



## Special Executive Report

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S-8475

December 17, 2019

**Amendments to CME, CBOT, NYMEX/COMEX**  
**Chapter 4 ("Enforcement of Rules") and Related Rules**  
**in Connection with the Elimination of the Probable Cause Committee**

Effective on January 2, 2020, and pending all relevant CFTC regulatory review periods, Chicago Mercantile Exchange Inc. ("CME"), in its dual capacity as both a designated contract market ("DCM") ("CME") and a derivatives clearing organization ("DCO") ("Clearing House"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX"), each in their capacities as a DCM (each an "Exchange" and collectively, the "Exchanges") are adopting amendments to the Definitions Section and various rules in CME, CBOT, NYMEX/COMEX Chapters 3 ("Exchange Committees"), 4 ("Enforcement of Rules"), 5 ("Trading Qualifications and Practices"), and 8 ("Clearing House and Performance Bonds") (collectively, the "Rule Amendments") effective on Thursday, January 2, 2020.

The Rule Amendments eliminate the Probable Cause Committee ("PCC") which currently issues charges against respondents in Exchange disciplinary proceedings where the PCC finds there is a reasonable basis to believe that a rule violation may have been committed, and where Market Regulation has been unable to reach an agreed upon settlement of a matter. Under the Rule Amendments, the authority to issue charges will rest with the Chief Regulatory Officer ("CRO"). The purpose of the Rule Amendments is to increase the efficiency of the disciplinary process without depriving market participants of any significant process rights since respondents will maintain the right to take a formal disciplinary proceeding to a contested hearing before the Business Conduct Committee.

In addition to the elimination of the PCC, the Rule Amendments add a new provision to Rule 408. ("Conduct of Hearings") setting forth the default process where a respondent fails to timely answer charges issued by the CRO. This new provision adds transparency to the default process but does not represent a substantive change from the manner in which default proceedings are currently handled by Market Regulation.

The Rule Amendments are set forth below, with additions underscored and deletions ~~overstruck~~.

Questions regarding the Rule Amendments may be directed to one of the following individuals in the Market Regulation Department:

Steve Schwartz, Executive Director, Global Enforcement, at 212.299.2853

Steve Schweitzer, Senior Director, Enforcement Counsel, at 312.435.3648

Natalie Petric, Director, Enforcement Counsel, at 312.435.3496

**CME, CBOT, NYMEX/COMEX**  
**("Definitions")**

**INVESTIGATIVE AND HEARING COMMITTEES**

The investigative and hearing committees of the Exchange are the Business Conduct Committee, the Clearing House Risk Committee, the Floor Conduct Committee, ~~the Probable Cause Committee~~, Hearing Panels of the Board of Directors and such other committees created for this purpose by the Board.

**CME, CBOT, NYMEX/COMEX**  
**Chapter 3**  
**("Exchange Committees")**

**300. COMMITTEES**

[Sections A. – C. are unchanged.]

**300.D. Disqualification from Certain Committees and Governing Boards**

No person shall serve on the Board of Directors or any Board level committee; the Clearing House Risk Committee; the IRS Risk Committee; the Business Conduct Committee; ~~the Probable Cause Committee~~; any Pit Committee; the Floor Conduct Committee or the Arbitration Committee

1) who is found by a final decision or settlement agreement (or absent a finding in the settlement agreement if any acts charged included a disciplinary offense) to have committed a disciplinary offense, as defined in Section E. below; or

2) whose CFTC registration in any capacity has been revoked or suspended; or

3) who is subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration or membership; or

4) who is subject to a denial, suspension or disqualification from serving on a disciplinary committee, oversight committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in Section 3(a)(26) of the Securities Exchange Act of 1934; or

5) who has been convicted of any felony listed in Section 8a(2)(D)(ii) through (iv) of the Commodity Exchange Act;

for a period of three years from the date of such final decision or for such a time as the person remains subject to any suspension, expulsion or has failed to pay any portion of a fine imposed for committing a disciplinary offense, whichever is longer.

[The remainder of the Rule is unchanged.]

**CME, CBOT, NYMEX/COMEX**  
**Chapter 4**  
**("Enforcement of Rules")**  
(additions are underscored; deletions are ~~overstruck~~.)

**401. THE CHIEF REGULATORY OFFICER**

It shall be the duty of the Chief Regulatory Officer to enforce Exchange Rules, and he shall have available to him at all times the resources of the Market Regulation Department and such other Exchange resources as may be necessary to conduct investigations of potential or alleged Rule violations and market conditions. The Chief Regulatory Officer shall have the authority to inspect the books and records of all parties subject to the jurisdiction of the Exchange pursuant to Rule 418 and the authority to require any such party to appear before him and produce his or its books and records and answer questions regarding alleged violations of Exchange Rules, at the time, place and in the manner he designates. The Chief Regulatory Officer shall be authorized to issue charges at the request of the Market Regulation Department pursuant to the provisions of Rule 406. The Chief Regulatory Officer may also delegate his authority to staff of the Market Regulation Department.

**403. CLEARING HOUSE RISK COMMITTEE**

**403.A. Jurisdiction and General Provisions**

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall review each applicant's qualifications for status as a Clearing Member and refer each such application for Clearing Membership along with the CHRC's feedback to the Clearing House Oversight Committee for approval. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as Rules of the Exchange. The CHRC shall review any changes to the Clearing Membership requirements and new types of clearing membership and shall approve all substantive changes and recommend them to the Clearing House Oversight Committee for its approval.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider offers of settlement on its own initiative or by referral from Exchange staff, the PCC Chief Regulatory Officer, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408. [The remainder of the Rule is unchanged.]

**406. PROBABLE CAUSE COMMITTEE ISSUANCE OF CHARGES**

The Probable Cause Committee ("PCC") Chief Regulatory Officer shall receive and review investigation reports from the Market Regulation Department when the Market Regulation Department has reasonable cause to believe a violation of an Exchange Rule has occurred. ~~The PCC shall act through a Panel comprised of a Hearing Panel Chair, two exchange members or employees of member firms and two non-members. At least one of the exchange members or employees of member firms must be from the designated contract market where the case originated. A quorum of a Panel shall consist of a majority of the Panel, but must include at least the Hearing Panel Chair, an exchange member or employee of a member firm from the designated contract market where the case originated and one non-member. Each Panel shall consist of panelists who possess sufficiently diverse interests so as to ensure fairness.~~

~~Production of the investigation report to a PCC Panel shall not constitute a waiver of the protected and/or privileged nature of such report. The Market Regulation Department's presentation to the PCC Panel shall not constitute an ex parte communication as described in Rule 417.~~

The Market Regulation Department is not required to provide a respondent notice of its intent to ~~appear before the PCC to~~ request the Chief Regulatory Officer to issue charges.

No party or subject of an investigation shall have the right to appear before the PCC Chief Regulatory Officer or make any written submission on his behalf.

The ~~Panel~~ Chief Regulatory Officer shall, ~~by majority vote,~~ take one of the following actions:

- A. If the ~~Panel~~ Chief Regulatory Officer determines that a reasonable basis exists for finding that a violation of an Exchange Rule may have occurred which warrants disciplinary action, ~~it~~ he shall issue appropriate charges.
- B. If the ~~Panel~~ Chief Regulatory Officer determines that no reasonable basis exists for finding that a violation of an Exchange Rule may have occurred, ~~it~~ he shall direct that no further action be taken.
- C. Direct that the Market Regulation Department investigate the matter further.

The ~~Panel~~ Chief Regulatory Officer shall direct the Market Regulation Department to give notice of the charges to the respondent in accordance with Rule 407.B.

~~If the Panel refuses to issue any charge requested by the Market Regulation Department, the Panel shall explain the reason(s) for such refusal in writing. The Market Regulation Department may appeal to the Board any refusal by a Panel to issue those charges requested by the Market Regulation Department as set forth in Rule 411.~~

~~No Person shall serve on the PCC unless he has agreed in writing that he will not publish, divulge or make known in any manner, any facts or information regarding the business of any Person or entity or any other information which may come to his attention in his official capacity as a member of the PCC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department or Market Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.~~

All information, records, materials and documents provided to the PCCChief Regulatory Officer and all ~~deliberations, testimony,~~ information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

#### 407. INVESTIGATION, CHARGING MEMORANDUM AND NOTICE OF CHARGES

[The introduction and Section A. are unchanged.]

##### 407.B. Notice of Charges; Opportunity for Hearing

Where the PCCChief Regulatory Officer has issued charges for an alleged Rule violation, the Market Regulation Department shall issue a charging memorandum to the respondent with a brief statement of factual allegations that identifies the charged Rule violation(s). In addition, the Market Regulation Department will send a notice of charges to the respondent. The notice of charges shall set forth the Rule(s) alleged to have been violated, and shall advise the respondent regarding the submission of a responsive answer to each charge in accordance with Rule 407.C. Further, the notice of charges shall advise the respondent that the matter will be heard by a BCC Panel and of the time and place for the hearing, if known. The respondent shall also be advised of his right to appear personally at the hearing and of his right to be represented, at his own cost, by legal counsel or a member of the Exchange, other than a member of any exchange disciplinary committee, a member of the Board, an employee of CME Group or a Person related to the investigation.

A respondent may waive his right to a hearing at any time after receipt of the notice of charges. A respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the BCC Panel will render its decision. Upon a finding of guilt on any charge, the BCC Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

##### 407.C. Answer to Charges

The respondent shall have 21 days after notice to submit a written answer to the charges. The Market Regulation Department and the respondent may agree in writing to an extension of the period of time to submit an answer to such charges. Absent such agreement, upon a showing of good cause, the BCC Hearing Panel Chair may extend the period of time in which the respondent is required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. ~~Pursuant to a written request by the Market Regulation Department, any charge not denied in whole or in part by the respondent shall be deemed admitted by the Hearing Panel Chair, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted, the respondent shall be deemed to waive his right to a hearing on the charges and the BCC Panel shall find that the violations alleged in the notice have been committed. The BCC Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented at his own cost by legal counsel or anyone other than a member of any disciplinary committee, a member of the Board, an employee of CME Group or a Person related to the investigation.~~

~~If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time that the charges denied by the respondent are considered.~~

~~If a respondent fails to answer the charges in accordance with this Rule, the Market Regulation Department may seek a default finding and sanctions in accordance with Rule 408.F.~~

##### 407.D. Amendment to Charging Memorandum; Non-Prosecution of Charges

The issuance of charges shall not prevent the Market Regulation Department from continuing to investigate the activity underlying the charges or investigating other potential violations by the respondent. The Market Regulation Department reserves the right to modify the charging memorandum ~~without the consent of the PCC.~~ Notwithstanding the prior sentence, no charges may be added to the charging memorandum absent the consent of the PCCChief Regulatory Officer. The Respondent shall have 21 days from notice of an amended charging memorandum to file an answer to any new or modified charges in the amended memorandum.

The Market Regulation Department may, in its sole discretion, decline to prosecute any one or more of the charges previously issued by the PCCChief Regulatory Officer. If the Market Regulation

Department declines to prosecute any previously issued charge after the Respondent has received a Notice of Charges, the Market Regulation Department shall provide notice to the Respondent of such decision. Further the Market Regulation Department may, in its sole discretion, resolve a previously issued charge through issuance of a letter of warning.

**408. CONDUCT OF HEARINGS**

[Section A. is unchanged.]

**408.B. Pre-Hearing**

**1. Procedural Matters**

Prior to the hearing, but subsequent to the timely filing of an answer, a party charged ~~by the PCC~~ with a violation of an Exchange rule may examine all evidence in the investigation file that is relevant to the violation(s) charged ~~by the PCC~~ and all evidence which is to be relied upon by the Market Regulation Department during the hearing. However, the respondent shall not be entitled to examine protected attorney work product, attorney-client communications or investigative work product, including, but not limited to, the investigation report and any exception reports. The respondent may obtain a copy of all such evidence, and any copying costs shall be the sole responsibility of the respondent. The Market Regulation Department is not required to produce or obtain any documents that are not in its possession. A respondent who seeks documents that are not in the possession of the Market Regulation Department may request the documents from the custodian of such documents. Upon a showing of good cause, the respondent may petition the Hearing Panel Chair, in writing, for an order compelling the production of documents by a custodian, provided that the custodian is subject to the jurisdiction of the Exchange, the custodian has refused voluntarily to provide the documents and the documents are relevant to the charges. The Market Regulation Department or the custodian may object, in whole or in part, to any such petition.

[The remainder of Section B. through Section E. is unchanged.]

**408.F. Default Proceedings**

If a respondent fails to submit a written answer to the charges pursuant to Rule 407.C., or answers but fails to deny the charges, Market Regulation may serve the respondent with a motion for default and a request for sanctions. The motion for default shall request that a BCC Panel Chair find that the respondent is deemed to have admitted the charges, and the request for sanctions shall request that a BCC Panel impose sanctions on the admitted charges. A copy of the motion for default and request for sanctions shall also be filed with the CME Group Legal Department, which serves as counsel to the BCC Panel.

The Respondent shall have 21 days from notice to respond to the motion for default and request for sanctions. Thereafter, the respondent will be provided at least seven days' notice of the date of a hearing to consider the motion for default and request for sanctions. The respondent shall have the right to be represented at the hearing at his own cost by legal counsel or anyone other than a member of a disciplinary committee, a member of the Board, or a Person related to the investigation.

At the hearing, based on the written filings of the parties, except where the BCC Panel Chair determines that oral argument is necessary, the BCC Panel Chair will first decide if the respondent has failed to answer the charges in accordance with Rule 407.C., and, if so, the respondent shall be deemed to have admitted the charges. If the BCC Panel Chair finds that the respondent has admitted the charges, the respondent will be deemed to have waived his right to a hearing on the merits of the charges, the BCC Panel shall find that the violations alleged in the charging memorandum have been committed, and the BCC Panel will then determine the sanctions, if any, to be imposed, after permitting both parties to present arguments and information regarding the appropriate nature and amount of any such sanctions.

If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time that the charges denied by the respondent are considered.

If the BCC Panel Chair does not find that the respondent has failed to answer the charges, no further action on the charges will occur at the hearing.

Decisions on the Motion for Default and the sanctions imposed shall be issued in accordance with Rule 408.E.

**409. SUMMARY PROCEEDINGS BEFORE THE FLOOR CONDUCT COMMITTEE**

[Sections A. and B. are unchanged.]

#### **409.C. Conduct of Summary Proceedings**

A summary proceeding before the Floor Conduct Committee shall be conducted in a fair and impartial manner.

A summary proceeding before the Floor Conduct Committee shall take place as soon as practicable after the issuance of charges. The proceeding will not be recorded. The respondent shall be entitled to appear personally and answer the charges issued. Respondents and witnesses may not be represented by counsel at a summary proceeding. However, an employee without membership privileges who is a respondent may be represented by a single representative of his employer. A panel shall decide by a majority vote whether the individual is guilty of the violation or offense charged. If the accused individual is found guilty, a panel may impose fines in accordance with Exchange Rules. A witness who fails to appear at a summary proceeding after being directed to do so by the Chairman of the panel or by staff may be charged with a violation of Rule 432.

If a panel of the Floor Conduct Committee, by a majority vote, decides that the matter is of major importance or might warrant a penalty in excess of its own authority, the Chairman of the Panel shall refer the matter to the PCC Chief Regulatory Officer and shall inform the individual of this referral in writing.

[The remainder of the Rule is unchanged.]

#### **411. APPEAL TO A HEARING PANEL OF THE BOARD OF DIRECTORS**

The Market Regulation Department may appeal to a hearing panel of the Board ("Appellate Panel") regarding a final decision of or sanction imposed by the BCC, ~~or any refusal by the PCC to issue those charges requested by the Market Regulation Department,~~ by filing a written notice of appeal with the Exchange Legal Department within 10 business days after receiving notice of such decision, sanction or refusal. A copy of such notice of appeal shall be provided to the Respondent at the time it is filed with the Legal Department, ~~unless it is an appeal of the PCC decision not to issue charges in which case no notice is required.~~ Filing of a notice of appeal by the Market Regulation Department shall stay any decision that is appealed unless the Chairman of the Board or the BCC Hearing Panel Chair from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

A Member found guilty of an offense or otherwise aggrieved by a final decision of the BCC, may appeal to an Appellate Panel provided that the decision assesses a monetary sanction (including a fine, disgorgement or restitution) greater than \$25,000 and/or an access denial or suspension of any membership privileges for greater than ten business days against the Member. The notice shall be filed in writing with the Exchange's Legal Department within 10 business days after Notice of any such decision. A copy of such notice shall be provided to the Market Regulation Department at the time it is filed with the Legal Department. Filing of a notice of appeal by a Member shall stay the decision appealed unless the Market Regulation Department objects to such a stay and the Chairman of the Board or the BCC Hearing Panel Chair from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

A notice of appeal must specify the grounds for the appeal and the specific error(s) or impropriety of the original decision. Upon receiving the notice of appeal the parties, in conjunction with the Exchange Legal Department shall determine a briefing schedule for the appeal. If agreement on the schedule cannot be reached the Appellate Panel Chair shall set the schedule. The Appellate Panel Chair shall determine, in his sole discretion, whether to hold oral argument on the appeal or whether to decide the appeal on the papers submitted by the parties.

The appellate hearing shall be limited to the record from the appealed proceeding. The Appellate Panel shall not entertain any new evidence or new legal theory not raised in the prior proceeding except upon a clear showing by the appellant that such new evidence or new legal theory did not exist or was not ascertainable by due diligence at the time of the proceeding, and that there was insufficient time within the intervening period prior to the hearing of the Appellate Panel for the appellant to bring such new evidence or legal theory to the attention of the BCC ~~or the PCC, as applicable.~~

~~The Appellate Panel shall review the investigation report in connection with the appeal of a refusal by the PCC to issue those charges requested by the Market Regulation Department.~~

No member of the Board may serve on a particular Appellate Panel if he participated on the ~~PCC Panel that issued, or considered issuing, the charges, or on the~~ BCC Panel that issued the decision, or if he has a personal, financial, or other direct interest in the matter under consideration or is a member of the same broker association as the respondent or potential respondent.



The Chairman of the Board shall appoint a director to serve as the Appellate Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Appellate Panel. One of these directors shall be a non-member. Any party to the appeal may request the Chairman of the Board to strike any director for good cause shown. The Chairman of the Board may then excuse such director and shall then select an alternate director from the Board. An Appellate Panel shall consist of directors that possess sufficiently diverse interests so as to ensure fairness.

The Appellate Panel shall not set aside, modify or amend the appealed decision or the refusal to issue charges unless it determines, by a majority vote that the decision or the refusal to issue charges was:

- A. Arbitrary, capricious, or an abuse of the committee's discretion;
- B. In excess of the committee's authority or jurisdiction; or
- C. Based on a clearly erroneous application or interpretation of Exchange Rules.

In the case of an appeal of a disciplinary decision, the Appellate Panel shall promptly issue a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Appellate Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is not affirmed in whole, the Appellate Panel's determination of the order or penalty to be imposed, if any. The decision of the Appellate Panel shall be deemed a decision of the Board and shall be a final decision of the Exchange. If a disciplinary sanction results from the decision of the Appellate Panel, the party against whom such sanction was imposed shall be notified of its potential ability to appeal to the Commodity Futures Trading Commission.

~~In the case of an appeal by the Market Regulation Department of a decision by the PCC not to issue those charges requested by the Market Regulation Department, the Appellate Panel shall either affirm or set aside the decision of the PCC. If the decision is set aside, the Appellate Panel shall issue the charges it deems appropriate or remand the matter to the same Panel of the PCC for the issuance of charges. If the decision is affirmed, the Appellate Panel shall direct that no further action be taken and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.~~

This Rule shall not apply to appeals of Arbitration Committee decisions, which shall be governed by the Rules contained in Chapter 6.

## **CME, CBOT, NYMEX/COMEX**

### **Chapter 5**

#### **("Trading Qualifications and Practices")**

(additions are underlined; deletions are ~~overstruck~~.)

#### **501. EMPLOYEES OF MEMBERS**

[The first three paragraphs are unchanged.]

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. The Exchange may, in its sole discretion, notify a member of the existence of an Exchange investigation and the conduct which is the subject of the investigation involving one of the member's employees when the Market Regulation Department interviews such employee or, if no such interview occurs, when charges are issued against the employee by the ~~Probable Cause Committee~~Chief Regulatory Officer.

No person shall be registered as an employee pursuant to this rule if such person is determined by Exchange staff not to be of good moral character or if it is determined that such registration may be detrimental to the interest or welfare of the Exchange.

#### **512. REPORTING INFRACTIONS**

[Sections A. and B. are unchanged.]

##### **512.C. Hearings and Appeals**

If the Chief Regulatory Officer or his designee determines that evidence submitted by an individual or firm pursuant to Section B.2. is insufficient to support the requested rescission or reduction of the fine, the individual or firm may, within 10 days of the decision, file a written appeal with the Market Regulation

Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of the Exchange staff's discretion;
2. In excess of the Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application of Exchange rules.

Notwithstanding the provisions of Sections B.1. and B.2. above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~ Chief Regulatory Officer for consideration of charges.

**CME, CBOT, NYMEX/COMEX**

**Chapter 8**

**("Clearing House and Performance Bonds")**

(additions are underscored; deletions are ~~overstruck~~.)

**853. TRANSFERS OF TRADES AND CUSTOMER ACCOUNTS**

**853.A. Transfers of Trades**

[Sections 1. – 3. are unchanged.]

4. Notwithstanding the foregoing, the Chief Regulatory Officer or his designee may, (and, with respect to cleared-only products, the President of the Clearing House or his designee also may), with the consent of the clearing member(s) involved, permit the transfer and/or offset of existing trades if, in his designee's opinion, the situation so requires and such transfer is in the best interests of the Exchange, which may include, but is not limited to, the remedying of an error resulting from the good faith acts or omissions by a party as a means of avoiding a market disruption. The foregoing does not relieve a clearing member of its responsibility under the Rules for circumstances leading to such transfer and/or offset, and the clearing member may be responsible for demonstrated claims of realized losses incurred by other parties as a result of such errors or omissions in accordance with the provisions of Chapter 6. Additionally, notwithstanding permission for the transfer being granted by the Chief Regulatory Officer or his designee, parties involved in the transfer remain responsible for any violation of Exchange rules resulting from the transfer and may either be summarily sanctioned in accordance with the provisions of Rule 512 or the matter may be referred to the ~~Probable Cause Committee~~ Chief Regulatory Officer for the consideration of charges.

[The remainder of the Rule is unchanged.]

**854. CONCURRENT LONG AND SHORT POSITIONS**

[The introduction and Sections A. – D. are unchanged.]

- E. Violations of this Rule may result in summary sanctions in accordance with the provisions of Rule 512 or the matter may be referred to the ~~Probable Cause Committee~~ Chief Regulatory Officer for the consideration of charges.

**CME and CBOT**

**Chapter 5**

**("Trading Qualifications and Practices")**

(additions are underscored; deletions are ~~overstruck~~.)

**513. CONDUCT, APPAREL AND BADGES**

[Section A. is unchanged.]

Members and their employees are expected to conduct themselves on Exchange premises with dignity

**513.B. Sanctions**

1. Designated Exchange officials may impose fines on members or their employees for violations of the



Exchange policy concerning access, conduct, and appearance. Fines imposed pursuant to Rule 513.B.1. are final and may not be appealed.

2. A fourth violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be subject to a \$1,000 fine.
3. A fifth or subsequent violation of the Exchange policy concerning access, conduct, and appearance within a rolling 18-month period will be referred to a summary proceeding before a Panel of the Floor Conduct Committee. The Panel may impose a fine not to exceed \$5,000 per violation.
4. Notwithstanding any other provision in this Rule, the Chief Regulatory Officer shall have the authority to impose a fine not to exceed \$5,000 per offense on members and their employees for egregious violations of Rule 513.A.
5. The Market Regulation Department, at its discretion, may refer any alleged violation of Rule 513 to the ~~Probable Cause Committee~~Chief Regulatory Officer for consideration of charges.

[The remainder of the Rule is unchanged.]

#### 514. TRADING INFRACTIONS

[The introduction and Section A. are unchanged.]

##### 514.B. Floor Conduct Committee Fining Authority

A Panel of the Floor Conduct Committee that finds a member or his employee guilty of violating Rule 514 may impose a fine of up to \$10,000 per offense on such member or employee, except that an egregious violation of Rule 514.A.6., 7., 8. or 9. may result in a fine of up to \$20,000. Notwithstanding the above, the total fine levied by a Panel against a respondent may not exceed \$20,000 based on the single issuance of charges.

If an individual is found guilty of three violations of Rule 514.A. within a rolling one-year period, or any three violations of Rule 514.A.6., 7., 8., and/or 9., within a rolling five-year period, any subsequent alleged violation under Part A. of this rule within such period shall be reviewed by the Market Regulation Department to determine whether to forward the alleged violation to a Panel of the Floor Conduct Committee for adjudication or to investigate and refer the matter to the ~~Probable Cause Committee~~Chief Regulatory Officer for review. Notwithstanding the above, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer.

#### 536. RECORDKEEPING REQUIREMENTS FOR PIT, GLOBEX, AND NEGOTIATED TRADES

[Sections A. – E. are unchanged.]

##### 536.F. CTR Enforcement Program and Sanction Schedule

CTR Monthly Enforcement Program

The CTR threshold levels for members with 100 or more transactions per month are as follows:

Exception Type	Threshold Level
Bracket Exceptions	8% and above
Time of Execution for Verbal Orders	8% and above
Sequence Errors	8% and above

A letter of warning shall be issued for a first occurrence of exceeding any threshold. Subsequent occurrences within 12 months of exceeding a threshold shall result in automatic fines starting at \$1,000, and then increasing to \$2,500 and \$5,000 for each subsequent occurrence. Fifth and subsequent offenses within a 12 month period will be referred to the ~~Probable Cause Committee~~Chief Regulatory Officer for consideration of charges ~~by the Market Regulation Department.~~

A member will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed showing that administrative, clerical, or other errors by the clearing firm caused the member to exceed the threshold

level. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

The monthly CTR threshold for timestamp exceptions for firms with 1,000 or more transactions per month is 8% and above. A letter of warning shall be issued for a first occurrence of exceeding the threshold. Subsequent occurrences within 12 months of exceeding the threshold shall result in automatic fines starting at \$1,500 for the second occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

#### CTR Clearing Member Back Office Audit Enforcement Program

The Market Regulation Department will conduct audits of clearing members to verify that required audit trail information has been accurately recorded and submitted. The CTR audit threshold level for firms failing to pick up and timestamp sequenced cards, verbal order cards and floor orders is 20%. The threshold for all other firm audit trail or recordkeeping deficiencies is 10%.

Percentage calculations will be made based on an examination of a combination of sequenced cards, verbal orders and floor orders totaling 150 documents. The number of documents containing a deficiency(ies) will be divided by the total number of documents examined in determining the deficiency percentage.

Violations of each threshold within 24 months shall be subject to automatic fines starting at \$2,500 for a first occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the fine shall be final and may not be appealed.

Notwithstanding the provisions of this Section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer for consideration of charges.

[The remainder of the Rule is unchanged.]

### CME

#### Chapter 5

#### ("Trading Qualifications and Practices")

(additions are underscored; deletions are ~~overstruck~~.)

## 515. REGISTRATION AND IDENTIFICATION OF BROKER ASSOCIATIONS

[Sections A. – D. are unchanged.]

### 515.E. Trading Restrictions

The Exchange may impose limits on the percentage of personal trading and/or brokerage volume that members of a broker association may execute with one another. Violations of such restrictions will result in summary action according to the following schedule on a rolling 12 month period:

First Occurrence	Letter of Warning
Second Occurrence	\$5,000 fine
Subsequent Occurrence	\$10,000 fine

The Exchange may restrict a member of a Revenue Sharing Association from trading for any account such member owns, controls or in which such member has a financial interest opposite other members of the association executing orders. Violation of such restrictions will result in summary action according to the following schedule on a rolling 24 month period:

First Occurrence	Letter of Warning
Second Occurrence	\$500 fine
Third Occurrence	\$1,000 fine

Subsequent Occurrence           \$5,000 fine

Actions taken pursuant to this section are final and may not be appealed; however members will have 15 days following receipt of notification of the action to present evidence to the Market Regulation Department that administrative, clerical or other errors caused the apparent rule violation.

Notwithstanding the provisions of this section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer for consideration of charges.

**555. TOP STEP TRADING RESTRICTIONS**

[Sections A. – C. are unchanged.]

**555.D. Violations**

A single violation of this rule may be deemed a trading infraction under Rule 514.A.9. subject to the jurisdiction and fining authority of the Floor Conduct Committee, except for those violations involving Rule 552. Multiple or egregious violations of this rule may be referred to the ~~Probable Cause Committee by the Market Regulation Department~~Chief Regulatory Officer for the consideration of charges.

**CBOT**  
**Chapter 5**  
**(“Trading Qualifications and Practices”)**  
(additions are underscored; deletions are ~~overstruck~~.)

**515. REGISTRATION AND IDENTIFICATION OF BROKER ASSOCIATIONS**

[Sections A. – E. are unchanged.]

**515.F. Broker Association Enforcement Program**

Percentage Restrictions on Personal Trading and the Execution of Orders

A letter of warning shall be issued for a first occurrence of exceeding the percentage restriction on personal trading or the execution of customer orders in contracts subject to the trading restrictions in Section E. Subsequent occurrences within 24 months shall result in automatic fines in accordance with the following schedule:

Second occurrence	\$1,000
Third occurrence	\$5,000
Subsequent occurrences	\$10,000

Letters of warning and fines issued pursuant this section are final and may not be appealed; however members will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department that administrative, clerical or other errors caused the apparent rule violation.

Notwithstanding the provisions of this section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the ~~Probable Cause Committee~~Chief Regulatory Officer for the consideration of charges.