



## Special Executive Report

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S-7538

December 8, 2015

### Amendments to CME SEF Recordkeeping and Reporting Procedures and Various CME SEF Rules

Pending all relevant regulatory review periods, effective December 18, 2015, the Swap Execution Facility Division of Chicago Mercantile Exchange Inc. ("CME SEF") will adopt amendments to the CME SEF Recordkeeping and Reporting Procedures and the CME SEF Rulebook. Specifically, CME SEF Rulebook is implementing new CME SEF Rule 123 ("Compliance with the Commodity Exchange Act"), and amending CME SEF Rules 407 ("Investigation, Assignment for Hearing and Notice of Charges"), 528 ("Swap Data Repository and Commission Reporting"), and 536(A)(1) ("Recordkeeping Requirements for Globex or CME Direct, and Negotiated Trades"). The amendments clarify requirements of CFTC Regulations Part 43 ("Real-Time Public Reporting") and 45 ("Swap Data Recordkeeping and Reporting Requirements") and are described below:

- CME SEF's Recordkeeping and Reporting Procedures:
  - Clarify that actual notional or principal amount (which must be input as the contract unit value in which the swap trades) for any trade executed on or pursuant to the rules of CME SEF is transmitted without delay to all downstream systems. Additionally, CME SEF's Recordkeeping and Reporting Procedures have been amended to remove redundancies in conjunction with the amendments to other CME SEF Rules.
- CME SEF Rule 123 ("Compliance with the Commodity Exchange Act"):
  - Addition of new Rule as a general provision prohibiting behavior that is prohibited by the CEA and the regulations thereunder.
- CME SEF Rule 407 ("Investigation, Assignment for Hearing and Notice of Charges"):
  - Clarify that the Market Regulation Department will commence investigations of possible rule violations upon receipt of a request from CFTC Staff or upon discovery or receipt of information by CME SEF that indicates a reasonable basis for finding that a violation may have occurred or occurred. Additionally, indicate that the Market Regulation Department will prepare written documents describing reasonable basis for finding a rule violation or no rule violation.
- CME SEF Rule 528 ("Swap Data Repository and Commission Reporting"):
  - Indicate that CME SEF will transmit swap transaction and pricing data to CME SDR for all Trades and will not disclose swap transaction and pricing data to Participants before it has transmitted such data to CME SDR. CME SEF Rule 528 will also describe how CME SEF will assign a reporting party when none is known to CME SEF.
- CME SEF Rule 536(A)(1) ("Recordkeeping Requirements for Globex or CME Direct, and Negotiated Trades"):

- Amended to indicate that each Authorized Trader, Authorized Manager or Authorized Broker entering orders into Globex or CME Direct shall input for each order the actual notional or principal amount (which must be input as the contract unit value in which the swap trades).

The amendments described above appear below, with additions underscored and deletions overstruck.

### **CME SEF RECORDKEEPING AND REPORTING PROCEDURES**

#### *1. Swap Transaction and Pricing Data*

All swap transactions entered into on CME SEF are reported to CME SDR as soon as technologically practicable after their execution. Swap transaction and pricing data entered through Globex or ClearPort (for block trades) are transmitted without delay to all downstream systems. This information includes the actual notional or principal amount (which must be input as the contract unit value in which the swap trades) for any trade executed on or pursuant to the rules of CME SEF. When a Block Trade, as defined in the CME SEF Rulebook, is executed pursuant to the rules of CME SEF, CME SEF notifies CME SDR of such a Block Trade election when transmitting swap transaction and pricing data. ~~It is possible that swap transaction and pricing data could be disclosed on the trading screen prior to public dissemination by CME SDR. In the event that such data is disclosed on the trading screen prior to public dissemination by CME SDR, this disclosure is seen only by CME SEF Market Participants and is visible to all CME SEF Market Participants in a non-discriminatory fashion in compliance with CFTC Regulation 43.3(b)(3).~~

[The remainder of the document is unchanged.]

### **CME SEF RULEBOOK**

#### **123. COMPLIANCE WITH THE COMMODITY EXCHANGE ACT**

All participants of CME SEF shall comply with the applicable provisions of the Commodity Exchange Act and the rules and regulations duly issued pursuant thereto by the CFTC.

#### **407. INVESTIGATION, ASSIGNMENT FOR HEARING AND NOTICE OF CHARGES**

The Market Regulation Department shall investigate potential or alleged Rule violations. An investigation shall be commenced upon the receipt of a request from Commission staff or upon the discovery or receipt of information by CME SEF that indicates a reasonable basis for finding that a violation may have occurred or will occur. The Market Regulation Department shall submit a written investigation report for disciplinary action in every instance in which staff determines from surveillance or from an investigation that a reasonable basis exists for finding a rule violation. The investigation report shall include the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; the Market Regulation Department's analysis and conclusions; and a recommendation as to whether disciplinary action should be pursued. Investigations and all information and documents obtained during the course of an investigation shall be treated as non-public and confidential and shall not be disclosed by any party, except as necessary to further a CME Group Exchange or CME SEF investigation or as required by law. The Market Regulation Department is authorized to take recorded interviews pursuant to a CME SEF investigation. Parties and witnesses being interviewed shall have the right to representation, at their own cost, by legal counsel or anyone other than a member of any CME SEF disciplinary committee, a member of the Board, an employee of CME Group or a person related to the investigation.

The Market Regulation Department may take oral depositions of witnesses during an investigation. The party under investigation shall be given at least five days written notice of the time of the deposition and place where the witness will be deposed, which may be at any location within the United States. The party under investigation shall have the right to be present in person or by authorized representative at the oral deposition, with right of cross-examination. All oral depositions of witnesses shall be taken under oath, before an officer qualified in the place of the deposition to administer oaths, and the complete testimony of the witnesses shall be transcribed by such officer or by a person under his supervision. Oral depositions taken in accordance with this Rule shall be admissible in evidence at any hearing of the Board of Directors or a committee, reserving to the party under investigation the right to object at the hearing to the relevancy or materiality of the testimony contained therein.

Upon conclusion of an investigation, the Market Regulation Department may issue a warning letter to any party as a result of the investigation. Such letter shall not constitute either the finding of a Rule violation or a penalty.

If after conducting an investigation, the Market Regulation Department determines that no reasonable basis exists for finding a rule violation, it shall prepare a written report including the reason the investigation was initiated; a summary of the complaint, if any; the relevant facts; and the Market Regulation Department's analysis and conclusions.

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.

## **528. SWAP DATA REPOSITORY AND COMMISSION REPORTING**

- A. CME SEF will transmit swap transaction and pricing data to CME SDR for all Trades ~~report all Trades~~ (including accepted block trades) executed on or pursuant to the rules of CME SEF ~~to CME SDR~~ as soon as technologically practicable after execution in compliance with Parts 43 and Part 45 of the CFTC Regulations. As required in CFTC Regulation 43.3(b)(3), the SEF Platform will not disclose swap transaction and pricing data to Participants before it has transmitted such data to CME SDR. Participants should be aware that the trading screen may in some circumstances disclose transaction and pricing data prior to such data being displayed in CME SDR; however, such disclosure will only be to Participants and will occur with respect to all Participants at once, without discrimination. CME SEF will record and report to the CFTC all data required to be reported to the CFTC under Part 16 of the CFTC Regulations in the form and manner required by such regulations. The parties to a Trade will be responsible for compliance with their own reporting obligations, if any, with respect to such Trade under applicable CFTC Regulations.
- B. If a reporting party becomes aware of an error or omission in the swap transaction or pricing data which was reported to CME SDR by CME SEF with respect to such swap, the reporting party shall promptly submit corrected data to CME SEF.
- C. To the extent counterparties to a trade executed on or pursuant to the rules of CME SEF do not identify which counterparty is the reporting party, or CME SEF cannot otherwise determine from the information provided which counterparty is the reporting party under CFTC Regulation 45.8, CME SEF will assign the seller counterparty as the reporting party.

## **536. RECORDKEEPING REQUIREMENTS FOR GLOBEX OR CME DIRECT, AND NEGOTIATED TRADES**

### **536.A. Globex or CME Direct Order Entry**

#### **1. General Requirement**

Each Authorized Trader, Authorized Manager or Authorized Broker entering orders into Globex or CME Direct shall input for each order: a) the user ID assigned him by CME SEF, a clearing member or other authorized entity b) the price, actual notional or principal amount (which must be input as the contract unit value in which the swap trades) quantity, product, expiration month, CTI code, and account number (except as provided in Section C.). The Globex or CME Direct terminal operator's user ID must be present on each order entered. For a Globex or CME Direct terminal operator with access pursuant to Rule 574, clearing members authorizing such access will be responsible for the Globex or CME Direct terminal operator's compliance with this rule.

With respect to orders received by a Globex or CME Direct terminal operator which are capable of being immediately entered into Globex or CME Direct, no record other than that set forth above need be made. However, if a Globex or CME Direct terminal operator receives an order which cannot be immediately entered into Globex or CME Direct, the Globex or CME Direct terminal operator must prepare a written order and include the account designation, date, time of receipt and other information required pursuant to section A.1. above. The order must be entered into Globex or CME Direct when it becomes executable.

**Questions concerning these amendments may be directed to the following individuals:**

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