

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Supervisory Responsibilities for Employees
Rule References	Rules 432.W., 433, 444 and 501
Advisory Date	December 14, 2016
Advisory Number	CME Group RA1620-5
Effective Date	January 3, 2017

This Advisory Notice supersedes CME Group Market Regulation Advisory Notice RA1517-5 issued on November 2, 2015. It is being issued to eliminate references to nonmember employees of members operating on the NYMEX and COMEX trading floor in connection with the December 30, 2016, termination of open outcry trading of NYMEX and COMEX products and the closure of the NYMEX and COMEX trading floor.

Pursuant to Rule 432.W. (“General Offenses”), it is an offense for any party to fail to diligently supervise its employees and agents in the conduct of their business relating to the CME Group Exchanges. For avoidance of doubt, agents include any automated trading systems (“ATs”) operated by any party. Additionally, pursuant to Rule 433 (“Strict Liability for the Acts of Agents”), parties are strictly liable for the acts, omissions, or failures of any officials, agents or employees acting for the party within the scope of their employment or office.

All parties are strongly encouraged to ensure that they have adopted and effectively execute appropriate supervisory procedures.

Additionally, pursuant to CME and CBOT Rule 501 (“Employees of Members”), Members are reminded that they are responsible for ensuring that their trading floor employees comply with all exchange rules. A CME or CBOT Member may register only a bona fide employee under Rule 501, and the Member is responsible for the supervision of that employee irrespective of whether the employee also works for other Members in addition to the registering Member.

CME and CBOT Members must notify the Membership Department when such employment relationships have been terminated. Additionally, CME or CBOT Members who no longer access the trading floor must terminate trading floor access for their nonmember employees by notifying the Membership Department.

Members are also reminded that they have an affirmative obligation to diligently supervise all their employees, including those employees who do not have floor access, and that failure to do so constitutes a violation of Rule 432.W. (“General Offenses”).

All Members should be aware that pursuant to Rule 444 (“Payments of Disciplinary Fines, Disgorgement Orders and Restitution”) they may, subject to a determination by the sanctioning entity, be liable for unpaid fines or unpaid disgorgement orders and restitution amounts imposed upon their employees.

The pertinent text of Rules 432.W. and 501 and the full text of Rules 433 and 444 are set forth below.

Rule 432. GENERAL OFFENSES

It shall be an offense:

W. for any party to fail to diligently supervise its employees and agents in the conduct of their business relating to the Exchange;

Rule 433. STRICT LIABILITY FOR THE ACTS OF AGENTS

Pursuant to Section 2(a)(1)(B) of the Commodity Exchange Act, and notwithstanding Rule 432.W., the act, omission, or failure of any official, agent, or other Person acting for any party within the scope of his employment or office shall be deemed the act, omission or failure of the party, as well as of the official, agent or other Person who committed the act.

Rule 444. PAYMENTS OF DISCIPLINARY FINES, DISGORGEMENT ORDERS AND RESTITUTION

Disciplinary fines, disgorgement and restitution amounts ordered by an Exchange disciplinary committee must be submitted to the Market Regulation Department no later than the date specified in the notice of decision, except that fines issued by the Clearing House Risk Committee shall be paid to the Financial and Regulatory Surveillance Department. An individual or entity who fails to provide proof of payment within the time prescribed will forfeit the following privileges until the payment has been received: 1) access to all CME Group markets; 2) access to the Globex platform; and 3) access to any other electronic trading or clearing platform owned or controlled by CME Group. Any member firm that fails to make the required payment within the time prescribed will automatically forfeit preferred fee treatment for its proprietary trading until the payment has been received. Any party that fails to make the required payment shall immediately forfeit eligibility for any Exchange incentive or rebate program until the amount is paid in full. Any party that fails to pay a disciplinary fine, disgorgement order or restitution amount within the prescribed time period may also be subject to sanctions pursuant to Rule 432.S.

Parties may, subject to a determination by the sanctioning entity, be liable for unpaid fines or unpaid disgorgement orders and restitution amounts imposed upon their employees.

Rule 501. EMPLOYEES OF MEMBERS

Members shall be responsible for ensuring that their employees comply with all Exchange rules and may, subject to a determination by an Exchange disciplinary committee, be liable for any fines imposed upon such employees by the Exchange.

Questions regarding this Advisory Notice may be directed to one of the following individuals in Market Regulation:

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