

August 7, 2012

**VIA E-MAIL**

Mr. David Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: Regulation 40.5 Request for Expedited Approval: Chicago Mercantile Exchange Inc., The Board of Trade of the City of Chicago, Inc., New York Mercantile Exchange, Inc. and Commodity Exchange Inc.  
Submission # 12-247: Adoption of New Rule 418 (“Consent to Exchange Jurisdiction”) and Revisions to Rules in Chapter 4 (“Enforcement of Rules”)**

Dear Mr. Stawick:

The 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”) pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.5 hereby voluntarily submit for Commission review and expedited approval a request to adopt new Rule 418 (“Consent to Exchange Jurisdiction”) and various revisions to Rules in Chapter 4 (“Enforcement of Rules”) of each Exchange’s Rulebook (hereinafter referred to as “Conforming Amendments”).

Rule 418 is being adopted in response to CFTC Regulation 38.151(a) which states that a designated contract market (“DCM”) must require that members and market participants consent to the jurisdiction of the DCM as a condition of access to its markets. Based on discussions with CFTC staff, members of the Joint Compliance Committee collectively approved the adoption of a harmonized rule for purposes of demonstrating compliance with Regulation 38.151(a). The Exchanges are adopting this harmonized rule language as Rule 418, which also requires the adoption of the Conforming Amendments. As Regulation 38.151(a) becomes effective on August 20, 2012, the Exchanges request that the adoption of Rule 418 and Conforming Amendments also become effective on August 20, 2012.

The Market Regulation Department and the Legal Department collectively reviewed the DCM core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA”). During the review, we have identified that the adoption of Rule 418 and the Conforming Amendments may have some bearing on the following Core Principles:

- **Compliance with Rules:** Rule 418 requires that any person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary to expressly consent to the jurisdiction of the Exchange. Rule 418 further sets forth that such persons agree to be bound by and comply with the Rules of the Exchange in relation to such transactions, including rules requiring cooperation and participation in investigatory and disciplinary processes. Rule 418 is being adopted as a means of each of the Exchange’s being able to demonstrate compliance with CFTC Regulation 38.151(a), which as of August 20, 2012, will be a new regulation under this Core Principle.

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- Availability of General Information: The marketplace will be notified of the adoption of Rule 418 and the Conforming Amendments via a Special Executive Report (“SER”). The SER will clarify that Rule 418 is being adopted pursuant to CFTC Regulation 38.151(a) and clarify that trading on any of the Exchanges must be done in compliance with all applicable rules, including trade practice rules and rules requiring cooperation with Exchange investigatory and disciplinary processes.

The Exchanges certify that the adoption of Rule 418 and the Conforming Amendments comply with the Act and regulations thereunder. In addition, none of the Commission’s regulations need to be amended and no sections of the CEA or the Commission’s regulations need to be interpreted in order to approve these rule amendments. There were no substantive opposing views to this proposal.

The Exchange certifies that this submission has been concurrently posted on the Exchange’s website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

The new rule and conforming amendments are set forth in Appendix A, with additions underscored and deletions overstruck.

If you have any questions regarding this submission, please contact Joseph Adamczyk, Market Regulation, at 312.435.3581 or via email at [Joseph.Adamczyk@cmegroup](mailto:Joseph.Adamczyk@cmegroup) or Erin Schwartz, Market Regulation, at 312.341.3083 or via email at [Erin.Schwartz@cmegroup.com](mailto:Erin.Schwartz@cmegroup.com). In the alternative, you may contact me at 312.930.8167 or via email at [Sean.Downey@cmegroup.com](mailto:Sean.Downey@cmegroup.com). Please reference CME/CBOT/NYMEX/COMEX Submission # 12-247 in any related correspondence.

Sincerely,

/s/ Sean Downey  
Director and Assistant General Counsel

Attachment: Appendix A - Chapter 4 of CME/CBOT/NYMEX Rulebooks (black-lined)

# APPENDIX A

## Chapter 4 of CME/CBOT/NYMEX Rulebooks

### **418. CONSENT TO EXCHANGE JURISDICTION**

Any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange in relation to such transactions, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes.

### **418~~9~~-431. [RESERVED]**

### **413. SUMMARY ACCESS DENIAL ACTIONS**

[Sections A. and B. are unchanged.]

#### **413.C. Hearing**

Members shall have the right to representation, at their own cost, by legal counsel or anyone other than a member of any Exchange disciplinary committee, a member of the Board, an employee of CME Group or a person related to the investigation. ~~Non-members are only entitled to a hearing and representation if they submit to the Exchange's jurisdiction for the matter at hand as well as any pending and all future actions related to the underlying conduct that gave rise to the summary access denial.~~ The Panel shall conduct a de novo hearing solely on the issue of the denial of access in accordance with the procedures in Rule 408. Filing of a notice of intent pursuant to Rule 413.B. shall not stay the Chief Regulatory Officer's decision to deny access.

[Section D. is unchanged.]

### **417. PROHIBITED COMMUNICATIONS**

[Section A. is unchanged.]

#### **417.B. Communications with Panelists**

No ~~Person~~member shall attempt to influence disciplinary matters pending before a charging, adjudicatory, or appeal committee by discussing, or attempting to discuss, such pending matters with a member of such committee or any member of the Board.

[The remainder of the Rule is unchanged.]

### **432. GENERAL OFFENSES**

It shall be an offense:

[A. – W. are unchanged.]

X. ~~for a Member~~ to aid or abet the commission of any offense against the Exchange;

[The remainder of the Rule is unchanged.]

### **437. NOTICE OF DISCIPLINE**

Notice, in accordance with Section 8c(a)(2) of the Commodity Exchange Act, shall be made available to an internet accessible computer database at the National Futures Association and shall be provided to any Member or non-member who is suspended, expelled, disciplined or denied access to the Exchange within 30 days after the decision becomes final. Additionally, a written notice shall be posted on the floor of the Exchange for five business days promptly after the disciplinary action becomes effective. The notice shall include the Member's or non-member's name, the Rule(s) violated, the reason for the Exchange's action and the action taken or penalty imposed.

## CME CHAPTER 4

### **400. GENERAL PROVISIONS**

The Board has adopted Rules, and from time to time adopts amendments and supplements to such Rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide

protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange Rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange Rules to Exchange staff as set forth in the Rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all Rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs; 4) Exchange permit holders and any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such individuals; 6) [any Person who initiates or executes a transaction on or subject to the Rules of the Exchange, directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed](#); 7) individuals and entities that have agreed in writing or via electronic signature to comply with the Rules of the Exchange; and 78) CBOT members and other individuals who have access to the combined CME and CBOT trading floors.

Members are deemed to know, consent to and be bound by all Exchange Rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.

## CBOT CHAPTER 4

### 400. GENERAL PROVISIONS

The Board has adopted Rules, and from time to time adopts amendments and supplements to such Rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange Rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange Rules to Exchange staff as set forth in the Rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all Rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs; 4) Exchange permit holders and any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such individuals; 6) regular firms; 7) [any Person who initiates or executes a transaction on or subject to the Rules of the Exchange, directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed](#); 8) individuals and entities that have agreed in writing or via electronic signature to comply with the Rules of the Exchange; and 89) CME members and other individuals who have access to the combined CBOT and CME trading floors.

Members are deemed to know, consent to and be bound by all Exchange Rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.

## NYMEX CHAPTER 4

### 400. GENERAL PROVISIONS

The Board has adopted Rules, and from time to time adopts amendments and supplements to such Rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange Rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange Rules to Exchange staff as set forth in the Rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all Rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members, Commercial Associate Members, member firms and clearing members of the Exchange; 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs; 4) any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such individuals; 6) [any Person who initiates or executes a transaction on or subject to the Rules of the Exchange, directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed](#); 7) individuals and entities that have agreed in writing or via electronic signature to comply with the Rules of the Exchange; and ~~7~~8) Exchange members and other individuals who have access to the trading floors.

Members are deemed to know, consent to and be bound by all Exchange Rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.