

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 15-047 (5 of 5)

Organization: Commodity Exchange, Inc. ("COMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 01/26/2015 Filing Description: Revisions to CME/CBOT/NYMEX/COMEX Decision-Making Authority Provisions and Emergency Financial Condition Rules

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers: 257, 403, 701, 744, 812, 824, 8G25, 8G824, 8G975, 8H26, 8H27, 8H824, 8H975, 974, 975, 976, 978, and 979

**New Product**

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

**Official Product Name:**

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

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

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

**Rule Numbers:**

January 26, 2015

**VIA ELECTRONIC PORTAL**

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

**RE: CFTC Regulation 40.6(a) Certification. Revisions to CME/CBOT/NYMEX/COMEX Decision-Making Authority Provisions and Emergency Financial Condition Rules.  
CME/CBOT/NYMEX/COMEX Submission No. 15-047 (5 of 5)**

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”) (each an “Exchange” and collectively, the “Exchanges”) hereby self-certify amendments to rulebook provisions establishing decision-making and emergency authority over clearing house matters. The revisions will be effective on February 10, 2015.

Each Exchange recently reorganized its management structure and reporting lines. Current CME/CBOT/NYMEX/COMEX rules do not include any reference to or establishment of authority in the newly created role of President of Global Operations, Technology & Risk (“President GOTR”). The revisions proposed in Exhibit A are designed to ensure the President GOTR is authorized to undertake certain actions related to clearing house operations and emergency financial conditions. In light the Chief Operating Officer’s (“COO”) newly established reporting line to the President GOTR, authority regarding certain clearing house matters and emergency financial conditions will be conferred from the COO to the President GOTR.

The Exchanges reviewed the derivatives clearing organization core principles (“DCO Core Principles”) and the designated contract market core principles (“DCM Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”). During the review, staff identified that the revisions may have some bearing on the following principles:

- DCM Core Principle 7 – Availability of General Information: The revised rules will continue to be posted publicly on the CME Group website in satisfaction of this core principle.
- DCO Core Principle L – Public information: The revised rules will continue to be posted publicly on the CME Group website in satisfaction of this core principle.
- CFTC Regulation 39.32 – Governance for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations: CFTC Regulation 39.32 requires each SIDCO to have governance arrangements that place a high priority on the safety and efficiency of the SIDCO. The proposed rule revisions are designed to ensure all appropriate officers of CME Inc. have the ability to exercise decision-making and emergency authority in relation to matters impacting the clearing house, thereby enhancing the overall safety of the clearing house and the efficiency with which such actions may be taken. In accordance with CFTC Regulation 39.32(b)(6), the revised rules clearly specify the roles and responsibilities of management during extraordinary circumstances that impact the clearing house.

The Exchanges certify that the proposed revisions comply with the Act and regulations thereunder. There were no opposing views to this proposal. Exhibit A outlines the proposed rule amendments. The revised CME/CBOT/NYMEX/COMEX rules are included at Exhibit A.

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 regarding this submission, please contact John McKinlay at (312) 930-3028 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A – Revisions to CME/CBOT/NYMEX/COMEX Rules

## Exhibit A

### Revisions to CME/CBOT/NYMEX/COMEX Rules 257, 403, 701, 744, 812, 824, 8G25, 8G824, 8G975, 8H26, 8H27, 8H824, 8H975, 974, 975, 976, 978, and 979

(additions underlined; deletions ~~overstruck~~)

#### REVISIONS TO CME RULES

#### 257. EXCHANGE PHYSICAL EMERGENCIES

In the event that the functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns, malfunctions of plumbing, heating, ventilation, and air conditioning systems or transportation breakdowns, the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer or their delegate may take any action necessary to deal with the emergency, including but not limited to, a suspension of trading. In the absence of the aforementioned Exchange officers or delegate, any member of the Executive Committee may act instead of the Chief Executive Officer, President or Chief Operating Officer.

Upon a determination by the Chief Executive Officer, President, ~~or~~ Chief Operating Officer or President of Global Operations, Technology & Risk or their delegate that the physical emergency has sufficiently abated to permit the orderly functioning of the Exchange, he shall order restoration of trading or the removal of other restrictions imposed.

The Exchange shall notify the CFTC of the implementation, modification or termination of a physical emergency action as soon as possible after taking the action.

Nothing in this rule shall in any way limit the authority of the Board of Directors to act in an emergency situation pursuant to Rule 230.k.

#### 403. CLEARING HOUSE RISK COMMITTEE

##### 403.A. Jurisdiction and General Provisions

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall determine whether an applicant satisfies the qualifications for status as a Clearing Member. The CHRC decision shall be subject to appeal to the Board by an applicant. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as Rules of the Exchange. The CHRC shall act upon applications for clearing membership and applications for assignment of trading rights for clearing purposes. Applications for clearing membership and for assignment of trading rights for clearing purposes, when approved by the CHRC, shall be effective and thereafter ratified by the Board.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider offers of settlement on its own initiative or by referral from Exchange staff, the PCC, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408.

If the CHRC determines that a Clearing Member is in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the CHRC may, by majority vote:

1. Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;

4. Suspend a Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk~~the Chief Operating Officer;~~

...  
[the remainder of Rule 403 is unchanged]

#### **701. DECLARATIONS OF FORCE MAJEURE**

If a determination is made by the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer, or their delegate, that delivery or final settlement of any contract cannot be completed as a result of Force Majeure, he shall take such action as he deems necessary under the circumstances, and his decision shall be binding upon all parties to the contract. The Exchange shall notify the CFTC of the implementation, modification or termination of any action taken pursuant to this Rule as soon as possible after taking the action.

It shall be the duty of clearing members, members and regular facilities to notify the Exchange of any circumstances that may give rise to a declaration of Force Majeure.

Nothing in this Rule shall in any way limit the authority of the Board of Directors to act in a Force Majeure situation pursuant to Rule 230.k.

#### **744. FAILSAFE CURRENCY AVAILABILITY PROCEDURES FOR PHYSICAL DELIVERY**

At the sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be made in an appropriate amount of U.S. dollars in the United States or other convertible currency in the respective country of issue, or obligations of physical delivery of offshore Chinese renminbi may be satisfied by cash settlement or other means of settlement pursuant to Rule 230. The Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate shall determine the applicable conversion rate of offshore Chinese renminbi (RMB) to U.S. dollars or other convertible currency based upon current published spot foreign exchange market rates. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

In the alternative, at sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be extended an additional business day or days. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

#### **812. FINAL SETTLEMENT PRICE**

Certain products, as described in the applicable product chapters, have procedures for establishing a final settlement price that are distinct from the procedures for establishing the daily settlement price for the product on the last day of trading. For such products, if a final settlement price is unable to be determined or if the applicable procedures result in a clearly aberrant final settlement price inconsistent with market value and alternative settlement procedures are not otherwise specified in the relevant product chapter, then the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer, or their delegate, may establish a final settlement price that reflects the true market value at the time of final settlement.

A payment in settlement of a delivery obligation (physical or cash settled) shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

#### **824. ADDITIONAL PERFORMANCE BOND**

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk

Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

#### **8G25. IRS DEFAULT MANAGEMENT COMMITTEE**

In the event of a potential or actual default with respect to IRS Contracts, an IRS Default Management Committee shall be convened which shall be comprised of the President of the Clearing House, the President of Global Operations, Technology & Risk, the Chairman of the IRS Risk Committee and representatives of such IRS Clearing Members as may be appointed by the Board. The purpose of this committee shall be to advise the Clearing House with respect to issues arising from the potential or actual default of an IRS Clearing Member and to manage the process of the liquidation and/or transfer of such IRS Clearing Member's portfolio of IRS Contracts. Such advice may include advice on hedging the risk associated with a defaulted IRS Clearing Member's portfolio, structuring the defaulted IRS Clearing Member's portfolio for liquidation or transfer, and administration of the default auction process.

#### **8G824. ADDITIONAL IRS PERFORMANCE BOND**

Whenever, in the opinion of the IRS Risk Committee, the President of Global Operations, Technology & Risk, the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from IRS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more IRS Clearing Member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the IRS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the IRS Risk Committee or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the IRS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any IRS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that IRS Clearing Member, then the IRS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such IRS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such IRS Clearing Member may be required to be transferred to the books of another IRS Clearing Member.

#### **8G975. IRS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of an IRS Clearing Member or one of its Affiliates is such that to allow that IRS Clearing Member to continue its operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the IRS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the IRS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "IRS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the IRS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The IRS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the IRS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of an IRS Clearing Member, Rule 8G913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### **8H26. CDS DEFAULT MANAGEMENT COMMITTEE**

The CDS Default Management Committee shall be comprised of the President of the Clearing House, the President of Global Operations, Technology & Risk, the Chairman of the CDS Risk Committee and representatives of such CDS Clearing Members as may be appointed by the Board. In the event of a potential or actual default with respect to CDS Contracts, a CDS Default Management Committee shall be convened, which shall provide the Clearing House with advice regarding such potential or actual default of a CDS Clearing Member and the management of the liquidation and/or transfer of such CDS Clearing Member's portfolio of CDS Contracts, including advice relating to the hedging of risk associated with such CDS Clearing Member's portfolio, the structuring of such CDS Clearing Member's portfolio for liquidation or transfer, and the administration of the related default auction process. In the event of an actual or potential default of a CDS Clearing Member, the Clearing House will undertake a series of processes to protect itself and its counterparties as further set forth in the CDS Manual (such processes, the "CDS Default Management Plan"), as amended from time to time in consultation with the CDS Default Management Committee and the CDS Risk Committee.

#### **8H27. CDS RISK COMMITTEE**

There shall be a CDS Risk Committee which shall serve to provide guidance to the Clearing House on general matters relating to CDS Products including risk management policies and practices. In addition to the responsibilities set forth in these Rules, the CDS Risk Committee shall have the composition, responsibilities and other characteristics as set forth in its Charter.

The CDS Risk Committee may conduct investigations, issue charges and consider offers of settlement with respect to violations of these Rules as relate to CDS Clearing on its own initiative or by referral from Clearing House staff, as further set forth in the CDS Risk Committee Charter.

If the CDS Risk Committee determines that a CDS Clearing Member fails to meet the requirements for being a CDS Clearing Member or is in a financial or operational condition which jeopardizes or may jeopardize the integrity of the Clearing House, the CDS Risk Committee may, by majority vote:

1. Order the CDS Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on CDS Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;
4. Suspend a CDS Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk Chief Operating Officer;

5. Order the CDS Clearing Member to cease and desist from the conduct found to be contrary to the best interests of the Clearing House; and/or
6. Order the liquidation or transfer of all or a portion of the open positions of the CDS Clearing Member; provided that all costs associated with any such liquidation and/or transfer shall solely be obligations of the CDS Clearing Member.

...

[the remainder of Rule 8H27 is unchanged]

#### **8H824. ADDITIONAL CDS PERFORMANCE BOND**

Whenever, in the opinion of the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from CDS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more CDS Contract(s) from one or more CDS Clearing Member(s) and on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

In the event market conditions and price fluctuations at any time shall cause the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity, the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral called for may be on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

When the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any CDS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts that are larger than is justified by the financial condition of that CDS Clearing Member, then the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such CDS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such CDS Clearing Member may be required to be transferred to the books of one or more other non-defaulted CDS Clearing Members that agree to such transfer.

#### **8H975. CDS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a CDS Clearing Member or one of its Affiliates is such that to allow that CDS Clearing Member to continue its operation would jeopardize the integrity of the Clearing House, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the CDS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the CDS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "CDS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the CDS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The CDS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the CDS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a CDS Clearing Member, Rule 8H913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.



In the event the CDS Risk Committee is unable to convene due to a failure to satisfy the quorum requirements set forth in the CDS Risk Committee Charter, the CDS Emergency Financial Committee shall also be empowered to take any action of the CDS Risk Committee until a quorum of the CDS Risk Committee can be achieved.

#### **974. SUSPENSION OF MEMBER FIRM PRIVILEGES**

- A. If, in the opinion of the Financial and Regulatory Surveillance Department, a clearing member fails to meet the minimum financial requirements as prescribed herein or neglects to promptly furnish a statement upon request, a recommendation may be made to the Clearing House Risk Committee to suspend the privileges of the clearing member. Upon such recommendation, the Clearing House Risk Committee shall conduct a hearing and such clearing member shall show cause why its privileges should not be suspended. Upon finding that the minimum financial requirements are being violated, the Clearing House Risk Committee may suspend the privileges of such clearing member in accordance with the provisions of Chapter 4 of these rules. The CFTC shall be immediately notified of any clearing member which fails to meet the minimum financial requirements. Any suspended clearing member may appeal the decision of the Clearing House Risk Committee to the Board.
- B. If any Rule 106.H., I., J., N., R., or S. member firm:
- has notified the Exchange or the Exchange otherwise becomes aware of a significant event as defined in Rule 442; or
  - that is an FCM fails to meet CFTC minimum financial requirements in the opinion of the Financial and Regulatory Surveillance Department; or
  - neglects to promptly furnish a statement upon request,
- the membership privileges of the member firm may be suspended, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, or the President of Global Operations, Technology & Risk Chief Operating Officer. Any two of these individuals may reinstate the membership privileges of such a suspended member firm, in their discretion, if the suspended member firm provides evidence satisfactory to the Financial and Regulatory Surveillance Department of its financial responsibility or that it meets CFTC minimum financial requirements.

#### **975. EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a clearing member or one of its affiliates is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the clearing member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House. ("Emergency Financial Committee") Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board pursuant to the procedures set forth in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a clearing member, Rule 913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### **976. SUSPENSION OF CLEARING MEMBERS**

If a clearing member becomes insolvent, the clearing member must immediately notify the Exchange of such insolvency. The insolvency shall be announced by the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House and thereupon such clearing member shall be deemed automatically suspended. If a member of the Clearing House becomes insolvent, or for other reasons is suspended from the Clearing House, the officers, owners or

partners who are members of the Exchange may also be suspended from the Exchange.

A clearing member shall be deemed insolvent:

1. If it files a voluntary petition in bankruptcy or is adjudicated as bankrupt;
2. If it fails to fulfill or promptly adjust all of its Exchange obligations; or
3. If satisfactory proof is made to the Clearing House Risk Committee that it is unable to pay its debts as they fall due in the ordinary course of business.

A clearing member may be suspended by the Clearing House Risk Committee pursuant to Rule 403 if it fails to meet the capital requirements of the Clearing House or the CFTC, or if its financial condition, or the financial condition of one of its affiliates, is such that its continued operation would jeopardize the integrity of the Exchange. Members and clearing members suspended in accordance with this rule shall be notified and may request a hearing before the Board as provided in Rule 412.

#### **978. OPEN TRADES OF SUSPENDED CLEARING MEMBERS**

When a clearing member, having open trades, is suspended or expelled, it may designate a clearing member to close out such transactions through designated personnel and in a manner acceptable to the Clearing House.

When a clearing member that has open positions, defaults to the Clearing House in the deposit of performance bonds or settlements, or is suspended for insolvency, the President of the Exchange, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House, or their delegates, may appoint a clearing member to which all such open positions shall be transferred for liquidation, or may appoint a clearing member to liquidate such positions on behalf of such defaulted or suspended clearing member. If open positions are transferred, all supporting performance bond associated with the positions and any settlement payments due or collected must be delivered to the Clearing House, to be entrusted to the clearing member designated to liquidate the positions. The clearing member appointed to liquidate the positions shall have the right, under the direction of the President of the Clearing House, to buy or sell for the account of the suspended clearing member such contracts as may be necessary to clear the suspended clearing member's contracts with the Clearing House; the clearing member shall also have the right under the direction of the President of the Clearing House to make or take delivery.

#### **979. SUSPENDED OR EXPELLED CLEARING MEMBERS**

In the event a clearing member has been suspended or expelled, the clearing member shall comply with all orders of the Board, the Clearing House Risk Committee, the President of the Clearing House, [the President of Global Operations, Technology & Risk](#) or the President of the Exchange.

In the event of refusal by a clearing member to comply with any order placed upon it, the Clearing House may take whatever means necessary to effect the order.

A clearing member or any member suspended due to a clearing member's insolvency may be reinstated upon affirmative proof to the Clearing House Risk Committee of such clearing member's financial responsibility. A member may withdraw from the clearing member and may apply for reinstatement to membership in the Exchange provided that the insolvency of the clearing member was not caused by such member's willful, reckless or unbusinesslike conduct.

## REVISIONS TO CBOT RULES

### 257. EXCHANGE PHYSICAL EMERGENCIES

In the event that the functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns, malfunctions of plumbing, heating, ventilation, and air conditioning systems or transportation breakdowns, the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer or their delegate may take any action necessary to deal with the emergency, including but not limited to, a suspension of trading. In the absence of the aforementioned Exchange officers or delegate, any member of the Executive Committee may act instead of the Chief Executive Officer, President or Chief Operating Officer.

Upon a determination by the Chief Executive Officer, President, ~~or~~ Chief Operating Officer or President of Global Operations, Technology & Risk or their delegate that the physical emergency has sufficiently abated to permit the orderly functioning of the Exchange, he shall order restoration of trading or the removal of other restrictions imposed.

The Exchange shall notify the CFTC of the implementation, modification or termination of a physical emergency action as soon as possible after taking the action.

Nothing in this rule shall in any way limit the authority of the Board of Directors to act in an emergency situation pursuant to Rule 230.k.

### 403. CLEARING HOUSE RISK COMMITTEE

#### 403.A. Jurisdiction and General Provisions

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall determine whether an applicant satisfies the qualifications for status as a Clearing Member. The CHRC decision shall be subject to appeal to the Board by an applicant. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as Rules of the Exchange. The CHRC shall act upon applications for clearing membership and applications for assignment of trading rights for clearing purposes. Applications for clearing membership and for assignment of trading rights for clearing purposes, when approved by the CHRC, shall be effective and thereafter ratified by the Board.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider offers of settlement on its own initiative or by referral from Exchange staff, the PCC, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408.

If the CHRC determines that a Clearing Member is in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the CHRC may, by majority vote:

1. Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;

4. Suspend a Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk~~the Chief Operating Officer;~~

...

[the remainder of Rule 403 is unchanged]

### 701. DECLARATIONS OF FORCE MAJEURE

If a determination is made by the Chief Executive Officer, President, President of Global Operations,

Technology & Risk or Chief Operating Officer, or their delegate, that delivery or final settlement of any contract cannot be completed as a result of Force Majeure, he shall take such action as he deems necessary under the circumstances, and his decision shall be binding upon all parties to the contract. The Exchange shall notify the CFTC of the implementation, modification or termination of any action taken pursuant to this Rule as soon as possible after taking the action.

It shall be the duty of clearing members, members and regular facilities to notify the Exchange of any circumstances that may give rise to a declaration of Force Majeure.

Nothing in this Rule shall in any way limit the authority of the Board of Directors to act in a Force Majeure situation pursuant to Rule 230.k.

#### **744. FAILSAFE CURRENCY AVAILABILITY PROCEDURES FOR PHYSICAL DELIVERY**

At the sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be made in an appropriate amount of U.S. dollars in the United States or other convertible currency in the respective country of issue, or obligations of physical delivery of offshore Chinese renminbi may be satisfied by cash settlement or other means of settlement pursuant to Rule 230. The Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate shall determine the applicable conversion rate of offshore Chinese renminbi (RMB) to U.S. dollars or other convertible currency based upon current published spot foreign exchange market rates. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

In the alternative, at sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be extended an additional business day or days. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

#### **812. FINAL SETTLEMENT PRICE**

Certain products, as described in the applicable product chapters, have procedures for establishing a final settlement price that are distinct from the procedures for establishing the daily settlement price for the product on the last day of trading. For such products, if a final settlement price is unable to be determined or if the applicable procedures result in a clearly aberrant final settlement price inconsistent with market value and alternative settlement procedures are not otherwise specified in the relevant product chapter, then the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer, or their delegate, may establish a final settlement price that reflects the true market value at the time of final settlement.

A payment in settlement of a delivery obligation (physical or cash settled) shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

#### **824. ADDITIONAL PERFORMANCE BOND**

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be

specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

#### **8G25. IRS DEFAULT MANAGEMENT COMMITTEE**

In the event of a potential or actual default with respect to IRS Contracts, an IRS Default Management Committee shall be convened which shall be comprised of the President of the Clearing House, [the President of Global Operations, Technology & Risk](#), the Chairman of the IRS Risk Committee and representatives of such IRS Clearing Members as may be appointed by the Board. The purpose of this committee shall be to advise the Clearing House with respect to issues arising from the potential or actual default of an IRS Clearing Member and to manage the process of the liquidation and/or transfer of such IRS Clearing Member's portfolio of IRS Contracts. Such advice may include advice on hedging the risk associated with a defaulted IRS Clearing Member's portfolio, structuring the defaulted IRS Clearing Member's portfolio for liquidation or transfer, and administration of the default auction process.

#### **8G824. ADDITIONAL IRS PERFORMANCE BOND**

Whenever, in the opinion of the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#), the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from IRS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more IRS Clearing Member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the IRS Risk Committee or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any IRS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that IRS Clearing Member, then the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such IRS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such IRS Clearing Member may be required to be transferred to the books of another IRS Clearing Member.

#### **8G975. IRS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House determines that the financial or operational condition of an IRS Clearing Member or one of its Affiliates is such that to allow that IRS Clearing Member to continue its

operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the IRS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the IRS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "IRS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the IRS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The IRS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the IRS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of an IRS Clearing Member, Rule 8G913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### **8H26. CDS DEFAULT MANAGEMENT COMMITTEE**

The CDS Default Management Committee shall be comprised of the President of the Clearing House, the President of Global Operations, Technology & Risk, the Chairman of the CDS Risk Committee and representatives of such CDS Clearing Members as may be appointed by the Board. In the event of a potential or actual default with respect to CDS Contracts, a CDS Default Management Committee shall be convened, which shall provide the Clearing House with advice regarding such potential or actual default of a CDS Clearing Member and the management of the liquidation and/or transfer of such CDS Clearing Member's portfolio of CDS Contracts, including advice relating to the hedging of risk associated with such CDS Clearing Member's portfolio, the structuring of such CDS Clearing Member's portfolio for liquidation or transfer, and the administration of the related default auction process. In the event of an actual or potential default of a CDS Clearing Member, the Clearing House will undertake a series of processes to protect itself and its counterparties as further set forth in the CDS Manual (such processes, the "CDS Default Management Plan"), as amended from time to time in consultation with the CDS Default Management Committee and the CDS Risk Committee.

#### **8H27. CDS RISK COMMITTEE**

There shall be a CDS Risk Committee which shall serve to provide guidance to the Clearing House on general matters relating to CDS Products including risk management policies and practices. In addition to the responsibilities set forth in these Rules, the CDS Risk Committee shall have the composition, responsibilities and other characteristics as set forth in its Charter.

The CDS Risk Committee may conduct investigations, issue charges and consider offers of settlement with respect to violations of these Rules as relate to CDS Clearing on its own initiative or by referral from Clearing House staff, as further set forth in the CDS Risk Committee Charter.

If the CDS Risk Committee determines that a CDS Clearing Member fails to meet the requirements for being a CDS Clearing Member or is in a financial or operational condition which jeopardizes or may jeopardize the integrity of the Clearing House, the CDS Risk Committee may, by majority vote:

1. Order the CDS Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on CDS Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;
4. Suspend a CDS Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk Chief Operating Officer;
5. Order the CDS Clearing Member to cease and desist from the conduct found to be contrary to the best interests of the Clearing House; and/or
6. Order the liquidation or transfer of all or a portion of the open positions of the CDS Clearing Member; provided that all costs associated with any such liquidation and/or transfer shall solely be obligations of the CDS Clearing Member.

... [the remainder of Rule 8H27 is unchanged]

#### **8H824. ADDITIONAL CDS PERFORMANCE BOND**

Whenever, in the opinion of the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from CDS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more CDS Contract(s) from one or more CDS Clearing Member(s) and on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

In the event market conditions and price fluctuations at any time shall cause the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity, the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral called for may be on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

When the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any CDS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts that are larger than is justified by the financial condition of that CDS Clearing Member, then the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such CDS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such CDS Clearing Member may be required to be transferred to the books of one or more other non-defaulted CDS Clearing Members that agree to such transfer.

#### **8H975. CDS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a CDS Clearing Member or one of its Affiliates is such that to allow that CDS Clearing Member to continue its operation would jeopardize the integrity of the Clearing House, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the CDS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the CDS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "CDS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the CDS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The CDS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the CDS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a CDS Clearing Member, Rule 8H913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

In the event the CDS Risk Committee is unable to convene due to a failure to satisfy the quorum requirements set forth in the CDS Risk Committee Charter, the CDS Emergency Financial Committee shall also be empowered to take any action of the CDS Risk Committee until a quorum of the CDS Risk Committee can be achieved.

#### 974. SUSPENSION OF MEMBER FIRM PRIVILEGES

- C. If, in the opinion of the Financial and Regulatory Surveillance Department, a clearing member fails to meet the minimum financial requirements as prescribed herein or neglects to promptly furnish a statement upon request, a recommendation may be made to the Clearing House Risk Committee to suspend the privileges of the clearing member. Upon such recommendation, the Clearing House Risk Committee shall conduct a hearing and such clearing member shall show cause why its privileges should not be suspended. Upon finding that the minimum financial requirements are being violated, the Clearing House Risk Committee may suspend the privileges of such clearing member in accordance with the provisions of Chapter 4 of these rules. The CFTC shall be immediately notified of any clearing member which fails to meet the minimum financial requirements. Any suspended clearing member may appeal the decision of the Clearing House Risk Committee to the Board.
- D. If any Rule 106.H., I., J., N., R., or S. member firm:
- has notified the Exchange or the Exchange otherwise becomes aware of a significant event as defined in Rule 442; or
  - that is an FCM fails to meet CFTC minimum financial requirements in the opinion of the Financial and Regulatory Surveillance Department; or
  - neglects to promptly furnish a statement upon request,
- the membership privileges of the member firm may be suspended, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, or the President of Global Operations, Technology & Risk Chief Operating Officer. Any two of these individuals may reinstate the membership privileges of such a suspended member firm, in their discretion, if the suspended member firm provides evidence satisfactory to the Financial and Regulatory Surveillance Department of its financial responsibility or that it meets CFTC minimum financial requirements.

#### 975. EMERGENCY FINANCIAL CONDITIONS

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a clearing member or one of its affiliates is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the clearing member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House. ("Emergency Financial Committee") Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board pursuant to the procedures set forth in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a clearing member, Rule 913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### 976. SUSPENSION OF CLEARING MEMBERS

If a clearing member becomes insolvent, the clearing member must immediately notify the Exchange of such insolvency. The insolvency shall be announced by the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House and thereupon such clearing member shall be deemed automatically suspended. If a member of the Clearing House becomes insolvent, or for other reasons is suspended from the Clearing House, the officers, owners or partners who are members of the Exchange may also be suspended from the Exchange.

A clearing member shall be deemed insolvent:

1. If it files a voluntary petition in bankruptcy or is adjudicated as bankrupt;
2. If it fails to fulfill or promptly adjust all of its Exchange obligations; or



3. If satisfactory proof is made to the Clearing House Risk Committee that it is unable to pay its debts as they fall due in the ordinary course of business.

A clearing member may be suspended by the Clearing House Risk Committee pursuant to Rule 403 if it fails to meet the capital requirements of the Clearing House or the CFTC, or if its financial condition, or the financial condition of one of its affiliates, is such that its continued operation would jeopardize the integrity of the Exchange. Members and clearing members suspended in accordance with this rule shall be notified and may request a hearing before the Board as provided in Rule 412.

#### **978. OPEN TRADES OF SUSPENDED CLEARING MEMBERS**

When a clearing member, having open trades, is suspended or expelled, it may designate a clearing member to close out such transactions through designated personnel and in a manner acceptable to the Clearing House.

When a clearing member that has open positions, defaults to the Clearing House in the deposit of performance bonds or settlements, or is suspended for insolvency, the President of the Exchange, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House, or their delegates, may appoint a clearing member to which all such open positions shall be transferred for liquidation, or may appoint a clearing member to liquidate such positions on behalf of such defaulted or suspended clearing member. If open positions are transferred, all supporting performance bond associated with the positions and any settlement payments due or collected must be delivered to the Clearing House, to be entrusted to the clearing member designated to liquidate the positions. The clearing member appointed to liquidate the positions shall have the right, under the direction of the President of the Clearing House, to buy or sell for the account of the suspended clearing member such contracts as may be necessary to clear the suspended clearing member's contracts with the Clearing House; the clearing member shall also have the right under the direction of the President of the Clearing House to make or take delivery.

#### **979. SUSPENDED OR EXPELLED CLEARING MEMBERS**

In the event a clearing member has been suspended or expelled, the clearing member shall comply with all orders of the Board, the Clearing House Risk Committee, the President of the Clearing House, [the President of Global Operations, Technology & Risk](#) or the President of the Exchange.

In the event of refusal by a clearing member to comply with any order placed upon it, the Clearing House may take whatever means necessary to effect the order.

A clearing member or any member suspended due to a clearing member's insolvency may be reinstated upon affirmative proof to the Clearing House Risk Committee of such clearing member's financial responsibility. A member may withdraw from the clearing member and may apply for reinstatement to membership in the Exchange provided that the insolvency of the clearing member was not caused by such member's willful, reckless or unbusinesslike conduct.

## REVISIONS TO NYMEX/COMEX RULES

### 257. EXCHANGE PHYSICAL EMERGENCIES

In the event that the functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency such as fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns, malfunctions of plumbing, heating, ventilation, and air conditioning systems or transportation breakdowns, the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer or their delegate may take any action necessary to deal with the emergency, including but not limited to, a suspension of trading. In the absence of the aforementioned Exchange officers or delegate, any member of the Executive Committee may act instead of the Chief Executive Officer, President or Chief Operating Officer.

Upon a determination by the Chief Executive Officer, President, ~~or~~ Chief Operating Officer or President of Global Operations, Technology & Risk or their delegate that the physical emergency has sufficiently abated to permit the orderly functioning of the Exchange, he shall order restoration of trading or the removal of other restrictions imposed.

The Exchange shall notify the CFTC of the implementation, modification or termination of a physical emergency action as soon as possible after taking the action.

Nothing in this rule shall in any way limit the authority of the Board of Directors to act in an emergency situation pursuant to Rule 230.k.

### 403. CLEARING HOUSE RISK COMMITTEE

#### 403.A. Jurisdiction and General Provisions

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall determine whether an applicant satisfies the qualifications for status as a Clearing Member. The CHRC decision shall be subject to appeal to the Board by an applicant. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as Rules of the Exchange. The CHRC shall act upon applications for clearing membership and applications for assignment of trading rights for clearing purposes. Applications for clearing membership and for assignment of trading rights for clearing purposes, when approved by the CHRC, shall be effective and thereafter ratified by the Board.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider offers of settlement on its own initiative or by referral from Exchange staff, the PCC, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408.

If the CHRC determines that a Clearing Member is in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the CHRC may, by majority vote:

1. Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;

4. Suspend a Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk~~the Chief Operating Officer;~~

...

[the remainder of Rule 403 is unchanged]

### 701. DECLARATIONS OF FORCE MAJEURE

If a determination is made by the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer, or their delegate, that delivery or final settlement of any contract cannot be completed as a result of Force Majeure, he shall take such action as he deems

necessary under the circumstances, and his decision shall be binding upon all parties to the contract. The Exchange shall notify the CFTC of the implementation, modification or termination of any action taken pursuant to this Rule as soon as possible after taking the action.

It shall be the duty of clearing members, members and regular facilities to notify the Exchange of any circumstances that may give rise to a declaration of Force Majeure.

Nothing in this Rule shall in any way limit the authority of the Board of Directors to act in a Force Majeure situation pursuant to Rule 230.k.

#### **744. FAILSAFE CURRENCY AVAILABILITY PROCEDURES FOR PHYSICAL DELIVERY**

At the sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be made in an appropriate amount of U.S. dollars in the United States or other convertible currency in the respective country of issue, or obligations of physical delivery of offshore Chinese renminbi may be satisfied by cash settlement or other means of settlement pursuant to Rule 230. The Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate shall determine the applicable conversion rate of offshore Chinese renminbi (RMB) to U.S. dollars or other convertible currency based upon current published spot foreign exchange market rates. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

In the alternative, at sole discretion of the Chief Executive Officer, President or President of Global Operations, Technology & Risk~~Chief Operating Officer~~ or their delegate, following review of available information concerning supplies of offshore Chinese renminbi (RMB), obligations of physical delivery of offshore Chinese renminbi may be extended an additional business day or days. Any such invocation of this clause may be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

#### **812. FINAL SETTLEMENT PRICE**

Certain products, as described in the applicable product chapters, have procedures for establishing a final settlement price that are distinct from the procedures for establishing the daily settlement price for the product on the last day of trading. For such products, if a final settlement price is unable to be determined or if the applicable procedures result in a clearly aberrant final settlement price inconsistent with market value and alternative settlement procedures are not otherwise specified in the relevant product chapter, then the Chief Executive Officer, President, President of Global Operations, Technology & Risk or Chief Operating Officer, or their delegate, may establish a final settlement price that reflects the true market value at the time of final settlement.

A payment in settlement of a delivery obligation (physical or cash settled) shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

#### **824. ADDITIONAL PERFORMANCE BOND**

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

#### **8G25. IRS DEFAULT MANAGEMENT COMMITTEE**

In the event of a potential or actual default with respect to IRS Contracts, an IRS Default Management Committee shall be convened which shall be comprised of the President of the Clearing House, [the President of Global Operations, Technology & Risk](#), the Chairman of the IRS Risk Committee and representatives of such IRS Clearing Members as may be appointed by the Board. The purpose of this committee shall be to advise the Clearing House with respect to issues arising from the potential or actual default of an IRS Clearing Member and to manage the process of the liquidation and/or transfer of such IRS Clearing Member's portfolio of IRS Contracts. Such advice may include advice on hedging the risk associated with a defaulted IRS Clearing Member's portfolio, structuring the defaulted IRS Clearing Member's portfolio for liquidation or transfer, and administration of the default auction process.

#### **8G824. ADDITIONAL IRS PERFORMANCE BOND**

Whenever, in the opinion of the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#), the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from IRS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more IRS Clearing Member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the IRS Risk Committee or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any IRS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that IRS Clearing Member, then the IRS Risk Committee, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such IRS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such IRS Clearing Member may be required to be transferred to the books of another IRS Clearing Member.

#### **8G975. IRS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House determines that the financial or operational condition of an IRS Clearing Member or one of its Affiliates is such that to allow that IRS Clearing Member to continue its operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the IRS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief

Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the IRS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "IRS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the IRS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The IRS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the IRS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of an IRS Clearing Member, Rule 8G913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### **8H26. CDS DEFAULT MANAGEMENT COMMITTEE**

The CDS Default Management Committee shall be comprised of the President of the Clearing House, the President of Global Operations, Technology & Risk, the Chairman of the CDS Risk Committee and representatives of such CDS Clearing Members as may be appointed by the Board. In the event of a potential or actual default with respect to CDS Contracts, a CDS Default Management Committee shall be convened, which shall provide the Clearing House with advice regarding such potential or actual default of a CDS Clearing Member and the management of the liquidation and/or transfer of such CDS Clearing Member's portfolio of CDS Contracts, including advice relating to the hedging of risk associated with such CDS Clearing Member's portfolio, the structuring of such CDS Clearing Member's portfolio for liquidation or transfer, and the administration of the related default auction process. In the event of an actual or potential default of a CDS Clearing Member, the Clearing House will undertake a series of processes to protect itself and its counterparties as further set forth in the CDS Manual (such processes, the "CDS Default Management Plan"), as amended from time to time in consultation with the CDS Default Management Committee and the CDS Risk Committee.

#### **8H27. CDS RISK COMMITTEE**

There shall be a CDS Risk Committee which shall serve to provide guidance to the Clearing House on general matters relating to CDS Products including risk management policies and practices. In addition to the responsibilities set forth in these Rules, the CDS Risk Committee shall have the composition, responsibilities and other characteristics as set forth in its Charter.

The CDS Risk Committee may conduct investigations, issue charges and consider offers of settlement with respect to violations of these Rules as relate to CDS Clearing on its own initiative or by referral from Clearing House staff, as further set forth in the CDS Risk Committee Charter.

If the CDS Risk Committee determines that a CDS Clearing Member fails to meet the requirements for being a CDS Clearing Member or is in a financial or operational condition which jeopardizes or may jeopardize the integrity of the Clearing House, the CDS Risk Committee may, by majority vote:

1. Order the CDS Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on CDS Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;
4. Suspend a CDS Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the President of Global Operations, Technology & Risk Chief Operating Officer;
5. Order the CDS Clearing Member to cease and desist from the conduct found to be contrary to the best interests of the Clearing House; and/or
6. Order the liquidation or transfer of all or a portion of the open positions of the CDS Clearing Member; provided that all costs associated with any such liquidation and/or transfer shall solely be obligations of the CDS Clearing Member.

...

[the remainder of Rule 8H27 is unchanged]

#### **8H824. ADDITIONAL CDS PERFORMANCE BOND**

Whenever, in the opinion of the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from CDS Clearing Members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more CDS Contract(s) from one or more CDS Clearing Member(s) and on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

In the event market conditions and price fluctuations at any time shall cause the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity, the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral called for may be on long positions, short positions or both; provided that the Clearing House shall at all times continue to apply portfolio margining as described in the CDS Manual or such other model approved by the CDS Risk Committee.

When the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any CDS Clearing Member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts that are larger than is justified by the financial condition of that CDS Clearing Member, then the CDS Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such CDS Clearing Member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of such CDS Clearing Member may be required to be transferred to the books of one or more other non-defaulted CDS Clearing Members that agree to such transfer.

#### **8H975. CDS EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a CDS Clearing Member or one of its Affiliates is such that to allow that CDS Clearing Member to continue its operation would jeopardize the integrity of the Clearing House, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the CDS Clearing Member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the CDS Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House (the "CDS Emergency Financial Committee"). Such committee shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the CDS Clearing Member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The CDS Clearing Member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the CDS Emergency Financial Committee orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a CDS Clearing Member, Rule 8H913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

In the event the CDS Risk Committee is unable to convene due to a failure to satisfy the quorum requirements set forth in the CDS Risk Committee Charter, the CDS Emergency Financial Committee shall also be empowered to take any action of the CDS Risk Committee until a quorum of the CDS Risk Committee can be achieved.

#### **974. SUSPENSION OF MEMBER FIRM PRIVILEGES**

E. If, in the opinion of the Financial and Regulatory Surveillance Department, a clearing member fails

to meet the minimum financial requirements as prescribed herein or neglects to promptly furnish a statement upon request, a recommendation may be made to the Clearing House Risk Committee to suspend the privileges of the clearing member. Upon such recommendation, the Clearing House Risk Committee shall conduct a hearing and such clearing member shall show cause why its privileges should not be suspended. Upon finding that the minimum financial requirements are being violated, the Clearing House Risk Committee may suspend the privileges of such clearing member in accordance with the provisions of Chapter 4 of these rules. The CFTC shall be immediately notified of any clearing member which fails to meet the minimum financial requirements. Any suspended clearing member may appeal the decision of the Clearing House Risk Committee to the Board.

- F. If any Rule 106.H., I., J., N., R., or S. member firm:
- has notified the Exchange or the Exchange otherwise becomes aware of a significant event as defined in Rule 442; or
  - that is an FCM fails to meet CFTC minimum financial requirements in the opinion of the Financial and Regulatory Surveillance Department; or
  - neglects to promptly furnish a statement upon request,
- the membership privileges of the member firm may be suspended, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, or the President of Global Operations, Technology & Risk Chief Operating Officer. Any two of these individuals may reinstate the membership privileges of such a suspended member firm, in their discretion, if the suspended member firm provides evidence satisfactory to the Financial and Regulatory Surveillance Department of its financial responsibility or that it meets CFTC minimum financial requirements.

#### **975. EMERGENCY FINANCIAL CONDITIONS**

If the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House determines that the financial or operational condition of a clearing member or one of its affiliates is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the clearing member continues to meet the required minimum financial requirements, he may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk and the President of the Clearing House. ("Emergency Financial Committee") Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, (e) additional performance bond to be deposited with the Clearing House and/or (f) any other action necessary to protect the financial integrity of the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board pursuant to the procedures set forth in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a clearing member, Rule 913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

#### **976. SUSPENSION OF CLEARING MEMBERS**

If a clearing member becomes insolvent, the clearing member must immediately notify the Exchange of such insolvency. The insolvency shall be announced by the President of the Exchange, the President of Global Operations, Technology & Risk or the President of the Clearing House and thereupon such clearing member shall be deemed automatically suspended. If a member of the Clearing House becomes insolvent, or for other reasons is suspended from the Clearing House, the officers, owners or partners who are members of the Exchange may also be suspended from the Exchange.

A clearing member shall be deemed insolvent:

1. If it files a voluntary petition in bankruptcy or is adjudicated as bankrupt;
2. If it fails to fulfill or promptly adjust all of its Exchange obligations; or
3. If satisfactory proof is made to the Clearing House Risk Committee that it is unable to pay its debts as they fall due in the ordinary course of business.

A clearing member may be suspended by the Clearing House Risk Committee pursuant to Rule 403 if it fails to meet the capital requirements of the Clearing House or the CFTC, or if its financial condition, or the financial condition of one of its affiliates, is such that its continued operation would jeopardize the integrity of the Exchange. Members and clearing members suspended in accordance with this rule shall be notified and may request a hearing before the Board as provided in Rule 412.

#### **978. OPEN TRADES OF SUSPENDED CLEARING MEMBERS**

When a clearing member, having open trades, is suspended or expelled, it may designate a clearing member to close out such transactions through designated personnel and in a manner acceptable to the Clearing House.

When a clearing member that has open positions, defaults to the Clearing House in the deposit of performance bonds or settlements, or is suspended for insolvency, the President of the Exchange, [the President of Global Operations, Technology & Risk](#) or the President of the Clearing House, or their delegates, may appoint a clearing member to which all such open positions shall be transferred for liquidation, or may appoint a clearing member to liquidate such positions on behalf of such defaulted or suspended clearing member. If open positions are transferred, all supporting performance bond associated with the positions and any settlement payments due or collected must be delivered to the Clearing House, to be entrusted to the clearing member designated to liquidate the positions. The clearing member appointed to liquidate the positions shall have the right, under the direction of the President of the Clearing House, to buy or sell for the account of the suspended clearing member such contracts as may be necessary to clear the suspended clearing member's contracts with the Clearing House; the clearing member shall also have the right under the direction of the President of the Clearing House to make or take delivery.

#### **979. SUSPENDED OR EXPELLED CLEARING MEMBERS**

In the event a clearing member has been suspended or expelled, the clearing member shall comply with all orders of the Board, the Clearing House Risk Committee, the President of the Clearing House, [the President of Global Operations, Technology & Risk](#) or the President of the Exchange.

In the event of refusal by a clearing member to comply with any order placed upon it, the Clearing House may take whatever means necessary to effect the order.

A clearing member or any member suspended due to a clearing member's insolvency may be reinstated upon affirmative proof to the Clearing House Risk Committee of such clearing member's financial responsibility. A member may withdraw from the clearing member and may apply for reinstatement to membership in the Exchange provided that the insolvency of the clearing member was not caused by such member's willful, reckless or unbusinesslike conduct.