CME Group

A CME/Chicago Board of Trade/NYMEX Company

July 29, 2009

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

>   RE: **CME Group Market Regulation Advisory Notice RA0903-5**
>   **CME/CBOT/NYMEX Submission No. 09.146**

Dear Mr. Stawick:

Chicago Mercantile Exchange Inc. ("CME"), The Board of Trade of the City of Chicago, Inc. ("CBOT") and The New York Mercantile Exchange, Inc. ("NYMEX") (collectively, the "Exchanges") hereby notify the Commodity Futures Trading Commission that they will issue CME Group Market Regulation Advisory Notice RA0903-5 on July 30, 2009, concerning the requirements for engaging in pre-execution communications with respect to Globex trades. The Advisory Notice details the upcoming change to the requirements for such trades in NYMEX and COMEX options products based on the harmonization of NYMEX and COMEX trade practice rules with those of CME and CBOT which will take place on August 17, 2009. Information on the changes to the trade practice rules is included in prior NYMEX Submission #09.141 and CME/CBOT Submission #09-137 from July 28.

A copy of the Advisory Notice is included with this submission.

The Exchanges certify that the Advisory Notice complies with the Act and regulations thereunder.

If you have any questions regarding the Advisory Notice, please contact Robert Sniegowski, Market Regulation, at 312.341.5991 or me at 312.648.5422. Please reference CME/CBOT/NYMEX Submission No. 09.146 in any related correspondence.

Sincerely,

/s/ Stephen M. Szarmack
Director and Associate General Counsel

7702

MARKET REGULATION ADVISORY NOTICE

Exchange	CME, CBOT, NYMEX & COMEX
Subject	Pre-Execution Communications
Rule References	Rule 539
Advisory Date	July 30, 2009
Advisory Number	CME Group RA0903-5
Effective Date	August 17, 2009

This Advisory Notice supersedes CME & CBOT Market Regulation Advisory Notice RA0907-3 from June 30, 2009. It is being reissued in connection with the August 17, 2009, harmonization, to the extent practicable, of NYMEX and COMEX trade practice rules with the rules of CME and CBOT. As of August 17, 2009, former NYMEX Rule 11G.539 ("Prearranged, Pre-Negotiated and Noncompetitive Trades Prohibited") will become Rule 539 and be completely harmonized with CME Rule 539. As a result of the harmonization, on August 17, 2009, NYMEX and COMEX will adopt a change with respect to the requirements for engaging in pre-execution communications concerning options trades on CME Globex ("Globex") as set forth in more detail below. Prior to August 17, existing NYMEX Rule 11G.539 will remain in effect.

Prohibition on Pre-Execution Communications Concerning Pit Trades

CME, CBOT, NYMEX and COMEX expressly prohibit pre-execution communications in connection with pit transactions executed on the trading floor.

Pre-Execution Communications Concerning Futures Trades on Globex

Pre-execution communications are **permitted** in all CME, NYMEX and COMEX futures products traded on Globex. Such communications, however, remain **prohibited** with respect to all CBOT futures products traded on Globex.

For transactions in CME, NYMEX and COMEX futures products traded on Globex which involve pre-execution communications, the order of the party who initiated the pre-execution communication must be the first order entered into Globex. At least 5 seconds must elapse after the entry of the first order before the opposing order can be entered. No Request for Quote ("RFQ") or Request for Cross ("RFC") is required.

Pre-Execution Communications Concerning Options Trades on Globex

Pre-execution communications are **permitted** in all CME, NYMEX and COMEX options products traded on Globex and are **permitted** in CBOT Interest Rate, Ethanol and Dow options traded on Globex. Such communications remain **prohibited** with respect to all CBOT agricultural options traded on CME Globex.

With respect to electronic trading of all CME, NYMEX and COMEX options and CBOT Interest Rate, Ethanol and Dow options (including allowable options spreads and combinations and options/futures spreads), pre-execution communications must be preceded by the entry of a Request for **Quote** ("RFQ"). Subsequent to the entry of the RFQ, any trade intended for execution pursuant to a pre-execution communication requires the entry of an additional RFQ followed by the entry of a Request for **Cross** ("RFC") order, an order which contains both the buy and sell orders.

With the exception of CME and CBOT equity options, the RFC order must be entered no less than 15 seconds and no more than 30 seconds after the entry of the additional RFQ. In CME and CBOT equity options, the RFC order must be entered no less than 5 seconds and no more than 30 seconds after the entry of the additional RFQ.

The RFQs and the RFC must be entered within the same trading session and failure to enter the RFC order within the applicable time parameters will require a new RFQ to be entered prior to the entry of the RFC order. In all cases, the entry of the RFC order must comply with the applicable time parameters set forth in Rule 539.

Numerous Independent Software Vendors support the RFQ and RFC functionality. For market participants using the Exchange-provided CME EOS Trader application, functionality built in to the application will prevent the entry of the RFC message if it is entered outside of the allowable time periods for the entry of such messages. For example, with respect to an RFC in Eurodollar options, the system will preclude the entry of the RFC message if it is entered less than 15 seconds or more than 30 seconds after the entry of the second RFQ. This functionality was added to facilitate compliance with the relevant entry time requirements. The requirements detailed above ensure transparency and competitive execution by requiring solicitation of interest from all market participants via an RFQ prior to submission of the cross request.

Further information on the requirements with respect to engaging in pre-execution communications with respect to Globex trades appears in Sections 1-4.

Questions and answers regarding prohibited pre-execution communications in CBOT futures and CBOT agricultural options appear in Section 5.

The text of CME, NYMEX and COMEX Rule 539 appears on page 8 and the text of CBOT Rule 539 appears on page 9 of this Advisory Notice.

In products where pre-execution communications are allowed, such communications may occur only when the party for whose benefit the trade is being made has previously consented to such communications. **Additionally, parties who have been involved in a pre-execution communication may not disclose the details of that communication to other parties, nor may a party place any order to take advantage of the information conveyed in such communications except to facilitate the trade in accordance with the rule.**

1.   Requirements for Pre-Execution Communications in CME, NYMEX and COMEX Options and CBOT Interest Rate, Ethanol and Dow Options Trading on CME Globex

a) *Prior* to engaging in pre-execution communications involving CME, CBOT and NYMEX options and CBOT interest rate, Ethanol and Dow options (or any spread or combination involving such options), the market participant must submit a Request for Quote ("RFQ").

b) Subsequent to submitting the RFQ and engaging in pre-execution communications, a trade to be executed pursuant to such communications requires the market participant to issue an additional RFQ.

c) Subsequent to submitting the additional RFQ, a trade to be executed pursuant to pre-execution communications *must* be initiated by the entry of an RFC order, a submission which includes both the buy and sell orders; in all options other than CME and CBOT Equity options, the RFC order *must* be initiated no less than 15 seconds and no more than 30 seconds after issuing the additional RFQ. In CME and CBOT Equity options, the RFC order must be entered no less than 5 seconds and no more than 30 seconds after issuing the additional RFQ. The RFC matching algorithm is summarized in Section 2. below.

d) If an RFC order is not entered within 30 seconds after the additional RFQ, any subsequent trade to be executed pursuant to pre-execution communications must be preceded by the entry of a new RFQ and, thereafter, the RFC order must be entered in accordance with the time parameters

set forth in c) above.

2. RFC Matching Algorithm

a) **The RFC price improves <u>both</u> the best bid and best offer in the order book or there is no bid/offer in the order book.**

If the RFC price improves both the best bid and best offer in the order book or if there is no bid/offer in the order book, 100% of the RFC quantity will match at the RFC price immediately upon submission of the RFC.

b) **The RFC price matches or is outside the best bid or best offer in the order book.**

- If the RFC price matches or is outside the best bid or offer in the market, the applicable side of the RFC order will immediately match against the orders in the market at a price better than or equal to the RFC price. The balance of the RFC will be matched as follows:

All Options Other than CME and CBOT Equity Options

- Immediately thereafter, 60% of the smaller quantity remaining on one side of the RFC will match against the order on the opposite side of the RFC at the RFC price;

- Any remaining unmatched portion on the RFC will then be available for matching against other incoming orders for five (5) seconds;

- Any match-eligible quantity remaining on the RFC will then match at the RFC price;

- Any unmatched balance on one side of the RFC will either be cancelled or remain in the order book depending on the instructions submitted with the RFC.

CME and CBOT Equity Options

- Immediately thereafter, 100% of the smaller quantity remaining on one side of the RFC will match against the order on the opposite side of the RFC at the RFC price;

- Any unmatched balanced on one side of the RFC will either be cancelled or remain in the order book depending on the instructions submitted with the RFC.

3. Questions and Answers Regarding Pre-Execution Communication Requirements in Options Executed on CME Globex

a) Is a client's consent to pre-execution communications necessary?
Yes.

b) May the parties involved in pre-execution communications disclose the details of those communications to other parties?

No.

c) If a party has participated in a pre-execution communication where non-public information has been disclosed about an order or a potential order and the party does not agree to take the other side of the trade, may the party subsequently enter an order into the market to take advantage of the non-public information?

No.

d) Is an RFQ required to be submitted prior to engaging in pre-execution communications?

Yes.

e) Is the RFQ referenced in d) above required if the system is showing current bids and/or offers in the contract(s) that will be the subject of a pre-execution communication?

Yes.

f) After the first RFQ is submitted and a pre-execution communication has taken place, is an additional RFQ required to be submitted prior to entering a Request for Cross ("RFC") in order to proceed with the transaction?

Yes.

g) In all options other than equity options, must the RFC be entered no less than 15 seconds and no more than 30 seconds after issuing the additional RFQ?

Yes.

h) In CME and CBOT equity options, must the RFC be entered no less than 5 seconds and no more than 30 seconds after issuing the additional RFQ?

Yes.

i) Are the quantity and price of the orders on the RFC displayed to the marketplace upon submission of the RFC?

No.

j) Must both RFQs and the RFC be entered within the same trading session?

Yes.

k) If the RFC is not entered within the time parameters set forth in g) and h) above after issuing the additional RFQ, is a new RFQ required to be issued prior to entering the RFC?

Yes.

l) May an RFC ever be entered outside the time parameters set forth in g) and h) above after entry of the required RFQ?

No.

m) If a call is made to solicit the improvement of a CBOT Interest Rate, Ethanol or Dow options or any CME, NYMEX or COMEX options market posted on CME Globex, must an RFQ be entered

prior to making the call regardless of whether the parties discuss price, quantity or the side of market with respect to any potential trade?

Yes.

n) If the call described in m) above results in the parties agreeing to trade opposite each other, must the requirements of f) and, depending on the option product, g) or h) be followed in order to proceed with the trade?

Yes.

4.   Questions and Answers Regarding Pre-Execution Communication Requirements in CME Futures Products Executed on CME Globex

a) Is a client's consent to pre-execution communications necessary?

Yes.

b) May the parties involved in pre-execution communications disclose the details of those communications to other parties?

No.

c) If a party has participated in a pre-execution communication where non-public information has been disclosed about an order or a potential order and the party does not agree to take the other side of the trade, may the party subsequently enter an order into the market to take advantage of the non-public information?

No.

d) Is an RFQ required to be issued prior to engaging in pre-execution communications?

No.

e) If pre-execution communications have occurred, must the order of the initiator of the pre-execution communication be entered prior to the entry of the opposing order?

Yes.

f) Must a minimum of 5 seconds elapse after the entry of the first order before the entry of the second order?

Yes.

g) Is the entry of an RFC required?

No.

5.   Questions and Answers Regarding Prohibited Pre-Execution Communications in CBOT Futures Products and CBOT Agricultural Options Products Trading on CME Globex

a) What is a pre-execution communication?

Pre-execution communications are communications between market participants for the purpose of discerning interest in the execution of a transaction prior to the exposure of the order to the market. Pre-execution communications involving CBOT products are prohibited at all times with respect to transactions executed in either the open outcry or electronic venue, with the exception of CBOT interest rate, Ethanol and Dow options executed on CME Globex which must be

Opposite orders for different beneficial accounts that are simultaneously placed by a party with discretion over both accounts may be entered provided that one order is exposed on CME Globex for a minimum of 5 seconds in the case of futures orders and a minimum of 15 seconds in the case of orders involving options.

An order allowing for price and/or time discretion, if not entered immediately upon receipt, may be knowingly entered opposite a second order entered by the same firm only if the second order has been entered immediately upon receipt and has been exposed on CME Globex for a minimum of 5 seconds for futures orders and a minimum of 15 seconds for orders involving options.

h) Assuming there have been no pre-execution communications, is it permissible for a firm to knowingly trade for its proprietary account against a customer order entered by the firm?

Yes, provided that in accordance with CBOT Rule 531 ("Trading Against Customers' Orders Prohibited") the customer order has been entered immediately upon receipt and has first been exposed on CME Globex for a minimum of 5 seconds for futures orders and a minimum of 15 seconds for orders involving options.

Questions regarding this advisory may be directed to the following individuals in Market Regulation:

Kathleen Zaino, Associate Director, 312.435.3577
Nancy Minett, Director, 212.299.2940

Robert Sniegowski, Associate Director, 312.341.5991

CME & NYMEX Rule 539

PREARRANGED, PRE-NEGOTIATED AND NONCOMPETITIVE TRADES PROHIBITED

539.A. General Prohibition

No person shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any transaction, except in accordance with Sections B. and C. below.

539.B. Exceptions

The foregoing restriction shall not apply to block trades pursuant to Rule 526 or Exchange for Related Positions transactions pursuant to Rule 538.

539.C. Pre-Execution Communications Regarding Globex Trades

Parties may engage in pre-execution communications with regard to transactions executed on the Globex platform where one party (the first party) wishes to be assured that a contra party (the second party) will take the opposite side of the order under the following circumstances:

1. A party may not engage in pre-execution communications with other market participants on behalf of another party unless the party for whose benefit the trade is being made has previously consented to permit such communications.

2. Parties to pre-execution communications shall not (i) disclose to a non-party the details of such communications or (ii) enter an order to take advantage of information conveyed during such communications except in accordance with this rule.

3. In the case of futures orders, the first party's order must be entered into the Globex platform first and the second party's order may not be entered into the Globex platform until a period of 5 seconds has elapsed from the time of entry of the first order.

4. In the case of options orders, a pre-execution communication must be preceded by the submission of a Request for Quote ("RFQ").

    Subsequent to such RFQ, a trade intended for execution for which there has been a pre-execution communication requires the entry of an additional RFQ; thereafter, a Request for Cross ("RFC") order which contains both the buy and the sell orders must be entered no less than fifteen (15) seconds and no more than thirty (30) seconds after the entry of the additional RFQ in order to proceed with the trade, except in equity options where the RFC must be entered no less than five (5) seconds and no more than thirty (30) seconds after the entry of the additional RFQ. The RFQs and the RFC order must be entered within the same trading session. Failure to enter the RFC order within 30 seconds after the entry of the additional RFQ will require a new RFQ to be entered prior to the entry of the RFC order, which must be entered in accordance with the time parameters described above in order to proceed with the trade.

CBOT Rule 539

PREARRANGED, PRE-NEGOTIATED AND NONCOMPETITIVE TRADES PROHIBITED

539.A. General Prohibition

No person shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any transaction, except in accordance with Sections B. and C. below.

539.B. Exceptions

The foregoing restrictions shall not apply to block trades pursuant to Rule 526 or Exchange for Related Positions transactions pursuant to Rule 538.

539.C. Pre-Execution Communications Regarding Globex Trades in Interest Rate, Ethanol and Dow Options

Parties may engage in pre-execution communications with regard to Interest Rate, Ethanol and Dow options transactions executed on the Globex platform where one party wishes to be assured that a contra party will take the opposite side of the order under the following circumstances:

1. A party may not engage in pre-execution communications with other market participants on behalf of another party unless the party for whose benefit the trade is being made has previously consented to permit such communications.

2. Parties to pre-execution communications shall not (i) disclose to a non-party the details of such communications or (ii) enter an order to take advantage of information conveyed during such communications except in accordance with this rule.

3. Reserved.

4. A pre-execution communication must be preceded by the submission of a Request for Quote ("RFQ").

    Subsequent to such RFQ, a trade intended for execution for which there has been a pre-execution communication requires the entry of an additional RFQ; thereafter, a Request for Cross ("RFC") order which contains both the buy and the sell orders must be entered no less than fifteen (15) seconds and no more than thirty (30) seconds after the entry of the additional RFQ in order to proceed with the trade, except in equity options where the RFC must be entered no less than five (5) seconds and no more than thirty (30) seconds after the additional RFQ. The RFQs and the RFC order must be entered within the same trading session. Failure to enter the RFC order within 30 seconds after the entry of the additional RFQ will require a new RFQ to be entered prior to the entry of the RFC order, which must be entered in accordance with the time parameters described above in order to proceed with the trade.