



Special Executive Report

S-6064

January 3, 2012

Revisions to Rule 442 (“Notification of Significant Events”) and Rule 853 (“Transfer of Transfer of Trades and Customer Accounts”)

Pending all relevant regulatory review periods, CME, CBOT and NYMEX will adopt revisions to Rule 442 (“Notification of Significant Events”) and Rule 853 (“Transfers of Trades and Customer Accounts” formerly titled “Transfers of Trades”), on January 4, 2012. These revisions are being made in accordance with the Commodity Futures Trading Commission’s (“CFTC”) new regulations for derivatives clearing organizations (“DCOs”). CFTC Regulation 39.16(d), which becomes effective on January 9, 2012, requires each DCO to have a rule that requires clearing members to provide prompt notice to the DCO if the clearing member becomes the subject of a bankruptcy petition, receivership proceeding, or the equivalent. CFTC Regulation 39.15(d), which also becomes effective on January 9, 2012, requires each DCO to have rules providing that it will promptly transfer all or a portion of a customer’s account from one clearing member to another, provided that the conditions in the Regulation are satisfied.

The revisions to Rules 442 and 853 are set forth below, with additions underscored and deletions overstruck:

Chapter 4 – Enforcement of Rules

Rule 442. NOTIFICATION OF SIGNIFICANT EVENTS

Each Member shall provide immediately notice to ~~fy~~ the Market Regulation Department (and each Member that is a Member Firm or a Clearing Member shall also provide immediate notice to the Clearing House), in writing upon becoming aware of any of the following events relating to such Member:

1. any suspension, expulsion, revocation or restriction of such Member’s trading privileges or any fine in excess of \$25,000, through an adverse determination, voluntary settlement or otherwise, by any court, commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the Financial Industry Regulatory Authority, Inc. or any self-regulatory or regulatory organization;
2. any indictment of the Member ~~or~~ any of its officers for, any conviction of the Member ~~or~~ any of its officers of, or any confession of guilt or plea of guilty or nolo contendere by the Member or any of its officers to 1) any felony or 2) any misdemeanor involving, arising from, or related to the purchase or sale of any commodity, security, futures contract, option or other financial instrument or involving or arising from fraud or moral turpitude; and/or
3. any filing of a involuntary bankruptcy petition or insolvency, receivership or equivalent proceeding of which the Member is a subject, that has been filed against such Member, or in the case of a voluntary bankruptcy, insolvency, receivership or equivalent proceeding, the Member also shall notify the Market Regulation Department (and the Clearing House in the case of a Member that is a Member Firm or Clearing Member) when when such Member ~~has filed or has~~ formed a definite intention to file such proceeding ~~for~~ bankruptcy.

Nothing in this Rule shall limit or negate any other reporting obligations that any member may have to the Exchange or any other regulator or person.

Chapter 8 – Clearing House and Performance Bonds

Rule 853. TRANSFERS OF TRADES AND CUSTOMER ACCOUNTS

853.A. Transfers of Trades

1. Subject to the limitations of Rule 854, existing trades may be transferred either on the books of a clearing member or from one clearing member to another clearing member provided:

i. The transfer merely constitutes a change from one account to another account provided the underlying beneficial ownership in said accounts remains the same; or

ii. An error has been made in the clearing of a trade and the error is discovered and the transfer is completed within two business days after the trade date.

B2. Subject to the limitations of Rule 854, Exchange staff may, upon request by the clearing member(s), approve a transfer of existing trades either on the books of the same clearing member, or from the books of one clearing member to the books of another clearing member if the transfer is in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring transaction between two or more entities where one or more entities become the successor in interest to one or more other entities.

3C. Exchange staff may, with the consent of the clearing member(s) involved, permit the transfer of existing trades if, in staff's opinion, the situation so requires and such transfer is in the best interests of the Exchange.

4D. Provided that the transfer is permitted pursuant to Sections 1A., 2B. or 3C. above, transactions in all physically delivered futures contracts except for FX futures contracts must be recorded and carried on the books of the receiving firm at the original trade dates; all other transactions may be recorded and carried at either the original trade date or the transfer date. Futures transactions may be transferred using either the original trade price or the most recent settlement price; options transactions may be transferred using either the original trade price or a trade price of zero.

E5. All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The clearing members involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

853.B. Transfers of Customer Accounts

1. Subject to the limitations of Rule 853.A, after receipt of a signed instruction from a Clearing Member (the "Carrying Clearing Member") to transfer all or a portion of a customer account to another Clearing Member (the "Receiving Clearing Member"), and provided that such instruction contains the customer's name and account number (and, if the transfer is not of the entire account, a description of which portion is to be transferred), and provided that the Receiving Clearing Member agrees to accept the account, the Exchange shall promptly transfer the account (or the relevant portion thereof), without requiring any close-out or rebooking of positions in connection with the transfer, provided that:
i. The transferred positions will satisfy Exchange performance bond requirements at the Receiving Clearing Member; and
ii. Any remaining positions in the customer account at the Carrying Clearing Member will satisfy Exchange performance bond requirements.

Questions regarding the revisions to Rules 442 and 853 may be directed to Lisa Dunsky, Director and Associate General Counsel, at 312.338.2483.

For media inquiries concerning this Special Executive Report, please contact CME Group Corporate Communications at 312.930.3434 or news@cmegroup.com.

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