

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 16-567 (4 of 5)

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): December 13, 2016 Filing Description: Amendments to CME/CBOT/NYMEX/COMEX Rules 814, 819, and 901.S and CME Rules 8H03, 8F003, 8H08

**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: See filing.

**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:

December 13, 2016

**VIA ELECTRONIC PORTAL**

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

**RE: CFTC Regulation 40.6(a) Certification. Notification Regarding Amendments to CME/CBOT/NYMEX/COMEX Rule 814 (“Settlements, Settlement Variation Payments, and Option Value”), CME/CBOT/NYMEX/COMEX Rule 819 (“Lien on Collateral”), CME/CBOT/NYMEX/COMEX Rule 901.S (“General Requirements and Obligations”), CME Rule 8H03 (“Classification of CDS Positions”), CME Rule 8F003 (“Classification of Positions”), CME Rule 8H08 (“Lien on CDS Collateral”), and CME Rule 8F008 (“Lien on Collateral”).  
NYMEX Submission No. 16-567 (4 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") (collectively, the "Exchanges") hereby notify the CFTC that they are self-certifying amendments to CME/CBOT/NYMEX/COMEX Rules 814, 819, and 901.S and CME Rules 8H03, 8F003, 8H08 and 8F008. The Exchanges are proposing these rule revisions in order to provide further clarity regarding the treatment of settlement variation and price alignment amount. The revisions will be effective December 30, 2016.

The revisions to CME/CBOT/NYMEX/COMEX Rule 814 define "outstanding exposure" and clarify that all payments in satisfaction of outstanding exposures are a settlement (within the meaning of CFTC Rule 39.14) and are final, irrevocable and unconditional no later than when the correct Clearing House bank account at the relevant settlement bank is debited or credited with the payment. The revisions also confirm when the outstanding exposure is settled and when the fair value of each Commodity is reset to zero for each class of clearing (Base Guaranty Fund Products, CDS Products and IRS Products) and for each clearing member's house account, its customer segregated account and its cleared swaps customer account. The revisions to CME/CBOT/NYMEX/COMEX Rule 819 and CME Rules 8H03, 8F003, 8H08, and 8F008 clarify the purpose and scope of the security interest and lien granted to the Clearing House by each clearing member. The revisions to CME/CBOT/NYMEX/COMEX Rule 901.S clarify when the obligation of a clearing member to pay settlement variation is satisfied and when the obligation of a clearing member to post performance bond is satisfied. These rule revisions do not change CME Clearing operations.

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 the "Act") and identified that the rule amendments may have some bearing on the following principles:

- DCO Core Principle E — Settlement Procedures: DCO Core Principle E requires a DCO to complete money settlements on a timely basis, but not less frequently than once each business day, and ensure that money settlements are final when effected. CFTC Regulation 39.14 defines “settlement,” requires a DCO to effect a settlement with each clearing member at least once each business day, and requires a DCO to ensure that settlements are final when effected by ensuring that it has entered into legal agreements that state that settlement fund transfers are irrevocable and unconditional no later than when the DCO’s accounts are debited or credited. CME will continue to comply with Core Principle E and CFTC Regulation 39.14.
- DCO Core Principle L — Public Information: The rule amendments will be posted publically on the CME Group website in satisfaction of this core principle. In addition, the Exchanges will release a notice to the marketplace regarding this proposal in advance of the effective date.
- DCM Core Principle 7 — Availability of General Information: The rule amendments will be posted publically on the CME Group website in satisfaction of this core principle. In addition, the Exchanges will release a notice to the marketplace regarding this proposal in advance of the effective date.

Exhibits A-G, which are attached hereto, set forth the applicable amendments to the rules, with additions underscored and deletions ~~overstruck~~.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6(a), the Exchanges certify that the rule amendments comply with the Act and regulations thereunder. There were no substantive opposing views to this proposal.

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>.

If you require any additional information regarding this submission, please e-mail [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com) or contact Jason Silverstein at 212-299-2228 or via e-mail at [Jason.Silverstein@cmegroup.com](mailto:Jason.Silverstein@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
 Managing Director & Chief Regulatory Counsel

Attachments: Exhibit A: Amendments to CME/CBOT/NYMEX/COMEX Rule 814  
 Exhibit B: Amendments to CME/CBOT/NYMEX/COMEX Rule 819  
 Exhibit C: Amendments to CME/CBOT/NYMEX/COMEX Rule 901.S  
 Exhibit D: Amendments to CME Rule 8H03  
 Exhibit E: Amendments to CME Rule 8F003  
 Exhibit F: Amendments to CME Rule 8H08  
 Exhibit G: Amendments to CME Rule 8F008

# **EXHIBIT A**

## **CME/CBOT/NYMEX/COMEX Chapter 8 Clearing House and Performance Bonds**

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

### **814. SETTLEMENTS, SETTLEMENT VARIATION PAYMENTS, AND OPTION VALUE**

When a clearing member or its customer is long or short any amount of any Commodity for a settlement cycle, as indicated by Clearing House records, settlement for any outstanding exposure shall be made with the Clearing House ~~based on the settlement price for that~~. A settlement cycle shall be conducted at least once each Business Day at such times as the Clearing House shall determine. For purposes of this Rule 814, "outstanding exposure" shall mean the obligations to pay, as applicable, any settlement variation payment and any other payments due in respect of a Commodity (including price alignment amount, coupon payments, option premiums and upfront fees and, for the avoidance of doubt, excluding any posting of performance bond).

Each clearing member ~~and~~ for its proprietary and customers positions shall pay to, or collect from, the Clearing House any loss or profit for non-option Commodities as a settlement variation payment, as the case may be, represented by the difference between (x) the settlement price of the Commodity for such settlement cycle and (y) the settlement price of the Commodity for the prior settlement cycle (or, for the first settlement cycle after the purchase/sale of such Commodity, the price at which the Commodity was purchased or sold).

Except as otherwise specifically provided for in the contract chapters, for Commodities that are options, the Clearing House will determine option value for each option and the net option value of each portfolio. For a settlement cycle, (i) if the net option value of the portfolio is positive, such amount may be used to satisfy performance bond requirements for the portfolio, (ii) if the net option value of a portfolio is negative, such amount will increase the performance bond requirements for the portfolio.

~~Once all settlements for a settlement cycle are final, the outstanding exposures for all Commodities subject to that settlement cycle shall be settled with the fair value of each Commodity reset to zero.~~

All payments in satisfaction of outstanding exposures must be paid in cash or any other form of payment approved by the Clearing House Risk Committee; shall be settlement (within the meaning of CFTC Rule 39.14); and shall be final, irrevocable and unconditional no later than when the correct Clearing House bank account at the relevant settlement bank is debited or credited with the payment. Payments in satisfaction of outstanding exposures shall not constitute "property, cash, securities or collateral deposited with the Clearing House" for purposes of Rules 819, 8F008 and 8H08 but, where such payments are retained by the Clearing House at the instruction of the Clearing Member, such payments shall be deemed to be property held by the Clearing House within the meaning of Section 761(10) of the US Bankruptcy Code.

For each of the Clearing House's classes of clearing (i.e., Base Guaranty Fund Products, CDS Products and IRS Products), once all payments in satisfaction of outstanding exposure between a clearing member and the Clearing House for a settlement cycle are final for any of the clearing member's house account, its customer segregated account or its cleared swaps customer account, the outstanding exposure between the clearing member and the Clearing House for all Commodities in such class of clearing in the respective account subject to that settlement cycle shall be settled, and the fair value of each such Commodity shall

then be reset to zero.

Notwithstanding the foregoing, the Clearing House shall not be required to pay any profit to a Participating Clearing Member in the event that such member or its Cross-Margining Affiliate fails to make any required settlement for that settlement cycle with a Cross-Margining Clearing Organization.

If the market conditions or price fluctuations are such that the Clearing House deems it necessary, it may call upon the clearing members, which in its opinion are affected, to ~~deposit~~pay funds ~~with~~to the Clearing House by such time and in such amount as specified by the Clearing House to meet such settlements as the Clearing House estimates may be necessary. The Clearing House may pay out funds to those clearing members that, in the opinion of the Clearing House, will have credit balances as a result of those same market conditions or price fluctuations; except that in no instance may the Clearing House pay out funds to a clearing member, other than at the regular settlement, in excess of the total original performance bond deposits it holds for such clearing member. All ~~deposits and~~ payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

~~Settlement variation, as figured to the market at such times as the Clearing House shall determine, must be paid in cash or any other form of collateral approved by the Clearing House Risk Committee. Each payment of variation margin for Commodities shall be a settlement (within the meaning of CFTC Rule 39.14) and shall be final on the earlier to occur of (1) the time when an irrevocable commitment to pay has been provided to the Clearing House by a settlement bank in a form or manner as approved by the Clearing House and (2) the time when the Clearing House's accounts are debited or credited with the settlement variation payment.~~

## **EXHIBIT B**

### **CME/CBOT/NYMEX/COMEX Chapter 8 Clearing House and Performance Bonds**

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

#### **819. LIEN ON COLLATERAL**

Each Clearing Member hereby grants to the Clearing House to secure obligations of such Clearing Member to the Clearing House a first priority and unencumbered security interest and lien against any property ~~and~~, cash, securities or collateral deposited with the Clearing House by ~~the~~such Clearing Member. Clearing Members shall execute any documents required by CME to create and enforce such lien.

## EXHIBIT C

### CME/CBOT/NYMEX/COMEX Chapter 9 Clearing Members

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

#### 901. GENERAL REQUIREMENTS AND OBLIGATIONS

S. The obligation ~~(s)~~ of a clearing member to pay settlement variation ~~and/or~~ during each settlement cycle is satisfied when all required cash is credited as a settlement variation payment into the correct CME bank account at the relevant settlement bank. The obligation of a clearing member to post performance bond during each clearing settlement cycle is not extinguished until satisfied when all required cash and/or collateral assets are deposited as performance bond into the correct CME bank account at the relevant custodial or settlement bank.

## **EXHIBIT D**

### **CME Chapter 8-H Credit Default Swaps Clearing**

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

#### **8H03. CLASSIFICATION OF CDS POSITIONS**

CDS Contracts submitted for clearing by a CDS Clearing Member for its proprietary account shall be assigned to and held in a proprietary account of such CDS Clearing Member. All collateral deposited as performance bond to support positions in the proprietary account of a CDS Clearing Member, ~~all variation margin payments received in respect of positions in such account,~~ any membership-equivalent deposit referenced in Rule 8H04.5, all CDS Guaranty Funds deposited with the Clearing House by such CDS Clearing Member, and any CDS Assessments deposited with the Clearing House by such CDS Clearing Member, including advanced assessments pursuant to Rule 8H802.C, is the property of the CDS Clearing Member and shall be subject to the Clearing House's lien and security rights as described in Rule 8H08.

CDS Contracts submitted for clearing for the account of a CDS Clearing Member's Cleared OTC Derivatives Customers shall be assigned and held in a Cleared OTC Derivatives Sequestered Account of such CDS Clearing Member. All CDS Clearing Members must comply with the requirements set forth in CME Rule 971 for such Cleared OTC Derivatives Sequestered Accounts.

Notwithstanding the foregoing, if the CFTC issues an order permitting CDS Clearing Members to commingle customer funds used to margin particular CDS Contracts that are cleared by CME with other funds held in CEA Section 4d(a)(2) customer segregated accounts, such positions may be held in the customer segregated accounts of a CDS Clearing Member and, if so held, all collateral deposited as performance bond to support such positions and all settlement ~~margin~~ variation ~~margin~~ payments made ~~from~~ to such accounts shall be commingled with similar property of regulated customers. All CDS Clearing Members must comply with the requirements set forth in CME Rule 971 for such customer segregated accounts.



# **EXHIBIT E**

## **CME Chapter 8-F Over-the-Counter Derivative Clearing**

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

### **8F003. CLASSIFICATION OF POSITIONS**

OTC Derivatives submitted for clearing by an OTC Clearing Member for its proprietary account shall be assigned to and held in a proprietary account of such Clearing Member. All collateral deposited as performance bond to support positions in the proprietary account of an OTC Clearing Member ~~and all variation margin payments made from such account~~ shall be deemed the property of the OTC Clearing Member and shall be subject to the Clearing House's lien and security rights as described in Rule 8F008.

OTC Derivatives submitted for clearing for the account of a Clearing Member's Cleared Swaps Customers shall be assigned and held in a Cleared Swaps Customer Account of such Clearing Member. All Clearing Members must comply with the requirements set forth in CME Rule 971 for such Cleared Swaps Customer Accounts.

Notwithstanding the foregoing, if the CFTC issues an order permitting OTC Clearing Members to commingle customer funds used to margin particular OTC Derivatives that are cleared by CME with other funds held in CEA Section 4d(a)(2) customer segregated accounts, such positions may be held in the customer segregated accounts of an OTC Clearing Member and, if so held, all collateral deposited as performance bond to support such positions and all settlement ~~variation margin~~ payments made ~~from to~~ such accounts shall be commingled with similar property of regulated customers. All Clearing Members must comply with the requirements set forth in CME Rule 971 for such customer segregated accounts.

## **EXHIBIT F**

### **CME Chapter 8-H Credit Default Swaps Clearing**

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

#### **8H08. LIEN ON CDS COLLATERAL**

Each CDS Clearing Member hereby grants to the Clearing House ~~a first priority and unencumbered lien to~~ secure ~~all~~ obligations of such CDS Clearing Member to the Clearing House a first priority and unencumbered security interest and lien against any property ~~and, cash, securities or~~ collateral deposited with the Clearing House by ~~the~~such CDS Clearing Member. Such lien shall be automatically released upon return of such property to the CDS Clearing Member. CDS Clearing Members shall execute any documents reasonably required by the Clearing House to create and enforce such lien, and the Clearing House shall execute any documents reasonably required by the CDS Clearing Member to effectuate any release of such lien.

## **EXHIBIT G**

### **CME Chapter 8-F Over-the-Counter Derivative Clearing**

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

#### **8F008. LIEN ON COLLATERAL**

Each OTC Clearing Member hereby grants to CME to secure obligations of such OTC Clearing Member to the Clearing House a first priority and unencumbered security interest and lien against any property, cash, securities or ~~other~~ collateral deposited with the Clearing House by the OTC Clearing Member. OTC Clearing Members shall execute any documents required by CME to create and enforce such lien.