

Special Executive Report

S-5013

September 28, 2009

TRADE CANCELLATIONS AND PRICE ADJUSTMENTS ON CME GLOBEX AMENDMENTS TO RULES 588, 600, 621 AND 622

Effective on Sunday, October 11, for trade date Monday, October 12, CME, CBOT and NYMEX will adopt revisions to Rule 588 ("Trade Cancellations and Price Adjustments") resulting from a comprehensive review of the rule and its application in connection with trading on CME Globex. The revisions to Rule 588 require corresponding revisions to several rules in Chapter 6 ("Arbitration"). The significant changes to Rule 588 are described below. The clean copy of amended Rule 588 begins on page 2. The text of the revisions to Rules 588, 600, 621 and 622 begin on page 4, with additions underscored and deletions overstruck.

Significant Changes to Rule 588

- Section C. ("Price Adjustments and Cancellations") has been modified to provide for price adjustments as the principal method for resolving situations where the Globex Control Center ("GCC") has determined that a futures trade has been executed at a price outside of the no-bust range. The former rule drew a distinction between trades in implied-eligible versus non-implied eligible contracts. The change is being made to reduce the likelihood that a non-error making party is left with an open position in a situation where the party has taken subsequent market action prior to being notified of the trade cancellation. The language makes clear that GCC retains the authority to bust trades in situations involving multiple parties, prices or contracts.
- Section D. ("Alternative Resolution by Agreement of Parties") provides for parties, with GCC approval, to mutually agree to bust a trade that the GCC price adjusted or to price adjust a trade that the GCC busted. It also allows for cash adjustments between the parties to the transaction provided that the adjustments are reported to the GCC.
- GCC has authority under the rule to price-adjust or bust trades in any situation where the GCC determines that allowing a trade to stand as executed may have a material adverse effect on the integrity of the market. As such, the former rule language giving the GCC specific authority to review trades in illiquid contracts up to one hour after execution and to temporarily double the no-bust range when warranted by market conditions is unnecessary and has been eliminated.
- The liability cap of \$500,000 for error makers in the former version of the rule has been eliminated. New Section E. ("Liability for Losses Resulting from Price Adjustments or Cancellations") makes a party who is responsible for a trade being price adjusted or busted liable for all realized losses of persons whose trade prices were adjusted or busted as a result of the error trade, provided that those persons took reasonable actions to mitigate the loss. Given that the financial exposure to a non-error making party is unlimited, it was determined that limiting an error maker's liability was inequitable. A claim for loss must be

submitted within five business days and the procedures for filing claims are detailed in Section E.

Questions regarding the information in this Special Executive Report should be directed to Michael McDonald, Giuseppe Scimeca or Brian Wolf, Associate Directors, Globex Control Center ("GCC"), at 312.456.2391. Specific questions concerning the revisions to Rules 600, 621 and 622 should be directed to Michael Conti, Arbitration Administrator, Market Regulation Department, at 312.435.3648.

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

Text of Approved Rule Changes

Amended Rule 588

588. TRADE CANCELLATIONS AND PRICE ADJUSTMENTS

588.A. Globex Control Center Authority Regarding Trade Cancellations and Price Adjustments

The following shall be applied to balance the adverse effects on market integrity of executing trades and publishing trade information inconsistent with prevailing market conditions while preserving legitimate expectations of trade certainty by market participants. This rule authorizes the Globex Control Center ("GCC") to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the electronic trading system or by system defects. Notwithstanding any other provisions of this rule, the GCC may adjust trade prices or bust any trade if the GCC determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market. All decisions of the GCC shall be final.

588.B. Review of Trades

The GCC may determine to review a trade based on its independent analysis of market activity or upon request for review by a user of the electronic trading system. A request for review must be made within eight minutes of the execution of the trade.

The GCC shall determine whether or not a trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the GCC deems it to be appropriate, the GCC may determine, in its sole discretion, that a trade shall not be subject to review.

Upon deciding to review a trade, the GCC will promptly issue an alert indicating that the trade is under review.

588.C. Price Adjustments and Cancellations

Upon making a determination that a trade will be subject to review, the GCC will first determine whether the trade price is within the No Bust Range for futures or within the Bid/Ask Reasonability Allowance for options, as described in Section G. The Bid/Ask Reasonability Allowance for an option is the maximum width of the bid/ask range which will be considered reasonable for use in applying the parameters necessary to establish the No Bust Range for the option. In applying the No Bust Range, the GCC shall determine the fair value market price for that contract at the time the trade under review occurred. The GCC may consider any relevant information, including, but not limited to, the last trade price in the contract or a better bid or offer price on the electronic trading system, a more recent price in a different contract month, the price of the same or related contract established in another venue or another market, the market conditions at the time of the trade, the theoretical value of an option based on the most recent implied volatility and responses to a Request for Quote (RFQ).

1. Trade Price Inside the No Bust Range

If the GCC determines that the price of the trade is inside the No Bust Range, the GCC will issue an alert indicating that the trade shall stand.

2. Trade Price Outside the No Bust Range

a. Futures Contracts

If the GCC determines that a trade price is outside the No Bust Range for a futures contract (including futures spreads), the trade price shall be adjusted to a price that equals the fair value

market price for that contract at the time the trade under review occurred, plus or minus the No Bust Range. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will issue an alert regarding its decision.

b. Option Contracts

If the GCC determines that a trade price is outside the applicable No Bust Range for an option contract, the trade price shall be adjusted. In the case of a buy (sell) error, the price will be adjusted to the determined ask (bid) price set forth in the Bid/Ask Reasonability Allowance in Section G. plus (minus) the No Bust Range. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will issue an alert regarding its decision.

Busted trade prices and any prices that have been adjusted shall be cancelled in the Exchange's official record of time and sales. Trades that are price adjusted shall be inserted in the time and sales record at the adjusted trade price.

588.D. Alternative Resolution by Agreement of Parties

With the approval of the GCC, parties to a trade that is price adjusted may instead mutually agree to bust the trade. With the approval of the GCC, parties to a trade that is busted may instead mutually agree to price adjust the trade to a price consistent with the adjustment provisions of Section C.

Parties to a trade that is busted or price adjusted may mutually agree to a cash adjustment provided that such adjustments are reported to the GCC and the parties maintain a record of the adjustment.

An executed trade may not be reversed via transfer except where such trade is determined by GCC to be outside of the No Bust Range but not reported timely, subject to agreement of the parties and approval of the GCC. Any such transfer must occur at the original trade price and quantity; however the parties may mutually agree to a cash adjustment.

A trade that is not busted may not be reversed via a prearranged offsetting transaction unless such transactions are permitted and effected in accordance with Rule 539.C.

588.E. Liability for Losses Resulting from Price Adjustments or Cancellations

A party entering an order that results in a price adjustment or trade bust shall be responsible for demonstrated claims of realized losses incurred by persons whose trade prices were adjusted or busted provided, however, that a claimant shall not be entitled to compensation for losses incurred as a result of the claimant's failure to take reasonable actions to mitigate the loss.

A claim for a loss pursuant to this section must be submitted to the Exchange on an Exchange claim form within five business days of the event giving rise to the claim. The Exchange shall reject any claim that is not filed in a timely manner or is not permitted by this section and such decisions shall be final. Eligible claims shall be forwarded by the Exchange to the party responsible for the order(s) that resulted in a trade bust or a price adjustment and to the clearing member through which the trade was placed. Such party, or the clearing member on behalf of the party, shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. Failure to respond to the claim within ten business days shall be considered a denial of liability.

To the extent that liability is admitted, payment shall be made within ten business days. Unless otherwise agreed upon in writing by the parties, failure to make the payment within ten business days shall be considered a denial of liability for purposes of this rule. A copy of any such written agreement must be provided to the Exchange.

To the extent that liability is denied, the party making the claim may submit the claim to arbitration in accordance with Rule 622. Such claims must be submitted to the Market Regulation Department within ten business days of the date the party was issued notification that liability was denied.

588.F. Schedule of Administrative Fees

When GCC busts or price adjusts a trade, the party responsible for entering the order into the electronic trading system that gave rise to the trade bust or price adjustment shall pay an administrative fee to the Exchange in the amount of \$500 for each such occurrence. If the party is not deemed a Member as defined in Rule 400 and fails to pay the fee, the clearing member through which the trade was placed shall be responsible for payment of the fee.

588.G. No Bust Ranges

[The table detailing the no bust ranges is unchanged.]

Amended Rule 588 Showing Changes

588. TRADE CANCELLATIONS AND PRICE ADJUSTMENTS

588.A. Globex Control Center ~~Trade Cancellation~~ Authority Regarding Trade Cancellations and Price Adjustments

The following ~~policy~~ shall be applied to balance the adverse effects on market integrity of executing trades and publishing trade information inconsistent with prevailing market conditions while preserving legitimate expectations ~~that executed transactions will not be cancelled~~ of trade certainty by market participants. This ~~rule~~ Exchange's trade cancellation policy authorizes the Globex Control Center ("GCC") to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the electronic trading system or by system defects. Notwithstanding any other provisions of this rule, the GCC may adjust trade prices or ~~cancel~~ bust any trade if the GCC determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market. ~~All~~ The decisions of the GCC shall be final.

588.B. Review of Trades

The GCC may determine to review a trade based on its independent analysis of market ~~activity~~ conditions or ~~upon a~~ request for review by a user of the electronic trading system. A request for review must be made within eight minutes of the execution of the trade.

The GCC shall ~~promptly~~ determine whether ~~or not a~~ the trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the GCC deems it to be appropriate, the GCC may determine, in its sole discretion, that a trade shall not be subject to review.

~~and u~~ Upon deciding to review a trade, the GCC will promptly issue an alert indicating that the trade is under review.

~~In the case of illiquid contracts, the GCC may initiate a review up to one hour after the execution of the trade, and has the authority, but not the obligation, to review trades reported more than one hour following execution if it determines that the trade price was egregiously out of line with fair value.~~

588.C. Trade Price Adjustments and Cancellations Process

Upon making a determination that a trade will be subject to review, ~~t~~ The GCC will first determine whether the trade price is within the No Bust Range for futures or within the Bid/Ask Reasonability Allowance for options, as described in Section ~~K~~ G. The Bid/Ask Reasonability Allowance for an option is the maximum width of the bid/ask range which will be considered reasonable for use in applying the parameters necessary to establish the ~~a~~ No ~~b~~ Bust ~~r~~ Range for the option. During fast market conditions, upon the release of significant news, or in other circumstances in which the GCC determines it is appropriate, the GCC may, without prior notice, temporarily double the published No Bust Range or Bid/Ask Reasonability Allowance.

In applying the No Bust Range, the GCC shall determine the ~~actual or implied fair value~~ market price for that contract at the time the trade under review occurred ~~immediately before the trade under review~~. The GCC may consider any relevant information, including, but not limited to, ~~the last trade price in the contract or the existing market conditions, the volatility of the market, the prices of related instruments in other markets, the last trade price on the electronic trading system,~~ a better bid or offer price on the electronic trading system, a more recent price in a different contract month, the price of the same or related contract established in another venue or another market, the market conditions at the time of the trade, open outcry trading, the theoretical value of an option based on the most recent implied volatility ~~and,~~ responses to a Request for Quote (RFQ) ~~s, and any other factors that the GCC deems relevant.~~

1. Trade Price Inside the No Bust Range

If the GCC determines that the price of the trade ~~is~~ was inside the No Bust Range, the GCC will ~~promptly~~ issue an alert indicating that the trade shall stand.

2. Trade Price Outside the No Bust Range

a. ~~Implied-Eligible~~ Futures Contracts

If the GCC determines that a trade price is outside the No Bust Range for a futures contract (including futures spreads), the trade price shall be adjusted to a price that equals the fair value market price for that contract at the time the trade under review occurred, plus or minus the No Bust Range. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will issue an alert regarding its decision.

~~If the GCC determines that a trade price is outside the applicable No Bust Range for an implied-eligible contract, the trade price shall be adjusted to a price that equals the actual or implied market price for that contract at the time of the questioned trade, plus or minus the standard or doubled No Bust Range, as applicable. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will promptly issue an alert indicating that the prices of the trades outside the No Bust Range have been adjusted to the No Bust Range limit or have been busted.~~

~~b. All Other Futures Contracts~~

~~If the GCC determines that the trade price is outside the No Bust Range for a non-implied-eligible futures contract, the GCC shall bust the trade. The GCC will promptly issue an alert indicating that trades outside the No Bust Range have been busted.~~

~~c. Option Contracts~~

~~If the GCC determines that a trade price is outside the applicable No Bust Range for an option contract, the trade price shall be adjusted. In the case of a buy (sell) error, the price will be adjusted to the determined ask (bid) price set forth in the Bid/Ask Reasonability Allowance in Section G, plus (minus) the applicable ~~No Bust Range~~ parameter. In the case of a sell error, the price will be adjusted to the determined bid price minus the applicable no bust parameter. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will promptly issue an alert regarding its decision indicating that the prices of the trades outside the No Bust Range have been adjusted to the No Bust Range limit or have been busted.~~

~~d. Notwithstanding the above, trades consummated pursuant to Rule 585 that are determined by the GCC to be outside the No Bust Range will stand, and a reciprocal trade negating the original trade will be consummated by means of a "type 8 transfer."~~

~~Busted trade prices and any prices that have been adjusted shall be cancelled in the Exchange's official record of time and sales. Trades that are price adjusted shall be inserted in the time and sales record at the adjusted trade price.~~

~~3. Liability for Losses Resulting from a Price Adjustment or Trade Bust~~

~~— A party responsible for entering an order that results in a trade price adjustment shall not be liable for losses incurred by persons whose trade prices were adjusted, except as provided in 3.a., 3.b. and 3.c. below.~~

~~a. Implied Eligible Contracts — Price Adjusted Stop Orders~~

~~— A party responsible for an order(s) that results in a trade price adjustment shall be liable for actual losses incurred by persons whose stop orders were elected as a result of the order(s). The compensable loss on each futures contract executed as part of a stop order shall be the difference between the adjusted price, as determined by the GCC, and the price in the market at the time the person knew or should have known that his stop order was erroneously elected.~~

~~b. Implied Eligible Contracts — Price Adjusted Spread Trades~~

~~— A party responsible for an order that results in a trade price adjustment shall not be liable to persons whose spread orders were executed and adjusted unless the adjusted execution price of the spread is less favorable than the market equilibrium price for the relevant spread. The liability of the party responsible for an order that results in a price adjustment shall be limited to the difference between the adjusted price and the equilibrium market price, but shall not exceed the relevant No Bust Range.~~

~~c. Option Contracts — Price Adjusted Trades~~

~~— A party responsible for an order that results in a trade price adjustment shall not be liable to persons whose option orders were executed and adjusted unless the adjusted execution price of the option is less favorable than the market equilibrium price for the relevant option. The liability of the party responsible for an order that results in a price adjustment shall be limited to the difference between the adjusted price and the market equilibrium price, but shall not exceed the relevant No Bust Range.~~

~~d. Busted Trades~~

~~— A party responsible for an order that results in a trade bust may be liable for the reasonable out-of-pocket losses incurred by persons whose trades were busted or persons whose stop orders were elected and not busted. Issues of liability in such cases will be determined based upon all relevant~~

~~facts and circumstances, including the conduct of the respective parties.~~

588.D. Alternative Resolution by Agreement of Parties

~~With the approval of the GCC, parties to a trade that is price adjusted may instead mutually agree to bust the trade. With the approval of the GCC, parties to a trade that is busted may instead mutually agree to price adjust the trade to a price consistent with the adjustment provisions of Section C.~~

~~Parties to a trade that is busted or price adjusted may mutually agree to a cash adjustment provided that such adjustments are reported to the GCC and the parties maintain a record of the adjustment.~~

~~An executed trade may not be reversed via transfer except where such trade is determined by GCC to be outside of the No Bust Range but not reported timely, subject to agreement of the parties and approval of the GCC. Any such transfer must occur at the original trade price and quantity; however the parties may mutually agree to a cash adjustment.~~

~~A trade that is not busted may not be reversed via a prearranged offsetting transaction unless such transactions are permitted and effected in accordance with Rule 539.C.~~

588.E. Liability for Losses Resulting from Price Adjustments or Cancellations

~~A party entering an order that results in a price adjustment or trade bust shall be responsible for demonstrated claims of realized losses incurred by persons whose trade prices were adjusted or busted provided, however, that a claimant shall not be entitled to compensation for losses incurred as a result of the claimant's failure to take reasonable actions to mitigate the loss.~~

~~A claim for a loss pursuant to this section must be submitted to the Exchange on an Exchange claim form within five business days of the event giving rise to the claim. The Exchange shall reject any claim that is not filed in a timely manner or is not permitted by this section and such decisions shall be final. Eligible claims shall be forwarded by the Exchange to the party responsible for the order(s) that resulted in a trade bust or a price adjustment and to the clearing member through which the trade was placed. Such party, or the clearing member on behalf of the party, shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. Failure to respond to the claim within ten business days shall be considered a denial of liability.~~

~~To the extent that liability is admitted, payment shall be made within ten business days. Unless otherwise agreed upon in writing by the parties, failure to make the payment within ten business days shall be considered a denial of liability for purposes of this rule. A copy of any such written agreement must be provided to the Exchange.~~

~~To the extent that liability is denied, the party making the claim may submit the claim to arbitration in accordance with Rule 622. Such claims must be submitted to the Market Regulation Department within ten business days of the date the party was issued notification that liability was denied.~~

588.D. Claim Process

~~A claim for a loss pursuant to Sections C.3.a., b. and c. must be submitted to the Exchange, on an Exchange claim form, within five business days of the event giving rise to the claim. The Exchange shall reject any claim that is not permitted by Sections C.3.a., b. or c. and such decision shall be final. All claims, which are not rejected by the Exchange, shall be forwarded to the party responsible for the order(s) that resulted in a trade bust or a price adjustment and to the clearing member through which the trade was placed. Such party, or the clearing member on behalf of the party, shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. The liability for losses for a single incident shall be limited to \$500,000.~~

~~To the extent that liability is admitted, payment shall be made within ten business days. If liability is admitted but the total claims exceed \$500,000, the claims shall be reduced pro rata so that the total payment does not exceed \$500,000. To the extent that liability is denied, the claims shall be submitted to arbitration in accordance with Rule 622.~~

~~A claim for a loss pursuant to Section C.3.d. must be pursued under the applicable arbitration rules of Chapter 6.~~

588.E. Trade Cancellation or Offset Procedures

~~Upon a determination by the GCC that a trade shall be busted or that trade prices shall be adjusted, that decision will be implemented. The busted trade price and any price quotes that have been adjusted will be reflected as cancelled in the Exchange's official record of time and sales. Time and sales will reflect the trades at the adjusted price.~~

~~If the trade is not busted, the parties to the transaction cannot reverse the transaction by using a "type 8 transfer" except as provided in Section C.2.d. and Section F. Additionally, if the trade is not busted, the parties may not reverse the trade by entering into a prearranged offsetting transaction unless such~~

~~transactions are permitted and effected in accordance with Rule 539.G.~~

588.F. — “Type 8 Transfers”

~~Positions that result from a trade determined by the GCC to be outside the No Bust Range that cannot be busted because the trade was not reported within eight minutes of the execution of the trade may be transferred between the parties using a “type 8 transfer” upon agreement of the parties. The transfer must use the original trade price and quantity. Any party may, but is not required to, include a cash adjustment to another party to the trade. Trades determined by the GCC to be inside the No Bust Range may not be reversed using a “type 8 transfer.”~~

588.G. — Arbitration of Disputes Regarding “Type 8 Transfers”

~~If a party does not agree to transfer a position pursuant to Section F., any other party to the trade may file an arbitration claim against the member or clearing member representing the other side of the trade. Written notice of such claim must be provided to the Exchange within five business days of the execution of the trade. Failure to file the claim within five business days shall be deemed a waiver of all claims. The arbitration claim will be dismissed by the Exchange if the owner of the account on the other side of the trade is not deemed a Member as defined in Rule 400 or a person otherwise subject to the Exchange's jurisdiction. If not dismissed, the arbitration claim will be conducted in accordance with Rule 622.~~

~~In deciding the claim, the Arbitration Committee may consider, among other factors, the reasonableness of the actions taken by each party and what action the party on the other side of the error trade took before being notified that the trade was being questioned.~~

588.H. — Voluntary Adjustment of Trade Price

~~When a trade outside of the No Bust Range is busted in accordance with this rule, the parties to the trade may agree voluntarily to reestablish the trade but to adjust its price and make a cash adjustment provided that all of the following conditions are met:~~

- ~~1. The GCC approves the adjustment.~~
- ~~2. The quantity of the position being reestablished is the same as the quantity of the trade that was busted.~~
- ~~3. In the case of a trade below the actual or implied market price, the adjusted price must be the lowest price that traded at or about the time of the trade without being busted. In the case of a trade above the actual or implied market price, the adjusted price must be the highest price that traded at or about the time of the trade without being busted.~~
- ~~4. The parties to the adjusted trade must report it to the clearing system using a “type 8 transfer” with a “G” transfer code not later than the close of business on the business day after the trade occurred.~~

588.I. — Busting Trades After System Freeze

~~In the event that the matching engine freezes with live orders in the queue waiting to be matched, such orders may be matched when the system is unfrozen before the GCC can halt the matching engine. The GCC is authorized to bust trades resulting from such matches if the price of such trades is outside of the No Bust Range at the time that a confirmation of the trades was sent.~~

588.JF. Schedule of Administrative Fees

When GCC busts or price adjusts a trade, the party responsible for entering the order into the electronic trading system that gave rise to the trade bust/or price adjustment shall pay an administrative fee to the Exchange in the amount of \$500 for each such occurrence. If the party is not deemed a Member as defined in Rule 400~~a non-member customer responsible for entering an order that results in a trade bust and~~ fails to pay the fee,~~in accordance with this section,~~ the clearing member through which the trade was placed~~carrying the customer's account~~ shall be responsible for payment of the fee.

588.GK. No Bust Ranges

[The table detailing the no bust ranges is unchanged.]

Amendments to Arbitration Rules

600. DISPUTES SUBJECT TO CME ARBITRATION

[Sections A. – D. are unchanged.]

600.D. Permissive Arbitrations

The following may be submitted for arbitration at the Exchange and, in the event such a claim is submitted

against a member, that member is required to arbitrate the dispute under these rules, unless otherwise provided:

1. claims of a customer against a member that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims against an Exchange clearing member and its Globex user pursuant to Rule 588.~~EC.3.a., b. or c., where the claimant has complied with the provisions of Rule 588.D., and pursuant to Rule 588.C.3.d.~~, provided that any non-member Globex user has consented to arbitration of the dispute at the Exchange within 21 days of receipt of a claim;

[The remainder of the rule is unchanged.]

621. CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES

621.A. General

All claims arising out of or relating to the following matters shall be arbitrated in accordance with the specific requirements of this Rule 621 and, to the extent not inconsistent with such requirements, the rules of this Chapter:

1. receipt of an incorrect order status or the failure to have received an appropriate order status;
2. the negligence of GCC personnel or any other Exchange staff; or
3. Phantom Orders, as defined in Rule 587.

Nothing in Rules 621 or 622 shall be construed to create a claim against the Exchange, to limit a defense available to the Exchange, or to obviate or modify any limitation of Exchange liability imposed by any other rule.

621.B. Initial Liability Claim and Demand for Arbitration

The initial claim of loss, including a detailed description of any loss suffered, must be made to the Exchange within ten business days of the date of the incident that caused the loss. The Exchange shall have 30 business days to pay or deny the claim in whole or in part. If the Exchange denies the claim in whole or in part, the claimant must file a written demand for arbitration with the Market Regulation Department within ten business days after the Exchange has notified the claimant of such denial. A claimant's failure to pursue its claim within these time limits shall bar any recovery on such claim.

621.C. Selection of Arbitration Panel

The arbitration panel shall consist of three ~~non-member~~ arbitrators ~~selected from the Exchange's Arbitration Committee. The panel shall choose a chairman, a list of arbitrators maintained by the National Futures Association ("NFA"). The Exchange and the claimant shall each select one arbitrator. If the Exchange and the claimant are unable to agree on the third arbitrator, the President of the NFA or his delegate shall choose the third arbitrator.~~

621.D. Related Claims

All claims arising out of the same system failure, event or alleged negligent act shall, to the extent practicable in the determination of the chairman, be consolidated for a single hearing.

621.E. Award

Within 30 days of completion of the hearing, the panel shall issue a written decision. The award shall be limited to the lesser of the actual loss or the loss that would have been incurred if the claimant had used its best efforts to mitigate the loss. Punitive damages, loss of profits, loss of use, and indirect, incidental or consequential damages shall not be awarded. The decision of a majority of the panel shall be final and binding, and there shall be no appeal to a hearing committee of the Board of Directors. A party may move, within three business days of the award, that the award be corrected to remedy any miscalculation or misdescription or where the award is otherwise imperfect in a matter of form not affecting the merits of the award.

621.F. Satisfaction of Award by Exchange

The Exchange shall satisfy any award against it subject to its limitation of liability rules and the rules respecting proration among claimants where damages allowed for a defined period of time exceed any limit imposed by Exchange rules. The Exchange may delay paying any award until such time as any applicable proration or limitation can be finally calculated.

622. CLAIMS RELATING TO TRADE CANCELLATIONS OR PRICE ADJUSTMENTS

622.A. General

All claims relating to ~~certain~~ price adjustments or trade busts pursuant to Rule 588.C.3.a., b. and c. shall be arbitrated in accordance with the specific requirements of this Rule 622 and, to the extent not inconsistent with such requirements, the rules of this Chapter. ~~All claims pursuant to Rule 588.C.3.d. shall be arbitrated in accordance with the rules of this Chapter.~~

622.B. Initiation of Claim

Any claim for loss under Rule 588.C.3.a., b. or c. must first be submitted to the Exchange as described in Rule 588.D.E. Following a denial of liability by a party responsible for a trade bust or price adjustment and by the clearing firm through which the trade was placed, ~~as described in Rule 588.D.,~~ the claimant may file an arbitration claim with the Market Regulation Department. ~~dispute shall be referred to arbitration.~~ The ~~Exchange~~Market Regulation Department shall administer the arbitration and provide notice to all parties.

The party alleged to have made the trade that caused the trade bust or price adjustment and the clearing firm through which that trade was placed both may be respondents in ~~such~~the arbitration. Any party responsible for a trade bust or price adjustment who is not otherwise subject to arbitration under these rules may voluntarily submit to such arbitration by filing a submission agreement with the Market Regulation Department~~Exchange~~ within 21 days of that party's receipt of notice of the referral to arbitration. In the absence of the voluntary submission to arbitration by such party, the arbitration shall proceed solely against the clearing firm through which the trade was placed, and that firm shall be liable for any damages awarded by the panel.

~~622.C. Selection of Arbitration Panel~~

~~All claims under Rule 588.C.3.a., b. and c. shall be heard by a Mixed Panel as defined in Rule 601.A.3.~~

622.DC. Related Claims

All claims arbitrable under this rule that arise out of a trade bust or price adjustment that was caused by the same incident shall, to the extent practicable in the determination of the chairman, be consolidated for a single hearing~~in a single arbitration~~.

622.ED. Award

Within 30 days of completion of the hearing, the panel shall issue a written decision signed by a majority of the arbitrators. ~~The total award for a single incident shall not exceed \$500,000.~~ Except as provided below, the claims shall be limited to realized out-of-pocket losses. ~~If the claimants' allowable losses exceed \$500,000, the amount awarded to each claimant shall be reduced pro rata so that the total award does not exceed \$500,000.~~ Any award shall be made jointly and severally against the respondents. In the event the panel finds the respondent(s) liable for the full amount of the claim ~~(or the capped amount of \$500,000)~~, the panel shall also award the claimants their costs and attorneys fees incurred in connection with arbitrating the claim.

Punitive damages, loss of profits, loss of use, and indirect, incidental or consequential damages shall not be awarded. The decision of a majority of the panel shall be final and may not be appealed. A party may move, within three business days of the award, for an order correcting or modifying the award to remedy any miscalculation or misdescription or where the award is otherwise imperfect in a matter of form not affecting the merits of the award.