

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 16-346 (2 of 2)

Organization: Chicago Mercantile Exchange Inc. ("CME")

Filing as a: DCM SEF DCO SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 11/16/16 Filing Description: Amendments to CME Rule 743.B (Delivery Obligation Failure)

**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: CME Rule 743.B

**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:**

November 16, 2016

**VIA ELECTRONIC PORTAL**

Mr. 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. Amendments to CME Rule 743.B.  
("Delivery Obligation Failure")  
CME Submission No. 16-346 (2 of 2)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), Chicago Mercantile Exchange Inc. ("CME") hereby notifies the Commission that it is self-certifying amendments to CME Rule 743.B. ("Delivery Obligation Failure") (the "Rule Amendments"). The Rule Amendments will be effective on December 5, 2016.

CME is amending Rule 743.B. to better reflect the development of the spot market for the foreign exchange ("FX") market. Currently, the Clearing House utilizes the mean of spot rates from a group of banks in Chicago as part of the calculation of replacement cost that may be owed to a non-defaulting Clearing Member by the Clearing House in the case of an FX delivery failure. However, with the growth of the FX market globally, CME can observe spot prices that are transacted by banks regardless of their location. Therefore, when determining the price at which the Clearing House's replacement cost obligations will be calculated, CME will use spot market prices received from banks regardless of their locations.

**Core Principle Review**

CME reviewed the designated contract market core principles ("DCM Core Principles") and the derivatives clearing organization core principles ("DCO Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act") and identified that the Rule Amendments may have some bearing on the following principles:

- DCM Core Principle 7 – Availability of General Information. The Rule Amendments will be posted publicly on the CME Group website in satisfaction of this Core Principle. In addition, CME will release a notice to the marketplace regarding this proposal in advance of the effective date.
- DCM Core Principle 11 -- Financial Integrity of Transactions. The Rule Amendments continue to ensure the financial integrity of FX transactions that have a delivery obligation failure. The universe of counterparties for which spot prices can be obtained is being expanded beyond just those banks in Chicago, Illinois.
- DCO Core Principle E –Settlement Procedures. The Rule Amendments are consistent with the Clearing House's obligations to guarantee the replacement cost that the Clearing House could owe to a non-defaulting Clearing Member as a result of a delivery failure by a Clearing Member.

- DCO Core Principle L – Public Information. The Rule Amendments will be added to the publicly available CME Rulebook available on the CME Group website. In addition, CME will release a notice to the marketplace regarding the amendments in advance of the effective date.
- DCO Core Principle R – Legal Risk. CME has determined that the Rule Amendments are consistent with the requirement to have a well-founded, transparent and enforceable legal framework for each aspect of the activities of the DCO.

Exhibit A, which is attached hereto, sets forth the Rule Amendments in blackline format.

CME certifies that proposed changes comply with the Act and regulations thereunder. There were no substantive opposing views to this action.

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

If you require any additional information regarding this submission, please contact me at 212-299-2200 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 – Rule Amendments to CME Rule 743.B. (blackline format)

## Exhibit A

### CME Rulebook

#### Chapter 7

#### Delivery Facilities and Procedures

(additions underlined; deletions are ~~overstruck~~)

#### **743.B. Delivery Obligation Failure**

A clearing member with a CLS or Non-CLS Delivery Commitment who fails to perform all acts required by this chapter, or whose actions or inactions have been deemed a delivery obligation failure shall be liable for any loss sustained, which loss shall be computed, without duplication, as follows:

1. The President of the Clearing House or his designee shall determine the change, if any, from the final settlement price on the last day of trading to the spot rate on the first day on which the transaction could be consummated on the spot market. ~~The spot market rate for purposes of this computation shall be the mean of the spot rates between a group of Chicago, Illinois banks selected for this purpose by Exchange staff~~ at the earliest time it is determined that such a transaction ~~can~~ could be completed in the spot market.
2. The related charges suffered by the Clearing House at any of its designated banks.
3. A sum not to exceed 1% of the U.S. dollar value of the contract. Such amount shall be set by the President of the Clearing House or his designee, acting in his sole discretion, and shall be binding upon both parties to the contract, except no such sum shall be assessed where a delivery obligation failure is occasioned by the circumstances delineated in Rule 701.