

SUBMISSION COVER SHEET

IMPORTANT: Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 23-407 (3 of 4)

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a: DCM SEF DCO SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 09/14/23 Filing Description: Amendments to CME, CBOT, and NYMEX/COMEX Rule 532. ("Disclosing Orders Prohibited") and Issuance of Associated Market Regulation Advisory Notice RA2305-5 ("Improper Use or Disclosure of Non-Public Information Prohibited").

SPECIFY FILING TYPE

Please note only ONE choice allowed per Submission.

Organization Rules and Rule Amendments

- | | | |
|-------------------------------------|-------------------------------------|------------|
| <input checked="" type="checkbox"/> | Certification | § 40.6(a) |
| <input type="checkbox"/> | Approval | § 40.5(a) |
| <input type="checkbox"/> | Notification | § 40.6(d) |
| <input type="checkbox"/> | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/> | SIDCO Emergency Rule Change | § 40.10(h) |

Rule Numbers: 532.

New Product

Please note only ONE product per Submission.

- | | | |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Certification | § 40.2(a) |
| <input type="checkbox"/> | Certification Security Futures | § 41.23(a) |
| <input type="checkbox"/> | Certification Swap Class | § 40.2(d) |
| <input type="checkbox"/> | Approval | § 40.3(a) |
| <input type="checkbox"/> | Approval Security Futures | § 41.23(b) |
| <input type="checkbox"/> | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/> | Swap Submission | § 39.5 |

Product Terms and Conditions (product related Rules and Rule Amendments)

- | | | |
|--------------------------|---|----------------------|
| <input type="checkbox"/> | Certification | § 40.6(a) |
| <input type="checkbox"/> | Certification Made Available to Trade Determination | § 40.6(a) |
| <input type="checkbox"/> | Certification Security Futures | § 41.24(a) |
| <input type="checkbox"/> | Delisting (No Open Interest) | § 40.6(a) |
| <input type="checkbox"/> | Approval | § 40.5(a) |
| <input type="checkbox"/> | Approval Made Available to Trade Determination | § 40.5(a) |
| <input type="checkbox"/> | Approval Security Futures | § 41.24(c) |
| <input type="checkbox"/> | Approval Amendments to enumerated agricultural products | § 40.4(a), § 40.5(a) |
| <input type="checkbox"/> | "Non-Material Agricultural Rule Change" | § 40.4(b)(5) |
| <input type="checkbox"/> | Notification | § 40.6(d) |

Official Name(s) of Product(s) Affected:

Rule Numbers:

September 14, 2023

VIA ELECTRONIC PORTAL

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**Re: CFTC Regulation 40.6(a) Certification. Amendments to CME, CBOT, and NYMEX/COMEX Rule 532. (“Disclosing Orders Prohibited”) and Issuance of Associated Market Regulation Advisory Notice RA2305-5 (“Improper Use or Disclosure of Non-Public Information Prohibited”).
NYMEX Submission No. 23-407 (3 of 4)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), Chicago Mercantile Exchange Inc. (“CME”), The Board of Trade of the City of Chicago, Inc. (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”), and Commodity Exchange, Inc. (“COMEX”) (collectively, the “Exchanges”) hereby certify to the Commission amendments to Rule 532. (“Disclosing Orders Prohibited”) and the issuance of associated CME Group Market Regulation Advisory Notice RA2305-5 (“Improper Use or Disclosure of Non-Public Information Prohibited”) (“RA2305-5”) (collectively, the “Rule Amendments”) effective September 29, 2023.

Rule 532. prohibits the disclosure of, and action based on, non-public order information. This Rule always prohibited the use of non-public order information however acquired, and specifically protected customer order information. Currently, other types of material non-public information are not protected by Rule 532. When improper usage of other material non-public information is identified, the parties may be in violation of other Exchange rules, including but not limited to Rule 432. (“General Offenses”).

Market participants have historically been notified of the prohibition of any material non-public information, beyond customer order information, through Exchange disciplinary actions and CFTC guidance. Additionally, the CFTC published a [Fact Sheet](#) regarding anti-manipulation and anti-fraud rules codified in 17 CFR 180 (“Rule 180.1”), which explains that trading on the basis of material non-public information in breach of a pre-existing duty, or trading on the basis of material nonpublic information that was obtained through fraud or deception, may violate final Rule 180.1.

In an effort to better align Rule 532. with CFTC final Rule 180.1 and associated guidance regarding material non-public information, and to explicitly protect non-public information beyond non-public order information, CME, CBOT, and NYMEX/COMEX Rule 532. (“Disclosure of Orders Prohibited”) will be amended to codify that all non-public information should only be used properly.

In connection with the amendments to Rule 532., the Exchanges will issue RA2305-5 to supersede the pre-existing Advisory Notice on disclosing orders. RA2305-5 incorporates the amendments to Rule 532. and provides addition clarification on improper use or disclosure of material non-public information.

The Exchanges reviewed the designated contract market core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the Rule Amendments may have some bearing on the following Core Principles:

[300 Vesey Street](#) [New York, NY 10282](#) [t 212 299 2200](#) [f 212 301 4645](#) christopher.bowen@cmegroup.com cmegroup.com

Availability of General Information: The Exchanges will release a Special Executive Report (“SER”) regarding the Rule Amendments. The SER will also be posted on the CME Group website. As required by this Core Principle, the Exchanges are also publicly issuing RA2305-5 to ensure that market participants have updated guidance and information attendant to Rule 532. and the prohibition of improper usage of material non-public information. RA2305-5 will also be available on the CME Group website.

Compliance with Rules: The Rule Amendments provide guidance to the marketplace on the regulatory requirements attendant to material non-public information. This guidance is intended to assist market participants in remaining in compliance with Rule 532. and associated industry guidance. They are therefore in compliance with this Core Principle.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges hereby certify that the Rule Amendments comply with the Act, including regulations under the Act. There were no substantive opposing views to the proposal.

The Exchanges certify that this submission has been concurrently posted on the CME Group website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2200 or via e-mail at CMEGSubmissionInquiry@cmegroup.com.

Sincerely,

/s/ Christopher Bowen
Managing Director and Chief Regulatory Counsel

Attachments: Appendix A CME, CBOT, and NYMEX/COMEX Rule 532.
Appendix B CME Group Market Regulation Advisory Notice RA2305-5

Appendix A

CME, CBOT and NYMEX/COMEX Rulebooks
Chapter 5
(“Trading Qualifications and Practices”)
(additions are underscored; deletions are ~~overstruck~~)

532. DISCLOSING ORDERS IMPROPER USE OR DISCLOSURE OF NON-PUBLIC INFORMATION PROHIBITED

~~With the exception of transactions executed in accordance with the requirements of Rules 526, 538 and 539, Except as permitted by other Exchange rules, including, but not limited to, Rules 526, 538 and 539, no person shall:~~

- ~~a. Directly or indirectly trade (or enter, cancel, or modify an order) on the basis of material non-public information when he knows or reasonably should have known the information was obtained or disclosed through fraud, deception, or in violation of a pre-existing duty (established by law, rule, agreement, understanding, or some other source);~~
- ~~b. Disclose material non-public information when he knows or reasonably should have known the disclosure of the information would violate a pre-existing duty (established by law, rule, agreement, understanding, or some other source) owed to another, except when the disclosure is made to an Exchange official, a permitted government official, or is required by law. ~~disclose another person's order to buy or sell except to a designated Exchange official or the CFTC, and no person shall solicit or induce another person to disclose order information. No person shall take action or direct another to take action based on non-public order information, however acquired.~~~~
- ~~c. Solicit or induce another person to disclose material non-public information.~~

~~The mere statement of opinions or indications of the price at which a market may open or resume trading general market conditions does not constitute a violation of this rule. An order for execution is material and not public information until it has been exposed to the market.~~

[Please note that the following sentence in the CME version of Rule 532 will also be removed: An order for pit execution is not considered public until it has been bid or offered by open outcry.]

Appendix B

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Improper Use or Disclosure of Non-Public Information Prohibited
Rule References	Rule 532
Advisory Date	September 15, 2023
Advisory Number	CME Group RA2305-5
Effective Date	September 29, 2023

Effective on INSERT DATE, and pending all relevant CFTC regulatory review periods, this Market Regulation Advisory Notice will supersede CME Group Market Regulation Advisory Notice RA2110-5 from August 30, 2021. It is being issued to reflect amendments to Rule 532 which are intended to align the text of the rule with CFTC final Rule 180.1 and associated guidance regarding material non-public information, and to explicitly protect non-public information beyond non-public order information.

Rule 532 prohibits a person from improperly using, disclosing, or soliciting material non-public information, except in limited circumstances. The prohibition in Rule 532 does not apply to orders executed pursuant to CME, CBOT and NYMEX/COMEX Rules 526 (“Block Trades”), 538 (“Exchange for Related Positions”), and 539 (“Prearranged, Pre-Negotiated and Noncompetitive Trades Prohibited”), provided that such orders are executed pursuant to the specific requirements of those rules. Market participants must ensure that any disclosure of nonpublic order information in connection with executions made as a result of the allowable private negotiation requirements of those rules does not exceed what is allowable under the rules or any regulatory guidance provided in Market Regulation Advisory Notices specific to those rules.

The entry of an order or the execution of a trade, either on the electronic platform or via open outcry, based on the knowledge of an order that has not been bid or offered in the market is a violation of Rule 532.

The text of each Exchange’s Rule 532 is set forth below.

532. IMPROPER USE OR DISCLOSURE OF NON-PUBLIC INFORMATION PROHIBITED

Except as permitted by other Exchange rules, including, but not limited to, Rules 526, 538 and 539, no Person shall:

- a. Directly or indirectly trade (or enter, cancel, or modify an order) on the basis of material non-public information when he knows or reasonably should have known the information was obtained or disclosed through fraud, deception, or in violation of a pre-existing duty (established by law, rule, agreement, understanding, or some other source);
- b. Disclose material non-public information when he knows or reasonably should have known the disclosure of the information would violate a pre-existing duty (established by law, rule, agreement, understanding, or some other source) owed to another, except when the disclosure is made to an Exchange official, a permitted government official, or is required by law.
- c. Solicit or induce another person to disclose material non-public information.

The mere statement of opinions or general market conditions does not constitute a violation of this rule. An order for execution is material and not public information until it has been exposed to the market.

Questions regarding this Advisory Notice may be directed to one of the following individuals in Market Regulation:

Erin Middleton, Director, Rules & Regulatory Outreach, 312.341.3286

Paige Gawrys, Senior Specialist, Rules & Regulatory Outreach, 312.872.5078

Aaron Smith, Executive Director, Investigations, 312.435.3754

Jennifer Dendrinis, Senior Director, Investigations, 312.341.7812

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or news@cmegroup.com.