

December 18, 2013

**VIA E-MAIL**

Ms. Melissa Jurgens  
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) Rule Certification. Revisions to Rule 536 ("Recordkeeping Requirements for Pit, Globex and Negotiated Trades").  
CME/CBOT/NYMEX/COMEX Submission No. 13-564**

Dear Ms. Jurgens:

Chicago Mercantile Exchange Inc. ("CME"), the Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX") (collectively, the "Exchanges") are notifying the Commission that they are self-certifying revisions to Section G. ("Floor Recordings") and Section H. ("Retention of Records") of each Exchange's Rule 536 ("Recordkeeping Requirements for Pit, Globex and Negotiated Trades").

The revisions are based on a decision by the Exchanges to no longer provide recording of Exchange-issued telephonic devices in booths on the Chicago or New York trading floors. Each Exchange will continue to require that all Exchange-issued telephonic devices used in and around trading pits be recorded, however the retention requirement will be modified from the current 10-business day period past the date on which the recordings are made to one year past the date on which the recordings are made. The retention period change is to ensure that members and member firms of the four CME Group Exchanges are able to demonstrate compliance with the revised retention requirement in CFTC Regulation 1.31 to the extent that the member or member firm is subject to the oral recording requirements of revised CFTC Regulation 1.35.

With respect to Exchange-issued telephonic devices in booths, effective December 21, 2013, the Exchanges will no longer offer recording services for those phone lines. In order to ensure that affected members and member firms at booths on the trading floors are able to install their own recording equipment or recording equipment provided by a third-party vendor if those lines need to be recorded in order to remain in compliance with revised CFTC Regulation 1.35, the Exchanges will continue to record existing users at such users' request for up to 90 days past December 21, 2013, or through the close of business on March 21, 2014. Prior to the close of business on March 21, 2014, members and member firms subject to the oral recording requirements in CFTC Regulation 1.35 will need to ensure that they have made arrangements for the recording of those lines.

Members and member firms were apprised of the changes via the issuance of CME Group Special Executive Report S-6957 from December 11, 2013, which is included in Exhibit A. The necessary revisions to Sections G. and H. of Rule 536 are included in Exhibit B, with additions underscored and deletions overstruck. The revisions will become effective on January 6, 2014.

The Market Regulation Department and the Legal Department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("Act").

During the review, we have identified that the revisions to Sections G. and H. of Rule 536 may have some bearing on the following Core Principles:

Compliance with Rules: The Exchanges have required Exchange-issued telephonic devices used in and around trading pits to be recorded since the various mergers. Additionally, NYMEX and COMEX have required Exchange-issued telephonic devices at booths on the trading floor to be recorded, whereas CME and CBOT have permitted firms to decide whether or not to conduct recordings at firm booth locations on the trading floors. In light of the December 21, 2013, compliance date which will require certain industry registrants to comply with revised CFTC Regulation 1.35 as it pertains to the recording of certain oral communications, the CME Group Exchanges have determined to modify their respective rules concerning recording. The revisions to Rule 536.G. will continue to require recording of all Exchange-issued telephonic devices used by members, member firms and employees of the foregoing in and around trading pits. With respect to Exchange-issued telephonic devices used in booths on the trading floors, effective December 21, 2013, the Exchanges will no longer offer a recording service to members and member firms. Members and member firms located in booths that must have their conversations recorded pursuant to revised CFTC Regulation 1.35 will be required to install or have installed recording equipment that is sufficient to meet the requirements of the revised CFTC regulation. On December 11, 2013, the Exchanges issued Special Executive Report S-6957 to the marketplace concerning the upcoming changes.

Availability of General Information: The marketplace was informed of the changes via Special Executive Report S-6957 from December 11, 2013. Additionally, the marketplace will be informed of the revisions to Rule 536.G. and 536.H. via the issuance of another Special Executive Report prior to the effective date of the changes.

Protection of Market Participants: The continued requirement that all Exchange-issued telephonic devices used in and around trading pits be recorded is expressly intended to assist Market Regulation in investigating alleged violations of the rules concerning execution of transactions in the trading pits. Oral recordings have been successfully used by the Market Regulation Department for this purpose for many years, and the Exchanges determined that the recordings should continue to be required of all members, member firms and employees of the foregoing using such devices in and around the trading pits. This requirement exceeds the requirement imposed under CFTC Regulation 1.35 which exempts certain members of contract markets from the oral recording requirement. Additionally, all such recordings will be maintained for one year past the date on which the recordings are made.

Recordkeeping: The revisions to Rule 536.H. ("Retention of Records") are being made to comply with the revised recordkeeping requirements set forth in CFTC Regulation 1.31. As such, the revisions are in compliance with this Core Principle.

The Exchanges certify that the revisions to each Exchange's Rule 536 comply with the Commodity Exchange Act ("Act") and regulations thereunder. There were no opposing views to the rule revisions.

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

If you have any questions regarding this submission, please contact Robert Sniegowski, Market Regulation, at 312-341-5991 or via e-mail at [Robert.Sniegowski@cmegroup.com](mailto:Robert.Sniegowski@cmegroup.com). Alternatively, you may contact me at 212-299-2200 or via e-mail at [Christopher.Bowen@cmegroup.com](mailto:Christopher.Bowen@cmegroup.com). Please reference CME/CBOT/NYMEX/COMEX Submission No. 13-564 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

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Attachments: Exhibit A – CME Group Special Executive Report S-6957  
Exhibit B – Revisions to Rule 536

## Exhibit A



### Special Executive Report

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S-6957

December 11, 2013

#### Recording Requirements on the Chicago and New York Trading Floors

#### **\* \* \* \* \* IMPORTANT INFORMATION \* \* \* \* \***

The compliance date for previously announced revisions to CFTC Regulation 1.35(a)(1) concerning the requirement placed on certain industry registrants to record and archive oral communications that lead to the execution of a transaction in a commodity interest and related cash or forward transactions is December 21, 2013. The revisions were published in the Federal Register on Friday, December 21, 2012, and may be accessed [here](#). Those requirements apply to certain industry registrants as set forth in the Federal Register release, and include FCMs and certain IBs and members of DCMs.

This Special Executive Report is to provide members and member firms located on the trading floors of the CME Group Exchanges in Chicago and New York with information concerning changes to the recording requirements applicable to **Exchange-provided** telephones used at booths on the trading floor that will become effective on December 21, 2013.

#### Telephones Used in Booths on the Trading Floor

##### **Chicago Trading Floors**

Effective December 21, 2013, CME Group will no longer offer voice recording services for any Exchange-installed telephones located in booths on the trading floors in Chicago that are not currently being recorded by CME Group.

**As of December 21, members and member firms using telephones located in booths that are not being recorded by CME Group which will need to be recorded pursuant to the provisions of CFTC Regulation 1.35 will need to install or make arrangements to have installed recording equipment for purposes of compliance with CFTC Regulation 1.35.**

With respect to members and member firms utilizing CME Group's recording and archiving service for telephones in booths, CME Group will continue to perform the recording of these lines for up to 90 days past December 21, 2013, (through close of business on Friday, March 21, 2014). Also, beginning on December 21, 2013, CME Group will maintain those recordings for one year past the date on which the recordings are made. This will comply with the one year retention requirement set forth in CFTC Regulation 1.31 applicable to oral recordings required to be made pursuant to CFTC Regulation 1.35.

**Effective Monday, March 24, 2014, CME Group will no longer provide recording or archiving services for telephones in booths on the Chicago trading floors. Prior to March 24, 2014, members and member firms subject to the oral recording requirements of CFTC Regulation 1.35 must install or make arrangements to have installed their own recording equipment or recording equipment provided by a third-party vendor.**

## New York Trading Floor

CME Group will continue to perform the recording of telephones in booths on the New York trading floor for up to 90 days past December 21, 2013, (through close of business on Friday, March 21, 2014). CME Group will maintain those recordings for one year past the date on which the recordings are made, which will comply with aforementioned CFTC Regulation 1.31.

**Effective Monday, March 24, 2014, CME Group will no longer provide recording or archiving services for telephones in booths on the New York trading floors. Prior to March 24, 2014, members and member firms subject to the oral recording requirements of CFTC Regulation 1.35 must install or make arrangements to have installed their own recording equipment or recording equipment provided by a third-party vendor.**

### CME Group Telecommunications Department Assistance

The CME Group Telecommunications Department will assist all members and member firms with the transition, which will include providing contact information for third-party recording vendors, installation of firm-owned recording equipment on or near the trading floors and firm owned VOIP turrets, if necessary. Please contact the CME Group Telecommunications Department staff listed at the end of this Special Executive Report for further information or guidance in this regard.

### Telephonic Devices Used in and around Trading Pits on the Trading Floor

CME Group will continue to require that all Exchange-issued telephonic devices, including wired and wireless headsets, used in and around trading pits on the trading floors in Chicago and New York be recorded. CME and CBOT will continue to permit members or member firms to utilize their own recording devices or to utilize the Exchange administered voice recording system. NYMEX and COMEX will continue to require members and member firms to utilize the Exchange administered voice recording system. CME Group will extend the retention period for recordings conducted on the Exchange administered voice recording system to one year past the date on which the recordings are made from the current 10 business day period. Additionally, CME Group will continue to prohibit the use of the voice capabilities of personal electronic devices for business purposes on the trading floor. **As such, members and employees of member firms using Exchange-issued telephonic devices in and around trading pits are not required to take any action at this time.**

### CME Group Telecommunications Department Contacts:

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### CME Group Market Regulation Department Contacts:

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## **Exhibit B**

### **CME/CBOT**

#### **536.G. Telephone Recordings**

~~Members and member firms that record conversations conducted on their Exchange Floor telephone lines must maintain the resultant recordings for a period of 10 business days following the day when such recordings are made.~~

Unless specifically exempted by the Market Regulation Department or designated Exchange staff, all headset communications used in and around trading pits on the trading floor must be voice recorded by the member or member firm authorized to use the headset and all such recordings must be maintained for a minimum of 10 business days following the day on which the recording is made. Members and member firms are permitted to utilize their own recording devices, provided that the devices meet reasonable standards with respect to quality and reliability. Alternatively, members and member firms may utilize an Exchange administered voice recording system for a fee.

#### **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 interests and related cash or forward transactions ~~futures, options and cash transactions~~ in accordance with CFTC Regulation 1.35. Written and electronic Such records must be retained for a minimum of five years in permanent form. Oral communications required to be recorded pursuant to CFTC Regulation 1.35(a) must be retained for a minimum of one year past the date on which the oral communication occurred. Oral communications recorded by the Exchange pursuant to Section G. will be maintained by the Exchange for a minimum of one year past the date on which the oral communication occurred.

All records required to be retained, 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.

### **NYMEX/COMEX**

#### **536.G. Telephone Recordings**

Unless specifically exempted by the Market Regulation Department or designated Exchange staff, all headset communications used in and around trading pits on the trading floor must be voice recorded by the Exchange for a fee.

~~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 interests and related cash or forward transactions ~~futures, options and cash transactions~~ in accordance with CFTC Regulation 1.35. Written and electronic Such records must be retained for a minimum of five years in permanent form. Oral communications required to be recorded pursuant to CFTC Regulation 1.35(a) must be retained for a minimum of one year past the date on which the oral communication occurred. Oral communications recorded by the Exchange pursuant to Section G. will be maintained by the Exchange for a minimum of one year past the date on which the oral communication occurred.

All records required to be retained, 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.