

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Supervisory Responsibilities for Employees
Rule References	Rules 432.W., 433, 444 and 501
Advisory Date	December 17, 2019
Advisory Number	CME Group RA1915-5
Effective Date	January 2, 2020

Effective on trade date Thursday, January 2, 2020, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA1620-5 from December 14, 2016. It is being issued based on amendments to Rule 444 (“Payments of Disciplinary Fines, Disgorgement Orders, and Restitution”) that become effective on January 2, 2020.¹

No other information in this Advisory Notice has been changed.

Pursuant to Rule 432.W. (“General Offenses”), it is an offense for any party to fail to diligently supervise its employees and agents in the conduct of their business relating to the CME Group Exchanges. For avoidance of doubt, agents include any automated trading systems (“ATs”) operated by any party. Additionally, pursuant to Rule 433 (“Strict Liability for the Acts of Agents”), parties are strictly liable for the acts, omissions, or failures of any officials, agents or employees acting for the party within the scope of their employment or office.

All parties are strongly encouraged to ensure that they have adopted and effectively execute appropriate supervisory procedures.

Additionally, pursuant to CME and CBOT Rule 501 (“Employees of Members”), Members are reminded that they are responsible for ensuring that their trading floor employees comply with all exchange rules. A CME or CBOT Member may register only a bona fide employee under Rule 501, and the Member is responsible for the supervision of that employee irrespective of whether the employee also works for other Members in addition to the registering Member.

CME and CBOT Members must notify the Membership Department when such employment relationships have been terminated. Additionally, CME or CBOT Members who no longer access the trading floor must terminate trading floor access for their nonmember employees by notifying the Membership Department.

Members are also reminded that they have an affirmative obligation to diligently supervise all their employees, including those employees who do not have floor access, and that failure to do so constitutes a violation of Rule 432.W. (“General Offenses”).

All Members should be aware that pursuant to Rule 444 (“Payments of Disciplinary Fines, Disgorgement Orders, and Restitution”) they may, subject to a determination by the sanctioning entity, be liable for unpaid fines or unpaid disgorgement orders and restitution amounts imposed upon their employees.

The pertinent text of Rules 432.W. and 501 and the full text of Rules 433 and 444 are set forth below.

¹ Please see Special Executive Report S-8476 from December 17, 2019, for additional information on the amendments to Rule 444 and other rules.

Rule 432. GENERAL OFFENSES

It shall be an offense:

W. for any party to fail to diligently supervise its employees and agents in the conduct of their business relating to the Exchange;

Rule 433. STRICT LIABILITY FOR THE ACTS OF AGENTS

Pursuant to Section 2(a)(1)(B) of the Commodity Exchange Act, and notwithstanding Rule 432.W., the act, omission, or failure of any official, agent, or other Person acting for any party within the scope of his employment or office shall be deemed the act, omission or failure of the party, as well as of the official, agent or other Person who committed the act.

Rule 444. PAYMENTS OF DISCIPLINARY FINES, DISGORGEMENT ORDERS AND RESTITUTION

Disciplinary fines, disgorgement and restitution amounts levied pursuant to Exchange rules must be submitted to the Market Regulation Department no later than the date specified in the notice of decision, except that fines issued by the Clearing House Risk Committee shall be paid to the Financial and Regulatory Surveillance Department. An individual or entity who fails to provide proof of payment within the time prescribed shall not be entitled to direct or indirect access to any designated contract market, derivatives clearing organization, or swap execution facility owned or controlled by CME Group until the payment has been received. Any party that fails to make the required payment shall immediately forfeit eligibility for any Exchange incentive or rebate program until the amount is paid in full. Any party that fails to pay a disciplinary fine, disgorgement order or restitution amount within the prescribed time period may also be subject to sanctions pursuant to Rule 432.S.

Parties may, subject to a determination by the sanctioning entity, be liable for unpaid fines or unpaid disgorgement orders and restitution amounts imposed upon their employees.

Rule 501. EMPLOYEES OF MEMBERS

Members shall be responsible for ensuring that their employees comply with all Exchange rules and may, subject to a determination by an Exchange disciplinary committee, be liable for any fines imposed upon such employees by the Exchange.

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

Erin Middleton, Manager, Rules & Regulatory Outreach, 312.341.3286

Robert Sniegowski, Executive Director, Rules & Regulatory Outreach, 312.341.5991

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