



A CME/Chicago Board of Trade/NYMEX Company

Special Executive Report

S-4763

September 26, 2008

CME AND CBOT ADOPT AMENDMENTS TO RULE 536

CME and CBOT have adopted amendments to Rule 536 ("Recordkeeping Requirements for Pit, Globex, and Negotiated Trades") related to 1) requirements concerning Clearing Firm maintenance of front-end audit trails for systems that connect to CME Globex and 2) the Computerized Trade Reconstruction ("CTR") enforcement program. Additional information on the changes appears below.

Electronic Audit Trail Recordkeeping Requirements

CME and CBOT Rule 536.B. ("Globex Order Entry") have each been amended to require Clearing Firms to maintain their front-end audit trails for systems that connect to CME Globex. Prior to the harmonization of CME and CBOT rules, a similar requirement was set forth in CME Rule 536 and is presently required as part of the certification process for entities connecting to CME Globex.

The amendments to Rule 536.B. appear below, with additions underscored.

536.B. Globex Order Entry

1. General Requirement

Each Globex terminal operator entering orders into Globex shall: a) sign onto the Globex system before entering orders by inputting the user ID assigned him by CME, a clearing member or other authorized entity and b) input for each order the price, quantity, product, expiration month, CTI code and account number (except as provided in Section C.), and, for options, put or call and strike price. The Globex terminal operator's user ID must be present on each order entered. For a Globex terminal operator with access pursuant to Rule 574, clearing members authorizing such access will be responsible for the Globex terminal operator's compliance with this rule.

With respect to orders received by a Globex terminal operator which are capable of being immediately entered into Globex, no record other than that set forth above need be made. However, if a Globex terminal operator receives an order which cannot be immediately entered into Globex, the Globex terminal operator must prepare a written order and include the account designation, date, time of receipt and other information required pursuant to section A.1. above. The order must be entered into Globex when it becomes executable.

2. Electronic Audit Trail Requirements for Electronic Order Routing/Front-End Systems

Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the order routing/front-end audit trail for all electronic orders, including order entry, modification, cancellation and responses to such messages (referred to as the "electronic audit trail"), entered into the Globex platform through the CME iLink[®] gateway. This electronic audit trail must be maintained for a minimum of 5 years, and clearing members must have the ability to produce this data in a standard format upon request of Market Regulation.

This electronic audit trail must contain all order receipt, order entry, order modification, and response receipt times to the highest level of precision achievable by the operating system, but at least to the hundredth of a second. The times captured must not be able to be modified by the person entering the order. The data must also contain all Fix Tag information and fields which should include, but is not limited to the following:

A record of all fields relating to order entry, including transaction date, product, Exchange code, expiration month, quantity, order type, order qualifier, price, buy/sell indicator, stop/trigger price, order number, unique transaction number, account number, session ID, Tag 50 ID, host order number, trader order number, clearing member, type of action, action status code, customer type indicator, origin, and timestamps. For executed orders the audit trail must record the execution time of the trade along with all fill information.

In the case where the Guaranteeing Clearing Firm has a direct connect client that is another Clearing Firm or a Corporate Equity Member, the Clearing Firm may notify the client Clearing Firm or Corporate Equity Member that it is their obligation to maintain the electronic audit trail. Upon execution of this written notice, it shall be the duty of the client Clearing Firm or Corporate Equity Member to maintain an electronic audit trail pursuant to this rule.

Computerized Trade Reconstruction ("CTR") Enforcement Program

In April 2008, following the consolidation of the trading floors and transition to a common price reporting system, CME and CBOT implemented a harmonized CTR enforcement program that combined aspects of both exchanges' prior programs. Based upon several months of experience with the new program, changes have been made to CME and CBOT Rule 536.F. ("CTR Enforcement Program and Sanction Schedule") eliminating the exception program for missing quotes and amending the fining schedule to provide for a more gradual escalation of fines.

For additional information on the changes to the CTR Enforcement Program, including a detailed FAQ, please see today's release of CME & CBOT Market Regulation Advisory Notice RA0817-3.

The amendments to Rule 536.F. appear below, with additions underscored and deletions overstruck.

536.F. CTR Enforcement Program and Sanction Schedule

CTR Monthly Enforcement Program

The CTR threshold levels for members with 100 or more transactions per month are as follows:

| <u>Exception Type</u> | <u>Threshold Level</u> |
|-------------------------------------|---|
| Bracket Exceptions | 8% and above |
| Time of Execution for Verbal Orders | 8% and above |
| Sequence Errors | 8% and above |
| Quotes not found in | 5 or more for futures |
| Time and sales | 10 or more for options and back-month Eurodollar futures |

A letter of warning shall be issued for a first occurrence of exceeding any threshold. Subsequent occurrences within 12 months of exceeding a threshold shall result in automatic fines ~~in accordance with the following schedule:~~ starting at \$250, and then increasing to \$500, \$1,000, \$2,500, and \$5,000 for each subsequent occurrence.

| | |
|--------------------------|---------|
| Second occurrence | \$500 |
| Third occurrence | \$1,000 |
| Subsequent occurrence(s) | \$5,000 |

A member will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed showing that administrative, clerical, or other errors by the clearing firm caused the member to exceed the threshold level. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

The monthly CTR enforcement of timestamp exceptions for firms with 1,000 or more transactions per month is 8% and above. A letter of warning shall be issued for a first occurrence of exceeding the threshold. Subsequent occurrences within 12 months of exceeding the threshold shall result in automatic fines ~~in accordance with the following schedule:~~ starting at \$1,500 for the second occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

| | |
|--------------------------|----------|
| Second occurrence | \$1,500 |
| Third occurrence | \$5,000 |
| Subsequent occurrence(s) | \$10,000 |

A firm will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

CTR Clearing Member Back Office Audit Enforcement Program

The Market Regulation Department will conduct audits of clearing members to verify that required audit trail information has been accurately recorded and submitted. The CTR audit threshold level for firms failing to pick up and timestamp sequenced cards, verbal order cards and floor orders is 20%. The threshold for all other firm audit trail or recordkeeping deficiencies is 10%.

Percentage calculations will be made based on an examination of a combination of sequenced cards, verbal orders and floor orders totaling 150 documents. The number of documents containing a deficiency(ies) will be divided by the total number of documents examined in determining the deficiency percentage.

Violations of each threshold within 24 months shall be subject to automatic fines ~~in accordance with the following schedule:~~ starting at \$2,500 for a first occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

| | |
|--------------------------|----------|
| First occurrence | \$2,500 |
| Second occurrence | \$5,000 |
| Subsequent occurrence(s) | \$10,000 |

A firm will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the fine shall be final and may not be appealed.

Notwithstanding the provisions of this Section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Probable Cause Committee.

Questions concerning the amendments should be directed to Lou Abarcar, Associate Director, Market Regulation, at 312.341.3236 or Terry Quinn, Manager, Market Regulation, at 312.435.3753.