



## Special Executive Report

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S-7057

September 29, 2014

### Revisions to Rule 850 ("Fees")

Pending all relevant regulatory review periods, effective on Thursday, October 9, CME, CBOT, NYMEX and COMEX will adopt revisions to Rule 850 ("Fees"). The revisions eliminate unnecessarily detailed Exchange fee and transaction surcharge language from the text of the Rule and clarify that accurate information on Exchange fees and transaction surcharges is available in each Exchange's fee schedule and applicable Fee Policy Bulletins on the CME Group website.

**The revisions do not represent a change to any existing Exchange fees or transaction surcharges. The revisions are solely administrative in nature.**

The revisions to CME, CBOT, NYMEX and COMEX Rule 850 are set forth below, with additions underscored and deletions overstruck.

Questions concerning fees may be directed to the Exchange Fee System ("EFS") Hotline at 312.648.5470.

For media inquiries concerning this Special Executive Report, please contact CME Group Corporate Communications at 312.930.3434 or [news@cmegroup.com](mailto:news@cmegroup.com).

### CME

#### 850. FEES

Exchange fees and/or any transaction surcharges shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange or the Clearing House as the Board or Exchange staff, as appropriate, may from time to time prescribe. Detailed information concerning these fees is set forth in the Exchange Fee Schedule and applicable Fee Policy Bulletins available on the CME Group website.

#### ~~A. Exchange Fees~~

~~Exchange fees, including clearing fees, Globex system fees, brokerage and/or any transaction surcharges, shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange and/or the Dubai Mercantile Exchange Limited ("DME") as the Board, Exchange staff or DME, as appropriate, may from time to time prescribe.~~

#### ~~B. Clearing Fees~~

~~Member rates will apply in the following situations based on the membership division held (note: "membership division" is deemed to also include transactions in lower divisions.) Transactions executed in a higher division than the membership division held will receive non-member rates.~~

~~1. Transactions executed on the trading floor for an account owned by a member if executed in accordance with Exchange policy for member rates. Transactions executed on Globex for an account owned by a member will be based on the combined memberships of both the operator and account owner, in accordance with Exchange policy for member rates.~~

~~2. Transactions for accounts owned by persons holding memberships through CME Rule 106.C. or D. if executed in accordance with Exchange policy for member rates. The owner of the membership does not receive members' rates.~~

~~3. Transactions for the proprietary accounts of a clearing member and its subsidiaries, which are wholly owned, directly or indirectly. (See Non-Member Rates i. below.)~~

~~4. Transactions for accounts owned by general partners of the clearing member whether or not they are members.~~

5. ~~Transactions for an account owned by a corporation or partnership which is wholly owned by a member or members and which transactions are solely for their benefit if executed in accordance with Exchange policy for member rates and as noted in Member Rates 1. above.~~
  6. ~~Transactions for the proprietary accounts of firms holding membership pursuant to Rule 106.H., 106.N. or 106.R. subject to approval by Exchange staff. If an employee of such firm holds the membership either the member or the firm may receive member rates, but not both.~~
  7. ~~Transactions for the proprietary accounts owned by each related party in a chain of related parties which, holds a membership pursuant to Rule 106.I. subject to approval by Exchange staff. A "related party" shall be defined to include a clearing member or a firm that either: owns, directly or indirectly, 100% of a clearing member or has 100% ownership, direct or indirect, in common with a firm that owns, directly or indirectly, 100% of a clearing member.~~
  8. ~~Transactions for the proprietary accounts owned by each related hedge fund in a "family of funds" which holds membership pursuant to Rule 106.S. subject to approval by Exchange staff.~~
  9. ~~Transactions for joint accounts owned by a member/parent, member/spouse or member/child or a member/Rule 106.H. firm or a member/related party which would receive member rates.~~
  10. ~~Transactions executed on the trading floor for an account jointly owned by members will be based on the combined memberships of all account owners, in accordance with Exchange policy for member rates. Transactions executed on Globex for an account jointly owned by members will be based on the combined memberships of both the operator and account owners, in accordance with Exchange policy for member rates. The type of membership held (equity, lessee, clearing member, Rule 106.H., 106.I., 106.N., 106.R. or 106.S.) will determine the rate received. For on-floor trading activity, trading discretion over an account constitutes a "de facto" joint account for clearing fee purposes between the executing member and the account owner with respect to the trading activity of the executing member. For off-floor trading activity, an account is presumed to be jointly owned (for clearing fee purposes) where an individual or entity has direct or indirect risk of loss with respect to a specific trading account or group of trading accounts.~~
- ~~"Lowest Common Denominator" (LCD) Rule" - To determine the rates charged for a joint account, the LCD rule is used. Rates are determined by the type of membership held by all of the owners and applying the rates corresponding to the lowest level of membership (highest rate).~~
- ~~Non-Member Rates will apply in the following circumstances:~~
- i. ~~Transactions for accounts owned by persons not holding Exchange memberships. (This includes transactions for officers and employees of clearing member firms, who may be considered "house" accounts of the firm, but who are not members.)~~
  - ii. ~~Transactions for the account jointly owned by a member and one or more non-members, except as noted in member rate categories 4. or 9. above.~~
  - iii. ~~Transactions for an omnibus account, whether or not the account is held in the name of a member, unless there is clear evidence that all transactions in the omnibus are eligible for member rates.~~
  - iv. ~~Transactions for accounts owned by a corporation or partnership which is not 100% owned by a member or members and which does not fall into member rate categories 4., 5. or 9. above.~~

## CBOT

### 850. EXCHANGE SERVICE FEES

Exchange fees and/or any transaction surcharges shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange or the Clearing House as the Board or Exchange staff, as appropriate, may from time to time prescribe. Detailed information concerning these fees is set forth in the Exchange Fee Schedule and applicable Fee Policy Bulletins available on the CME Group website.

A. ~~Members and member firms— Each Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), or Series B-5 (COM) member (hereinafter referred to as "members"), and member firm shall be obligated to pay, at such times and in such manner as the Exchange may prescribe, fees for transactions executed by open auction and on Globex, as described below and in accordance with the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.~~

1. ~~Open auction fee caps— with respect to open auction trades for a Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member's own account, the maximum of fees paid by any such member shall be \$20,000 per year per person who executes the trades. With respect to open auction trades for the proprietary account of a CBOT Clearing Closely Held Corporate Member Firm or a CBOT Equity Closely Held Corporate Member Firm, or an Affiliate of either such firm, as defined by the Exchange, which are initiated and executed by the same member, who is registered with the Exchange as a trader for the account pursuant to procedures established by the Exchange, the maximum of fees paid by any such member firm or Affiliate shall be \$20,000 per year per person who initiates and executes the trades.~~

2. ~~Open auction floor broker fee— Open auction trades executed by a member as a floor broker for others shall incur a floor brokerage charge of 2 cents per contract/per side. Provided, however, that this charge shall not apply to trades which are both initiated and executed by the same member for the account of a member, or the proprietary account of a member firm. The maximum of fees paid by any Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member pursuant to this subsection shall be \$20,000 per year. When a member executes trades as a floor broker for others and also executes open auction trades for his or her own account, the maximum of fees paid by such member for all such open auction trades collectively shall be \$20,000 per year.~~

3. ~~Firm-owned memberships~~—Notwithstanding sections A.1. and A.2. of this Rule, the fees applicable with respect to memberships which are owned by member firms shall be equivalent, in the following categories, to those which the Exchange prescribes for delegates:

~~Trades for such member's own account, in cases where the individual is not a principal of the member firm which owns his/her membership. For purposes of this paragraph, an individual shall be deemed a principal of a member firm if he/she holds a majority ownership interest in that firm and/or meets other such criteria as the Exchange may prescribe by regulation; and~~

~~Trades executed by such member on behalf of any account other than the proprietary account or a customer account of the member firm owner of the membership, or its Affiliate, as defined by the Exchange.~~

B. ~~Non-members~~—Each member firm handling the funds of non-member customers shall include, in the statements to such customers, fees for the open auction and Globex transactions executed for the accounts of such customers in accordance with the fee schedule adopted by the Exchange. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.

All such fees collected from non-member customers shall be remitted by the member or member firm at such times and in such manner as the Exchange may prescribe.

No member firm shall identify on its statements to nonmember customers any charge as an "Exchange Service Fee" unless the amount shown is actually due and payable to the Exchange under this Rule.

C. ~~Surcharges~~—Exchange transaction fee surcharges, exchange fees for non-trade transactions, and clearing fees are set forth in the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference.

D. ~~Revenue~~—The Exchange shall have the authority in its discretion to suspend any of the fees specified in this Rule at any time during a fiscal year.

E. ~~Reports~~—Each member or member firm subject to the provisions of this Rule shall submit to the Exchange such reports as the Exchange may deem necessary for the administration of this Rule.

F. ~~Special assessments~~—This Rule shall not abrogate the right of the Exchange to levy such additional dues, assessments, charges or fees upon the membership as it may deem necessary or advisable.

G. ~~Definitions for the purpose of implementing this Rule~~

1. ~~Member's Own Account~~—The term "member's own account" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of one or more members. For any account held by more than one member, all trades made for such account shall pay transaction fees equal to the highest fee required of any of the individual participants in the account, in accordance with section G.6. of this Rule. An account owned by and held in the name of a non-member spouse or other relative of a member shall not be considered a member's account.

2. ~~Member's Own Account in Trust~~—A commodity futures and/or commodity options trading account placed in trust shall be deemed a "member's own account" if the following conditions are satisfied:

i. ~~the member is the sole settlor of the trust; and~~

ii. ~~the member is one of the trustees of the trust and as such trustee, has sole control over the investment-making decisions of the trust; and~~

iii. ~~the beneficiaries of the trust include only the member, the member's spouse and/or the member's descendants; and~~

iv. ~~the trust declaration expressly incorporates the Rules of the Exchange, as may be amended; and~~

v. ~~the interest in the trust that inures to the beneficiaries of the trust shall be subject to all Rules of the Exchange, as may be amended; and~~

vi. ~~the non-member trustee, if any, expressly agrees in the trust declaration, to be subject to all Rules of the Exchange, as amended; and~~

vii. ~~the member provides to the Exchange's Membership Services Department, a copy of the trust declaration creating the trust, as well as any amendments thereto, along with a letter from an attorney stating that in the attorney's opinion, the trust created is designed to achieve the estate planning objectives of the member.~~

Upon the member's death or if the member is adjudged incompetent, any commodity futures and/or commodity options trading account placed in trust pursuant to this section G.2. by such member will be treated as a non-member trading account for purposes of implementing this Rule.

3. ~~Member Firm's Proprietary Account~~—The term "proprietary account of a member firm" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of the member firm. For an account to qualify as a member firm proprietary account, any individual who initiates and/or enters trades on behalf of the proprietary account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:

i. ~~may not provide trading capital for the account; and~~

ii. ~~may not have responsibility to provide capital based on trading losses; and~~

iii. ~~for individuals that are not issued a W-2 (or comparable documentation in jurisdictions other than the United States) the firm must have a written agreement detailing the full terms of their compensation agreements; and~~

iv. ~~may not contribute subordinated debt, unless the individual is a partner, member of a limited liability company, or shareholder of the member firm; and~~

v. ~~gross trading profits and losses must be reported in the firm's income statement.~~

Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades and, therefore, must comply with section G.6. of this Rule.

~~4. Individual Member's Trading Account—For an account to qualify as an individual member's account or a joint account of individual members, where the trades are executed on Globex, any individual who initiates and/or enters trades on behalf of the account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:~~

- ~~i. may not provide trading capital for the account; and~~
- ~~ii. may not have responsibility to provide capital based on trading losses; and~~
- ~~iii. the individual member must have a written agreement detailing the full terms of the trader's compensation; and~~
- ~~iv. the trader may not make a loan to the individual member for the purposes of providing trading capital.~~

~~A member that is trading on the floor may designate up to a maximum of two clerks who may execute trades initiated by the member through Globex. Such trades will be eligible for fees at the individual member rate.~~

~~Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades, and, therefore, must comply with section G.6. of this Rule.~~

~~5. Firm Owner Trading a Proprietary Account—In cases where a non-member owner, non-member member of a limited liability company, or non-member partner of a member firm trades a member firm proprietary account, and where the non-member trader's compensation is tied to the profitability of the specific proprietary account(s), in order for the trades in such proprietary account to receive member fee treatment, the non-member trader must maintain at least \$200,000 in the trading account(s) and the \$200,000 must be available to support the trading activity on the Exchange. If the non-member trader does not maintain the requisite \$200,000, the account will be considered a joint account between the member firm and the non-member trader and therefore, the transaction fees will be determined in accordance with section G.6. of this Rule.~~

~~6. Joint Accounts—Any account where profits and/or losses are shared by more than one party (member or non-member), shall pay Exchange transaction fees based on the highest rate applicable to any of the account's participants. In addition, a trading account that is funded by a loan shall be deemed a joint account between the borrower and the lender unless it can be demonstrated that the terms of the loan represent a reasonable interest rate, not affected by the profits and/or losses generated in the account. Further, if the terms of the loan suggest that the loan need not be paid back in the event of losses, the trading account shall be deemed a joint account.~~

~~H. Fees for CBOT Family of Funds Equity Member Firms – CBOT Family of Funds Equity Member Firms, as defined by the Exchange, will be granted the same fee treatment that the proprietary accounts of Equity Member Firms that are CBOT Clearing or Equity FCMs or CBOT Clearing or Equity Corporate Member Firms, as defined by the Exchange, receive where the trade is executed by a non-member for those firms' accounts.~~

~~I. Exchange service fee adjustments – Exchange transaction fee adjustments resulting from the overpayment of such fees must be made through the Exchange Fee Billing System's ("EFB") on-line correction facility. The Exchange will only grant adjustments to member firms for the overpayment of exchange transaction fees for the prior two months from the month the adjustment is made to the EFB on-line correction facility.~~

~~The Exchange will only require member firms to make adjustments for the underpayment of exchange transaction fees for a period up to one year back from the end of the audit period selected by the Exchange. Exchange findings of underpayments may not be offset with an adjustment for any overpayments, except as provided above. Interest and/or costs may be assessed in accordance with policies established by the Exchange.~~

## **NYMEX/COMEX**

### **850. EXCHANGE SERVICE FEES**

[Exchange fees and/or any transaction surcharges shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange or the Clearing House as the Board or Exchange staff, as appropriate, may from time to time prescribe. Detailed information concerning these fees is set forth in the Exchange Fee Schedule and applicable Fee Policy Bulletins available on the CME Group website.](#)

~~(A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Risk Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.~~

~~(B) A minimum fee of \$800.00 per month shall be charged to Clearing Members.~~

~~(C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member.~~

~~(D) Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange and remit said fees to the Clearing House as billed.~~