



RECEIVED
CFTC

2011 NOV 29 AM 11: 13

Lisa Dunsky
Director and Associate General Counsel
Legal Department

OFFICE OF THE
SECRETARIAT

November 28, 2011

BY ELECTRONIC FILING

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

RE: Amendments to NYMEX Rule 984 (Give Up Trades), Submission #11-443

Dear Mr. Stawick:

Pursuant to Commission Regulation 40.6(a), New York Mercantile Exchange, Inc. ("NYMEX") hereby notifies the Commodity Futures Trading Commission that it will adopt revisions to NYMEX Rule 984. The proposed effective date for these revisions is December 13, 2011 (*i.e.*, immediately after the Commission's 10-business-day review period).

NYMEX Rule 984 (currently entitled "Give Up Trades", now to be entitled "Clearing Member Acceptance of Executed Customer Trades") is unique to the NYMEX rule book and is not contained in the rule book of the Chicago Mercantile Exchange or the Chicago Board of Trade. The Rule generally governs the responsibilities and obligations of clearing members and executing brokers in connection with customer trades that are executed by an executing broker and given up to a clearing member for clearing.

The text of the amendments to Rule 984 is attached, with additions underlined and deletions overstruck. The primary revisions to Rule 984 may be summarized as follows:

- (1) Rule 984.A.1 (Timeframe for a Carrying Clearing Member to Accept or Reject an Allocated Trade): A clearing member will have one hour after receiving an allocated customer trade to accept or reject the trade, and will thereafter have until close of business on the next business day to reject the trade if it determines that the trade is an error or exceeds limits that the clearing member placed on the customer's account pursuant to the Rule.
- (2) Rule 984.A.3 (Trade Rejection): Failure to allocate a customer trade in the time frame prescribed by Rule 536.A (30 minutes for the seller, one hour for the buyer) will be a determining factor in the ultimate disposition of a trade left pending or rejected by the customer's carrying clearing firm (*e.g.*, the broker may be required to book the trade in his personal account at his qualifying clearing firm).
- (3) Rule 984.B.3 (Executing Broker Responsibility for Verifying Clearing Member Authorization): An executing broker will be obligated to validate the authorization to fill a customer order with the customer's carrying clearing firm if more than 90 days has elapsed since the customer last did business the broker. In addition, executing brokers will bear full responsibility for keeping their contact information current with their customers' clearing firms, and clearing members can rely on the contact information last received from executing brokers for purposes of providing notice under the Rule.

Mr. David Stawick
November 28, 2011
Page 2

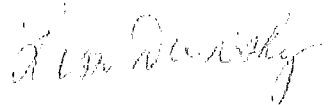
The purpose of these amendments to Rule 984 is to enhance: (a) the timeliness and accuracy of executing brokers' allocations of executed customer trades to clearing members; and (b) clearing members' ability to comply with risk management procedures and requirements in connection with customer transactions. The amendments comport with DCO Core Principle D (Risk Management), and new Commission Regulation 39.13(h)(1) (Risk limits) and (h)(5) (Clearing members' risk management policies and procedures), which will become effective on May 7, 2012.

No substantive opposing views regarding the amendments to Rule 984 were expressed to NYMEX.

NYMEX certifies that this submission has been concurrently posted on its website at <http://www.cmegroup.com/market-regulation/rule-filings.html>. NYMEX further certifies that these amendments to Rule 984 comply with the Commodity Exchange Act and regulations promulgated thereunder.

Should you have any questions regarding this submission, please contact me at (312) 338-2483 or via e-mail at lisa.dunsky@cmegroup.com. Please reference our Submission No. 11-443 in any related correspondence.

Sincerely,



Lisa Dunsky
Director & Associate General Counsel

NYMEX RULE 984

984. GIVE UP TRADES CLEARING MEMBER ACCEPTANCE OF EXECUTED CUSTOMER TRADES

Formatted: Font: 11 pt

The following provisions define the minimum responsibilities and obligations of those parties to the clearance of a customer trade. A trade given up to another clearing member will be deemed to have been accepted by, and the financial obligations attendant to such trades will be the responsibility of, such clearing member if the trade is not rejected by the close of business on the business day following the trade date. The acceptance of a trade by a clearing member shall not relieve any member, member firm, or clearing member of the duty to act in good faith and with reasonable care and diligence.

In the absence of a give-up agreement whose terms and conditions govern the responsibilities/obligations of executing brokers, customers and Clearing Members, the following provisions shall define the respective responsibilities/obligations of those parties to an order.

The term "executing broker" as used in this Rule is the registered billing entity, Member Firm or Floor Broker to whom the order is transmitted.

984.A. Responsibilities and Obligations of Clearing Members

The acceptance for clearance of a trade by a Clearing Member shall not relieve any party to the solicitation, handling, execution or clearance of such trade from the duty to act in good faith and with reasonable care and diligence.

Formatted: Font: Not Bold

1. Timeframe for a Carrying Clearing Member to Accept or Reject an Allocated Trade

A Clearing Member that has been allocated a customer trade must accept or reject such trade within 60 minutes of receiving the allocation. Such trades may only be rejected in accordance with the provisions of section A.3 of this Rule.

If after accepting an allocated trade a Clearing Member determines that such trade is an error or exceeds limits which have been communicated to an executing broker and his Primary Clearing Member ("PCM") in accordance with section A.3 of this Rule, the Clearing Member may reject such trade any time up to the close of business on the business day following the date of execution.

2. Limits Placed by Clearing Member

A Clearing Member may, in its discretion, place trading limits or impose a complete cessation on the trades it will accept for give-up clearance for a customer's account from an executing broker, provided, however, that both the executing broker and his respective PCM receives prior written, telephonic or electronic notice from the Clearing Member of the applicable trading limits or trading cessation imposed on that customer account. Such notice must be given to all applicable executing brokers that within the prior 90 days have executed trades on behalf of said customer and allocated such trades to the applicable received by the executing broker in a timely manner. A copy of such notice shall be retained by the Clearing Member, and to such executing brokers' PCMs.

A copy of any and all correspondence evidencing any notice required by section A.2 of this Rule shall be retained as part of the books and records of the Clearing Member, the executing broker and his PCM.

32. Trade Rejection

A Clearing Member may only reject ("DK") a trade that has been given up to it for clearance only if: (1) the trade exceeds the trading limits established in accordance with under-section A.24. of this Rule for that customer and such limits it has been communicated to the executing broker and his PCM in accordance with as described in Section A.2 of this Rule; or (2) the trade is an error for which the executing broker is responsible. If a rejected trade, or an unclaimed but pending trade, was allocated to the a Clearing Member by has a basis for and rejects a trade, it must notify the executing broker beyond the time period required under Rule 536 A, that fact shall be taken into consideration in any dispute between such Clearing Member and executing broker regarding such trade that is governed by Exchange Rules promptly.

43. Billing

A Clearing Member will pay all floor-brokerage fees incurred for all transactions by the executing broker for the customer and subsequently accepted by the Clearing Member by means of the ATOM-Brokerage Payment System ("BPS"). Floor-brokerage fees will be agreed upon in advance among the Clearing Member, the customer and the executing broker.

984.B. Responsibilities and Obligations of Executing Brokers

1. Customer Order Placement

An executing broker will be responsible for determining that all orders received on behalf of a customer's account have been placed or authorized by the customer. Once an order has been accepted, a broker or the broker's clerk must:

- (a) confirm the terms of the order with the customer;
- (b) accurately execute the order according to its terms;
- (c) confirm the execution of the order to the customer as soon as practicable; and,
- (d) transmit such executed order to the Clearing Member as soon as practicable in accordance with Exchange Rules and procedures.

2. Use of Other Persons

Unless otherwise agreed in writing, the executing broker is allowed to use the services of another broker in connection with the broker's obligations under these Rules. The executing broker remains responsible to the customer and Clearing Member under these Rules.

3. Executing Broker Responsibility for Verifying Clearing Member Authorization

Prior to a broker accepting and executing an initial order for any new customer account, the executing broker must confirm with the such customer's Clearing Member by telephonic, electronic or written means, that:

- (a) the customer has a valid account with the Clearing Member;
- (b) the account number

(c) the brokerage rate;

(d) the customer is authorized by the Clearing Member to place orders with the executing broker for that specific account.

The executing broker must shall retain as part of his books and records a copy of the authorization received from the Clearing Member, or the specifics of the telephonic confirmation, which includes the name of the Clearing Member representative, opposite party, date, time and any other relevant information. The falsification of such information shall be the basis for disciplinary action.

Each executing broker shall conduct ongoing due diligence to ensure that all customer orders received are for active accounts. If a broker has neither executed trades on behalf of a particular customer nor allocated that customer's trades to a specific Clearing Member within the past 90 days, the broker shall not execute any trade for that customer for allocation to the Clearing Member without first confirming with the Clearing Member that the customer remains active and that the broker continues to be authorized to execute trades on behalf of the customer.

Each executing broker shall ensure that every Clearing Member to which he allocates trades: (1) has received current telephonic and electronic contact information for the executing broker and his PCM; and (2) is immediately informed of any change in the broker's PCM.

For purposes of providing any notice required under this Rule, a Clearing Member may rely upon the most recent telephonic and electronic contact information it received from the executing broker.

4. Rejection of Customer Order

Where an executing broker has confirmed Clearing Member authorization to execute orders on behalf of a customer in accordance with this Rule 984, the broker may, in the broker's discretion, reject an order that the customer transmits to the broker for execution. The executing broker shall promptly notify the customer and the Clearing Member(s) of any such rejection.

Formatted: Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers