

Exchanges Adopt Amendments to Rule 905 (“Choice of Law”)

Effective June 6, 2011, amendments to CME, CBOT and NYMEX Rule 905 (“Choice of Law”) will be adopted and become effective. CME, CBOT and NYMEX recently added Rule 905 to each of their rulebooks to address forthcoming CFTC regulatory requirements in connection with new Derivates Clearing Organization (“DCO”) Core Principle R (Legal Risk). A number of entities located in various foreign countries have expressed interest in becoming clearing members of CME, CBOT and/or NYMEX. Certain of those entities are partially owned by a foreign state. Although applicable laws generally prevent state-owned business enterprises from invoking sovereign immunity, new subpart (b) of Rule 905 – the text of which is set forth below – will require clearing members to waive any immunity they may have based on sovereignty.

Rule 905. Choice of Law.

(a) The Rules of the Exchange shall be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to its conflict-of-law principles. Except as otherwise provided in Chapters 4, 5 and 6 of the Rulebook, any action, claim, dispute or litigation of any kind between the Clearing Member and the Exchange arising from the Clearing Member’s membership in the Exchange shall be adjudicated in a federal or state court in Chicago, Illinois. Clearing Members consent to the jurisdiction of such court and to service of process by any means authorized by Illinois or U.S. federal law, and shall not seek to transfer the venue of such litigation.

(b) Each Clearing Member irrevocably waives, with respect to itself and its revenues and assets, any immunity on the ground of sovereignty or other similar grounds from suit, jurisdiction of any court, injunctive relief, order for specific performance or for recovery of property, attachment of assets, and execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction, and irrevocably agrees that it will not claim any such immunity in any proceedings.

If you have questions regarding the changes to Rule 905, please contact Lisa Dunsky, Director and Associate General Counsel, at 312.338.2483.

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