

FEC Opinion Addresses Solicitations by Parent Corporation with Different Types of Subsidiaries

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On February 12, the FEC issued an advisory opinion on corporate solicitations to the Chicago Mercantile Exchange (CME) Group and three of its wholly owned subsidiaries: the Chicago Board of Trade (CBOT), the New York Mercantile Exchange (NYMEX) and the Chicago Mercantile Exchange. The issue presented by the CME Group's request was whether that corporation could solicit contributions for its federal PAC from individuals who were members of the three exchanges—but not necessarily stockholders of the CME Group.

Both in its regulations and through the advisory opinion process, the FEC has allowed the corporate parent in a parent-subsubsidiary relationship to solicit voluntary contributions to its PAC from the entire "solicitable class" of a subsidiary or other affiliate. In the case of a typical corporation, this solicitable class includes the subsidiary corporation's stockholders, its executive and administrative personnel and the families of both groups. For membership organizations, however, this solicitable class is the organization's members, its executive and administrative personnel and their families.

After an exhaustive review of both the legal criteria and the organizational structure of the three exchanges, the FEC concluded that the CBOT and the NYMEX met the requirements of a membership organization. Consequently, the CME Group could solicit certain members of these exchanges for contributions to its PAC, including individual "outright owners of a seat" on an exchange (which can cost anywhere between \$500,000 and \$1.5 million). Although concluding that the CME, the third subsidiary, was not a membership

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organization, the FEC nevertheless allowed the CME Group to solicit certain members of the CME because such individuals were automatically granted shares of stock in the CME Group (and thus were already in the parent corporation's solicitable class).