

Memorandum

FEE POLICY BULLETIN

TO: Chief Financial Officers #08-01
Chief Compliance Officers
Corporate Members
New Firm Approval Contacts
Firm EFS Contacts

FROM: Audit Department, Clearing House Division

DATE: December 9, 2008

SUBJECT: CME Group Member Firm Fee Policy Harmonization

CME Group Inc. ("CME Group") sets the fee policies for its four subsidiary exchanges - Chicago Mercantile Exchange Inc. ("CME"), Chicago Board of Trade, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX") and Commodity Exchange, Inc. ("COMEX"). As a continuation of the harmonization projects of the rules and policies of CME, CBOT, NYMEX and COMEX, CME Group is enhancing and clarifying documentation of, and where possible harmonizing, its fee policies for CME, CBOT, NYMEX and COMEX member firm accounts.

This Fee Policy Bulletin ("FPB") highlights several key fee policies which are being harmonized and those that will remain different. FPB #08-02 describes in detail CME Group's Clearing and Globex Fee Policies for Member Firm Accounts. The harmonized and detailed policies, where different from those in effect today, are effective January 1, 2009 and will be examined as part of clearing fee audits.

Harmonized Fee Policies

While CME has issued several bulletins concerning member firm fee policies over the years, CBOT, NYMEX and COMEX policies had not previously been detailed and distributed in a comprehensive document. Fee policies will be updated, clarified, and refined as needed through FPBs for CME, CBOT, NYMEX and COMEX.

Further, CME has defined Requirements (Absolutes) and Best Practices for defining when member firm trading activity will be granted member fees. In recognition of the varying trading operations, Best Practices were established to allow member firms to utilize certain business practices (most not allowed in the past) which are generally prohibited. To do so, the member firm must clearly demonstrate to CME Group their application of the non-compliant practices is not inconsistent with CME Group's goal of providing member fees for trading activity for the account and sole benefit of the member firm. The Requirements and Best Practice fee philosophy will be applied to CBOT, NYMEX, and COMEX member firm fee policies going forward.

The following CME, CBOT, NYMEX and/or COMEX fee policies identified as different through written documentation and practice have been harmonize:

Independent Contractors

Independent contractors and other self-employed individuals of the member firm must receive their total compensation (that is, all compensation) reported on an IRS Form 1099-MISC (or equivalent document of a foreign jurisdiction). Previously, for CBOT trading activity an independent contractor with a trader agreement could receive an IRS Form 1099-B ("1099-B") and receive the favorable tax treatment. However, traders receiving compensation reported on a 1099-B are regarded as "holders" of the positions and, as such, the account would not qualify as a member firm account and would be considered a joint account. With regards to NYMEX and COMEX, previous policies did not address the compensation of independent contractors.

Trader Agreements

Written trader agreements are not required for W-2 employees or independent contractors trading the member firm account. Previously, for CBOT trading activity written trader agreements were required in order to receive the member firm fee benefits. These agreements were reviewed to ensure that (1) no trader contributed capital; (2) no trader had responsibility for losses; (3) no trader received more than 80% of the profit split; and (4) no trader was subject to a holdback of greater than 20%. With regards to NYMEX and COMEX, previous policies did not address trader agreements. Going forward CME Group will only be establishing the fee policies to be complied with and will allow members firms to best determine how to document and establish relationships with their traders. Nonetheless, written trader agreements provide a clear and verifiable basis for trader compensation agreements and are highly encouraged. During fee audits substantive work will be completed to ensure compliance with FPBs (e.g. review of profit splits and capital contributions) and attestations will be obtained from selected individual traders regarding their compliance with FPB requirements related to their trading activity.

Bona-fide Capital Interest

For CME, CBOT, NYMEX, and COMEX clearing, NYMEX and COMEX non-clearing, CME and CBOT Rule 106.I., and CBOT Rule 106.J. members, owners must maintain an acceptable bona-fide capital interest of \$500,000 or more in the member firm in order to receive equity member fees on their trading activity of the member firm's account and receive the favorable tax treatment on their earnings.

Previously for CBOT clearing and CBOT Rule 106.I./J. members, owners were required to maintain at least \$200,000 in bona-fide capital in the firm in order to receive reduced fees on their trading activity of the member firm's account and receive the favorable tax treatment on their earnings. The acceptable bona-fide capital level for owners of CBOT clearing and CBOT Rule 106.I./J. members is increasing from \$200,000 to \$500,000 effective January 1, 2009. All owners of such CBOT members firms with a bona-fide interest of \$200,000 as of December 31, 2008 will be grandfathered in at the \$200,000 level. The grandfathering will be specific to the individual owners and the particular CBOT member firm and cannot be transferred.

With regards to NYMEX and COMEX, previous policies did not require a specific bona-fide capital interest for owners in order to receive member fees on their trading activity of the member firm's account and receive the favorable tax treatment on their earnings.

For CME and CBOT Rule 106.H./R. members, owners must be considered “bona-fide” owners in order to receive preferential fees on their trading activity of the member firm’s account and receive the favorable tax treatment on their earnings; no specific dollar amount of bona-fide capital is required. Previously, for CBOT Rule 106.H./R. members, owners were required to maintain at least \$200,000 in bona-fide capital in the firm in order to receive reduced fees on their trading activity of the member firm’s account and receive the favorable tax treatment on their earnings.

Loans/Subordinated Loans

In defining member firm trading accounts, no non-owner traders may make any contributions, loans (including subordinated loans), or payments to the member firm or member firm trading account nor have any capital at risk in connection with their trading of the member firm account. Previously CME policies did not prohibit non-owner traders from making loans, including subordinated loans, to the member firm. With regards to NYMEX and COMEX, previous policies did not address loans/subordinated loans from traders.

Owner Traders

The profit split on agreements with any trader, including owners acting as traders, may not exceed 80/20 (i.e. 80% to the trader/20% to the firm). Previously CBOT policies did not address the profit split of an owner trader while NYMEX and COMEX policies did not address profit splits to any traders.

Team Traders

For member firm trading conducted by a team of traders, the profit split to the team in total may not exceed 80/20 (i.e. 80% to the trader team/20% to the firm). Further the 80% limit on profit splits to a trader or team of traders includes any individual who has a specific interest in its profitability including those involved in the supervision/training of the account(s) and/or trader(s). Previously CBOT, NYMEX and COMEX policies did not address team trading and limits on profits splits to the team in the aggregate.

Hedge Fund Traders

The member firm trading activity of hedge funds must be conducted by traders allowed under CME Group policies. For the most part, hedge funds are traded by registered Commodity Trading Advisors. Previously CBOT, NYMEX and COMEX policies did not place any restriction on who could trade the accounts of hedge fund members and receive member fees.

Distinctive Policies

In recognition of the legacy exchanges and their market and trading evolutions, the following differences between CME, CBOT, NYMEX and COMEX fee policies have been identified and will remain.

CME/CBOT/NYMEX/COMEX Clearing Members

For CME clearing members the CME trading activity conducted for the account of 100% owned subsidiaries is entitled to equity member clearing fees.

In contrast, for CBOT clearing members the CBOT trading activity of 100% owned subsidiaries is not entitled to member clearing fees unless the subsidiary itself qualifies as an Affiliate Member Firm/Affiliate Umbrella Member Firm under CBOT Rule 106.I. That is, CBOT clearing membership fee benefits do not flow down to 100% owned subsidiaries.

Further, for NYMEX and COMEX clearing members the NYMEX and COMEX trading activity of 100% owned subsidiaries is not entitled to member clearing fees. That is, NYMEX and COMEX clearing membership fee benefits do not flow down to 100% owned subsidiaries. Furthermore, affiliates and subsidiaries of NYMEX and COMEX clearing members must become member firms themselves in order to receive membership benefits.

Member Fee Levels

For CME, NYMEX and COMEX member firms, there is only one level of member fee per membership type. For CBOT clearing members and CBOT Rule 106.H./I./J. members, there are two levels of member fee per membership type with the membership status of the individual entering the trade impacting the level of member fee charged. Please refer to the current CBOT Clearing Fee Schedule at <http://www.cmegroup.com/company/clearing-fees/index.html>.

Open Outcry

The member firm trading of a CME clearing or CME Rule 106.H./I./S. member conducted with discretion by a CME Rule 106.D. lessee member on the floor of the Exchange in open outcry will be charged fees based on the lowest membership status of the firm and the CME Rule 106.D. lessee.

Whereas the member firm trading of a CBOT, NYMEX and COMEX clearing, NYMEX and COMEX non-clearing, or CBOT Rule 106.H./I./J./S. member is entitled to member clearing fees when a CBOT, NYMEX or COMEX Rule 106.D. lessee member, as applicable, executes it on the floor of the exchange in open outcry whether with or without discretion.

As a reminder, complete details of CME Group Member Firm Fee Policies may be found in FPB #08-02. If you have any questions, please call the Audit Department at (312) 930-3230.