGENCE OF GLOBAL COMMAND ~~GLOBEX CONTROL CENTER OR OTHER CME STAFF AND/OR ORDER STATUS ERRORS PROVIDED BY THE GLOBAL COMMAND CENTER AND/OR THE CLEARING CUSTOMER SERVICE DESK GLOBEX CONTROL CENTER OR CME SYSTEM, SERVICE OR FACILITY. NOTWITHSTANDING THE ABOVE IF SUCH LIABILITY IS ACCEPTED,~~ THE CME'S TOTAL COMBINED AGGREGATE OBLIGATIONS SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; ~~EXCEPT FOR LOSSES CAUSED BY PHANTOM ORDER WHICH ARE SUBJECT TO THE PROVISIONS OF PARAGRAPHS F. AND G. BELOW. AND \$2,400,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED IN A SINGLE CALENDAR YEAR.~~ ANY DISPUTED CLAIM PURSUANT TO ~~MADE UNDER THIS RULE PARAGRAPH D~~ MUST BE ARBITRATED PURSUANT TO CME RULES 624.

E. IN NO EVENT SHALL THE CME'S TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY NEGLIGENCE, FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS,

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SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATUSING ERRORS OR ANY OTHER CAUSES, EXCEPT FOR PHANTOM ORDERS WHICH ARE SUBJECT TO THE PROVISIONS OF PARAGRAPHS F. AND G. BELOW, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE CME'S SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF CME STAFF, EXCEED \$200,000 IN ANY CALENDAR MONTH \$2,400,000 IN ANY GIVEN CALENDAR YEAR.

IF THE NUMBER OF ALLOWED CLAIMS AGAINST CME ARISING OUT OF ANY FAILURES OR MALFUNCTIONS ON A SINGLE DAY OR IN A SINGLE CALENDAR MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR MONTHLY LIABILITY LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD AVAILABLE FOR THAT MONTH.

F. NOTWITHSTANDING THE FOREGOING, THE CME MAY, IN THEIR SOLE DISCRETION, ASSUME RESPONSIBILITY FOR DIRECT OUT-OF-POCKET NET LOSSES DIRECTLY CAUSED BY PHANTOM ORDERS (AS DEFINED BELOW). IF SUCH LIABILITY IS ACCEPTED, THE TOTAL AGGREGATE OBLIGATIONS FOR THE CME SHALL NOT EXCEED \$5,000,000 FOR ALL SUCH LOSSES SUFFERED IN A SINGLE CALENDAR MONTH. ANY DISPUTED CLAIM MADE UNDER THIS RULE MUST BE ARBITRATED PURSUANT TO CME RULES.

FOR THE PURPOSES OF THIS RULE AND CME RULE 588.00, A PHANTOM ORDER IS AN ORDER: 1) THAT WAS NOT AUTHORIZED BY A PERSON BUT WAS CAUSED BY A FAILURE, MALFUNCTION OR NEGLIGENT OPERATION OF GLOBEX OR ANY OTHER EXCHANGE SYSTEM, SERVICE OR FACILITY, OR 2) WHOSE TERMS (E.G. CONTRACT, CONTRACT MONTH, QUANTITY, PRICE OR DIRECTION) WERE CHANGED WITHOUT AUTHORIZATION OF THE PERSON PLACING THE ORDER SOLELY AS A RESULT OF A FAILURE, MALFUNCTION, OR NEGLIGENT OPERATION OF GLOBEX OR ANY OTHER CME SYSTEM, SERVICE OR FACILITY.

G. IN NO EVENT SHALL THE CME'S TOTAL COMBINED AGGREGATE LIABILITY FOR DIRECT, OUT-OF-POCKET NET LOSSES DIRECTLY CAUSED BY PHANTOM ORDER(S) EXCEED \$5,000,000 IN A SINGLE CALENDAR MONTH. COMPLIANCE WITH THE TERMS OF CME RULE 588.F., IS REQUIRED IN ORDER FOR LOSSES TO BE CONSIDERED BY THE CME PURSUANT TO THIS RULE.

IF THE AMOUNT OF DIRECT, OUT-OF-POCKET NET LOSSES DIRECTLY CAUSED BY PHANTOM ORDERS IN A SINGLE CALENDAR MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE MONTHLY LIABILITY LIMITATION, ALL SUCH LOSSES SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT AVAILABLE FOR THAT MONTH.

A CLAIM AGAINST THE CME ARISING OUT OF ANY FAILURE, OR MALFUNCTION OR PHANTOM ORDER SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH STRICTLY SUBJECT TO THE RESPECTIVE LIABILITY LIMITS OF THIS RULE. APPLICABLE CME POLICIES, PROCEDURES AND RULES, INCLUDING CME RULES 578 AND 579.

- V. **Rationale for Action Taken.** Our electronic service provider, Chicago Mercantile Exchange made updates to the Globex liability rules. The rule amendment is being made to ensure that KCBT electronic trading rules regarding liability are in-line with CME Globex rules.
- VI. **Closing.** Any questions regarding this submission should be directed to the undersigned at 816-753-7500 or jott@kcbt.com.

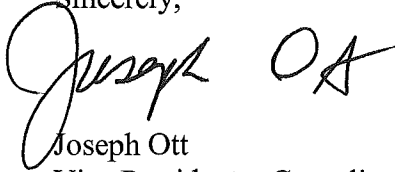
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KCBT certifies that it has posted a notice of pending certification with the Commission and a copy of the submission, concurrent with the filing of the submission with the Commission on our website, thereby providing public notice.

The link to the posting is:

http://www.kcbt.com/histdata/rule_book/KCBT_pending_certif.html

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Ott". The signature is written in a cursive style with a large initial "J" and "O".

Joseph Ott
Vice President – Compliance