



Special Executive Report

S-8367

April 17, 2019

Amendments to CME, CBOT, and NYMEX/COMEX Rule 106.K. (Transfer to a Trust)

Effective Thursday, May 2, 2019, and pending all relevant CFTC regulatory review periods, Chicago Mercantile Exchange Inc. ("CME"), Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX") (collectively, the "Exchanges") will amend CME, CBOT, and NYMEX/COMEX Rule 106.K. ("Transfer to a Trust") (collectively, the "Rule Amendments") to provide broader estate planning options to our members.

Rule 106.K. currently allows memberships to be transferred to a trust only where, among other restrictions, the beneficiaries to the trust are limited to "immediate family members" as defined in Rule 106.C. and nieces and nephews. The proposed revisions allow for the transfer of a membership into any "Estate Planning Vehicle," which is defined as "a trust created primarily for the benefit of family members, friends, or charitable beneficiaries." The proposed revisions further allow a membership to be transferred from one Estate Planning Vehicle to a second Estate Planning Vehicle once within a year of a member's death.

Rule 106.K. also requires certain detailed language to appear in any trust into which a membership is transferred. That language will no longer be required to appear in the text of an Estate Planning Vehicle but rather will be part of a revised trust transfer agreement and certification that must be completed by a member or member's personal representative and the trustee of the Estate Planning Vehicle prior to transfer. The proposed revisions further clarify the Exchanges' ability to review the Estate Planning Vehicle and related information.

In conjunction with the Rule Amendments, current Financial and Regulatory Surveillance policies preventing entities partially or wholly owned by trusts with charitable beneficiaries from becoming member firms will also be lifted. Firms with charitable trusts in their ownership structure will no longer be categorically ineligible for membership.

The Rule Amendments are provided below in blackline format.

Inquires regarding the aforementioned may be directed to:

Robert Krewer, Director – Memberships robert.krewer@cmegroup.com (312) 435-3473

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

CME, CBOT, NYMEX/COMEX RULEBOOKS

Chapter 1 ("Membership")

(additions underscored; deletions ~~struck through~~)

CME

106.K. Transfer to a Trust

A member may transfer his membership to an Estate Planning Vehicle trust for which the member is the grantor. An Estate Planning Vehicle is a trust established primarily for the benefit of the grantor's family and friends and charitable beneficiaries. A membership properly held within an Estate Planning Vehicle may be transferred to one successor Estate Planning Vehicle for which the member is the grantor within one year of the member's death. The document(s) establishing the trust shall at all times include the restrictions as to permissible beneficiaries and state that (1) the trust takes the membership subject to all of the rules of the Exchange, as may be amended, (2) the interests in the membership that inure to the beneficiaries of the trust shall be subject to all of the rules of the Exchange, as may be amended, (3) the Exchange's rights with respect to the membership are superior to those of the beneficiaries, and (4) the Exchange shall have no liability to the beneficiaries of the trust in the event of the mishandling of the trust assets by the trustee. Permissible beneficiaries are immediate family members as set forth in Rule 106.C as well as nieces and nephews. The grantor (or the grantor's personal representative) and the trustee (and any successor) shall complete the trust transfer agreement and certification each provide in the form provided by the Exchange staff an acknowledgment that the trust takes the membership subject to all of the rules of the Exchange and that the trust is in compliance with the requirements of this Rule. The grantor shall comply with any request to produce the Estate Planning Vehicle or information regarding the Estate Planning Vehicle trust information made by Exchange staff.

If such a transfer is made by a bona fide gift or bequest, it shall also be subject to the requirements of Rule 106.E.

The grantor's liability to the Exchange under Rule 439 shall continue with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the grantor for the purposes of Rule 439 and for otherwise meeting any obligations to the Exchange arising out of the grantor's use of the membership prior to the transfer to the trust, including fines imposed with respect to conduct occurring prior to the transfer.

A membership held pursuant to a transfer under this section may be assigned for membership purposes under Rules 106.J. or 902 or reinstated to the transferor pursuant to this section.

The transfer shall be revoked and the membership shall revert to the transferor upon official notice to the Exchange that the trust has been revoked. The membership must be transferred out of the trust within 90 days of the closing of the member's estate.

CBOT

106.K. Transfer to a Trust

A member may transfer his membership to an Estate Planning Vehicle trust for which the member is the grantor. An Estate Planning Vehicle is a trust established primarily for the benefit of the grantor's family and friends and charitable beneficiaries. A membership properly held within an Estate Planning Vehicle may be transferred to one successor Estate Planning Vehicle for which the member is the grantor within one year of the member's death. The document(s) establishing the trust shall at all times include the restrictions as to permissible beneficiaries and state that (1) the trust takes the membership subject to all of the rules of the Exchange, as may be amended, (2) the interests in the membership that inure to the beneficiaries of the trust shall be subject to all of the rules of the Exchange, as may be amended, (3) the Exchange's rights with respect to the membership are superior to those of the beneficiaries, and (4) the Exchange shall have no liability to the beneficiaries of the trust in the event of the mishandling of the trust assets by the trustee. Permissible beneficiaries are immediate family members as set forth in Rule 106.C as well as nieces and nephews. The grantor (or the grantor's personal representative) and the trustee (and any successor) shall complete the trust transfer agreement and certification each provide in the form provided by the Exchange staff an acknowledgment that the trust takes the membership subject to all of the rules of the Exchange and that the trust is in compliance with the requirements of this Rule. The grantor shall comply with any request to produce the Estate Planning Vehicle or information regarding the Estate Planning Vehicle trust information made by Exchange staff.

The transfer of a Series B-3 (GIM) membership to a trust wherein the member/grantor is the trustee shall not count toward the two consecutive assignments specified in Rule 106.T.

If such a transfer is made by a bona fide gift or bequest, it shall also be subject to the requirements of Rule 106.E.

The grantor's liability to the Exchange under Rule 439 shall continue with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the grantor for the purposes of Rule 439 and for otherwise meeting any obligations to the Exchange arising out of the grantor's use of the membership prior to the transfer to the trust, including fines imposed with respect to conduct occurring prior to the transfer.

A membership held pursuant to a transfer under this section may be assigned for membership privileges under Rules 106.H., 106.I., 106.J., 106.R., 106.S. and 902 or reinstated to the transferor pursuant to this section.

The transfer shall be revoked and the membership shall revert to the transferor upon official notice to the Exchange that the trust has been revoked. The membership must be transferred out of the trust within 90 days of the closing of the member's estate.

NYMEX/COMEX

106.K. Transfer to a Trust

A member may transfer his membership to an Estate Planning Vehicle trust for which the member is the grantor. An Estate Planning Vehicle is a trust established primarily for the benefit of the grantor's family and friends and charitable beneficiaries. A membership properly held in an Estate Planning Vehicle may be transferred to one successor Estate Planning Vehicle for which the member is the grantor within one year of the member's death. The document(s) establishing the trust shall at all times include the restrictions as to permissible beneficiaries and state that (1) the trust takes the membership subject to all of the rules of the Exchange, as may be amended, (2) the interests in the membership that inure to the beneficiaries of the trust shall be subject to all of the rules of the Exchange, as may be amended, (3) the Exchange's rights with respect to the membership are superior to those of the beneficiaries, and (4) the Exchange shall have no liability to the beneficiaries of the trust in the event of the mishandling of the trust assets by the trustee. Permissible beneficiaries are immediate family members as set forth in Rule 106.C as well as nieces and nephews. The grantor (or the grantor's personal representative) and the trustee (and any successor) shall complete the trust transfer agreement and certification each provide in the form provided by the Exchange staff an acknowledgment that the trust takes the membership subject to all of the rules of the Exchange and that the trust is in compliance with the requirements of this Rule. The grantor shall comply with any request to produce the Estate Planning Vehicle or information regarding the Estate Planning Vehicle trust information made by Exchange staff.

If such a transfer is made by a bona fide gift or bequest, it shall also be subject to the requirements of Rule 106.E.

The grantor's liability to the Exchange under Rule 439 shall continue with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the grantor for the purposes of Rule 439 and for otherwise meeting any obligations to the Exchange arising out of the grantor's use of the membership prior to the transfer to the trust, including fines imposed with respect to conduct occurring prior to the transfer. A membership held pursuant to a transfer under this section may be assigned for membership privileges under Rules 106.J. or 902 or reinstated to the transferor pursuant to this section. The transfer shall be revoked and the membership shall revert to the transferor upon official notice to the Exchange that the trust has been revoked. The membership must be transferred out of the trust within 90 days of the closing of the member's estate.