



## Special Executive Report

S-4779

October 27, 2008

### **CME AND CBOT ADOPT AMENDMENTS TO RULES 853 AND 854**

CME and CBOT have adopted amendments to Rules 853 ("Transfers of Trades") and 854 ("Concurrent Long and Short Positions"), effective immediately. The minor revision to Section C. of Rule 853 clarifies that transfers pursuant to this Section may occur on the books of the same or different clearing members. Prior to the change, the language did not address transfers on the books of the same clearing firm. The amendments to Section D. of Rule 853 eliminate the requirement that transfers of futures trades at the current settlement price receive prior Market Regulation approval.

With respect to Rule 854, Section B. has been modified to clarify that concurrent long and short positions in physically delivered contracts that are held by the same owner may be transferred for offset during the delivery period provided that the trade date of the position being transferred is the same as the transfer date.

The amendments are shown below, with additions underscored and deletions overstruck.

#### **853. TRANSFERS OF TRADES**

- A. 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:
  - 1. The transfer merely constitutes a change from one account to another account provided the underlying beneficial ownership in said accounts remains the same; or
  - 2. 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.
- B. 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.
- C. Exchange staff may, with the consent of both the clearing member(s) involved, permit the transfer of existing trades ~~on the books of one clearing member to the books of another clearing member~~ if, in staff's opinion, the situation so requires and such transfer is in the best interests of the Exchange.
- D. Provided that the transfer is permitted pursuant to Sections A., B. or C. above, the transactions must be recorded and carried on the books of the receiving firm at the original trade dates. 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. All transactions described above must be transferred using the original trade dates. Futures transactions must be transferred using the original trade prices; options transactions may be transferred using either the original trade prices or a trade price of zero. Upon written request, the Market Regulation Department may, in its sole discretion, permit transfers through the Clearing House at the current trade date and settlement price provided that the firm's books accurately reflect the original trade dates.

[The remainder of the rule is unchanged.]

#### 854. Concurrent Long and Short Positions

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

- A. Concurrent long and short positions in the same commodity and month may be held by a clearing member at the direction of a customer or on behalf of an omnibus account; however it shall be the duty of the clearing member to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the Clearing House.
- B. Concurrent long and short positions in physically delivered contracts that are held by the same owner ~~During the delivery month and two business days prior to the delivery month, concurrent long and short positions held by the same owner~~ must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date. The only exception to this requirement is that Such positions may not be offset via netting, transfer, or position adjustment except to correct a bona fide clerical or operational error on the day the error is identified and provided that the quantity of the offset does not represent more than one percent of the reported open interest in the affected futures contract month ~~and the transaction occurs on the day that the error is identified.~~

[The remainder of the rule is unchanged.]

Questions concerning the amendments should be directed to Joe Hawrysz, Associate Director, Market Regulation, at 312.341.7750 or Jerry O'Connor, Associate Director, Market Regulation, at 312.341.7048.