

# MARKET REGULATION ADVISORY NOTICE

<b>Exchange</b>	<b>CME &amp; CBOT</b>
<b>Subject</b>	<b>Disciplinary Committee Structure</b>
<b>Rule References</b>	<b>Chapter 4 – Enforcement of Rules</b>
<b>Advisory Date</b>	<b>December 3, 2007</b>
<b>Advisory Number</b>	<b>CME &amp; CBOT – RA0701-3</b>

Effective November 29, 2007, CME and CBOT adopted common rule language with respect to each exchange's disciplinary committee structure and disciplinary processes. This advisory presents an overview of the committee structure; the detailed rules may be found in Chapter 4 of each exchange's rulebook.

## **Probable Cause Committee (PCC)**

- Each exchange shall have a PCC that will act through a panel comprised of a chairman, three Exchange members or employees of member firms, and three non-members. The panel chairman may be a member or a non-member, and both exchanges will share a common pool of non-member panelists.
- The PCC reviews investigative reports prepared by the Market Regulation Department and is responsible for determining whether or not a reasonable basis exists for finding that a violation of exchange rules may have occurred which warrants disciplinary action. If so, the PCC shall issue appropriate charges. The PCC will not establish preliminary penalties, consider settlement offers or conduct hearings.

## **Business Conduct Committee (BCC)**

- Each exchange shall have a BCC that will act through a panel comprised of a chairman, three exchange members or employees of member firms, and three non-members. The panel chairman may be a member or a non-member, and both exchanges will share a common pool of non-member panelists.
- The BCC is responsible for the consideration of settlement offers and for conducting hearings in connection with charges issued by the PCC. The BCC is also responsible for conducting hearings on charges issued by the Clearing House Risk Committee.
- The BCC has broad sanctioning authority, including the ability to impose fines of up to \$1 million per violation, plus the amount of any benefit received as a result of the violation, and to impose suspensions of any length. The BCC may also expel a member.
- The BCC hears appeals of Floor Conduct Committee fines in excess of \$1,000.

## **Clearing House Risk Committee (CHRC)**

- There will be a single CHRC for both exchanges comprised of 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 a least one who shall be a non-member.
- The CHRC is responsible for enforcing rules pertaining to the financial integrity of Clearing Members and also those pertaining to the business conduct of Clearing Members and their compliance with exchange rules that are not otherwise within the purview of the BCC.

- The CHRC may conduct investigations, issue charges and consider settlement offers on its own initiative or by referral from exchange staff, the PCC or the BCC.
- A panel of the CHRC is responsible for hearing appeals of administrative fines in excess of \$25,000 that are imposed pursuant to Rule 852 (“Fines for Errors, Delays and Omissions”).

### **Floor Conduct Committee (FCC)**

- Each exchange shall have a FCC that will act through a panel comprised of a chairman and three additional members of the FCC. Following consolidation of the trading floors, the two exchanges’ committees will be replaced by a single committee.
- The FCC is responsible for conducting summary proceedings for alleged violations of Rule 514 (“Trading Infractions”), which addresses trading and decorum infractions, and may assess penalties of up to \$20,000.
- The FCC is responsible for resolving pit space disputes that are not resolved by the relevant Pit Committee.

### **Appeals to a Hearing Panel of the Board of Directors**

- Appeals from decisions of the BCC are heard by a hearing panel of the Board of Directors. The Chairman of the Board shall appoint a Director to serve as the Appellate Panel Chairman and two additional Directors, including one non-member, to serve on the panel.
- A request for appeal must be made within 10 business days of the notice of the decision, and only decisions that impose a monetary sanction greater than \$10,000 and/or an access denial or suspension of any membership privileges for greater than five business days may be appealed.
- The Market Regulation Department may appeal any refusal by the PCC to issue charges that it requested or any decision of, or sanction imposed by, the BCC.
- The Appellate Panel may not set aside, modify or amend the appealed decision or the refusal to issue charges unless it determines that the decision or the refusal to issue charges was: 1) arbitrary, capricious or an abuse of the committee’s discretion; 2) in excess of the committee’s authority or jurisdiction; or 3) based on a clearly erroneous application or interpretation of Exchange rules.

### **Additional Matters Pertaining to Chapter 4 Rules**

- CME and CBOT rules will not delineate rule violations as major or minor violations. The specific rules cited in the public disciplinary notice and the corresponding sanction will speak to the gravity of the disciplinary action.
- Investigative reports prepared by the Market Regulation Department will be privileged documents and therefore will not be discoverable by respondents or made available to the BCC.

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

Robert Sniegowski, Associate Director, 312.648.5493

Joseph Adamczyk, Director & Enforcement Counsel, 312.930.2379

Dean Payton, Managing Director & Chief Regulatory Officer, 312.435.3658