

12-281

DATE: July 6, 2012
TO: Clearing Member Firms
FROM: CME Clearing
SUBJECT: **IMPORTANT: New Rule 512 - Reporting Infractions**

The Exchange is proposing the adoption of a new Rule 512 that will provide the Chief Regulatory Officer or his designee the authority to impose on members and clearing member firms summary fines not to exceed \$5,000 for individuals or \$10,000 for firms for the inaccurate, incomplete or untimely submission of data, records or information required to be submitted to the Exchange. This rule is intended to be used by Market Regulation to effectively and efficiently address various reporting deficiencies, including, but not limited to, the following:

- large trader reporting;
- open interest reporting;
- reporting of long positions eligible for delivery;
- block trade reporting
- accurate submission of user IDs on CME Globex trades
- accurate submission of CTI (customer type indicator) codes

The Market Regulation Department has typically handled minor reporting infractions through education and/or the issuance of warning letters, and handled more egregious matters by conducting a formal, full scope investigation and, if warranted, referring the matter to the Probable Cause Committee for charges and the Business Conduct Committee for sanctions.

The final DCM rulemaking recently approved by the CFTC includes regulations that preclude Market Regulation (or any disciplinary committee) from issuing more than one warning letter to the same person or entity for the same offense within a rolling twelve month period. Accordingly, in order to most effectively and efficiently address, for both the Exchange and market participants, matters that do not rise to a level meriting referral to Exchange disciplinary committees, the Market Regulation and Clearing House Departments are informing members and firms of this proposed rule and soliciting feedback. The rule provides for limited summary fining authority, to be employed based on the relative egregiousness and frequency of the misreporting, and also details market participant rights to appeal summary fines to Market Regulation and, subject to certain criteria, to the Business Conduct Committee. A draft of proposed Rule 512 – Reporting Infractions is below for your review. Questions or feedback should be directed to Bob Sniegowski, Market Regulation, at (312) 341-5991, Robert.Sniegowski@cmegroup.com; or Steve Staszak, Clearing House, at (312) 930-3189, Steve.Staszak@cmegroup.com.

PROPOSED DRAFT

512. REPORTING INFRACTIONS

512.A. General

All data, records and other information required by the rules to be reported to the Exchange or the Clearing House, as applicable, must be submitted in an accurate, complete and timely manner.

512.B. Sanctions

1. Except as otherwise provided in Rule 536, the Chief Regulatory Officer or his designee shall have the authority to impose summary fines on Members not to exceed \$5,000 per offense for individuals and not to exceed \$10,000 per offense for firms for the inaccurate, incomplete or untimely submission of data, records or information required to be submitted to the Exchange.
2. Members shall have 15 days following receipt of the notice of a summary fine to present evidence to the Market Regulation Department that the fine should be rescinded or reduced. Absent the submission of such evidence within the designated time period, the fine shall be deemed final and may not be appealed.

512.C. Hearings and Appeals

If the Chief Regulatory Officer or his designee determines that evidence submitted by a Member pursuant to Section B.2. is insufficient to support the requested rescission or reduction of the fine, the Member 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.