

## MARKET REGULATION ADVISORY NOTICE

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| <b>Exchange</b>        | <b>CME, CBOT, NYMEX &amp; COMEX</b>                                                       |
| <b>Subject</b>         | <b>Documentation of Customer Orders and Submission of Suspense Accounts on CME Globex</b> |
| <b>Rule References</b> | <b>Rule 536</b>                                                                           |
| <b>Advisory Date</b>   | <b>April 15, 2016</b>                                                                     |
| <b>Advisory Number</b> | <b>CME Group RA1605-5</b>                                                                 |
| <b>Effective Date</b>  | <b>September 6, 2016</b>                                                                  |

This Advisory Notice is being issued to codify the requirements attendant to documentation of customer orders and the circumstances under which a suspense account may be submitted on an order entered into CME Globex (“Globex”). For purposes of this Advisory Notice, a suspense account means a temporary holding account that is submitted at the time of order entry into Globex but prior to the allocation of the executions to the specific accounts on a carrying clearing firm’s books.

Effective on Tuesday, September 6, 2016, suspense accounts may be used only as set forth in this Advisory Notice. A FAQ concerning suspense accounts begins on page 5 of this Advisory Notice.

**Affected parties are strongly urged to review their current usage of suspense accounts and implement any necessary changes prior to the September 6, 2016, effective date.**

Questions concerning suspense account usage should be directed to one of the individuals listed on page 7 of this Advisory Notice.

The text of CME, CBOT, NYMEX and COMEX Rules 536.B. (“Globex Order Entry”) and 536.C. (“Bunched Orders and Orders Eligible for Post Execution Allocation”) which are, in part, applicable to the use of suspense accounts, appears toward the end of this Advisory Notice.

### **Documentation of Customer Orders Intended for Execution on Globex**

With certain exceptions, Rule 536.B. requires that each Globex terminal operator entering orders into Globex accurately input for each order: a) the user ID assigned him by the Exchange, a clearing member or other authorized entity (Tag 50 ID) b) the price, quantity, product, expiration month, CTI code, automated or manual indicator (Tag 1028) and account number, and, for options, put or call and strike price.

Upon receipt of an order that cannot be immediately entered into Globex or, in certain permissible circumstances where an order was immediately entered into Globex using a suspense account, a written record of the order including the account designation, date, and time of receipt must be created by the party receiving the order. The account designation on this written record must be unique to the customer for whom the order is being entered.

### **Entry of Suspense Accounts into Globex**

The circumstances under which a suspense account may be used when entering orders into Globex are set forth below, including, where applicable, any additional requirements attendant to their use. No other

use of suspense accounts is permitted, and the permissible use of suspense accounts will be subject to a heightened level of regulatory scrutiny.

1. Bunched Orders for Post Execution Allocation (“PEA”)

Eligible Account Managers (“EAM”), pursuant to CFTC Regulation 1.35(b)(5) and the National Futures Association’s Interpretive Notice related to NFA Compliance Rule 2-10, in addition to Rule 536.C., may enter orders into Globex using a suspense account and allocate the resulting fills to underlying customer accounts post execution. These orders may be bunched by the EAM and initially entered into Globex with an account identifier that designates the EAM, but does not map to the underlying clients. This account is referred to as an EAM-specific suspense account. Allocations to end-clients must be fair and impartial and are required to be completed in the CME clearing system before the end of the clearing session for that trade date. The executing Exchange Clearing Member Firm for the EAM must keep records of these EAM-specific account number assignments, and must provide them to Market Regulation upon request.

2. Bunched Orders by Non-EAM Parties with Discretionary Trading Authority

A non-EAM party who, by power of attorney or other document evidencing trading control over an account or group of accounts, may bunch orders and enter those bunched orders into Globex using a suspense account that designates the non-EAM, but does not map to the underlying clients, provided that a fair and impartial pre-determined allocation scheme has been provided to the FCM accepting or clearing the order prior to the time of order entry. Allocations to end-clients are required to be completed in the CME clearing system using the pre-determined allocation scheme before the end of the clearing session for that trade date. FCMs must provide the allocation schemes to Market Regulation upon request.

3. Exchange Clearing Member Firm Give-up Execution Operations

Exchange Clearing Member Firm execution operations, or Exchange Clearing Member Firms that provide execution services for customers and subsequently give-up executed trades to other Exchange Clearing Member Firms, may use suspense accounts, provided that the following requirements are met:

- a. The executing Exchange Clearing Member Firm must be a party to a written give-up agreement which must comply with CFTC Regulation 1.73 and with Exchange Rule 982. (“Risk Management”).
- b. When an order is received, a written record of the order must be created and maintained in accordance with Rule 536.B.1. and must reflect the time of receipt and a customer-specific account designation. Market Regulation conducts recordkeeping exams which focus on the creation and maintenance of these records.
- c. The suspense account submitted must be unique to the particular desk/group that is using it. It is also recommended that the suspense account be unique and identify the individual who handled the order at the desk.
- d. Allocations to end-clients are required to be completed in the CME clearing system before the end of the clearing session for that trade date.
- e. Exchange Clearing Member Firms must keep records of these suspense account numbers and of the desks/groups using them, including the individuals who work at and supervise the desks/groups and the time periods during which such desks/groups and individuals operated. These records must be provided to Market Regulation upon request. Market Regulation will conduct focused recordkeeping exams relating to the execution operation and the usage of suspense accounts.

While a suspense account is allowed to be used by these execution operations, it is strongly recommended that execution operations assign a customer-specific identifier for each client subject to a give-up agreement and submit that identifier at the time of order entry. If the executing firm submits a

customer-specific identifier into Globex, the firm has met its recordkeeping requirement and would not be required to create a supplemental written record of the order as set forth in 3.b. above.

#### 4. Bunched Request for Cross (“RFC”) Orders

In those circumstances where order entry into Globex occurs via the submission of a Request for Cross (“RFC”) (an order which contains both the buy and the sell orders) pursuant to the requirements of Exchange Rule 539.C. (“Pre-Execution Communications Regarding Globex Trades”), a broker may bunch multiple market maker orders for the purpose of satisfying the terms of a single customer order and enter the bunched market maker orders using a suspense account. The suspense account may not be used to represent the customer side of the RFC order. Where a suspense account is used on the market maker side of the order, brokers must ensure that the market maker orders are documented in accordance with Rule 536.B.1. with specific market maker account identifiers on the order tickets. Brokers must obtain a suspense account from their clearing firm and may use that suspense account solely for purposes of entering the bunched market maker orders on one side of an RFC. Allocations to end-clients are required to be completed in the CME clearing system before the end of the clearing session for that trade date.

#### 5. Floor-Based Globex Execution Operations of Members

Member give-up execution operations operating on the Chicago or New York Trading Floors may also use suspense accounts to enter orders into Globex, provided that the following requirements are met:

- a. When an order is received, a written record of the order must be created and maintained in accordance with Rule 536.B.1. The order must reflect the time of receipt and a customer-specific account designation;
- b. The suspense account submitted must be unique to the particular desk/group that is using it; and
- c. The desk/group must keep records of these suspense account numbers, including the individuals who work at and supervise the desks/groups. These records must be provided to Market Regulation upon request. Market Regulation will conduct focused recordkeeping exams relating to the execution operation and the usage of suspense accounts.

Additionally, on the New York Trading Floor, NYMEX and COMEX members and their authorized employees may enter customer orders into a customer suspense account for subsequent allocation to the end client. Under no circumstances may a NYMEX or COMEX member or their employee enter trades for the member’s personal trading account (or any trading account in which the member has a financial interest) using a suspense account.

#### **Exchange Clearing Member Firm Suspense Account Records**

Exchange Clearing Member Firms are reminded of the requirement to maintain a record of all suspense accounts used at the firm. This record must include all accounts that represent EAMs, Non-EAMs trading with a pre-determined allocation scheme, and Non-EAM give-up accounts (execution operations). The record should include the account number, name of the entity it represents, and a short description of the type of account (e.g. EAM account, Non-EAM account using pre-determined allocation scheme, unique give-up account, trading desk account, etc.). Similarly, if short codes are used, the firm must maintain a record of the actual account number(s) to which the short code maps.

#### **Front End Clearing (“FEC”) Account Changes**

Except for the correction of errors, any post-execution account change which results in a change of ownership must go through the Exchanges’ give-up system where the appropriate offset and onset records are recorded for audit trail purposes. Firms may not use FEC edits as a method for post-trade allocation. In the case of the correction of errors, firms must keep supporting error resolution documentation.

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

## **Text of CME, CBOT, NYMEX and COMEX Rule 536.B. and Rule 536.C.**

### **536.B. Globex Order Entry**

#### **1. General Requirement**

Each Globex terminal operator entering orders into Globex shall accurately input for each order: a) the user ID assigned him by the Exchange, a clearing member or other authorized entity (Tag 50 ID) b) the price, quantity, product, expiration month, CTI code, automated or manual indicator (Tag 1028) 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**

Entities certified by the Exchange to connect an order routing/front-end system to the Globex platform through the CME iLink® gateway are responsible for creating an audit trail of each message entered into Globex. Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the electronic audit trail for such systems. 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.

Each such electronic audit trail must be complete and accurate and account for every electronic communication such system receives or generates, including any electronic communication such system receives from Globex.

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 millisecond. 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, automated or manual indicator (Tag 1028), self-match prevention ID (Tag 7928) where applicable, 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 an Equity Member Firm, the Clearing Firm may notify the client Clearing Firm or Equity Member Firm 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 Equity Member Firm to maintain an electronic audit trail pursuant to this rule. Nothing herein relieves any of the above-referenced firms from compliance with the applicable recordkeeping provisions of CFTC Regulations, including Regulation 1.31 or 1.35.

#### **536.C. Bunched Orders and Orders Eligible for Post Execution Allocation**

Bunched orders must be allocated and recorded in accordance with CFTC Regulation 1.35(b) and the NFA's Interpretive Notice related to Compliance Rule 2-10.

A bunched order for pit execution does not require the specific account number to be recorded at the time of order placement or upon the report of execution provided that 1) the order is being placed by an eligible account manager for multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme has been provided to the futures commission merchant accepting or clearing the order prior to the time the order has been placed. Additionally, at the time of receipt on the trading floor, bunched orders that do not contain specific account numbers must contain a series, group, or suspense account indicator which relates directly to the group of accounts for which the order has been placed. A bunched order may be initially cleared into a suspense account provided that the final account-specific allocations are submitted to the clearing system no later than the end of each trading day.

Bunched orders for non-discretionary accounts may be entered for pit execution; however, only the following order types may be bunched: Market on Open, Market on Close, same priced Limit Orders and same priced Stop Orders. Such non-discretionary orders may only be bunched in the following instances:

- a. Each order underlying the bunched order must be reduced to writing and include the information required pursuant to Section A.1. above;
- b. Allocation of the executions for the bunched orders must be fair and equitable in accordance with the NFA's Interpretive Notice related to Compliance Rule 2-10; and
- c. In circumstances where the order is bunched in a member firm's sales office, the party accepting the order must, contemporaneously with the order placement, transmit the individual account numbers and quantities associated with the bunched order to the clearing member firm. Such transmission shall be maintained by the clearing member firm along with the bunched order.

With respect to bunched Globex orders, such orders may be entered using a series designation or suspense account number provided that 1) the order is being placed by an eligible account manager for multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme that defines the series has been provided to the futures commission merchant accepting or clearing the order prior to the time that such order is entered. In the latter case, if such information has not been provided to the futures commission merchant prior to the time of order entry, each specific account number must be entered into Globex. Additionally, for all such bunched orders executed on Globex, the final account specific allocations must be submitted to the clearing system no later than the end of each trading day.

### **FAQ Related to Submission of Suspense Accounts into Globex**

**Q1: What is a trading account number?**

A1: A trading account number is an Exchange Clearing Member Firm specific number that maps to a particular trading account on that firm's books. An Exchange Clearing Member Firm must keep records of the beneficial owner(s) of the account, the controlling parties, and other reference data such as the account owner(s) address, contact information, and the classification of the account as customer or house.

**Q2: What is a suspense account?**

A2: A suspense account is a temporary holding account that does not map to a particular account owner or owners, and is submitted on the initial trade entry into Globex, before the trade has been allocated to the actual owner. While not related to a particular owner, a suspense account may map to a particular controlling party, such as an Eligible Account Manager, a Non-Eligible Account Manager with discretionary trading authority, or an Exchange Clearing Member Firm Give Up Execution Operation desk or a particular individual who works at the desk.

**Q3: What is an omnibus account?**

A3: An omnibus account is an account on the books of a clearing member that is held in the name of another FCM or Foreign Broker, in which the transactions of two or more persons are combined. Typically the identities of the individual account holders are not revealed to the carrying clearing member. ***An omnibus account is not a suspense account.***

**Q4: What is a customer designation? What is a short code?**

A4: A customer designation is an Exchange Clearing Member Firm-specific number or name that identifies a particular customer. The customer designation may be a trading account, or it may be an internal identifier that denotes the client. Some firms use the terminology of "short code" for this type of indicator. "Short codes" or other customer-specific designations are not considered suspense accounts as they uniquely identify the client.

**Q5: What is an execution operation?**

A5: An execution operation is a service offered by an Exchange Clearing Member Firm or by Trading Floor-based members under the supervision of an Exchange Clearing Member Firm that provides execution services for customers and gives-up executed trades to carrying Exchange Clearing Member Firms.

An execution operation could also represent a group of people hired by the Exchange Clearing Member Firm to provide execution services for customers. Exchange Clearing Member Firms that offer such services must supervise their employees and agents and create procedures to ensure that all allocations are fair and impartial, all data (including, but not limited to, CTI codes) are entered correctly, and that contemporaneous timestamped records are created for each order entered into Globex using a suspense account. Additionally, Exchange Clearing Member Firms remain responsible for the supervision of any Trading Floor-based members they qualify that offer such services.

**Q6: What types of account managers are eligible for the post-execution allocation of bunched orders?**

A6: Only eligible account managers as defined in CFTC Regulation 1.35.

**Q7: When are firms or members using a suspense account for order entry into Globex also required to create a contemporaneous written or electronic time stamped record of the client placing the order which contains the specific client account identifier?**

A7: The following firms or members using a suspense account for order entry into Globex, must, **at the time of receipt of the order**, create a contemporaneous written or electronic time stamped record which contains the specific customer account identifier:

- Exchange Clearing Member Firm Give-Up Execution Operations,
- Floor Based Globex Execution Operations of Members, and
- Bunching by brokers of multiple market maker orders entered via a Request for Cross

**Q8: What type of written or electronic record would the Exchange deem acceptable in meeting this audit trail requirement?**

A8: A written or electronic record that contains an electronic timestamp reflecting the date and time such order was received and, specific account (s) for which order was placed.

**Q9: Does a contemporaneous written or electronic time stamped record containing a specific account number have to be created for an order immediately entered into Globex upon receipt where the entry into Globex uses a "short code" which uniquely identifies the underlying client?**

A9: No. Since the "short code" uniquely identifies the client for whom the order is entered, no other record is required.

**Q10: What type of information should be maintained by Exchange Clearing Member Firms and other FCMs with respect to the firm's use of suspense accounts?**

A10: Firms should maintain records that include the suspense account numbers and the parties authorized to use the suspense account, and information describing the type of suspense account being used (e.g. EAM account, Non-EAM account using pre-determined allocation scheme, customer specific give-up account, trading desk account).

**Q11: May an Exchange Clearing Member Firm use a suspense account that is unique to an execution desk when entering orders into Globex where the orders are placed by an EAM or non-EAM party using a pre-determined allocation scheme?**

A11: No. The firm must use an account that represents the EAM or non-EAM party placing the order.

**Q12: May any member or their employee enter trades for customers and trades for the member's personal account (or any account in which the member has a financial interest) into Globex using the same suspense account number?**

A12: No. However, suspense accounts may be used by NYMEX and COMEX members and their employees solely for the entry of orders into Globex that are for their customers. All orders entered into Globex for a member's personal account, or any account in which the member has a financial interest, must be entered into Globex with a specific account number identifying the member.

**Q13: What types of violations in the use of suspense accounts will Market Regulation seek to identify?**

A13: Market Regulation's review of suspense account use will be focused on, but not be limited to, identifying the following types of violations:

- Missing required documentation
- Inaccurate documentation
- Improper use of suspense accounts
- Failure to maintain records of suspense accounts used by the firm/member
- Failure to identify the desk, group, or EAM/non-EAM using a suspense account

Where the use of a suspense account is deemed necessary by an Exchange Clearing Member Firm due to factors beyond the firm's control (e.g., where the customer specific account has not yet been established by the firm), the firm must document such occurrences and ensure that a contemporaneous written or electronic record of the order is created at the time it is received, which must uniquely identify the client placing the order. In these circumstances, and provided that such usage is de minimis, Market Regulation will not consider such usage as prohibited.

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

Terrence Quinn, Manager, Data Investigations, 312.435.3753

Laetizia Moreau, Director, Data Investigations, 312.435.3619

Shantell Stansberry, Senior Data Investigator, Data Investigations, 312.435.3642

Andrew Carr, Senior Data Investigator, Data Investigations, 312.435.3610

Erin Coffey, Senior Rules & Regulatory Outreach Specialist, 312.341.3286

Shawn Tan, Senior Rules & Regulatory Outreach Specialist, +65 6593 5580