

**SUBMISSION COVER SHEET**

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

Registered Entity Identifier Code (optional): 25-056

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

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 01/09/25 Filing Description: Weekly Notification of Rule Amendments (Week of December 30, 2024)

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- |                                     |                                     |            |
|-------------------------------------|-------------------------------------|------------|
| <input type="checkbox"/>            | Certification                       | § 40.6(a)  |
| <input type="checkbox"/>            | Approval                            | § 40.5(a)  |
| <input checked="" type="checkbox"/> | Notification                        | § 40.6(d)  |
| <input type="checkbox"/>            | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/>            | SIDCO Emergency Rule Change         | § 40.10(h) |

Rule Numbers: See filing.

**New Product**

Please note only ONE product per Submission.

- |                          |                                       |            |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Certification                         | § 40.2(a)  |
| <input type="checkbox"/> | Certification Security Futures        | § 41.23(a) |
| <input type="checkbox"/> | Certification Swap Class              | § 40.2(d)  |
| <input type="checkbox"/> | Approval                              | § 40.3(a)  |
| <input type="checkbox"/> | Approval Security Futures             | § 41.23(b) |
| <input type="checkbox"/> | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/> | Swap Submission                       | § 39.5     |

Official Product Name:

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

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

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

Rule Numbers:



Timothy Elliott  
Managing Director and Chief Regulatory Counsel  
Legal Department

January 9, 2025

**VIA ELECTRONIC PORTAL**

Mr. 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(d) Notification. Commodity Exchange, Inc. (“COMEX” or “Exchange”) Weekly Notification of Rule Amendments. COMEX Submission No. 25-056**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(d), the Exchange submits this weekly notification of the following rule amendments made effective during the week of December 30, 2024.

On December 12, 2024, the Exchanges submitted Submission No. [24-513](#) regarding Amendments to CME, CBOT, NYMEX/COMEX Chapters iii (“Definitions”) and 8 (Clearing House and Performance Bonds”) and CME Chapter 8G (“Interest Rate Derivative Clearing”) Regarding Default Management. On December 13, 2024, the Exchanges submitted Submission No. [24-346](#) regarding Amendments to CME, CBOT, NYMEX/COMEX Rule 802., CME Rules 8F002., and 8F014., and Adoption of New Definitions in CME, CBOT, NYMEX/COMEX Chapter iii and Rule 914. Regarding Mandatory Participation in Default Management Auctions for Base Clearing Members.

Due to the overlapping content and sequence of the submissions, certain changes to Rule 802 that were reflected in the subsequent submission (24-346) were rendered moot by the certification of the previous submission (24-513), which removed the relevant provisions from the Rulebook. In addition, numbering of the Chapter 9 rules was incorrect due to the chronology of the two submissions.

On January 3, 2025, the Exchanges made non-substantive, clerical corrections to Chapters 8 and 9. The final, clean versions of Chapters 8 and 9 are attached hereto as Exhibits A and B, respectively.

If you require any additional information, please contact the undersigned at (312) 466-7478 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Timothy Elliott  
Managing Director and Chief Regulatory Counsel

Attachments: Exhibit A – CME, CBOT, NYMEX/COMEX Rulebook Chapter 8 (clean version)  
Exhibit B -- CME, CBOT, NYMEX/COMEX Rulebook Chapter 9 (clean version)

**Exhibit A**

20 S Wacker Dr Chicago, IL 60606 T 312 466 7478 [tim.elliott@cmegroup.com](mailto:tim.elliott@cmegroup.com) [cmegroup.com](http://cmegroup.com)

## **CME, CBOT, NYMEX/COMEX Rulebooks**

### **Chapter 8 Clearing House and Performance Bonds**

#### **GENERAL**

##### **800. CLEARING HOUSE**

The Exchange shall maintain and operate a Clearing House in order to protect market participants and to maintain the integrity of the contracts traded on or processed through the Exchange. Membership in the Clearing House shall be a right and privilege granted by the Board of Directors which may, from time to time, establish such classes of membership in the Clearing House, together with the duties, rights and privileges thereof, as it deems necessary. Whenever these rules create a right in favor of the Clearing House, or impose a liability on the Clearing House, it shall be construed as the right or liability of the Exchange, and shall be enforced by or against the Exchange.

For purposes of these Chapter 8 rules and except as otherwise noted within a particular rule, all references to requirements, conditions or procedures of the Clearing House, shall be deemed to apply to contracts traded on or subject to the rules of an FBOT identified in Rule 8C04; the term "foreign futures" refers to futures and options on futures traded on or subject to the rules of such FBOT; and such FBOT is not a Participating Exchange.

For purposes of these Chapter 8 rules, each of the following constitutes a separate account class: (i) futures positions executed on or subject to the rules of an exchange that is registered with the CFTC as a designated contract market and performance bond amounts or other collateral held in an account consistent with section 4d(a) of the CEA and CFTC Regulations thereunder, along with any swaps or foreign futures positions and performance bond amounts or other collateral for such positions held in such account ("futures account class"); (ii) foreign futures positions and performance bond amounts or other collateral held in an account consistent with the CFTC Part 30 Regulations ("foreign futures account class"); and (iii) swap positions held in an account consistent with the CFTC Part 22 Regulations, along with any futures positions or foreign futures positions and performance bond amounts or other collateral for such positions held in such account ("cleared swaps account class").

Each account class is further divided into a customer class and a proprietary class. The Clearing House will hold customer positions of an FCM Clearing Member (i) in the futures account class, in segregated accounts protected under CFTC Regulation 1.20; (ii) in the foreign futures account class, in accounts protected under CFTC Regulation 30.7 ("secured accounts"); and (iii) in the cleared swaps account class, in cleared swaps customer accounts protected under the CFTC Part 22 Regulations.

##### **801. MANAGEMENT**

The Board has governance and oversight responsibility of the safety and efficiency of the Clearing House. With respect to the governance and oversight of the Clearing House, the responsibilities of the Board include approving the appointments of the Global Head of Clearing & Post-Trade Services and Chief Risk Officer of the Clearing House. The Board also has created the Clearing House Oversight Committee, which also has governance and oversight responsibility relating to the Clearing House as set forth in its written Charter. The Global Head of Clearing & Post-Trade Services shall be responsible for the daily operation of the Clearing House and the implementation of the rules applicable to the Clearing House. The Chief Risk Officer shall be responsible for implementing the risk management framework and its procedures, policies and controls and for making appropriate recommendations to the Board, the Clearing House Oversight Committee or relevant risk committees, as applicable, regarding the Clearing House's risk management functions. The Global Head of Clearing & Post-Trade Services and the Chief Risk Officer of the Clearing House may also delegate authority for certain aspects of their responsibilities to staff of the Clearing House. Clearing House staff shall adopt, establish, publish and amend from time to time a Clearing House Manual of Operations ("Manual"). This Manual shall contain, among other things, information and directions for preparing trade data, completing prescribed memoranda and meeting other Clearing House requirements. The Manual and amendments thereto shall constitute part of the rules of

the Exchange.

## **802. PROTECTION OF CLEARING HOUSE**

### **802.A. Default by Base Clearing Member or Other Participating Exchanges**

The Clearing House shall establish a guaranty fund (the "Base Guaranty Fund") for products other than IRS Products and any positions commingled with IRS Contracts pursuant to Rule 8G831 (such products, the "Base Guaranty Fund Products"). Each Base Clearing Member shall contribute to the Base Guaranty Fund in accordance with the requirements of Rule 816. A Base Clearing Member's Base Guaranty Fund contribution may be applied by the Clearing House in accordance with this Rule 802 to mitigate a Loss (as defined below) to the Clearing House attributable to cleared Base Guaranty Fund Products.

#### **1. Default by Base Clearing Member**

If a Base Clearing Member of CME, CBOT, NYMEX, COMEX, or an OTC Clearing Member (i) fails promptly to discharge any obligation to the Clearing House or (ii) becomes subject to any bankruptcy, reorganization, arrangement, insolvency, moratorium, or liquidation proceedings, or other similar proceedings under U.S. federal or state bankruptcy laws, any comparable non-U.S. laws, or other applicable law, the Clearing House may declare such Base Clearing Member to be in default. The Clearing House will post notice of a default declaration on CME Group Inc.'s public website. For purposes of this Rule 802, each default by a Base Clearing Member will be considered a separate default event, provided that if a Base Clearing Member has been declared in default, subsequent failures to pay by such defaulting Base Clearing Member shall not be considered separate default events unless and until the original default has been fully resolved and such Base Clearing Member has been restored to good standing.

Upon a default, the Clearing House shall act promptly to mitigate any loss caused by such default. The Clearing House may engage in any commercially reasonable transaction or action contemplated by the Rules and the Base Default Management Guidelines to manage, reduce, or eliminate the risk created by the default, including but not limited to, entering into hedges, liquidating positions in the market, auctioning or selling a portion or all of the portfolio of the defaulting firm and, if applicable, its customers, and combining or offsetting by book-entry positions in eligible accounts of one or more defaulters. The Clearing House shall maintain plans for managing the default of a Base Clearing Member (including but not limited to the Base Default Management Guidelines). A Base Clearing Member that clears or plans to clear Base Products at the Clearing House may obtain a copy of the Base Default Management Guidelines on a confidential basis.

With respect to each hedging or liquidation transaction in a contract that the Clearing House executes via book-entry, the provisions in the second paragraph of Rule 804 shall apply as if there were a substitution.

#### **2. Defaulting Base Clearing Member's Collateral**

Upon the default of a Base Clearing Member, Base Collateral shall be applied by the Clearing House to discharge any loss to the Clearing House associated with such default (a "Loss"). A Loss shall include, but shall not be limited to, costs associated with the liquidation, transfer and managing of Base Contracts of the defaulted Base Clearing Member, hedging costs and other costs incurred by the Clearing House related to managing the risk surrounding the default of the Base Clearing Member. The defaulting Base Clearing Member shall take no action, including but not limited to, attempting to obtain a court order that would interfere with the ability of the Clearing House to so apply such assets and proceeds.

If the Base Guaranty Fund contribution, performance bond relating to Base Guaranty Fund Products and other assets of a defaulted Base Clearing Member available to the Clearing House are insufficient to satisfy all of its obligations to the Clearing House, including all claims against the Clearing House by reason of its substitution for that Base Clearing Member pursuant to Rule 804 or Rule 8F05, the Clearing House shall nonetheless pay all such claims, which payments by the Clearing House shall be deemed a Loss to it (hereinafter "Loss") and which shall be a liability of the defaulting Base Clearing Member to the Clearing House, which the Clearing House may collect from any other assets of such Base Clearing Member or by process of law.

A Loss arising in the defaulted Base Clearing Member's proprietary account class shall be satisfied from the Base Collateral. A Loss resulting from any cleared swaps customer's cleared swap position in a Base Product held in a cleared swaps account shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held for the respective cleared swaps customer consistent with Part 22 of the CFTC's regulations (collectively, "Base Swap Customer Collateral"). A Loss resulting from any customer's position in any futures held in a futures segregated account, or any swap position in a Base Product or foreign futures position that is commingled with such futures positions in such segregated account, shall be satisfied by application of performance bond,

excess performance bond, other collateral and settlement variation gains held in the Base Clearing Member's customer account in a manner consistent with section 4d(a) of the CEA and CFTC Regulation 1.20 (collectively, "Base Futures Customer Collateral").

A Loss resulting from any customer's position in any foreign futures held in a secured account shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held in the Base Clearing Member's customer account in a manner consistent with Commission Regulation 30.7 (collectively, "Base Futures 30.7 Customer Collateral").

For purposes of this Rule, the positions in the cross-margin account of a Participating Clearing Member or its Cross-Margining Affiliate at a Cross-Margining Clearing Organization, and the performance bond thereon, shall be considered assets of the Participating Clearing Member available to the Clearing House to the extent provided in the Cross-Margining Agreement between the Clearing House and such Cross-Margining Clearing Organization. A Base Clearing Member in default shall immediately make up any deficiencies in its Base Guaranty Fund contribution resulting from such default and in any event no later than the close of business on the banking day following demand by the Clearing House.

### 3. Default by Other Participating Exchanges or Partner Clearinghouses

If a Participating Exchange or Partner Clearinghouse fails to promptly discharge any obligation to the Clearing House arising out of its obligations to the Exchange, such Participating Exchange's or Partner Clearinghouse's letters of credit, performance bonds and other assets available to the Clearing House shall be applied by the Clearing House to discharge the obligation, pursuant to the procedures set forth below in Rule 802.A.5 with respect to a defaulting Base Clearing Member. If such resources are insufficient to satisfy the Participating Exchange's or Partner Clearinghouse's obligations to the Clearing House, the deficiency shall be considered a Loss that is subject to satisfaction pursuant to Rule 802.B.

### 4. The Base Guaranty Fund

The Base Guaranty Fund shall be composed of the required Base Guaranty Fund contributions of Base Clearing Members pursuant to Rule 816, or any comparable security deposit contributions from a Participating Exchange or Partner Clearinghouse.

### 5. Application of Defaulting Base Clearing Member's Collateral

Upon a default, the Clearing House shall apply the defaulting Base Clearing Member's collateral to the deficiency.

i. Allocation of Assets. Subject to the provisions of 802.G, as of the cycle in which the default occurs, the Clearing House shall allocate assets of the defaulting Base Clearing Member as follows: (a) the defaulting Base Clearing Member's Base Guaranty Fund requirement (b) the defaulting Base Clearing Member's required performance bond amounts as of the prior clearing cycle, (c) any CME shares (whether common shares or class B shares) or any cash posted in lieu of such shares, and (d) any of the defaulting Base Clearing Member's other assets held by, pledged to or otherwise available to the Clearing House, including any amounts from IRS Products made available to the Base Guaranty Fund pursuant to Rule 8G802.D.

ii. Management of Obligations for Cycle of Default. As of the cycle in which the default occurs, the Clearing House shall aggregate the following assets of the defaulting Clearing Member: any excess Base Guaranty Funds, any excess performance bond from the prior clearing cycle, any partial payment by the Base Clearing Member for the default cycle, and any other available assets of the Base Clearing Member. Such unassigned assets shall be allocated first to any net settlement variation payment obligation of the defaulting Base Clearing Member to the Clearing House, pro rata across the customer and proprietary classes relative to the net settlement variation payment obligation for each account class. If the unassigned funds are not sufficient to satisfy the Base Clearing Member's settlement variation payment obligations for the default cycle, then the remaining settlement variation payment obligations for such clearing cycle shall be satisfied only from the assets allocated pursuant to 802.A.5.i. If the Clearing House is unable to satisfy a settlement variation payment obligation from such assets, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures in Rule 802.B.

iii. Payment Obligations as Losses are Finalized. During any subsequent clearing cycles in which the Clearing House is managing and/or liquidating open positions in respect of the defaulting Base Clearing Member, the Clearing House shall satisfy any settlement variation payment obligations owed by the defaulting Base Clearing Member to the Clearing House, or other realized losses of or expenses to the Clearing House with respect to the default only from the assets allocated pursuant to 802.A.5.i. Any settlement variation gain to the defaulting Base Clearing Member during such subsequent clearing cycles

shall be added to collateral pursuant to 802.A.5.i. The Clearing House shall apply such collateral to such payment obligations for all account classes, giving priority to customer account classes (i.e., customer accounts over proprietary accounts). If the Clearing House is unable to satisfy a settlement variation payment obligation to the Clearing House, or other realized loss or expense to the Clearing House, from the defaulting Base Clearing Member's collateral as set forth in this paragraph, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures in Rule 802.B. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting Base Clearing Member to satisfy a payment obligation to the Clearing House in respect of the defaulting Base Clearing Member's proprietary account, and shall not use performance bond amounts or other collateral held in one account class for customers of the defaulting Base Clearing Member to satisfy a payment obligation to the Clearing House in respect of another account class for customers of the defaulting Base Clearing Member.

Any gains or excess collateral within a segregated customer account class following final determination of the defaulting Base Clearing Member's losses shall remain segregated to the relevant customer account class, where it may be used to satisfy payment obligations arising from such account class, but shall not be added to the Base Clearing Member's collateral generally.

Any remaining unsatisfied obligations of the defaulting Base Clearing Member shall become Losses to the Clearing House that shall be satisfied as set forth below.

#### **802.B. Satisfaction of Clearing House Obligations**

If the Clearing House is unable, using the defaulting Base Clearing Member's collateral as set forth in Rule 802.A, to satisfy all of the Base Clearing Member's obligations to the Clearing House then such obligations shall be met and made good promptly by the Clearing House pursuant to this Rule 802.B. Such obligations include, but shall not be limited to, costs associated with the liquidation, transfer and managing of positions, arising out of: 1) its substitution (pursuant to Rule 804 or Rule 8F05) for a defaulting Base Clearing Member a defaulting Participating Exchange, or a defaulting Partner Clearinghouse; 2) a shortfall in a cross-margining program; 3) the failure of a depository, exchange or market apart from the Exchange but whose transactions are cleared pursuant to the provisions of Chapters 8B, 8C or 8F; or 4) any other cause. All of the foregoing shall be deemed Losses to the Clearing House. Losses shall be satisfied by the Clearing House in the order of priority hereafter listed. Non-defaulting Base Clearing Members shall take no actions, including but not limited to attempting to obtain a court order, that would interfere with the ability of the Clearing House to collect and apply assets and proceeds in accordance with this Rule 802.B. For purposes of this Rule 802.B, a default by a Participating Exchange or a Partner Clearinghouse shall be managed in the same manner as a default by a clearing member.

1. If the Base Collateral and the Base Customer Collateral, as applicable, are insufficient to cover the Loss produced by the default, the Clearing House shall cover, or reduce the size of, such Loss by applying the following funds to such losses in the order of the Base Priority of Payments, as follows:

- i. The corporate contribution of CME, which shall equal \$100,000,000 (the "CME Contribution").
- ii. The Base Guaranty Fund.
- iii. The Guaranty Fund contributions of non-defaulting Base Clearing Members, applied in the following manner:
  - a. The Base Guaranty Fund contribution of Subordinated Bidders equal to the relevant Aggregate Subordinated Amounts of such Subordinated Bidders applied on a pro rata application pursuant to this sub-section (a).
  - b. the (remaining Base Guaranty Fund of all other Base Clearing Members (excluding an amount of the Base Guaranty Fund of each Winning Bidder equal to the Final Aggregate Seniorized Amounts for such Winning Bidders) will be applied pro rata until the entire loss is allocated; then, to the extent not all losses have been applied after application pursuant to this subsection (b);
  - c. the (remaining) Base Guaranty Fund of all Winning Bidders, which is equivalent to the Final Aggregate Seniorized Amount, will be applied pro rata.

As used in this Rule 802.B:

“Aggregate Subordinated Amount” means the sum of all subordinated amounts as determined by the Clearing House in accordance with the Base Default Management Guidelines.

“Final Aggregate Seniorized Amount” means the sum of all seniorized amounts as determined by the Clearing House in accordance with the Base Default Management Guidelines.

“Subordinated Bidder” means in respect of each default management auction, the Mandated Base Clearing Member(s), voluntarily participating Base Clearing Members or Participating Base OTC Clearing Members whose Base Guaranty Fund, contribution is subject to subordination as determined by the Clearing House in accordance with Base Default Management Guidelines. The maximum subordination amount for purposes of this definition shall be the lesser of 100% of: x) the Subordinated Bidder’s Guaranty Fund contribution, or y) the defaulted Base Clearing Member’s Base Guaranty Fund contribution.

“Winning Bidder” means, in respect of each Default Management Auction, the Base Clearing Member(s) designated as such by the Clearing House with respect to such Default Management Auction.

iv. The balance of any Losses remaining after the application of the above funds shall be assessed against all Base Clearing Members (excluding any insolvent or defaulting clearing members). Each Base Clearing Member (excluding any insolvent or defaulting Base Clearing Member) shall be subject to an assessment up to an amount that does not exceed (A) a total of 275 per cent of such Base Clearing Member’s Base Guaranty Fund requirements at the time of the default with respect to Losses attributed to a single defaulted Base Clearing Member and (B) a total of 550 per cent of such Base Clearing Member’s Base Guaranty Fund requirements at the time of the default with respect to Losses attributed to all defaulted Base Clearing Members during a Base Cooling Off Period. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House’s assessment authority with respect to each clearing member.

2. [Reserved]

3. [Reserved]

4. [Reserved]

#### 5. Fedwire and Satisfaction of Assessment

All amounts assessed by the Clearing House against a Base Clearing Member pursuant to this Rule, during the hours in which the Federal Reserve’s wire transfer system (Fedwire) is in operation, shall be paid to the Exchange by such Base Clearing Member prior to the close of Fedwire on such day (regardless of any local business hours or local holidays in a jurisdiction where a Base Clearing Member is located); provided, however, that all amounts assessed within one (1) hour prior to the close of Fedwire shall be paid to the Exchange within one (1) hour after Fedwire next opens.

Any Base Clearing Member that does not satisfy an assessment, made pursuant to this paragraph 802.B.5 or paragraphs 802.B.1.v, 802.B.2.v, 802.B.3.v, 802.B.4.iv or 802.B.4.v above, shall be in default. Any Loss that occurs as a result of such default shall itself be assessed by the Clearing House to non-defaulting Base Clearing Members pursuant to the applicable paragraph.

If a Base Clearing Member (i) has made payment of all amounts assessed against it pursuant to this Rule 802.B in connection with any single default and any related default by any other Base Clearing Member with respect to its own assessment, (ii) has replenished any deficiency in its Base Guaranty Fund contribution in accordance with Rule 802.F, and (iii) within five (5) business days after making such payments, has satisfied the other conditions for withdrawal set forth in Rule 913.A, it may provide written notice of its application to withdraw from clearing membership pursuant to Rule 913. Upon receipt of such notice, provided that the foregoing conditions have been satisfied, the withdrawing Base Clearing Member shall not be subject to any residual assessment to cover Losses for defaults occurring after the related Base Cooling Off Period. Further, the Base Guaranty Fund contribution that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearing House pursuant to Rule 802.B that arises with respect to defaults occurring after the related Base Cooling Off Period, and the

withdrawing Base Clearing Member's Base Guaranty Fund contribution shall be released in accordance with Rule 913.

After payment of an assessment pursuant to Rule 802.B, a Base Clearing Member shall charge other clearing members for whom it clears contracts or carries positions on its books to recover their proportional share of the assessment. Such other Base Clearing Members shall promptly pay the charge.

#### 6. Details of Implementation

While adherence to the provisions of this Rule 802.B shall be mandatory, the detailed implementation of the process of finalizing Losses with respect to a default, including the liquidation, auction or sale of positions or assets of the defaulting Base Clearing Member, shall be conducted by the Clearing House in accordance with the Rules and the Base Default Management Guidelines.

In order to ensure that the process for liquidating open commodity contracts results in competitive pricing, to the extent feasible under market conditions at the time of liquidation, liquidation of open commodity contracts held for a house account or customer account of a defaulting Base Clearing Member may occur by one or more of the following methods: (a) book entry that offsets open commodity contracts on the books of the defaulting Base Clearing Member; (b) liquidation in the open market; and/or (c) one or more private auctions amongst qualified market participants invited by the Clearing House to submit confidential bids. The Clearing House shall have discretion to select the best bid submitted for any portfolio in an auction, based on the totality of the circumstances. All information received by a Base Clearing Member, its affiliate or customer in connection with the Clearing House's liquidation and default management processes shall be treated as confidential.

In the event that identical customer commodity contracts are liquidated in the open market on the same date but cannot be liquidated at the same price, unless the Clearing House determines that it would be inappropriate, a weighted average of the liquidation prices for such contracts shall be used in determining the value of the liquidated commodity contracts for each such customer. In the event that open commodity contracts of multiple customers are liquidated in a bulk auction, the net proceeds of such auction shall be allocated on a pro rata basis amongst the affected customers based upon their applicable performance bond requirements for the clearing cycle immediately prior to the default.

#### 7. Modifications of Clearing House's Obligations for Base Contracts

(a) If at any time following a default of a Base Clearing Member, the assets available to cover the default under the preceding sections of Rule 802 are insufficient to satisfy the Loss and obligations of the Clearing House to Base Clearing Members as a result of such default, then the Clearing House shall, in a manner that is consistent with the requirements of the Commodity Exchange Act and the regulations adopted thereunder, conduct its next settlement cycle as described in Rule 802.B.7(b).

(b) The Clearing House shall issue a Clearing Advisory Notice and conduct a settlement cycle to determine settlement prices for all Base Contracts and the net portfolio gain or loss for each Base Clearing Member and its customers, in accordance with the following:

(i) The net portfolio gain of a Base Clearing Member (a "collect"), or the net portfolio loss of a Base Clearing Member to the Clearing House (a "pay") shall be determined separately:

(A) For the Base Clearing Member's proprietary positions in Base Contracts (the net portfolio gain or net portfolio loss for such positions, "Proprietary Base Collects" or "Proprietary Base Pays"),

(B) For a Base Clearing Member that is an FCM, for (i) the futures positions of the Base Clearing Member's customers in Base Contracts held in a futures segregated account and (ii) any swap positions or foreign futures positions of such customers that are commingled with such futures positions in such account (the net portfolio gain or net portfolio loss for such positions described in (i) and (ii) collectively, "Customer Futures Collects" or "Customer Futures Pays").

(C) For a Base Clearing Member that is an FCM, for (i) the swap positions in Base Contracts of each customer of the Base Clearing Member held in a cleared swaps customer account for such customer and (ii) any Commingled Futures Positions (as such term is defined in Rule 8G831) for each customer (the net portfolio gain or net portfolio loss for such swap positions and Commingled Futures Positions



described in (i) and (ii) collectively, "Individual Customer Swap Collects" or "Individual Customer Swap Pays").

(D) For a Base Clearing Member that is an FCM, for the foreign futures positions of the Base Clearing Member's customers held in a secured account (the net portfolio gain or net portfolio loss for such positions, also the "Customer Futures Collects" or "Customer Futures Pays," provided, however, that the Clearing House will determine the Customer Futures Collects and Customer Futures Pays separately for a Base Clearing Member's futures account class and foreign futures account class.

(ii) The Clearing House Oversight Committee (after considering any recommendation of the Emergency Financial Committee) may determine a maximum amount of position liquidation payments that may be included in the Aggregate Base Collects, based upon then existing facts and circumstances, that it deems appropriate to mitigate further disruptions to the markets.

(iii) The Clearing House shall notify each Base Clearing Member of the amount of its remaining Base Assessments, Proprietary Base Pays, Customer Futures Pays and Individual Customer Swap Pays and each Base Clearing Member shall pay all such amounts no later than the time required for the relevant settlement cycle. If a Base Clearing Member does not pay all such amounts to the Clearing House, the Clearing House shall determine such Base Clearing Member to be in default and may take any of the actions specified in Rule 802.A. with respect to such Base Clearing Member and its customers.

(iv) If the amount of Aggregate Base Available Funds received by the Clearing House exceeds the Aggregate Base Collects, the Clearing House shall calculate reimbursements of, and distribute, the excess funds, in reverse order of the utilization of Base Priority of Payments.

(v) If the amount of the Aggregate Base Collects exceeds the amount of Aggregate Base Available Funds received:

(A) the Clearing House shall notify Base Clearing Members and provide an opportunity for Base Clearing Members and their customers to make voluntary contributions to the Clearing House.

(B) If the amount of the Aggregate Base Collects continues to exceed the amount of Aggregate Base Available Funds after the Clearing House adds any voluntary contributions from Rule 802.B.7(b)(v)(A) to the Aggregate Base Available Funds, then the Clearing House shall apply Base Gains Haircuts (as defined below) to the Proprietary Base Collects, Customer Futures Collects and Individual Customer Swap Collects for the current settlement cycle and each successor settlement cycle on the current Business Day and, unless a Bankruptcy Event has occurred, each of the next two Business Days, in accordance with the following:

Proprietary Base Collects, Customer Futures Collects and Individual Customer Swap Collects each shall be reduced on a pro rata basis according to the amount of such collects, to equal the amount of Aggregate Base Available Funds received relative to Proprietary Base Collects, Customer Futures Collects, and Individual Customer Swap Collects (such process, a "Base Gains Haircut").

Customer Futures Collects shall be haircut by the Clearing House at the customer account class level of each Base Clearing Member. Each Base Clearing Member shall allocate the haircut of its Customer Futures Collects pro rata among its customer with net portfolio gains for the relevant settlement cycle;

(C) The Clearing House Oversight Committee may instruct the Clearing House to extend or reduce the number of days during which Base Gains Haircuts are applied by one or two Business Days, provided that in no circumstance may the Clearing House conduct settlement cycles in which Base Gains Haircuts are applied for longer than five Business Days. Before providing such instruction, the Clearing House Oversight Committee must consider any recommendation of the Emergency Financial Committee. Any recommendation of the Emergency Financial Committee and the decision of the Clearing House Oversight Committee, each regarding adjusting the duration of settlement cycles with Base Gains Haircuts, must be based upon then existing facts and circumstances, be in furtherance of the integrity of the Clearing House and the stability of the financial system, and take into consideration the legitimate interests of Base Clearing Members and market participants;

(D) For each settlement cycle conducted in accordance with this subparagraph (v), absent a Bankruptcy Event, the Clearing House shall pay the haircut Proprietary Base Collects, Customer Futures Collects, and Individual Customer Swap Collects to Base Clearing Members as soon as practicable after receipt

of the Aggregate Base Available Funds. Subject to applicable law, the Clearing House will make arrangements to pay the customers of a defaulted Base Clearing Member; and

(E) If a Bankruptcy Event occurs following a default of a Base Clearing Member on a day during which Base Gains Haircuts are applied to settlement cycles, on the day of the Bankruptcy Event, the Clearing House shall conduct a final settlement cycle which shall be subject to a Base Gains Haircut. The price determined in accordance with such settlement cycle shall be used as the price for a Base Contract when netting and closing out pursuant to Rule 818.

#### 8. Base Partial Tear-Ups and Base Full Tear-Ups

(a) The Clearing House may, at any time following a default of a Base Clearing Member, notify Base Clearing Members and provide an opportunity for Base Clearing Members to voluntarily agree to have their proprietary positions or, with a customer's consent, to agree to have each such customer's positions, extinguished by the Clearing House.

(b) If proprietary or customer positions in Base Contracts of a defaulted Base Clearing Member remain open (the "Remaining Open Base Positions") following the last settlement cycle conducted pursuant to Rule 802.B.7(b)(v), the Clearing House shall extinguish the Remaining Open Base Positions through a partial tear-up process ("Base Partial Tear-Up") or a full tear-up process ("Base Full Tear-Up") of proprietary and customer positions of non-defaulted Base Clearing Members and non-defaulted customers of the defaulted Base Clearing Member in accordance with the following:

(i) The Clearing House Oversight Committee shall determine the appropriate scope of each Base Partial Tear-Up or shall determine that a Base Full Tear-Up is appropriate. Before making such determination, the Clearing House Oversight Committee must consider any recommendation of the Emergency Financial Committee. Any recommendation of the Emergency Financial Committee and each determination of the Clearing House Oversight Committee made for purposes of this Rule 802.B.8 must:

(A) be based upon then existing facts and circumstances;

(B) be in furtherance of the integrity of the Clearing House and the stability of the financial system;

(C) take into consideration the legitimate interests of Base Clearing Members and market participants; and

(D) aim to extinguish Remaining Open Base Positions and any additional positions in Base Contracts deemed necessary to mitigate further disruptions to the markets affected by the Remaining Open Base Positions.

(ii) A Base Partial Tear-Up may include, but need not be limited to, the following methods:

(A) Line-by-Line Tear-Up Against the Remaining Open Base Positions.

Proportionately extinguish Base Contracts held by non-defaulted Base Clearing Members, their non-defaulted customers and the non-defaulted customers of the defaulted Base Clearing Member that are opposite to the Remaining Open Base Positions and relative to the size of the Remaining Open Base Positions; and

(B) Tear-Up of All Positions in Base Contracts within a Product or Combination of Products. Extinguish all open positions in Base Contracts for a product or combination of products.

(iii) A Base Full Tear-Up would involve the extinguishment of all open positions in Base Contracts.

(c) In connection with any settlement cycle with Base Gains Haircuts, the Clearing House Oversight Committee may instruct the Clearing House to extinguish a portion of the Remaining Open Base Positions through a Base Partial Tear-Up of proprietary and customer positions of non-defaulted Base Clearing Members and non-defaulted customers of the defaulted Base Clearing Member. The Clearing House Oversight Committee would determine the appropriate scope of each such Base Partial Tear-Up in accordance with the procedures set forth in Rule 802.B.8(b)(i) and (ii), except that each reference to "Remaining Open Base Positions" shall mean the relevant portion of Remaining Open Base Positions.

#### 9. Limited Recourse for Base Guaranty Fund Products

If a default occurs, Base Collateral, Base Customer Collateral and the Base Priority of Payments shall be the sole source of payments to cover the Loss until the default is fully and finally resolved, as applicable. In the event the Base Collateral, Base Customer Collateral and the Base Priority of Payments are insufficient to cover the Loss, regardless of whether the CME is able to require a Base Clearing Member

to cure a deficiency in the Base Guaranty Fund because of the occurrence of a Bankruptcy Event (as such term is defined in Rule 818.A.), Base Clearing Members and the holders of Base Contracts shall have no recourse to any other funds or any other entity, including without limitation the guaranty funds that support clearing of other products, CME, CME Group Inc. or any of its affiliates, other than any amounts recovered as described in Rule 802.E.

#### 10. No Claims Against the Exchange or Clearing House

(a) Base Clearing Members, their affiliates and their customers shall have no claim against the Exchange, CME Group Inc. or any affiliates of the Exchange or CME Group Inc., or any directors, officers or employees of any of the foregoing, including but not limited to claims against any other guaranty fund established by the Exchange, CME Group Inc. or any of its affiliates with respect to losses suffered as a result of the application of any provision in this Rule 802.B. No beneficial holder of a Base Contract shall have any claim against its non-defaulted Base Clearing Member as a result of the application of this Rule 802.B. other than any amounts recovered as described in Rule 802.E.

(b) Notwithstanding anything in subparagraph (a), Base Clearing Members, for both their proprietary positions in Base Contracts and their customers' positions in Base Contracts, and non-defaulted customers of defaulted Base Clearing Members will have a claim on any recovery from the defaulted Base Clearing Member or the estate of the defaulted Base Clearing Member in the amount of the Base Gains Haircuts, in the aggregate, applied to such positions (such amount with respect to all non-defaulted Base Clearing Members and their customers and the non-defaulted customers of the defaulted Base Clearing Member, "Aggregate Base Gains Haircuts"), as set forth more fully in Rule 802.E. If the recovery from the defaulted Base Clearing Member is less than the Aggregate Base Gains Haircuts, non-defaulted Base Clearing Members and their customers and the non-defaulted customers of defaulted Base Clearing Members will share pro rate in the recovery.

#### 11. Non-Petition

No Base Clearing Member and no customer of a Clearing Member shall institute against, or join any other person in instituting against, the Exchange any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or examinership proceedings, or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law arising out of any claimed default by the Clearing House on a Base Contract as a result of the extinguishment of such Base Contract and related payments in accordance with these Rules.

#### **802.C. Application of Funds to Avoid Clearing House Insolvency**

If at any point following a default, the Clearing House will be unable to timely fulfill its obligations following application of the funds described above in the priority described above, such that the Clearing House is in imminent danger of defaulting on its obligations or being declared insolvent, then the Clearing House shall be entitled to apply to such obligation any available funds from the defaulting Base Clearing Member's collateral, the CME Contribution, or the Base Guaranty Fund, in the foregoing order of priority, if necessary to avoid a default by the Clearing House or a declaration of its insolvency. Such use of funds may only be made (i) if the Clearing House reasonably concludes that there is a reasonable expectation that (A) the use of such funds will satisfy the immediate obligation and avoid a default or insolvency and (B) that the remaining funds in the overall financial safeguards package (including assessment powers) will be sufficient to satisfy the finalized Losses, and (ii) the Clearing House reaches such conclusion in consultation with the Clearing House's primary regulator as to the specific facts, circumstances and estimates of Losses supporting such conclusion. In such case, the Clearing House shall restore the funds so employed to the CME Contribution segments, or the Base Guaranty Fund from which they were drawn promptly following receipt by the Clearing House of assessment payments or any other amounts that become available to it in respect of obligations arising out of the defaulted Base Clearing Member's default.

#### **802.D. Utilization of Remaining Base Collateral of Defaulted Base Clearing Member; Restoration of Funds Following Final Determination of Losses**

1. After the default of a Base Clearing Member is finally resolved, excess Base Collateral of the Base Clearing Member may be used by the Clearing house for losses to the Clearing House of such clearing

member for IRS Products on a pro rata basis based on the amount of any unresolved losses for such product classes.

2. If after the default of a Base Clearing Member is finally resolved, the Clearing House determines that collateral of the defaulting Base Clearing Member, the CME Contribution, the Base Guaranty Fund, or assessment powers were employed in a manner different from what would have occurred had all assets been secured and liquidated immediately and all Losses finalized simultaneously, then the Clearing House shall make appropriate distributions to the non-defaulting firms whose Base Guaranty Funds were applied or who were assessed.

**802.E. Rights of Exchange for Recovery of Loss**

Losses caused by the default of a Base Clearing Member, Participating Exchange or Partner Clearinghouse are amounts due to the Clearing House from such Base Clearing Member, Participating Exchange or Partner Clearinghouse and shall remain legal obligations thereof notwithstanding the Clearing House's recourse to the loss-mutualization provisions of this Rule 802, and the Clearing House shall take commercially reasonable steps to recover (including claims submitted in an insolvency or resolution proceeding) such amounts. If any portion of these amounts is subsequently recovered by the Exchange, the net amount of such recovery shall be credited to non-defaulted Base Clearing Members (whether or not they are still clearing members at the time of recovery) in the following order on a pro rata basis based on (1) the amount of their (and their customers', if applicable) voluntary contributions with respect to such default, (2) the amount of their (and their customers', if applicable) Aggregate Base Gains Haircuts with respect to such default, (3) the amount of their Base Assessments utilized by the Clearing House with respect to such default, and (4) the amount of their guaranty fund contribution utilized by the Clearing House with respect to such default, each in the order listed, and then to the Exchange for the amount of the CME Contribution utilized by the Clearing House with respect to such default.

**802.F. Guaranty Fund Contributions to be Restored**

In the event it shall become necessary to apply all or part of the Base Guaranty Fund contributions to meet obligations to the Clearing House pursuant to this Rule 802, Base Clearing Members shall restore their contribution to the Base Guaranty Fund to previously required level prior to the close of business on the next banking day.

**802.G. Default Management Across Account Classes**

The procedures set forth in 802.A and 802.B shall be conducted separately by the Clearing House with respect to open positions and associated performance bond contributions for different account classes (futures, foreign futures and cleared swaps). Upon a default, the Clearing House may, in accordance with applicable law, act immediately to attempt to transfer to alternate Base Clearing Members part or all customer positions and associated collateral with respect to any customer account class in which there is no default on payment obligations or shortfall in required collateral, and in such cases the Clearing House shall not apply segregated customer collateral to any payment obligations or Losses arising from a default in any proprietary account or a different customer account class.

1. If a default occurs in a customer futures account, the Clearing House has the right to liquidate and apply toward the default all open positions and customer performance bond deposits in the futures account class of the defaulting Base Clearing Member. Accordingly, positions and performance bonds deposited by customers not causing the default are at risk if there is a default in the futures account class of their Base Clearing Member. If the Clearing House liquidates positions and/or collateral in the futures account class, any collateral remaining after application to Losses in respect of such account class shall be reserved to the futures account class in order to satisfy the claims of non-defaulting customers in accordance with applicable law. If the Clearing House liquidates positions and/or collateral in the foreign futures account class, any collateral remaining after application to Losses in respect of such account class shall be reserved to the foreign futures account class in order to satisfy the claims of non-defaulting customers in accordance with applicable law.

2. In order to minimize disruptions and loss to its public customers if a Base Clearing Member defaults, each Base Clearing Member shall cause its cleared swaps customers to establish arrangements to directly make all required performance bond and settlement variation payments directly to the Clearing

House and to keep current and on file with the Clearing House any direction to transfer its open positions and collateral to another Base Clearing Member.

3. The Clearing House shall treat positions and collateral of the cleared swaps customers of a Base Clearing Member, which has been declared to be in default, in accordance with Part 22 of the CFTC's regulations. Immediately after the default of a Base Clearing Member, the Clearing House shall cease netting settlement variation among the cleared swaps customers of the defaulted Base Clearing Member.

4. If the Clearing House ceases to net settlement variation margin of the customers of a defaulted Base Clearing Member, the Clearing House will calculate the settlement variation margin obligation owed to each cleared swaps customer ("collects"), and also calculate the settlement variation margin obligation owed to the Clearing House by each cleared swaps customer ("pays"). The Clearing House will establish a holding account for settlement variation margin collects owed to each cleared swaps customer or, subject to necessary approvals, pay such settlement variation margin collects directly to each cleared swaps customer. The Clearing House will collect cleared swaps customer settlement variation margin pays from the following sources:

(i) Directly from the obligated cleared swaps customer in accordance with the arrangements established pursuant to 802.G.2 or by attaching any excess collateral attributable to that customer;

(ii) By means of liquidating the collateral supporting the cleared swaps customer's position attributed to a cleared swaps customer that fails to make a required settlement variation payment when due. The proceeds of such liquidation shall be used to meet the cleared swaps customer's settlement variation pay obligation to the clearing house. (If the collateral is liquidated, the positions supported by the collateral shall be promptly liquidated.);

Any unmet cleared swaps customer obligation to the Clearing House will be a "Loss," per 802.A.2, and will be cured in accordance with the provisions of 802.B.

5. The Clearing House shall rely on its own books and records to identify the portfolio of rights and obligations arising from the positions of each cleared swaps customer. To the extent the Clearing House's books and records are not available or the Clearing House determines that its books and records are not accurate, the Clearing House shall rely on the information provided by the defaulted Base Clearing Member to identify the portfolio of rights and obligations arising from the positions for each of its cleared swaps customers.

6. Upon liquidating the defaulting Base Clearing Member's proprietary account, any remaining collateral may be applied by the Clearing House to Losses remaining in the defaulting Base Clearing Member's customer account classes. If the defaulting Base Clearing Member has more than one customer account class that has been declared to have defaulted, proceeds from the defaulting Base Clearing Member's proprietary account shall be divided by the Clearing House pro rata among such customer account classes, based on their applicable performance bond requirements for the clearing cycle immediately prior to the default.

#### **802.H. Base Cooling Off Period and Multiple Defaults**

The provisions set forth in Rule 802.A and 802.B shall apply with respect to each default by a Base Clearing Member. If more than one Base Clearing Member default occurs at a time or in close sequence, including a default that occurs by reason of a Base Clearing Member's failure to satisfy an assessment demand, the Clearing House shall manage the defaults separately. Upon any default, non-defaulted Base Clearing Members shall be subject to a maximum obligation during the relevant Base Cooling Off Period to contribute to the Base Guaranty Fund and to fund assessments as set forth in Rule 802.B. This maximum shall apply from the date of the original default until the later of (i) the 5th Business Day thereafter and (ii) if another Base Clearing Member defaults during the 5 Business Days following the initial or any subsequent default, the 5th Business Day following the last such default (such period, the "Base Cooling Off Period"), regardless of the number of defaults that occur during such Base Cooling Off Period.

The aggregate maximum contribution for the Base Cooling Off Period shall be based upon each Base Clearing Member's Base Guaranty Fund requirement and assessment exposure in effect at the commencement of the Base Cooling Off Period. The maximum does not limit clearing members' obligations to restore their Guaranty Fund contributions as set forth in Rule 802.F, except that if the Base Clearing Member's required Guaranty Fund contribution would exceed such maximum, the Base Clearing Member's Base Guaranty Fund requirement shall be reduced accordingly for the remainder of the Base Cooling Off Period. Following a Base Cooling Off Period, the Clearing House shall notify each clearing member of its Base Guaranty Fund deposit obligation and its assessment exposure.

The CME Contribution to the Base Guaranty Fund shall be limited to an aggregate maximum of \$100,000,000 during the Base Cooling Off Period. The Board may, at its discretion, authorize additional funds be added to the CME Contribution during the Base Cooling Off Period.

**803. LIMITATION OF LIABILITY**

The liability of the Clearing House shall be limited to losses resulting from the substitution of the Clearing House upon contracts between clearing members and to losses in connection with substitution of another Participating Exchange for clearing members (i.e., the Mutual Offset System), and to losses in connection with amounts due and owing from a Partner Clearing House. The Clearing House shall not be liable for any other obligations, including but not limited to, obligations of a non-clearing member, obligations of a clearing member to a non-member, obligations of a clearing member to another member of the Clearing House who is acting for them as broker, or obligations to a customer by a clearing member; nor shall the Clearing House become liable to make deliveries to or accept deliveries from a customer of its clearing members.

**804. SUBSTITUTION**

Except with respect to trades made pursuant to Rules 526, 538 and 853 or as otherwise expressly provided in the Rules, the Clearing House shall, through the process of novation, be substituted as, and assume the position of, seller to the buyer and buyer to the seller of the relevant number of Exchange or Marketplace contracts upon the successful matching of trade data submitted to the Clearing House by the clearing members on the long and short sides of a trade. With respect to contracts that are traded on and matched by another exchange or market, the Clearing House shall be substituted as, and assume the position of, seller to buyer and buyer to seller of the relevant number of such contracts upon matching of trade data submitted to and accepted by the Clearing House.

Upon such substitution, each clearing member shall be deemed to have bought the contracts from or sold the contracts to the Clearing House, as the case may be, and the Clearing House shall have all the rights and be subject to all the liabilities of such member with respect to such transaction. Such substitution shall be effective in law for all purposes.

With regard to trades made pursuant to Rules 526, 538 and 853, the Clearing House shall be substituted at the time payment of the first settlement variation and performance bond due for such trades pursuant to Rule 814 is confirmed by the appropriate settlement bank for both members.

**805. OPEN POSITIONS**

All contracts for the purchase or sale of any product for future delivery shall remain open and in force, and shall continue to be binding upon the original parties until liquidated by offset as provided in Rule 806 or by delivery or failure to perform as provided in Chapter 7 or until liquidated by the Clearing House in managing the default of a clearing member as contemplated in the Rules..

**806. OFFSET PROCESS**

When a member buys and sells the same commodity for the same delivery month or a put or call option with the same strike price and expiration month and such contracts are cleared through the Clearing House, the purchases and sales are not automatically offset one against the other. Transactions can only be offset against one another by complying with Rule 811, and, once offset (closed-out), may not subsequently be re-opened at the Exchange.

**807. OPEN LONG POSITIONS DURING DELIVERY MONTH**

At such times and in such manner as shall be prescribed by the Manual, clearing members shall submit a complete and accurate record of dates of all open purchases for use in making deliveries. Clearing members shall be fully responsible for inventories submitted to the Clearing House.

This rule shall not apply to trading in options contracts.

## **808. PROCEDURES FOR TRADE SUBMISSION ON CME CLEARPORT**

### **808.A. Scope of Rule**

This Rule governs transactions not competitively executed on the Exchange ("Transactions") that are submitted via CME ClearPort for clearing in connection with a contract that is listed on the Exchange for clearing only or listed for trading and clearing on the Exchange. For purposes of this Rule, the two parties to the Transaction shall be referenced as the "Parties to the Transaction."

### **808.B. Compliance with Regulatory Exemptions and Exclusions**

Each of the Parties to the Transaction shall be responsible for ensuring that, where applicable, the Transaction complies with CFTC regulatory requirements or, in the case of foreign futures, with regulatory requirements in the jurisdiction in which the exchange listing the contracts is located.

### **808.C. Block Trades or Exchange for Related Position Transactions**

The process of submission of a block trade or an exchange for related position Transaction ("EFRP") executed pursuant to Rules 526 or 538, as applicable, shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Clearing House as a block trade or an Exchange of Futures for Physical ("EFP"), an Exchange of Futures for Risk ("EFR") or an Exchange of Options for Options ("EOO"), as applicable, pursuant to the provisions of this Rule and the requirements of Rule 804.

### **808.D. OTC Derivatives Transactions Submitted for Clearing**

CME ClearPort allows for the submission of off-Exchange OTC derivatives Transactions that the Exchange has designated as eligible for clearing only. Such Transactions are subject to the Rules of the Exchange applicable to such cleared-only products.

### **808.E. Trade Submission Procedures**

All Transactions submitted to the Exchange pursuant to this Rule must be submitted in accordance with the procedures established by the Exchange and the Clearing House for this purpose, as amended from time to time. The Parties to the Transaction and any Party authorized under Section F. of this Rule with brokering capability ("Broker" or "Brokers") to submit executed transactions on behalf of Parties to the Transaction to the Exchange shall be responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Additionally, Brokers submitting Transactions on behalf of Parties to the Transaction remain responsible for ensuring that such Transactions are accurately and timely submitted in accordance with the requirements of applicable Exchange Rules and requirements of the Clearing House. Once submitted, such transactions may not be modified except in accordance with Section H. of this Rule. The Exchange has no responsibility with respect to the confirmation of trade terms for the Transactions, and the Clearing Members carrying the account of the Parties to the Transaction shall only be responsible for the confirmation required pursuant to Rule 957.

### **808.F. CME ClearPort Registration Requirements**

Each Clearing Member must register with the Exchange in the manner required for any customer authorized by the Clearing Member to submit transactions to the Exchange pursuant to this Rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account must also submit to the Exchange the name of any Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed Transactions to the Exchange. For any such Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the Broker. Moreover, submission of Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized Brokers, and the Clearing Member will have no responsibility for any such Brokers selected by the customer and no duty or obligation to supervise the activities of any such Brokers.

### **808.G. Establishment of Authorized Commodities and Account Risk Limit(s)**

With the exception of Interest Rate Swap (“IRS”) Transactions, for each account number that has been registered with the Exchange pursuant to Section F. of this Rule, a Clearing Member must also input into the CME Account Manager system an authorization identifying the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this Rule and the account risk limit(s) assigned by the Clearing Member for Transactions for that account.

**808.H. Trade Deletion Procedures for Transactions Submitted via CME ClearPort**

Following submission of the trade details by Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within three Business Days of the time of the initial submission of the Transaction to the Exchange. Notwithstanding the provisions of this Section, the Parties to the Transaction and any Broker authorized by the Parties to the Transaction pursuant to Section E. of this Rule may be subject to sanctions pursuant to Rule 512 for the inaccurate, incomplete or untimely submission of the Transactions to the Clearing House.

**808.I. Entry of Transactions**

For a Transaction submitted to the Exchange pursuant to this rule, such Transaction will first be routed to the Exchange's credit check system. The time of entry of a Transaction into the Exchange's system will be recorded by the system and will be used by the Exchange as the time that a credit check was conducted pursuant to Section J. below.

**808.J. Use of Credit Check System**

The Exchange will conduct a credit check for each Transaction. The credit check will confirm whether the Clearing Member carrying that account has authorized that account for Transactions submitted pursuant to this Rule in the commodity involved in the Transaction, and confirm whether the entry of the Transaction into clearing would fall within the account risk limit(s) established by the Clearing Member. At all times until both sides (Buy and Sell) of the Transaction have successfully cleared the credit check and the Clearing House has been substituted as the counterparty to the Transaction pursuant to Rule 804, a Transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared Transaction. In the event that either side of the Transaction is rejected as a result of the credit check test, the Parties to the Transaction and their respective Clearing Members will be informed accordingly.

Thereafter, any determination as to further action with respect to the Transaction will be the sole responsibility of the Parties to the Transaction.

**808.K. Trade Submission Deadlines**

With the exception of IRS and FX Spot, Forward and Swaps Transactions, all other Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section L. of this rule, prior to 5:15 p.m. New York time on an Exchange Business Day will be included by the Exchange for clearing for that Business Day. The Exchange reserves the right to modify these business hours without notice at any time. The CME ClearPort Facilitation Desk will generally be available to assist users 24 hours a day on all Exchange Business Days.

**808.L. Clearance by Both Sides of the Transactions of Credit Check**

Upon clearance by both sides of the Transaction of the credit check, the Transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system. Notwithstanding the above, a Clearing Member shall also be responsible for accepting and clearing a position for a Transaction entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's credit check functionality for the applicable account carried by the Clearing Member.

**809. TRADE DATA PROCESSING SYSTEM**



**809.A. Trade Data**

Every clearing member must submit accurate trade data for the day's business to the Clearing House no later than the time specified by the Clearing House.

**809.B. Matched and Unmatched Trades**

The Clearing House shall process all trade data submitted by clearing members but shall accept only those trade records (transactions) which are in agreement with the corresponding trade records submitted by the opposite clearing members.

Trade records will be matched, to the extent the opposite trade information is consistent, through the tiered matching process.

Resubmitted trade data will be processed by the Clearing House. Trades with unmatched trade information remaining after the tiered matching process will be rejected and outrade notices will be issued to clearing members.

Trades unreconciled after the final reconciliation must be submitted on the following business day as "as-of-trades."

**809.C. Trade Register and Clearing Reports**

From the trade data cleared during each day's reconciliation, the Clearing House will produce a trade register for each clearing member which will itemize by commodity and contract: the opening long and short position, the contracts bought and/or sold during the day, the prices at which executed, and the settlement amounts.

The Clearing House will also produce a recap ledger for each clearing member that will itemize various position and financial information that includes but is not limited to, commodity positions, settlement amounts and performance bond information.

**809.D. Reconciliation of Outtrades**

It shall be the primary responsibility of the clearing member to see that all trades are cleared prior to the opening of the following day's open outcry market.

Each member, if applicable, and clearing member firm shall designate a person or persons who will be available and responsible for reconciling the member or clearing member firm's outtrades. The person or persons shall be qualified to resolve outtrades as the member or clearing member firm's designated outrade representative. Failure to have a qualified representative available, with all materials necessary to reconcile outtrades, at the time specified above shall constitute negligence in the determination of responsibility for any outtrades. If one firm cannot locate another firm's broker or representative for clearing purposes during these time periods, it shall report such fact to the Global Head of Clearing & Post-Trade Services. If the Global Head of Clearing & Post-Trade Services or their designee cannot find the broker or representative of the firm, fines will be assessed in the amounts of \$1,000, \$2,000 or \$3,000 sequentially, for violations occurring within a 30-day period.

**810. FALSE ENTRIES ON CLEARING MEMORANDA**

No member shall place any false or inaccurate entries on any clearing memoranda, including, with respect to a Participating Clearing Member, the clearing memoranda of a Cross-Margining Clearing Organization.

**811. POSITION CHANGE DATA**

Position change data must be submitted to the Clearing House each trading day not later than the time specified by the Clearing House. Position change data will be in such form and contain such information as prescribed by the Clearing House. When requested, the identification of accounts will be made available to the Financial and Regulatory Surveillance Department.

**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 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.

### **813. DAILY SETTLEMENT PRICE**

Daily settlement prices shall be determined each business day for each product pursuant to one or more of the procedures set forth below. The settlement price shall be a price consistent with the minimum tick increment for the product; if the calculated settlement price is not a standard tick increment, the calculated settlement price will be rounded either to the nearest tick or to the tick closer to the previous day's settlement price. The procedure used to determine the settlement price of a product will depend on the product group, level of activity and liquidity during the defined settlement period, and the trading venue(s) used to derive the settlement. To the extent that any members participate in the creation of settlement prices, they agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyright in the settlement prices.

1. [Reserved]

2. Volume-Weighted Average Price (VWAP) of the Settlement Period: In products that use this procedure, all outright trades that occur during the defined settlement period are utilized to calculate the VWAP for specified contract months and the VWAP will be the settlement price. If the open outcry venue is used to determine the settlement price, the VWAP may be estimated. The calculated or estimated VWAP of relevant spread trades that occur during the settlement period may be used to determine the settlement price of deferred or less actively traded contract months in products that use this procedure.

3. Bid/Ask Midpoint at the Settlement or during the Settlement Period: In products that use this procedure, the midpoint of the bid/ask at the defined settlement time or during the defined settlement period will be the settlement price.

4. Option Settlements: Option settlements are derived from available market information including, but not limited to, outright trades, bids or offers during the settlement period, relevant spread trades, bids or offers during the settlement period, the settlement price of the underlying future and relevant relationships based on option pricing theory using option pricing models employed by the Exchange.

5. For all contract months not determined by one of the methods set forth above or pursuant to Section 6 below, relevant spread relationships between contract months will be used to derive the settlement.

6. In the event the Exchange determines that the settlement price derived by one of the methods set forth above is not an accurate representation of the relevant market, the Exchange may determine the settlement price based on other market prices, including settlement prices for similar contracts trading on other exchanges.

7. For all products that are settled with the delivery of, or by reference to, the same underlying instrument but which are offered in alternative contract sizes (mini or micro), a single settlement price will be applicable to all such contracts, with necessary adjustments made to round to the nearest tradable price increment eligible in all such contracts.

8. For contracts cleared through ClearPort Clearing that are not otherwise settled by one of the methods set forth above, staff shall determine settlement prices for such contracts based upon a consideration of relevant market data, including, but not limited to, trading activity in relevant OTC products, pricing data obtained from OTC market participants, the settlement prices of related products and any other pricing data from sources deemed reliable by Staff.

9. Notwithstanding the above, if a settlement price in any product, as derived by the normal methodology used for that product, is inconsistent with trades, bids or offers in other months/strikes during the settlement period, or other relevant market information, or if there is no relevant market activity, an Exchange official may establish a settlement price that best reflects the true market valuation at the settlement time or during the defined settlement period.

10. For products cleared by the Clearing House on behalf of another entity, the settlement price shall be determined according to the rules of such entity.

11. Notwithstanding the above, in the case of inaccuracy or unavailability of a settlement price, or if a settlement price creates risk management concerns for the Clearing House, the Clearing House reserves the right to calculate settlement variation using an alternate price determined by the Clearing House.

#### **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. A settlement cycle shall be conducted at least once each Business Day at such times as the Clearing House shall determine. The Clearing House may establish different settlement cycles for different contracts. 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 for its proprietary and customer 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.

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 and 8F008 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 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, its customer secured 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 pay funds 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 payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

#### **815. THIRD PARTY EXECUTION PLATFORMS FOR SWAPS**

**815.A. Exclusivity of Clearing House Rules**

The Clearing House Rules shall exclusively apply, and prevail to the extent there is any conflict with any third party rules, to all swap trades, and resulting positions, from the time that a swap trade, including a swap trade executed on a Swap Execution Facility ("SEF") or other third party execution platform for swaps (collectively, "Third Party Execution Platforms"), is submitted for clearing. Notwithstanding the foregoing, if the Clearing House rejects a swap trade for clearing, the Clearing House Rules shall cease to apply to that swap trade until such swap trade is resubmitted for clearing.

**815.B. Clearing House Authority**

The Clearing House will have the sole authority to:

1. determine whether any trade submitted for clearing will be accepted or rejected. For the avoidance of doubt, Third Party Execution Platforms may not make a determination on clearing acceptance or rejection and may only communicate the Clearing House's determination of whether a trade has been accepted or rejected for clearing.
2. block or cancel any trades submitted for clearing by, or on behalf of, any Third Party Execution Platforms if it determines that such trades were executed or submitted to the Clearing House in error.
3. deny or terminate the connection of Third Party Execution Platforms to the Clearing House due to technical, operational or risk management issues at the Third Party Execution Platforms.
4. determine whether it will accept any trade transaction counterparty risk.
5. determine whether contracts cleared by the Clearing House are economically equivalent and should be offset within the Clearing House pursuant to the Act.

**815.C. Voids and Price Adjustments**

A void or price adjustment for any swap trade that has been accepted for clearing is not valid without the consent of the Clearing House.

**815.D. Submission to Clearing House Rules and Access to Execution Platforms**

All Third Party Execution Platforms that submit, or have submitted on their behalf, swap trades for clearing to the Clearing House shall be bound by Clearing House Rules, including, but not necessarily limited to, the disciplinary Rules and the emergency Rules contained in Chapters 2, 4, 8, and 8G and shall, at all times, provide the Clearing House with access to its execution platform for risk management purposes.

**815.E. Compliance with Regulatory Standards**

No Third Party Execution Platform may submit swap trades for clearing to the Clearing House unless it has complied with all applicable CFTC regulations, standards and requirements including, but not limited to, technological, operational and risk management standards.

**815.F. Transfer of Swap Positions**

No swap positions may be transferred, including those resulting from an execution on Third Party Execution Platforms, unless such transfer is made in accordance with the Clearing House Rules.

**815.G. Applicability to Security-Based Swaps**

Rule 815 does not apply to security-based swaps.

**816. GUARANTY FUND DEPOSIT**

Each clearing member shall make a Base Guaranty Fund deposit with the Exchange as security for its obligations to the Clearing House. The minimum Base Guaranty Fund deposit of a clearing member shall equal the greater of (a) \$500,000 if clearing CME, CBOT, NYMEX or COMEX futures and options on futures only, (b) \$2,500,000 if clearing OTC spot, forward or swaps contracts or (c) the clearing member's proportionate share of the "Aggregate Guaranty Fund Deposit." This requirement is separate and distinct from the guaranty fund deposit requirement for IRS Products as set forth in Chapter 8G of the CME Rulebook. The Aggregate Guaranty Fund Deposit shall be an amount determined by the Clearing House.

Each clearing member's proportionate share of the Aggregate Guaranty Fund Deposit shall consist of:

- (i) a specified percentage of the Aggregate Guaranty Fund Deposit multiplied by the clearing member's proportionate share (including the total risk performance bond requirement in respect of positions in its

cross-margin accounts and any applicable short option value) of the average aggregate risk performance bond requirement (including the risk performance bond requirement in respect of positions in all cross-margin accounts and any applicable short option value) for the preceding three months; plus

(ii) a specified percentage of the Aggregate Guaranty Fund Deposit multiplied by the clearing member's proportionate share of the total number of contracts executed on the Exchange and any applicable exchange or market during the preceding three months; plus

(iii) a specified percentage of the Aggregate Guaranty Fund Deposit multiplied by the clearing member's proportionate share of foreign currency settlements for the preceding three months.

The percentages in (i) through (iii) above shall be determined and modified by the Clearing House Risk Committee as appropriate. Some contracts may be weighted more heavily than others in order to reflect the greater risk associated with those contracts. The average aggregate risk performance bond requirement, the total number of contracts executed, the gross notional amount of open interest cleared and each clearing member's proportionate share of each will be calculated by the Clearing House, and a report setting forth such information and the clearing member's required Base Guaranty Fund deposit will be given to the clearing member each month, and the Clearing House may provide such reports on an interim basis at any time during the month as the Clearing House staff shall determine. If at any time, such report indicates that the clearing member's current Base Guaranty Fund deposit with the Clearing House is smaller than the amount required, the clearing member shall increase its amount within two business days. If such report indicates that the clearing member's current Base Guaranty Fund deposit with the Exchange is larger than the amount required, the clearing member may withdraw the excess amount. If, prior to the issuance of the monthly report, the Clearing House determines that an increase in the Base Guaranty Fund deposit is necessary to protect the financial integrity of the Clearing House, the clearing member, upon demand of the Clearing House, shall increase its Base Guaranty Fund deposit amount within two business days. In the event that an interim report is issued within five business days prior to the regularly scheduled monthly report, the Clearing House may opt to forego the issuance of an additional month-end report, provided that the amount of resources required has not changed substantially during this period.

A clearing member's Base Guaranty Fund deposit may be in a form as set forth in the Manual. Such Base Guaranty Fund deposit forms and amounts shall be subject to the terms and conditions as approved by Exchange staff.

## **817. LIQUIDITY FACILITY**

The Exchange may enter into liquidity facilities (each a "Liquidity Facility") to convert collateral to cash in any case where the Clearing House can use the collateral, pursuant to Chapters 8, 8F, 8G, and 9 of the Rules of the Exchange, and use the cash proceeds to meet an obligation to the Clearing House.

If a clearing member of CME, CBOT, NYMEX, COMEX or OTC Clearing Member (a) is unable to promptly discharge any obligation to the Clearing House or (b) is suspended or becomes subject to any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law, collateral deposited by the clearing member in satisfaction of its performance bond and guaranty fund requirements may be used to obtain liquidity to satisfy the clearing member's obligations to the Clearing House as follows: (1) performance bond collateral relating to a clearing member's proprietary account may be used to obtain liquidity to meet obligations relating to the clearing member's proprietary account, customer segregated account, secured account or cleared swaps customer account; (2) performance bond collateral relating to a clearing member's customer segregated account may only be used to obtain liquidity with respect to obligations of such account; (3) performance bond collateral relating to a clearing member's secured account may only be used to obtain liquidity with respect to obligations of such account; (4) performance bond deposits relating to a clearing member's cleared swaps customer account may only be used to obtain liquidity with respect to such account; and (5) guaranty fund collateral may be used in the order prescribed by Rules 802.B, and 8G802.B.

In any case where the Rules of the Exchange permit the Clearing House to use guaranty fund collateral deposited by clearing members who have not failed to meet an obligation to the Clearing House, the

Clearing House may convert collateral held in that Guaranty Fund to cash by means of a Liquidity Facility. By delivering assets to the Exchange in satisfaction of guaranty fund deposit and performance bond requirements, each clearing member is hereby deemed: (i) to agree that its assets (or its customers' assets, as provided above) may be transferred by the Exchange to obtain liquidity from the Exchange's liquidity lenders and that its assets may become subject to a lien in favor of the Exchange's liquidity lenders or otherwise guarantee the Exchange's obligations and; (ii) to authorize the Exchange, and appoint the Exchange (such appointment being coupled) with an interest as such clearing member's attorney-in-fact, to enter into agreements on its behalf in connection with its assets (or its customers' assets, as provided above) being transferred to the Exchange's liquidity lenders; and (iii) to acknowledge that the obligations of the Exchange to the Exchange's liquidity lenders may be greater, and extend for periods of time longer, than the obligations, if any, of such clearing member to the Exchange.

The Exchange, as each clearing member's attorney-in-fact, will have authority to enter into agreements on behalf of each clearing member and in each clearing member's name for the purpose of causing the clearing member's assets (or its customers' assets, as provided above) to be transferred to the Exchange's liquidity lenders. Any agreement entered into by the Exchange on behalf of clearing members pursuant to this Rule 817 shall bind each clearing member and will contain provisions, including representations, warranties and covenants, required by lenders under any liquidity facility.

If there is a default under any such liquidity facility, the assets of clearing members transferred to the Exchange's liquidity lenders may be foreclosed upon by such lenders and applied against the obligations of the Exchange under the related liquidity facility. Clearing members shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of such liquidity lenders to receive the benefit of their contractual remedies in connection with any such foreclosure or that would controvert or assert the invalidity of any provision of these rules. Each clearing member agrees to sign any document or agreement requested by the Exchange to further document the power of attorney set forth and established by these rules.

The foregoing provisions shall apply without regard to whether a clearing member has been declared to be in default under the Rules.

## **818. CLOSE-OUT NETTING**

### **818.A. Bankruptcy of the Exchange**

If at any time the Exchange: (i) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition presented against it, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the Exchange's winding-up or liquidation, or (ii) approves resolutions authorizing any proceeding or petition described in clause (i) above (collectively, a "Bankruptcy Event"), all open positions in the Clearing House shall be closed promptly.

### **818.B. Default of the Exchange**

If at any time the Exchange fails to comply with an undisputed obligation to pay money or deliver property to a Clearing Member that is due and owing in connection with a transaction on the Exchange or cleared by the Exchange, for a period of five Business Days from the date that the Exchange receives notice from the Clearing Member of the past due obligation, the Clearing Member's open proprietary and customer (including, for this rule, CFTC Regulation Section 30.7 customers and cleared swaps customers) positions at the Clearing House shall, at the election of that Clearing Member, be closed promptly. For the avoidance of doubt, any modification to any Base Contract under Rule 802.B.7. or any IRS Contract under 8G802.B.3. shall not be considered a failure by the Exchange to comply with an obligation to pay money or deliver property.

### **818.C. Netting and Offset**

1. At such time as a Clearing Member's positions are closed:

(i) the obligations of the Clearing House to such Clearing Member in respect of the Clearing Member's proprietary positions, accounts, collateral and guaranty fund deposits shall be netted against the obligations of such Clearing Member to the Clearing House and to the Exchange in respect of its proprietary positions, accounts, collateral, guarantees of the performance of its customers and any obligations to guarantee funds without respect to product category ("Proprietary Netting");

(ii) the obligations of the Clearing House to the Clearing Member in respect of such Clearing Member's customers' futures positions, including foreign futures positions carried in the futures account class, futures accounts, and futures collateral shall be netted against the obligations of the Clearing Member to the Clearing House in respect of the futures positions, futures accounts and futures collateral of such customers ("Futures Customer Netting"); and

(iii) the obligations of the Clearing House to the Clearing Member in respect of such Clearing Member's individual customers' swap positions, swap accounts, and swap collateral shall be netted against the obligations of the Clearing Member to the Clearing House in respect of the swap positions, swap accounts and swap collateral of each individual customer, on an individual customer by customer basis ("Swap Customer Netting"); and

(iv) the obligations of the Clearing House to the Clearing Member in respect of such Clearing Member's customers' foreign futures positions carried in the foreign futures account class, foreign futures accounts, and foreign futures collateral shall be netted against the obligations of the Clearing Member to the Clearing House in respect of the futures positions, futures accounts and futures collateral of such customers ("30.7 Futures Customer Netting").

Notwithstanding the foregoing, the amount of any proprietary or customer claim extinguished as a result of the application of the terminating and netting procedures set forth in either Rule 802.B. (with respect to Base Products) or Rule 8G802.B (with respect to IRS Products), shall not be available for netting in Proprietary Netting, Futures Customer Netting, Swap Customer Netting or 30.7 Futures Customer Netting, as applicable. Proprietary Netting, Futures Customer Netting, Swap Customer Netting and 30.7 Futures Customer Netting shall be performed in accordance with the Bankruptcy Code, the Commodity Exchange Act and the regulations promulgated thereunder. Rule 818 shall be deemed to be (i) a master netting agreement for Proprietary Netting; (ii) a master netting agreement for Futures Customer Netting, (iii) a master netting agreement for Swap Customer Netting, and (iv) a master netting agreement for 30.7 Futures Customer Netting.

2. After a Bankruptcy Event takes place, the authority of the Clearing House, pursuant to Rule 802, to make new assessments and/or require a Clearing Member to cure a deficiency in its guaranty fund deposit arising after the Bankruptcy Event, shall terminate.

3. All positions open immediately before being closed in accordance with this Rule shall be valued in accordance with the procedures of Paragraph D of this Rule.

#### **818.D. Valuation**

As promptly as reasonably practicable, but in any event within thirty days of the: (i) Bankruptcy Event, or (ii) if a Clearing Member elects to have its open positions closed in a default as described in Paragraph B of this Rule, the date of the election, the Exchange shall, in a manner that is consistent with the requirements of the Commodity Exchange Act and the regulations adopted thereunder (including, without limitation) Part 190 of the Regulations, fix a U.S. dollar amount (the "Close-out Value") to be paid to or received from the Exchange by each Clearing Member, after taking into account all applicable netting and offsetting pursuant to paragraph C of this Rule.

The Exchange shall value open positions subject to close-out by using the market prices for the relevant market (including without limitation, any over the counter markets) at the moment that the positions were closed-out, assuming the relevant markets were operating normally at such moment. If the relevant markets were not operating normally at such moment, the Exchange shall exercise its discretion, acting in good faith and in a commercially reasonable manner, in adopting methods of valuation to produce reasonably accurate substitutes for the values that would have been obtained from the relevant market if it had been operating normally at the moment that the positions were closed-out.

If a default of a Base Clearing Member or IRS Clearing Member has also occurred, if a settlement cycle was conducted pursuant to Rules 802.B. and 8G802.B. as applicable, and the Clearing House has not fully liquidated (or ported) all of the clearing member's proprietary and customer positions, the Exchange shall value open positions subject to close-out by using the prices that were determined pursuant to the final settlement cycle that was conducted pursuant to Rules 802.B. and 8G802.B., as appropriate.

In determining a Close-out Value, the Exchange may consider any information that it deems relevant. Amounts stated in a currency other than U.S. Dollars shall be converted to U.S. Dollars at the current rate of exchange, as determined by the Exchange. If a Clearing Member has a negative Close-out Value it shall promptly pay that amount to the Exchange.

#### **818.E. Interpretation in Relation to FDICIA**

The Exchange intends that certain provisions of this Section be interpreted in relation to certain terms (identified by quotation marks) that are defined in the Federal Deposit Insurance Exchange Improvement Act of 1991 ("FDICIA"), as amended, as follows:

1. The Exchange is a "clearing organization."
2. An obligation of a Clearing Member to make a payment to the Exchange, or of the Exchange to make a payment to a Clearing Member, subject to a netting agreement, is a "covered clearing obligation" and a "covered contractual payment obligation."
3. An entitlement of a Clearing Member to receive a payment from the Exchange, or of the Exchange to receive a payment from a Clearing Member, subject to a netting contract, is a "covered contractual payment entitlement."
4. The Exchange is a "member," and each Clearing Member is a "member."
5. The amount by which the covered contractual payment entitlements of a Clearing Member or the Exchange exceed the covered contractual payment obligations of such Clearing Member or the Exchange after netting under a netting contract is its "net entitlement."
6. The amount by which the covered contractual payment obligations of a Clearing Member or the Exchange exceed the covered contractual payment entitlements of such Clearing Member or the Exchange after netting under a netting contract is its "net obligation."

The By-Laws and Rules of the Exchange, including this Section, are a "netting contract."

#### **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, cash, securities or collateral deposited with, transferred or pledged to, or otherwise where control is given to the Clearing House by such Clearing Member. Clearing Members shall take any action that may be required by the Clearing House to create, preserve, perfect, validate or enforce any such security interest.

#### **820. PERFORMANCE BONDS**

Performance bond requirements will be as determined by Clearing House staff from time to time. Clearing Members must post performance bond to the Clearing House on a gross basis for each of its omnibus customer accounts.

Subject to the terms and conditions as approved by Clearing House staff, the Clearing House will accept as performance bond, cash, equity securities, shares of mutual funds, United States Treasury and agency Securities, Letters of Credit, shares in CME's Interest Earning Facility 2 Program, permitted investments allowable under CFTC Regulation 1.25, "readily marketable securities" as defined by Securities and Exchange Commission Rules, as applicable, gold warrants that are registered as deliverable for gold futures contracts traded on Commodity Exchange, Inc., and "London Good Delivery" gold, as defined by the London Bullion Market Association (as used in this Rule 820, such assets and any proceeds thereof are collectively referred to as "Assets"), all of which must be and remain unencumbered. The Clearing House may include other forms of collateral within the definition of "Assets" upon the approval of the Clearing House Risk Committee and notice to clearing members.

All performance bond collateral, as herein described, shall be placed to the credit of the member paying the same for its customers' trades or its own (so-called "house") trades as designated by the clearing member. The Clearing House shall value performance bond collateral as it deems appropriate. The clearing member shall transfer the performance bond collateral to the Clearing House or to an approved depository for safekeeping in a Clearing House account and the Clearing House shall retain control over such performance bond collateral. Neither the Exchange nor the Clearing House shall have any obligation or responsibility to preserve, protect, collect or realize upon, and under no circumstances shall the Exchange or Clearing House be liable for, any loss or diminution in value or depreciation in the performance bond collateral maintained pursuant to this rule. A clearing member who maintains performance bond collateral for its benefit pursuant to this rule shall hold the Exchange and Clearing House harmless from all liability, losses and damages which may result from or arise with respect to the care and sale of such performance bond collateral. All initial and additional performance bonds shall be retained by the Clearing House in whole or in part, as Clearing House staff may deem necessary, until the trades for which such performance bond collateral has been deposited, have been offset, cash settled,



delivered or otherwise closed out as determined by Clearing House staff.

Each clearing member shall reimburse the Clearing House for all fees, expenses, charges and costs assessed by a depository against the Clearing House with respect to all performance bond collateral maintained in its account, and shall make deposits as may be required by the Clearing House by reason of any depreciation in the market value of such performance bond collateral. If a clearing member defaults to the Clearing House with respect to performance bonds, the performance bond collateral maintained in its account pursuant to this rule shall be taken over by the Clearing House and sold without notice and the proceeds of the performance bond collateral deposited for customers' trades shall be applied against the performance bond requirements for the clearing members' customers' accounts, and the proceeds of performance bond collateral deposited for the house trades shall be applied against the requirements for the clearing member's own (so-called "house") account.

## **821. EXCESS PERFORMANCE BOND OF CLEARED SWAPS CUSTOMERS**

Pursuant to CFTC Regulation 22.13(c), the Clearing House will permit a Clearing Member to transmit performance bond of its cleared swaps customers in excess of the amount required by the Clearing House for such cleared swaps customers positions. Each Clearing Member transmitting such excess shall identify each Business Day, for each cleared swaps customer, the value of performance bond posted in excess of the amount required for such cleared swaps customer.

## **822. LIQUIDITY RISK MANAGEMENT**

In order to satisfy CFTC Regulations and prudential liquidity standards, the Clearing House is establishing the following rules:

### **822.A. Liquidity Rules**

In the event the Clearing House needs liquidity for non-cash collateral of a clearing member or its customers for same day settlement, the Clearing House will first attempt to obtain liquidity for such collateral through asset sale, any uncommitted funding arrangements, its committed lines of credit and any committed repurchase agreements. In the event the Clearing House is unable to obtain same day settlement through such means, the Clearing House may declare the occurrence of a Liquidity Event and in its sole discretion may take the following actions in the following order to secure same day liquidity for such assets as follows:

#### **1. Substitution of Guaranty Fund Cash**

a. The Clearing House may substitute any cash deposited by clearing members in a guaranty fund with U.S. Treasuries deposited as performance bond or guaranty fund by a clearing member that is the subject of such Liquidity Event. The amount of cash substituted hereunder shall be equal to the haircutted market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party pricing source) of the U.S. Treasuries that are substituted for such cash. Any assets transferred by this rule shall be applied as guaranty fund deposit(s) of any such clearing member whose cash was substituted and will be allocated pro rata among any clearing members with cash deposits. The substitution of U.S. Treasuries for the clearing member's guaranty fund deposit(s) will be limited to the size of the clearing member's guaranty fund deposit(s) at the time of the Liquidity Event. For any substitution of U.S. Treasuries for cash in a guaranty fund, the impacted clearing member may, within 24 hours of substitution, request that the Clearing House replace the cash for the substituted U.S. Treasuries, to the extent still on deposit, within 29 days of the date of substitution. Any clearing member requesting cash replacement will receive the exact value in cash received by the Clearing House upon liquidation the U.S. Treasuries.

b. The Clearing House may direct any clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate to substitute its non-cash guaranty fund assets with cash within 60 minutes from the time of notification. Such directions will be made during the hours in which the Federal Reserve's securities wire transfer system is in operation, provided, however that such directions are given within 60 minutes prior to the close of the Federal Reserve's securities wire, the substitution required hereunder shall be made within 60 minutes after the Federal Reserve's securities wire next opens. To the extent that a clearing member(s) fails to provide cash within the deadlines specified above, the Clearing House may debit cash from that clearing member's settlement bank account in the amount of the clearing member's non-cash guaranty fund assets.

## **2. U.S. Treasury Sale to Meet Clearing House Settlement Variation Obligations**

The Clearing House may offset its US dollar settlement variation obligations to any clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate, up to the amount of that clearing member's guaranty fund contribution(s), by selling U.S. Treasuries valued based on the prior day's closing prices with prevailing CME haircuts applied in exchange for US dollar cash from the clearing member. The US dollar cash received by CME from the clearing member shall be in the form of the variation margin obligation owed by CME and CME shall deliver the purchased U.S. Treasury securities to the U.S. Government Securities Broker-Dealer.

### **822.B. Transfer or Disbursement of Collateral as Compensation for Portfolio Auction, Sale or Transfer with Notice in Advance**

To the extent permitted by the terms of any auction, sale or transfer of a defaulted or suspended clearing member's or customer portfolio for which a payment is owed by the Clearing House to an auction winner, purchaser or transferee, in lieu of satisfying such payment with cash, the Clearing House may satisfy any payment owed to such persons by transferring Federal Reserve discount window eligible securities with a market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party pricing source) equal to the amount of such obligation.

### **823. [RESERVED]**

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

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the Global Head of Clearing & Post-Trade Services or, in their absence, their 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 Global Head of Clearing & Post-Trade Services or, in their absence, their delegate, to conclude that additional performance bond collateral is required to maintain an orderly market in contracts traded on the exchange or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the Global Head of Clearing & Post-Trade Services or their 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 Global Head of Clearing & Post-Trade Services or, in their absence, their 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 Global Head of Clearing & Post-Trade Services or, in their absence, their 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.

### **825. SEGREGATION OF PERFORMANCE BOND**

The performance bond assets resulting from any rehypothecation, investment, pledge or disposition of the original performance bond assets deposited by a clearing member that is not a defaulting or suspended clearing member, to the extent the Exchange is not required to transfer or pay out to third parties such resulting performance bond assets to meet the Exchange's obligations with respect to the clearing member pursuant to the Rules, shall be held by the Exchange in the same manner in which the Exchange holds performance bond assets of the same form as the resulting performance bond assets.

### **826. PROPRIETARY ACCOUNT MINIMUM LIQUIDATION PERIOD**

- (a) With respect to clearing member proprietary positions, the Clearing House shall ensure performance bond requirements are calculated and collected using a liquidation period of not less than two (2) days calculated on a net basis.
- (b) Paragraph (a) of this Rule does not apply to positions in (i) agricultural commodity derivatives contracts that meet the exclusion criteria established in Article 2 of the European Commission's equivalence determination dated February 24, 2016; or (ii) cleared-only OTC products accepted for clearing by the Clearing House.

## **827. SECURITIES LENDING PROGRAM**

United States Treasury Bills, Treasury Notes, Treasury Bonds, Treasury Bond Principal Strips, Agency Securities, and other financial instruments approved by Exchange staff, (collectively, "Securities") that are deposited with the Clearing House by clearing members in satisfaction of Guaranty Fund requirements or as performance bond for their own (i.e., "house") trades may be loaned out by the Exchange pursuant to the Securities Lending Program. Clearing members depositing Securities with the Exchange in satisfaction of guaranty fund requirements or as performance bond for house trades that are loaned out pursuant to the Securities Lending Program are deemed to agree that the lending of Securities under arrangements having safeguards consistent with generally accepted market practices will constitute reasonable care of the Securities in the possession of the Exchange or its securities lending custodian.

## **828. BASE FINANCIAL RESOURCES**

The Clearing House shall maintain funded financial resources sufficient to enable the Clearing House to meet its financial obligations to CME, CBOT, NYMEX and COMEX clearing members notwithstanding a default by the two clearing members creating the largest combined loss to the Clearing House in extreme but plausible market conditions. If a clearing member controls another clearing member or is under common control with another clearing member, the affiliated clearing members shall be deemed to be a single clearing member for financial resources calculations under this rule.

## **829. MEASURES TO MITIGATE PROCYCLICALITY**

(a) With respect to exchange traded derivatives contracts it clears, the Clearing House shall establish performance bond requirements designed to limit the likelihood of procyclical changes in performance bond requirements and mitigate costly and disruptive adjustments to performance bond requirements in periods of high market volatility. The Clearing House shall maintain specific risk management procedures ensuring that performance bond is calculated and collected on a basis that includes measures designed to limit procyclicality that are equivalent to at least one of the options listed in Article 28 (Procyclicality) of Delegated Regulation (EU) No. 153/2013. Such anti-procyclicality measures shall include tools such as extended lookback periods, seasonal volatility metrics, volatility floors, stress volatility metrics and implied volatility.

The Clearing House shall regularly review the measures it utilizes to address procyclicality to ensure they are appropriate in light of market conditions.

Further, the Clearing House's anti-procyclicality measures shall be designed to ensure that its policy for setting performance bond requirements delivers forward looking, stable, conservative, and prudent performance bond requirements that limit procyclicality to the extent that the soundness and financial security of the CCP is not negatively affected.

(b) Paragraph (a) does not apply to positions in agricultural commodity derivatives contracts that meet the exclusion criteria established in the Article 2 of the European Commission's equivalence determination dated February 24, 2016.

## **830. CROSS-MARGINING**

### **830.A. Definitions**

1. Cross-Margining Affiliate: An affiliate of a Participating Clearing Member with which such clearing member is cross-margining its positions at the Clearing House and a Cross-Margining Clearing Organization.
2. Participating Clearing Member: A clearing member that is cross-margining its positions at the Clearing House with its own or a Cross-Margining Affiliate's positions at a Cross-Margining Clearing Organization.
3. Cross-Margining Clearing Organization: A clearing organization that has entered into a Cross-Margining Agreement with the Exchange.

4. Joint Cross-Margining Program: A cross-margining program in which the Exchange and one or more Cross-Margining Clearing Organizations each hold a joint security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliates.

5. Guaranteed Cross-Margining Program: A cross-margining program in which a guaranty is provided by and between the Exchange and one or more Cross-Margining Clearing Organizations and each entity holds an individual security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliate.

**830.B. Cross-Margining Programs**

1. The Exchange may establish cross-margining programs as approved by the Clearing House Risk Committee and the Board. A clearing member may become a Participating Clearing Member to participate in a Joint Cross-Margining Program by establishing with the Clearing House one or more cross-margin accounts for cross-margining positions with either its own positions or those of a cross-margining affiliate at a Cross-Margining Clearing Organization. In order to establish a cross-margin account, a clearing member shall enter into the agreements required by the Exchange, including a Cross-Margined Account Agreement and Security Agreement with the Exchange, the Cross-Margining Clearing Organization, and, if applicable, the member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that the Exchange and the Cross-Margining Clearing Organization shall jointly have a first lien on and security interest in all positions held in the cross-margin account, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Exchange and the Cross-Margining Clearing Organization. Failure to comply with the terms of such Agreements may constitute an act detrimental to the interest or welfare of the Exchange.

2. A clearing member may become a Participating Clearing Member in a Guaranteed Cross-Margining Program by entering into a Cross-Margining Participant Agreement with the Exchange, the Cross-Margining Clearing Organization, and, if applicable, the clearing member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that a Participating Clearing Member shall immediately be obligated to reimburse the Exchange ("Reimbursement Obligation") in the event the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to a Cross-Margining Clearing Organization and the Exchange is required to make a guaranty payment to such Cross-Margining Clearing Organization. In addition, the Agreement shall provide that the Exchange shall have a first lien and security interest in all positions held, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Exchange. Failure to comply with the terms of such Agreement may constitute an act detrimental to the interest or welfare of the Exchange.

The provisions of this Rule 830 and the corresponding sections of the Clearing House Manual shall apply to all CME-cleared positions held pursuant to a cross-margining program and shall supersede all other provisions of the Rules to the extent inconsistent therewith. In addition, the Exchange shall determine what positions will be eligible for cross-margining.

**830.C. [Reserved]**

**830.D. Performance Bonds for Cross-Margining Program**

Performance bond requirements for a Joint and Guaranteed Cross-Margining Program shall be determined as set forth in the Cross-Margining Agreement, and that Agreement shall also govern what forms of performance bond will be permitted and how such performance bond will be held.

**830.E. Close-Out of Cross-Margin Positions**

A Participating Clearing Member may be suspended if it or its Cross-Margining Affiliate, if any, is in default in payment of any obligation, including a Reimbursement Obligation, with respect to a Joint or Guaranteed Cross-Margining Program.

The cross-margin account of a clearing member participating in a Joint Cross-Margining Program may be liquidated by the Clearing House at the request of a Cross-Margining Clearing Organization whether or not the Exchange suspends, or is permitted under the Rules to suspend, such clearing member. Upon the suspension of a Participating Clearing Member, or upon receiving notice from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House shall have the right to liquidate the positions in the cross-margin account, convert to cash the performance bond therefor, and dispose of the proceeds thereof, all in accordance with the terms of the Cross-Margining Agreement.

The positions of a clearing member participating in a Guaranteed Cross-Margining Program may be liquidated by the Clearing House in the event that the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to the Clearing House or a Cross-Margining Clearing Organization. Upon the suspension of a Participating Clearing Member, or upon receiving notice

from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House may liquidate: the positions of the Participating Clearing Member; all related performance bond; and all proceeds of the foregoing. The Exchange may then apply all such liquidated proceeds to satisfy the Participating Clearing Member's obligations to the Exchange, all in accordance with the terms of the Cross-Margining Agreement.

### **831. COMMINGLING OF ELIGIBLE BASE FUTURES AND SWAPS POSITIONS**

The Clearing House may identify non-swap Base Guaranty Fund Products that may be commingled with positions in swap Base Guaranty Fund Products in order to provide risk offsets for customer positions if and only if the price risks with respect to such products are significantly and reliably correlated (such products, "Base Eligible Products"). The price risks of different positions will only be considered to be significantly and reliably correlated if there is a theoretical basis for the correlation in addition to an exhibited statistical correlation. Upon such identification, Base Clearing Members may elect that a customer's positions in Base Eligible Products be commingled in a cleared swaps account. If the Clearing House determines at any time that any Base Eligible Products are non-risk reducing when commingled, the Clearing House may either restrict the commingling of additional Base Eligible Product positions or require moving or liquidating such positions.

List of eligible swaps:

[View table here \(XLS\)](#)

### **832. FOREIGN CURRENCY MARKET DISRUPTION**

In the event a Foreign Currency Market Disruption impacts the ability of the Clearing House and its Clearing Members to meet settlement variation or final settlement obligations in any non-U.S. dollar currency for any product cleared by the Clearing House (each, an "Impacted Currency"), the Clearing House and its Clearing Members may transact settlement obligations for each Impacted Currency in U.S. dollars.

The requirement to settle an Impacted Currency obligation in U.S. dollars shall be effective upon notice from the Clearing House. Completion of settlement for an Impacted Currency under the rules of this Chapter will fully discharge each of the Clearing Member's and Clearing House's settlement obligations for that Impacted Currency and settlement cycle. The U.S. dollar rate of exchange shall be based on exchange rates as determined by the Clearing House with reference to exchange rates in the relevant market. The Clearing House will publish the applicable exchange rate on CME Group's website.

A Foreign Currency Market Disruption exists when (i) events not within the Clearing House's control make it illegal or impossible to transact in a foreign currency, (ii) authoritative action such as the adoption of capital controls, asset freezes, imposition of sanctions, nationalization or any other similar action by any governmental entity impedes or is likely to impede the Clearing House's ability to effect settlement transactions in any foreign currency, or (iii) any event with similar effect to the foregoing occurs.

Nothing in this Rule 832 shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these Rules.

### **833.-849. [RESERVED]**

## **MISCELLANEOUS**

### **850. FEES**

Exchange fees and/or any transaction surcharges shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange or the Clearing House as the Board or Exchange staff, as appropriate, may from time to time prescribe. Detailed information concerning these fees is set forth in the Exchange Fee Schedule and applicable Fee Policy Bulletins available on the CME Group website.

### **851. [RESERVED]**

## **852. SURCHARGES FOR ERRORS, DELAYS AND OMISSIONS**

Exchange staff may establish, and from time to time revise, schedules of surcharges to be imposed upon clearing members for errors, delays and omissions with respect to trade data and certain other information required to be provided to the Clearing House. These surcharges are to be collected by the Clearing House and are in addition to any disciplinary sanctions that may be imposed by Market Regulation or the BCC for the violation of Exchange rules.

Appeals of administrative surcharges in excess of \$25,000 imposed herein shall be filed with the Market Regulation Department within 10 business days. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed. The appeal shall be heard by a Panel of the Business Conduct Committee ("BCC Panel") whose decision shall be final and not subject to Rule 411. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that they may have in support of their appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by a majority vote, that the decision was:

1. Arbitrary, capricious, or an abuse of discretion; or
2. Based on a clearly erroneous application of Exchange rules.

Notwithstanding the provisions herein, Exchange staff may, at any time, refer matters to the Chief Regulatory Officer where there is a reasonable cause to believe disciplinary action is warranted.

## **853. TRANSFERS OF TRADES AND CUSTOMER ACCOUNTS**

### **853.A. Transfers of Trades**

1. Subject to the limitations of Rule 854, existing trades may be transferred either on the books of a clearing member or from one clearing member to another clearing member provided:

- i. The transfer results in the transfer of a trade(s) from one account to another account with identical beneficial ownership; or
- ii. An error has been made in the clearing of a trade(s) and the error is corrected via transfer within three Business Days after the date on which the error occurred; or
- iii. The transfer trade is made to reconcile an error, omission or outtrade in accordance with the requirements of Rule 770.

Notwithstanding the foregoing, a transfer may be approved by the Global Head of Clearing & Post-Trade Services or the Chief Compliance Officer of the Clearing House, or their respective designees, in circumstances where it is determined that a transfer trade is the most appropriate means to remedy an error that results from the good faith acts or omissions of any party and the clearing member(s) consent to such transfer, provided that such approval does not result in an impermissible transfer for offset pursuant to the provisions of Rule 854.B. Any request for approval pursuant to this paragraph requires the clearing member(s) to fully document the circumstances of the error and provide that documentation to the Clearing House.

2. Subject to the limitations of Rule 854, the Chief Regulatory Officer or their designee may, (and, with respect to cleared-only products, the Global Head of Clearing & Post-Trade Services or their designee also may), upon request by the clearing member(s), approve a transfer of existing trades either on the books of the same clearing member, or from the books of one clearing member to the books of another clearing member if the transfer is in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring transaction between two or more entities.

3. Subject to the limitations of Rule 854, the Chief Regulatory Officer or their designee may, (and, with respect to cleared-only products, the Global Head of Clearing & Post-Trade Services or their designee also may), upon request by the clearing member(s), approve a transfer of existing trades either on the books of a clearing member or from one clearing member to another member if the transfer involves a

partnership, investment fund or commodity pool and the purpose of the transfer is to facilitate a restructuring or consolidation of such partnership, fund or pool, provided that i) the managing partner or pool operator remains the same; ii) the transfer does not result in the liquidation of open positions; and iii) the pro rata allocation of positions to the new account does not result in more than a de minimis change in the value of the interest of any party.

4. Notwithstanding the foregoing, the Chief Regulatory Officer or their designee may, (and, with respect to cleared-only products, the Global Head of Clearing & Post-Trade Services or their designee also may), with the consent of the clearing member(s) involved, permit the transfer and/or offset of existing trades if, in their designee's opinion, the situation so requires and such transfer is in the best interests of the Exchange, which may include, but is not limited to, the remedying of an error resulting from the good faith acts or omissions by a party as a means of avoiding a market disruption. The foregoing does not relieve a clearing member of its responsibility under the Rules for circumstances leading to such transfer and/or offset, and the clearing member may be responsible for demonstrated claims of realized losses incurred by other parties as a result of such errors or omissions in accordance with the provisions of Chapter 6. Additionally, notwithstanding permission for the transfer being granted by the Chief Regulatory Officer or their designee, parties involved in the transfer remain responsible for any violation of Exchange rules resulting from the transfer and may either be summarily sanctioned in accordance with the provisions of Rule 512 or the matter may be referred to the Chief Regulatory Officer for the consideration of charges.

5. Provided that the transfer is permitted pursuant to Sections 1., 2., 3. or 4. above:

- i. Transactions in all physically delivered futures contracts except for FX futures contracts must be recorded and carried on the books of the receiving firm at the original trade dates, with either the original trade price, the current Business Day's settlement price or the prior Business Day's settlement price.
- ii. All other futures and futures-style option transactions may be recorded and carried at:
  - (1) the original trade date or the date the transfer is submitted to the Clearing House, with either the original trade price, the current Business Day's settlement price or the prior Business Day's settlement price; or
  - (2) the Business Day prior to the date the transfer is submitted to the Clearing House, with either the original trade price or the prior Business Day's settlement price.
- iii. Premium-style options transactions may be recorded and carried at the original trade date, the date the transfer is submitted to the Clearing House, or the Business Day prior to the date the transfer is submitted to the Clearing House, with either the original trade price, the current Business Day's settlement price, the prior Business Day's settlement price or a trade price of zero.

Trades that have been confirmed at an average price pursuant to the provisions of Rule 553 may alternatively be transferred at the average price.

6. All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The clearing member(s) involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

7. Any authority granted to the Global Head of Clearing & Post-Trade Services or the Chief Compliance Officer of the Clearing House, or their respective designees, set forth in Section A. will not extend to security-based swap products cleared by the Clearing House.

#### **853.B. Transfers of Customer Accounts**

Subject to the limitations of Rule 853.A, after receipt of a signed instruction from a Clearing Member (the "Carrying Clearing Member") to transfer all or a portion of a customer account to another Clearing Member (the "Receiving Clearing Member"), and provided that such instruction contains the customer's name and account number (and, if the transfer is not of the entire account, a description of which portion is to be transferred), and provided that the Receiving Clearing Member agrees to accept the account, the Exchange shall promptly transfer the account (or the relevant portion thereof), without requiring any close-out or rebooking of positions in connection with the transfer, provided that:

1. The transferred positions will satisfy Exchange performance bond requirements at the Receiving Clearing Member; and
2. Any remaining positions in the customer account at the Carrying Clearing Member will satisfy Exchange performance bond requirements.

#### **854. CONCURRENT LONG AND SHORT POSITIONS**

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

A. Concurrent long and short positions in the same commodity and month may be held by a clearing member at the direction of a customer or on behalf of an omnibus account; however it shall be the duty of the clearing member to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the Clearing House.

B. Concurrent long and short positions in physically delivered contracts subject to spot month position limits that are held by the same owner during the time that spot month position limits are in effect must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be offset via netting, transfer or position adjustment to correct a bona fide clerical or operational error on the day the error is identified and the quantity of the offset does not represent more than two percent of the reported open interest in the affected futures contract month.

Permissible Exceptions

Notwithstanding the foregoing:

1. Trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date;
  2. An account that becomes concurrently long and short as a result of a futures position that results from an option assignment will be allowed one business day to net such positions; or,
  3. Where the Chief Regulatory Officer or their designee determines, in their respective sole discretion, that permitting an offset via netting, transfer or position adjustment in excess of two percent of the reported open interest will not adversely impact either the affected market or any persons holding open positions in the affected market.
- C. Clearing members which, pursuant to this rule, carry concurrent long and short positions, must report to the Exchange both sides as open positions. When either side or both sides are reduced, the open positions as reported to the Exchange must be reduced accordingly, and, pursuant to Rule 806, may not subsequently be re-opened at the Exchange.
- D. The Exchange takes no position regarding the internal bookkeeping procedures of its clearing members which, for the convenience of a customer, may "hold open" a position only on their books. However, the clearing member must accurately report to the Exchange and the Clearing House, as appropriate, large trader positions, long positions eligible for delivery and open interest.
- E. Violations of this Rule may result in summary sanctions in accordance with the provisions of Rule 512 or the matter may be referred to the Chief Regulatory Officer for the consideration of charges.

#### **855. OFFSETTING POSITIONS FOR DIFFERENT-SIZED CONTRACTS<sup>1</sup>**

With the consent of the account controller, a clearing member may offset long futures positions against short futures positions, or short futures positions against long futures positions, held in the same account in the ratios set forth in the Contracts Eligible for Offset Table ("Table") at the end of Chapter 8.

With the consent of the account controller, a clearing member may offset long options on futures positions against short options on futures positions, or short options on futures positions against long options on futures positions, held in the same account in the ratios set forth in the Table, provided that the options to be netted have European exercise, the same expiration date, and the same exercise price.

The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price for futures and at a price of zero for options.

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<sup>1</sup> Revised September 2008; March 2009; September 2010; December 2010; January 2013; December 2016; April 2019.



The positions being offset shall be transferred to a holding account at the Clearing House. Offsetting positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.

**856. NORMALIZATION OF OTC FX SPOT, FORWARD, SWAP AND OPTIONS TRANSACTIONS FOR CLEARING<sup>2</sup>**

For over-the-counter (OTC) foreign exchange (FX) transactions submitted for clearing and any non-standard specification of the transaction as defined by the price format shall be normalized by CME Group Clearing to standard or normal specifications by the following "normalization process."

Instrument: Currency 1/Currency 2 (CCY1/CCY2)

**Generically, for spot and forward OTC FX transactions...**

*Standard or Normal:* Buy (B)/Sell (S) CCY1 notional amount at CCY2 per CCY1 rate.

*Non-standard or Non-normal:* B/S CCY2 notional amount at CCY2 per CCY1 rate.

To normalize:

1. Convert B to S, or S to B
2. Convert CCY2 notional to CCY1: CCY2 amount divided by CCY2 per CCY1 rate to obtain CCY1 amount.

For example, for Instrument: EUR/USD ...

*Standard:* EUR/USD- Quote USD per EUR; notional amount in EUR

Trade comes in as SELL €15 million at 1.350000 USD per EUR →BUY \$20,250,000 (€15 million x 1.350000 USD/EUR)

*Non-standard:* EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Trade comes in as buy \$20 million at 1.350000 USD per EUR →SELL €14,814,814.81 (\$20 million / 1.350000 USD/EUR).

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

3. Convert Buy to Sell, or Sell to Buy
4. Convert USD notional to EUR: USD amount divided by USD per EUR rate.

Example: The trade "BUY \$20 million at 1.350000 ⇒SELL €14,814,814.81 (\$20/1.350000) at 1.350000 USD per EUR" shall be normalized and held in CME Clearing as:  
The trade "SELL €14,814,814.81 (\$20/1.350000) at 1.350000 USD per EUR ⇒ BUY \$20 million at 1.350000."

**For swap OTC FX transactions, ...**

*Standard or Normal:* Leg 1 B/S CCY1 notional amount at CCY2<sub>t</sub> per CCY1 rate.

Leg 2 S/B CCY1 notional amount at CCY2<sub>t+n</sub> per CCY1 rate.

*Non-standard or Non-normal:*

Leg 1 B/S CCY2 notional amount at CCY2<sub>t</sub> per CCY1 rate.

Leg 2 S/B CCY2 notional amount at CCY2<sub>t+n</sub> per CCY1 rate.

To normalize:

1. Convert B to S, or S to B
2. Convert CCY2 notional to CCY1: CCY2 amount divided by CCY2 per CCY1 rate to obtain CCY1 amount.

For example, for instrument: EUR/USD...

*Standard:* Leg 1 EUR/USD- Quote USD per EUR; notional amount in EUR

Leg 2 EUR/USD- Quote USD per EUR; notional amount in EUR

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<sup>2</sup> Adopted April 2011.

Trade comes in as "Leg 1 BUY €20 million at 1.305000 ⇒ SELL \$26,100,000 (\$20 million x 1.305000) at 1.305000 USD per EUR; Leg 2 SELL €20 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)"

*Non-Standard:* Leg 1 EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Leg 2 EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Trade comes in as "Leg 1 SELL \$26.1 million at 1.305000 ⇒ BUY €20 million (\$26.1 million / 1.305000) at 1.305000 USD per EUR; Leg 2 BUY \$26.3 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)."

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

3. Convert Buy to Sell, or Sell to Buy

4. Convert USD notional to EUR: USD amount divided by USD per EUR rate.

Example: The trade "Leg 1 SELL \$26.1 million at 1.305000 ⇒ BUY €20 million (\$26.1 million / 1.305000) at 1.305000 USD per EUR; Leg 2 BUY \$26.3 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)" shall be normalized and held in CME Clearing as:

The trade "Leg 1 BUY €20 million at 1.305000 ⇒ SELL \$26,100,000 (\$20 million x 1.305000) at 1.305000 USD per EUR; Leg 2 SELL €20 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)"

**For option OTC FX transactions, ...**

*Standard or Normal:*

B/S CCY1/CCY2 CALL (PUT) at STRIKE PRICE in units of CCY2 per CCY1 for a notional amount of CCY1 for a premium in CCY2 (CCY1 amount x premium price in CCY2 per CCY1, that is, CCY2 pips) or % of CCY1 (CCY1 premium / CCY1 notional amount).

*Non-standard or Non-normal:*

B/S CCY1/CCY2 CALL (PUT) at STRIKE PRICE in units of CCY2 per CCY1 for a notional amount of CCY2 for a premium in CCY1 (CCY2 amount / premium price in CCY2 per CCY1, that is, CCY1 pips) or % of CCY2 (CCY2 premium / CCY2 notional amount).

To normalize:

1. Retain B/S direction

2. Convert CCY2 Put to CCY1 Call, CCY2 Call to CCY1 Put

3. Convert CCY2 notional to CCY1: CCY2 amount divided by Strike Price expressed in CCY2 per CCY1.

4. Process original premium amount and currency.

5. Take premium amount and divide by CCY1 notional to express price in CCY1 terms for reference purposes.

For example, for Instrument: EUR/USD ...

*Standard:* EUR/USD- Quote USD per EUR; notional amount in EUR, premium in either % of EUR notional (EUR premium) or USD pips (USD premium).

Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of €20 million with premium of \$100,000 (€20 million x option price of 0.0050 USD per EUR, that is, USD pips) or 1.0% of €20 million (€200,000 premium / €20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of €20 million with premium of \$100,000 (€20 million x option price of 0.0050 USD per EUR, that is, USD pips) or 1.0% of €20 million (€200,000 premium / €20 million).

*Non-standard:* EUR/USD- Notional amount in USD, but quote still in USD per EUR, premium in either % of USD notional (USD premium) or EUR pips (EUR premium).

Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 USD per EUR, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million).

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

6. Retain B/S direction
7. Convert USD Put to EUR Call, USD Call to EUR Put
8. Convert USD notional to EUR: USD amount divided by Strike Price expressed in USD per EUR.
9. Process original premium amount and currency.
  - a. Take premium amount and divide by EUR notional to express price in EUR terms for reference purposes.

Example: Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 USD per EUR, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) shall be normalized and held in CME Clearing as:

BUY EUR/USD CALL at 1.350000 USD per EUR for a notional amount of €14,814,814.81 (\$20 million / 1.350000 USD per EUR) with a premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.148% of €14,814,814.81 (€170,100 / €14,814,814.81).

## **857. POST-TRADE MULTILATERAL COMPRESSION**

The Clearing House may from time to time and in its absolute and sole discretion provide a multilateral compression service under which eligible Exchange futures and options contracts cleared through the Clearing House may be offset (closed-out) and, where relevant, replaced with new Exchange futures and options contracts cleared through the Clearing House.

With the consent of the account controller, a Clearing Member, account controller or person duly authorized by the Clearing Member or account controller may submit a list of positions in eligible contracts which remain open at the Clearing House pursuant to Rule 805 and that the account controller wishes to offset (close-out) and replace with new contracts via the multilateral compression service in accordance with this Rule.

The specific products and contract months eligible for inclusion in the multilateral compression service and the frequency and timing of providing such service will be determined by the Clearing House in its absolute and sole discretion.

All contracts submitted to the Clearing House pursuant to this Rule must be submitted in accordance with the procedures established by the Clearing House for this purpose as amended from time to time.

Clearing Members participating in the multilateral compression service agree and acknowledge that the multilateral compression service may operate to offset (close-out) certain existing open positions and establish new open positions for the benefit of the relevant account holder. Any termination of or entry into replacement Exchange cleared futures and options contracts will take place in accordance with and subject to the terms of this Rule and such procedures and conditions established by the Clearing House from time to time.

The Clearing House may utilize a third party approved by the Clearing House for the facilitation of the multilateral compression service provided in accordance with this Rule, which may be an affiliate of the Clearing House or CME Group Inc. or such other entity appointed by the Clearing House from time to time and duly notified to participants (an "Authorized Compression Service Provider").

The Clearing House may in its absolute and sole discretion determine to suspend or terminate the multilateral compression service and any compression cycle at any time.

Positions in a customer account of a Clearing Member shall not be compressed pursuant to this Rule with positions in the proprietary account of the Clearing Member.

#### **CONTRACTS ELIGIBLE FOR OFFSET TABLE**

[View table here \(XLS\)](#)

(End Chapter 8)

## **Exhibit B**

### **CME, CBOT, NYMEX/COMEX Rulebooks**

#### **Chapter 9 Clearing Members**

##### **GENERAL**

#### **900. CATEGORIES OF CLEARING MEMBERS**

The Exchange may establish different clearing member categories, including but not limited to OTC Clearing Member categories, and alter the rights and responsibilities of such categories.

##### **900.A. CME Clearing Members**

CME Clearing Members shall have all applicable rights, responsibilities and privileges attendant thereto, subject to the provisions of these rules and shall be qualified to clear transactions for all CME products and all Expanded-Access Products listed for trading by CBOT after July 12, 2007.

CME Clearing Members receive fees in conjunction with CME Rule 106.H. Trading Member Firms. CME Clearing Members with shares are those clearing members that maintain CME Group Class A shares in accordance with CME Rule 106.J. Equity Member Firm requirements in order to receive equity member rates.

##### **900.B. Financial Instrument Clearing Members**

A Financial Instrument Clearing Member ("FICM") shall have the right to clear, for its own account, trades in certain CME and CBOT interest rate products executed in connection with a cash versus futures trading strategy.

The FICM must be guaranteed by a CME and/or CBOT Clearing Member that is entitled to clear all of the products cleared by the FICM. The guarantor must be the clearing member for the FICM's transactions in U.S. Treasury Securities and report to the Clearing House, at appropriate intervals, the FICM's open positions in U.S. Treasury Securities. The guarantor shall assume complete responsibility for all of the FICM's obligations to the Exchange and Clearing House arising from its operations as a FICM. In the event of a default by the FICM to the Clearing House in respect of any futures or options on futures, the FICM shall be suspended by the Exchange and the open positions of the FICM shall be transferred to, owned by, and become the direct responsibility of the guarantor. In the event of a default by the FICM or a related entity to the guarantor clearing firm, the Exchange will, at the request of the guarantor clearing firm, and upon due verification of the facts, facilitate the suspension of the FICM, in which case the open positions of the FICM shall be transferred to, owned by, and become the direct responsibility of the guarantor.

The FICM shall be subject to applicable CME and CBOT Rules, including those contained in CME and CBOT Rules Chapter 8 and Chapter 9, and including without limitation, CME Rule 802 (Protection of the Clearing House, including the primary responsibility for the Clearing House assessment obligation therein). The FICM shall comply with all of the requirements and obligations of a clearing member pursuant to CME Rule 901 (General Requirements and Obligations) with the exception of the parent guarantee requirement pursuant to CME 901(L).

The FICM must satisfy the following requirements:

- (i) Adjusted Net Capital of \$500,000;
- (ii) Initial minimum guaranty fund deposit of \$50,000 to be increased to reflect transaction volume, open interest and risk;
- (iii) The assignment of one Full or two Associate Memberships for the privilege of clearing CBOT interest rate products and two CME, two IMM, two IOM, and one GEM membership for the privilege of clearing CME interest rate products. Memberships may be independently assigned.

FICMs receive fees in conjunction with CME and/or CBOT Rule 106.H. Trading Member Firms as applicable. FICMs that maintain CME Group Class A shares in accordance with CME Rule 106.J. Equity Member Firm requirements are eligible to receive equity member rates.

- (iv) The applicant shall be engaged in or demonstrate immediate capacity to engage in U.S. Treasury/interest rate futures spread trades and in order to maintain the status of a FICM, shall actively execute both sides of U.S. Treasury/interest rate futures spread trades.

A FICM applicant shall execute and place on file with the Exchange the following documents:

- (i) An application for the FICM clearing membership;
- (ii) Globex System access documentation;
- (iii) Settlement bank account documents to permit the Clearing House to collect and disperse monies directly to the FICM;
- (iv) An acknowledgement from the guarantor that it agrees to guarantee the performance and financial obligations of the FICM to the Clearing House for certain identified interest rate products;
- (v) Authorization to the Clearing House to verify, at its discretion, the transactions and open positions of the FICM in U.S. Treasury Securities;
- (vi) Authorization to the Clearing House to deliver the FICM's trade register and recap ledger to the FICM's Clearing Member guarantor;
- (vii) A Clearing Member and FICM authorization pursuant to which the Clearing Member/guarantor will be authorized to submit complete and accurate transaction and position information respecting the U.S Treasury Securities of the FICM to the Clearing House; and
- (viii) Any additional documents or information requested by the Clearing House for risk management purposes.

Exchange staff may grant exceptions to the requirements of Rule 900.B. for good cause if it is determined that such exceptions will not jeopardize the financial integrity of the Exchange.

## **901. GENERAL REQUIREMENTS AND OBLIGATIONS**

Membership in the Clearing House is a privilege and license granted by the Board and may be withdrawn by the Board for cause at any time. Clearing House staff may grant exemptions to the General Requirements and Obligations set forth below for Clearing Members if it is determined that such an exemption will not jeopardize the financial integrity of the Clearing House. Subject to such exemptions, each applicant for qualification as a clearing member must satisfy the following requirements:

- A. It shall be a corporation (defined by the Rules of the Exchange to include a limited liability company), partnership or other entity approved by Exchange staff. It shall agree to: 1) abide by all Exchange Rules and to cooperate in their enforcement; 2) be responsible, even after it has withdrawn as a clearing member, for any violations of Exchange Rules committed by it while it was a clearing member; and 3) continue to meet all requirements applicable to clearing members, including all financial requirements provided by these rules;
- B. It shall have an authorized representative (i.e., officer, principal, or partner) who shall represent the clearing member before the Exchange and its committees. Such authorized representative shall be responsible to the Exchange for any representations made to the Exchange as if such person were a member as defined by Rule 400.
- C. It shall be qualified to do business in the State of Illinois or the State of New York or have a valid agency agreement with an entity qualified to do business in the State of Illinois or the State of New York;<sup>3</sup>
- D. It shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of a clearing member;
- E. It shall demonstrate such fiscal and moral integrity as would justify the Clearing House's assumption of the risks inherent in clearing its trades;
- F. It shall demonstrate financial capitalization commensurate with Exchange requirements as set by the Clearing House Risk Committee;
- G. If any person directly or indirectly controls, owns 10% or more of, or has the right to 10% or more of the profits of two or more clearing members, then each such clearing member shall guarantee the

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<sup>3</sup> Revised December 2008.

obligations of the others to the Clearing House and shall execute a written guarantee to the Clearing House on a form approved by the Clearing House.

- H. It shall notify the Exchange prior to any significant business transaction or significant change in operations which shall include, but is not limited to the following:
1. The merger, combination or consolidation between the clearing member and another person or entity;
  2. The assumption or guarantee by the clearing member of all or substantially all of the liabilities of another in connection with a direct or indirect acquisition of all or substantially all of that person's or entity's assets;
  3. The sale by the clearing member of a significant part of its business and/or assets to another person or entity;
  4. A change in the direct or indirect beneficial ownership of 20% or more of the clearing member;
  5. Any change in the system provider used by the clearing member to process its trades; and
  6. A significant increase in the number of members that a clearing member qualifies.

Additionally, a clearing member that qualifies members must provide fifteen days notice to the Exchange of any proposal to terminate such business or any material part of such business.

The relevant committee or Exchange staff, upon such notice, may disapprove or approve, subject to certain conditions, such changes in structure or operations if it determines that the proposed change could jeopardize the financial or operational integrity of the Exchange or the Clearing House. For purposes of this Rule, the Clearing House Oversight Committee shall be the relevant committee with respect to corporate organization and structure changes and the Clearing House Risk Committee shall be the relevant committee with respect to all other changes.

- I. It shall agree to guarantee and assume complete responsibility for the financial obligations attendant to: 1) all trades and orders executed or accepted for execution by a member it qualifies, including trades and orders executed, or which such member fails to execute, negligently, fraudulently or in violation of Exchange rules; 2) an unpaid arbitration award issued by a panel of the Arbitration Committee against a member it qualifies in circumstances where the dispute is related to a matter described in number 1) above; 3) an unpaid restitution order issued against a member it qualifies by a panel of the Business Conduct Committee, or a hearing panel of the Board of Directors; and 4) unpaid Exchange disciplinary fines imposed upon a member it qualifies if the member is also an employee of the clearing member or its affiliate, subject to a determination by the sanctioning entity.
- J. It shall notify the Financial and Regulatory Surveillance Department in a timely manner of any material change in key personnel who are responsible to act on behalf of the clearing member.
- K. [Reserved]
- L. [Reserved]
- M. It shall guarantee and assume financial responsibility for all trading activity routed through a Globex portal, or routed through any other electronic trading system to CME for clearing of such transactions. Such activity is guaranteed to CME by the clearing member via any connection, terminal, link, telecommunications hub or handheld unit provided by the clearing member to a third party as well as any other applicable electronic trading systems and terminals that the clearing member provides to a third party to enter orders.
- N. It shall be responsible for the acts of Globex terminal operators accessing the Globex system through its connections, including direct connections or other connections that it provides to firms that are under common ownership with it. It shall be the duty of the clearing member to supervise its employees and agents acting as Globex terminal operators to ensure such employees and agents comply with Exchange rules, and any violation of Exchange rules by such terminal operators shall be considered a violation by the clearing member.
- O. It shall agree to guarantee and assume complete responsibility for trades executed on Marketplaces for which the Exchange provides clearing services.
- P. Each clearing member shall use systems and appropriate procedures to track accurately, and to provide to the Clearing House accurately, the positions and collateral of each of the cleared swaps customers.
- Q. Requirement to Establish Uncommitted Repo. Each clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate shall enter into (or arrange for such affiliate, or an affiliate that is a bank, to enter into) a master repurchase agreement with CME on terms substantially similar to those set out by the Clearing House. Each clearing member that has entered into such master repurchase agreement shall (or shall cause its

affiliate that has entered into such master repurchase agreement to) periodically test repurchase transactions with the Clearing House when requested by the Clearing House.

- R. Reserved
- S. The obligation of a clearing member to pay settlement variation 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 settlement cycle is satisfied when all required assets are deposited as performance bond into the correct CME bank account at the relevant custodial bank.
- T. To clear transactions in futures or options on futures executed on or subject to the rules of a foreign board of trade identified in Rule 8C04, the applicant must meet any other conditions that the Clearing House may require.

## **902. CLEARING MEMBERSHIP ASSIGNMENT REQUIREMENTS**

### **902.A. Assignment Requirement**

Subject to exemptions granted by Exchange staff, each CME clearing member shall have at least: two CME memberships, two IMM memberships, two IOM memberships and one GEM membership assigned to the Clearing House. A clearing member which was an IMM Class A clearing member on or prior to May 6, 1987, shall have at least one CME membership, three IMM memberships, two IOM memberships and one GEM membership assigned to the Clearing House. A higher Division membership may be substituted for a lower Division membership to satisfy these requirements.

At least one CME, one IMM, one IOM and one GEM membership required for clearing membership pursuant to this Rule must be owned by the clearing member or a person, including a parent company, with an acceptable proprietary interest in such clearing member. One CME, one IMM, and one IOM membership required for clearing membership may be independently assigned.

Upon default of a clearing member in meeting its obligations to the Clearing House or upon the Clearing House Risk Committee's determination that a clearing member's financial position jeopardizes the financial integrity of the Clearing House, the Clearing House may direct the sale of any or all of the clearing member's assigned CME memberships. The proceeds from the sale of the CME memberships shall be used to satisfy Rule 110 obligations.

### **902.B. [Reserved]**

### **902.C. Assignment Process**

A membership may be assigned upon the completion of an Exchange-approved form. A membership may be assigned on behalf of only one clearing member and may not be subject to any Rule 110 claims at the time of assignment. Upon submitting an assignment form to the Membership Services Department, the membership shall be notified of the assignment. Parties will have ten days after the notification of the assignment to submit any Rule 110 claims against the membership being assigned. After all Rule 110 claims have been resolved to the satisfaction of the Exchange, the membership shall be assigned.

### **902.D. Assignment Substitutions**

A clearing member may substitute a membership for an assigned membership provided that the clearing member continues to meet the assignment requirements of this Rule.

In the event a clearing member has a valid claim against a member that it qualifies and the member's membership is assigned to another clearing member, the clearing member utilizing the membership for assignment shall have 10 business days to substitute another membership to fulfill the assignment requirements of this Rule.

### **902.E. Assignment Withdrawal Disputes**

In the event a member wants to withdraw their assigned membership over the objection of the clearing member to which the membership is assigned, such member must request permission to do so from Clearing House staff. The request must be in writing with a copy delivered to the clearing member to which the membership is assigned.

### **902.F. Lien on Memberships**

Each clearing member hereby grants to the Clearing House a first priority and unencumbered lien against all memberships required for clearing membership by the Exchange.



903.

#### **RESPONSIBILITY FOR QUALIFIED MEMBERS**

- A. A clearing member that qualifies a member thereby guarantees and assumes complete responsibility for the financial obligations attendant to: 1) all trades and orders executed or accepted for execution by such member, including trades or orders executed, or which such member fails to execute, negligently, fraudulently or in violation of Exchange rules; 2) an unpaid arbitration award issued by a panel of the Arbitration Committee against such member in circumstances where the dispute is related to a matter described in number 1) above; 3) an unpaid restitution order issued against such member by a panel of the Business Conduct Committee, or a hearing panel of the Board of Directors; and 4) unpaid Exchange disciplinary fines imposed upon such member if the member is also an employee of the clearing member or its affiliate, subject to a determination by the sanctioning entity.
- B. To qualify traders, a clearing member must have established systems in place for trade submission, clearing, and settlement/banking with the Clearing House.
- C. No member may be qualified by more than one clearing member at one time.
- D. A member may not transfer their qualification unless they have obtained a written release from the clearing member last qualifying them. A release shall not be withheld unless a member has an unsatisfied indebtedness to the clearing member last qualifying them where the indebtedness is due to a deficit arising from transactions on the Exchange or where the clearing member last qualifying them is the guarantor under an existing valid guarantee of a loan which had been made to the member exclusively for the purpose of financing the purchase of the member's membership. A member who believes their qualifying clearing member is unreasonably withholding a release necessary to permit the member to be qualified by a different clearing member may request a hearing before a Panel of the Business Conduct Committee as provided in Rule 511. Any other disputes between the parties shall be resolved, to the extent permitted by the rules, through the arbitration procedures set forth in Chapter 6.
- E. A clearing member may, without prior notice, revoke a member's authorization to trade by written revocation filed with the Shareholder Relations and Membership Services Department. Such revocation shall be effective and the member's qualification to trade shall terminate when notice of the disqualification is posted on the Exchange floor. A member shall not appear upon the floor of the Exchange until they have been requalified.
- F. A member shall place all trades, including trades for their own account or any account which they control, on the books of their qualifying clearing member unless written authorization to the contrary from said clearing member has been filed with the Shareholder Relations and Membership Services Department. Regardless of such authorization, a member in a deficit position with any clearing member shall place trades only through their qualifying clearing member. Any non-qualifying clearing member that carries a member's account in a deficit position shall promptly notify the clearing member that is qualifying such member.
- G. No clearing member shall provide Globex access to, or clear any trade for, an employee, qualified trader or other representative of another clearing member without the written consent of such clearing member. No clearing member shall provide Globex access to, or clear any trade for, a person in a partnership with another clearing member without the written consent of all partners. Such written consent shall be filed with the Shareholder Relations and Membership Services Department.
- H. In the case of a member who has Globex access guaranteed by a clearing member other than their qualifying clearing member, the qualifying clearing member may terminate the member's ability to place orders through Globex by notifying the clearing member providing the member access to Globex. The clearing member providing the access to Globex will be responsible for ensuring that the member does not place orders through Globex.

904.

#### **FUNDS IN TRADING ACCOUNTS CARRIED BY CLEARING MEMBERS**

If a Member (as defined in Rule 400) trades in excess of written limits prescribed by their qualifying or guaranteeing clearing member or a clearing member through which such Member is authorized by their qualifying clearing member to trade pursuant to Rule 511 without sufficient funds in their account to margin the position, or if the Member is alleged to have engaged in reckless and unbusinesslike dealing inconsistent with just and equitable principles of trade, and such trades are profitable, the disposition of any and all funds in the applicable trading account(s) may be suspended by the carrying clearing member. The claim of a carrying clearing member to such profits shall be submitted to arbitration pursuant to the provisions of Chapter 6. The Member may request a hearing to be held as soon as practicable before a Chairman of the Arbitration Committee to determine the amount of any profits that should remain subject to a continued suspension pending an arbitration hearing on the full merits of the claim.

905.

#### **CHOICE OF LAW**

- (a) THE RULES OF THE EXCHANGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, WITHOUT GIVING EFFECT TO ITS CONFLICT-OF-LAW PRINCIPLES. EXCEPT AS OTHERWISE PROVIDED IN CHAPTERS 4, 5 AND 6 OF THE RULEBOOK, ANY ACTION, CLAIM, DISPUTE OR LITIGATION OF ANY KIND BETWEEN THE CLEARING MEMBER AND THE EXCHANGE ARISING FROM THE CLEARING MEMBER'S MEMBERSHIP IN THE EXCHANGE SHALL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN CHICAGO, ILLINOIS. CLEARING MEMBERS CONSENT TO THE JURISDICTION OF SUCH COURT AND TO SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY ILLINOIS OR U.S. FEDERAL LAW, AND SHALL NOT SEEK TO TRANSFER THE VENUE OF SUCH LITIGATION.
- (b) EACH CLEARING MEMBER IRREVOCABLY WAIVES, WITH RESPECT TO ITSELF AND ITS REVENUES AND ASSETS, ANY IMMUNITY ON THE GROUND OF SOVEREIGNTY OR OTHER SIMILAR GROUNDS FROM SUIT, JURISDICTION OF ANY COURT, INJUNCTIVE RELIEF, ORDER FOR SPECIFIC PERFORMANCE OR FOR RECOVERY OF PROPERTY, ATTACHMENT OF ASSETS, AND EXECUTION OR ENFORCEMENT OF ANY JUDGMENT TO WHICH IT OR ITS REVENUES OR ASSETS MIGHT OTHERWISE BE ENTITLED IN ANY PROCEEDINGS IN THE COURTS OF ANY JURISDICTION, AND IRREVOCABLY AGREES THAT IT WILL NOT CLAIM ANY SUCH IMMUNITY IN ANY PROCEEDINGS.

**906-909. [RESERVED]**

## **APPLICATION PROCEDURES FOR CLEARING MEMBERS**

### **910. APPLICATION FORMS**

Applicants for clearing membership shall submit an application, financial statements and other documentation as Clearing House staff shall require.

### **911. SCREENING PROCEDURES**

Upon receipt of an application, the Financial and Regulatory Surveillance Department and the Clearing and Post-Trade Services Department shall investigate the applicant's qualifications, which may include an examination of the books and records of the applicant.

### **912. APPROVAL**

An applicant for clearing membership receiving a majority vote of the Clearing House Oversight Committee shall be approved effective immediately.

An applicant that fails to receive a majority vote shall be informed by the Clearing House Oversight Committee chairman and shall have 10 days thereafter to file an appeal to the Board seeking further consideration. The Board may approve the applicant by a majority vote if it is satisfied that the Clearing House Oversight Committee's decision was arbitrary, capricious or an abuse of the Clearing House Oversight Committee's discretion.

### **913. WITHDRAWAL FROM CLEARING MEMBERSHIP**

#### **913.A. Voluntary Withdrawal**

A clearing member that intends to withdraw from clearing membership for Base Guaranty Fund Products shall provide written notice of such intent to the Clearing House and the Clearing House Oversight Committee. A clearing member's withdrawal shall be effective on the earlier of (i) the date Clearing House Staff approves such withdrawal or (ii) the 10th Business Day following the date of the clearing cycle in which the withdrawing clearing member liquidates or transfers to an appropriate clearing member all of its open customer and house positions in Base Guaranty Fund Products (such earlier date, the "Base Withdrawal Date"); provided that the withdrawing clearing member shall remain liable for Base Guaranty Fund contributions and assessments in accordance with Rule 913.B. Promptly following the Base Withdrawal Date, the Clearing House shall post a notice of the clearing member's withdrawal.

#### **913.B. Release of Guaranty Fund Deposit, Membership Proceeds and Assignments**

When a clearing member withdraws from clearing membership for Base Guaranty Fund Products (whether voluntarily or involuntarily), its Base Guaranty Fund deposit, the proceeds from the sale of its

memberships assigned for clearing qualification or any other deposits required by the Clearing House, and any remaining assets available to the Clearing House associated with Base Guaranty Fund Products including, but not limited to, memberships will be released when Clearing House staff determines that the following has occurred: (1) all contracts and obligations with the Exchange have been settled and paid, (2) all sums owing to the Exchange have been paid, (3) all obligations to other members and customers arising out of claims directly related to Base Guaranty Fund Products cleared on the Exchange have been paid or otherwise provided for, (4) all obligations to other members and customers arising out of other arbitration claims for Base Guaranty Fund Products filed pursuant to Chapter 6 have been paid or otherwise provided for and (5) the requisite liquidity providers for the Exchange have released the security interest in such clearing member's "assets" associated with the clearing of Base Guaranty Fund Products in accordance with the terms of the liquidity facility described in Rule 817; provided, however, that in the event that Exchange staff determines that all of the foregoing other than (4) have occurred, the Clearing House Risk Committee may in its discretion authorize the release of such property.

Generally, no such property shall be released prior to the 60th day following the posting of the notice of the clearing member's withdrawal. Notwithstanding the above, Clearing House staff may grant an exemption to the above restriction for good cause shown. Further, for purposes of the paragraph above, if the withdrawing clearing member will not remain a clearing member in any other capacity with the Exchange, all obligations of the withdrawing clearing member to the Exchange, of whatever nature or kind, shall be accelerated and become due and payable upon the effective date of withdrawal. If the clearing member will remain a clearing member for other product classes other than Base Guaranty Fund Products, the foregoing sentence shall apply only to obligations related to the clearing of Base Guaranty Fund Products.

For purposes of Rules 802 and 816, the Base Guaranty Fund contributions and assessments of a non-defaulted clearing member that has withdrawn shall not be accessible by the Clearing House to satisfy any losses in respect of the default of another clearing member where such default occurred after the Base Cooling Off Period as of which the withdrawing clearing member had liquidated or transferred all of its open customer and house positions in Base Guaranty Fund Products. For the avoidance of doubt, a withdrawing clearing member shall be subject to assessments for all defaults occurring during the Base Cooling Off Period in which such clearing member withdraws.

#### **914. BASE CLEARING MEMBER DEFAULT OBLIGATIONS**

The Clearing House will establish Base Product Categories in order to establish a minimum number of capable bidders for such product category during a default. The Clearing House shall determine, in accordance with the Base Default Management Guidelines, the Base Product Categories for which Base Clearing Members are deemed to be Mandated Base Clearing Members, and publish such Base Product Categories.

A Base Clearing Member with open interest in its proprietary account for a Base Product Category, as determined by the Clearing House in accordance with the Base Default Management Guidelines, may be selected for mandatory participation in default drill exercises and default auctions based on the Clearing House's assessment of the following factors:

- A. Relative amount of performance bond in the proprietary account for the relevant Base Product Category.
- B. Relative intraday trading volume in the proprietary account for the relevant Base Product Category.
- C. An assessment of the firm's capabilities for participating in default drill exercises or default auctions.

The Clearing House may, in its sole discretion, exempt a Mandated Base Clearing Member from mandatory participation in Base default drill exercises and default auctions based on any of the factors above, including the significance of the firm's open interest. No Mandated Base Clearing Member or Bidding OTC Firm will be required to participate in a default auction where the Clearing House determines that such firm's open interest in a Base Product Category or OTC Derivatives Product Category, as applicable, is not proportional to the size of the defaulted Base Clearing Member's positions in the same products.

Each Mandated Base Clearing Member must satisfy the requirements set forth below:

1. Comply with all Clearing House default management requirements and associated responsibilities and obligations. A Mandated Base Clearing Member may contract with a third party (including an affiliate) to fulfill certain default management requirements; provided that, the Mandated Base Clearing Member first notifies the Clearing House, which reserves the right to review and approve such arrangements prior to them taking effect. Notwithstanding the existence of a third-party arrangement, each Mandated Base Clearing Member shall be liable for any failure to comply with a Clearing House requirement for default drill exercises or default auctions.

2. Participate in each hedging or liquidation auction conducted by the Clearing House for a defaulted Base Clearing Member's Base Contracts (each, a "Base Default Management Auction"), as required by the Clearing House, in every Base Product Category for which it is a Mandated Base Clearing Member and has open interest in the relevant Base Product Category in its proprietary account. Each Mandated Base Participant shall participate in Base default drill exercises as prescribed by the Clearing House. Each Mandated Base Clearing Member shall have the ability to provide quotations to the Clearing House for hedging and liquidation transactions for each Base Product Category for which it is a Mandated Base Clearing Member. The Base Guaranty Fund contribution of a Base Clearing Member that participates in a Base Default Management Auction or fails to meet its participation requirement for such auction shall be allocated in accordance with CME Group Exchange Rule 802.B.

3. Notify the Clearing House of any change to its trading capabilities that may impact its ability to participate in default drill exercises or default auctions in any Base Product Category for which it is a Mandated Base Clearing Member.

**915. LIQUIDITY POLLS**

The Clearing House will establish categories and sub-categories of Base Contracts for mandatory participation in liquidity polling processes ("Liquidity Polling Categories") in order to establish a minimum number of mandatory participants in liquidity polls and to assist with estimating the cost of liquidating a hypothetical portfolio of a defaulted Base Clearing Member (each, a "Liquidity Poll"). The Clearing House shall determine the Liquidity Polling Categories for which Base Clearing Member are required to participate in Liquidity Polls and publish such Liquidity Polling Categories.

A Base Clearing Member with open interest in its proprietary account for a Liquidity Polling Category may be selected for mandatory participation in Liquidity Polls based on the Clearing House's assessment of the following factors:

- A. Relative performance bond in the proprietary account for the relevant Liquidity Polling Category.
- B. Relative intraday trading volume for the proprietary account for the relevant Liquidity Polling Category.
- C. An assessment of the firm's capabilities for participating in Liquidity Polls.

The Clearing House may, in its sole discretion, exempt a Base Clearing Member from mandatory participation in the nearest Liquidity Poll for one or more Liquidity Polling Categories, based on the factors above or any other factor it deems relevant.

Each Base Clearing Member that is required to participate in a Liquidity Poll must comply with all Clearing House participation requirements for that Liquidity Poll. A Base Clearing Member's failure to provide required Liquidity Poll submissions by the deadline established by the Clearing House may result in the Base Clearing Member being assessed up to \$50,000 and/or referral to the Chief Regulatory Officer for potential disciplinary action, in accordance with established CME Clearing procedures.

**916.-929. [RESERVED]**

**ACCOUNT HOLDER PERFORMANCE BOND REQUIREMENTS**

**930. PERFORMANCE BOND REQUIREMENTS: ACCOUNT HOLDER LEVEL**

**930.A. Performance Bond System**

The Standard Portfolio Analysis of Risk (“SPAN®”) Performance Bond System and SPAN 2 are the performance bond systems adopted by the Exchange. SPAN and SPAN 2-generated performance bond requirements shall constitute Exchange performance bond requirements. All references to performance bond within the rules of the Exchange shall relate to those computed by the SPAN or SPAN 2 systems, except for cleared over-the-counter (“OTC”) foreign exchange (“FX”) and interest rate swap (“IRS”) transactions, where the Historical Value at Risk (“HVaR”) Performance Bond System is used for cleared OTC FX and IRS transaction performance bonds.

Performance bond systems other than the SPAN and SPAN 2 systems may be used to meet Exchange performance bond requirements if the clearing member can demonstrate that its system will always produce a performance bond requirement equal to or greater than the SPAN and SPAN 2 performance bond requirements.

### **930.B. Performance Bond Rates**

#### **1. Non-Security Futures and OTC Derivatives**

Exchange staff shall determine initial and maintenance performance bond rates used in determining Exchange performance bond requirements. The Board reserves the right to change or modify any performance bond levels determined by Exchange staff.

#### **2. Security Futures**

- a. Initial and maintenance performance bond (or “margin”) rates used in determining Exchange performance bond requirements applied to Security Futures on behalf of Customers, whether effected on the Exchange or on a Marketplace apart from Exchange but cleared by the Clearing House per Chapter 8B, and held in a futures account, shall be established at levels no lower than those prescribed by CFTC Regulation Section 41.45; and, SEC Regulation 242.403, including any successor Regulations.
- b. As used in this Rule, the term “Customer” does not include (a) an “exempted person” as defined in CFTC Regulation 41.43(a)(9) and SEC Regulation 242.401(a)(9); or (b) Market Makers as defined below.

A Person shall be a “Market Maker” for purposes of this Rule, and shall be excluded from the requirements set forth in CFTC Regulations 41.42 through 41.49; and, SEC Regulations 242.400 through 242.406 in accordance with CFTC Regulation 41.42(c)(2)(v) and SEC Regulation 242.400(c)(2)(v), with respect to all trading in Security Futures for its own account, if such Person is an Exchange Member that is registered with the Exchange as a “Security Futures Dealer.”

Each Market Maker shall: (a) be a member of the Exchange; or, be registered as a dealer with the SEC under Section 15(b) of the Exchange Act; (b) maintain records sufficient to prove compliance with the requirements set forth in this Rule and CFTC Regulation 41.42(c)(2)(v) and SEC Regulation 242.400(c)(2)(v), including without limitation, trading account statements and other financial records sufficient to detail activity and verify conformance with the standards set forth herein; and (c) hold itself out as being willing to buy and sell Security Futures for its own account on a regular or continuous basis.

A Market Maker satisfies condition (c) above if, at a minimum, any of the following three requirements are fulfilled:

#### **(1) The Market Maker:**

- (i) Provides continuous two-sided quotations throughout the trading day for all delivery months of Security Futures Contracts representing a meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange, subject to relaxation during unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract) at which times the Market Maker must use its best efforts to quote continuously and competitively; and
- (ii) When providing quotations, quotes with a maximum bid/ask spread no more than the greater of \$0.20 or 150% of the bid/ask spread in the primary market for the security underlying each Security Futures Contract.

#### **(2) The Market Maker:**

- (i) Responds to at least 75% of the requests for quotation for all delivery months of

Security Futures Contracts representing a meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange, subject to relaxation during unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract) at which times the Market Maker must use its best efforts to quote competitively; and

- (ii) When responding to requests for quotation, quotes within five seconds with a maximum bid/ask spread no more than the greater of \$0.20 or 150% of the bid/ask spread in the primary market for the security underlying each Security Futures Contract.
- (3) The Market Maker:
- (i) Is assigned to a group of Security Futures Contracts listed on the Exchange that is either unlimited in nature (“Unlimited Assignment”); or, is assigned to no more than 20% of the Security Futures Contracts listed on the Exchange (“Limited Assignment”);
  - (ii) At least 75% of the Market Maker’s total trading activity in Exchange Security Futures Contracts is in its assigned Security Futures Contracts, measured on a quarterly basis;
  - (iii) During at least 50% of the trading day the Market Maker has bids or offers in the market that are at or near the best market, except in unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract), with respect to at least 25% (in the case of an Unlimited Assignment) or at least one (in the case of a Limited Assignment) of its assigned Security Futures Contracts; and
  - (iv) The requirements in (ii) and (iii) above are satisfied on: (a) at least 90% of the trading days in each calendar quarter by Market Makers who have undertaken an Unlimited Assignment; or (b) at least 80% of the trading days in each calendar quarter by Market Makers who have undertaken a Limited Assignment; or (c) on at least 80% of the trading days in each calendar quarter by Market Makers who have undertaken either an Unlimited Assignment or Limited Assignment but where the Exchange is listing four (4) or fewer Security Futures Contracts.

For purposes of clauses (1) and (2) above, beginning on the 181<sup>st</sup> calendar day after the commencement of trading of Security Futures Contracts on the Exchange, a “meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange” shall mean a minimum of 20% of such trading volume.

Any Market Maker that fails to comply with the applicable Rules of the Exchange, CFTC Regulations 41.41 through 41.49 and SEC Regulations 242.400 through 242.406 shall be subject to disciplinary action in accordance with Chapter 4. Appropriate sanctions in the case of any such failure shall include, without limitation, a revocation of such Market Maker’s registration as a Security Futures Dealer.

- c. The Exchange shall establish initial and maintenance performance bond requirements applicable to Security Futures and held in a futures account, provided that the performance bond requirement for any long or short position held by a clearing member on behalf of a Customer shall not be less than 20% of the current market value of the relevant Contract; or, such other requirement as may be established by the CFTC and SEC for purposes of CFTC Regulation 41.45(b)(1) and SEC Regulation 242.403(b)(1) except as provided below.
- d. Initial and maintenance performance bond requirements for offsetting positions involving Security Futures and related positions are provided in the schedule below, for purposes of CFTC Regulation 41.45(b)(2) and SEC Regulation 242.403(b)(2).

## **PERFORMANCE BOND (or “MARGIN”) REQUIREMENTS FOR OFFSETTING POSITIONS**

DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
Long security future (or basket of security futures representing each component of a narrow-based securities index) and long put option on the same underlying security (or index)	Individual stock or narrow-based security index	20% of the current market value of the long security future, plus pay for the long put in full.	The lower of: (1) 10% of the aggregate exercise price of the put plus the aggregate put out-of-the-money amount, if any; or (2) 20% of the current market value of the long security future.
Short security future (or basket of security futures representing each component of a narrow-based securities index) and short put option on the same underlying security (or index)	Individual stock or narrow-based security index	20% of the current market value of the short security future, plus the aggregate put in-the-money amount, if any. Proceeds from the put sale may be applied.	20% of the current market value of the short security future, plus the aggregate put in-the-money amount, if any.
Long security future and short position in the same security (or securities basket) underlying the security future	Individual stock or narrow-based security index	The initial margin required under Regulation T for the short stock or stocks.	5% of the current market value as defined in Regulation T of the stock or stocks underlying the security future.
Long security future (or basket of security futures representing each component of a narrow-based securities index) and short call option on the same underlying security (or index)	Individual stock or narrow-based security index	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any. Proceeds from the call sale may be applied.	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any.

DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
Long a basket of narrow-based security futures that together tracks a broad-based index and short a broad-based security index call option contract on the same index	Narrow-based security index	20% of the current market value of the long basket of narrow-based security futures, plus the aggregate call in-the-money amount, if any. Proceeds from the call sale may be applied.	20% of the current market value of the long basket of narrow-based security futures, plus the aggregate call in-the-money amount, if any.
Short a basket of narrow-based security futures that together tracks a broad-based security index and short a broad-based security index put option contract on the same index	Narrow-based security index	20% of the current market value of the short basket of narrow-based security futures, plus the aggregate put in-the-money amount, if any. Proceeds from the put sale may be applied.	20% of the current market value of the short basket of narrow-based security futures, plus the aggregate put in-the-money amount, if any.
Long a basket of narrow-based security futures that together tracks a broad-based security index and long a broad-based security index put option contract on the same index	Narrow-based security index	20% of the current market value of the long basket of narrow-based security futures, plus pay for the long put in full.	The lower of: (1) 10% of the aggregate exercise price of the put, plus the aggregate put out-of-the-money amount, if any; or (2) 20% of the current market value of the long basket of security futures.
Short a basket of narrow-based security futures that together tracks a broad-based security index and long a broad-based security index call option contract on the same index	Narrow-based security index	20% of the current market value of the short basket of narrow-based security futures, plus pay for the long call in full.	The lower of: (1) 10% of the aggregate exercise price of the call, plus the aggregate call out-of-the-money amount, if any; or (2) 20% of the current market value of the short basket of security futures.



DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
Long security future and short security future on the same underlying security (or index)	Individual stock or narrow-based security index.	The greater of: 5% of the current market value of the long security future; or (2) 5% of the current market value of the short security future.	The greater of: 5% of the current market value of the long security future; or (2) 5% of the current market value of the short security future.
Long security future, long put option and short call option. The long security future, long put and short call must be on the same underlying security and the put and call must have the same exercise price. (Conversion)	Individual stock or narrow-based security index.	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any, plus pay for the put in full. Proceeds from the call sale may be applied.	10% of the aggregate exercise price, plus the aggregate call in-the-money amount, if any.
Long security future, long put option and short call option. The long security future, long put and short call must be on the same underlying security and the put exercise price must be below the call exercise price (Collar)	Individual stock or narrow-based security index.	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any, plus pay for the put in full. Proceeds from call sale may be applied.	The lower of: (1) 10% of the aggregate exercise price of the put plus the aggregate put out-of-the money amount, if any; or (2) 20% of the aggregate exercise price of the call, plus the aggregate call in-the-money amount, if any.
Short security future and long position in the same security (or securities basket) underlying the security future	Individual stock or narrow-based security index.	The initial margin required under Regulation T for the long stock or stocks.	5% of the current market value, as defined in Regulation T, of the long stock or stocks.

DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
Short security future and long position in a security immediately convertible into the same security underlying the security future, without restriction, including the payment of money	Individual stock or narrow-based security index.	The initial margin required under Regulation T for the long security.	10% of the current market value, as defined in Regulation T, of the long security.
Short security future (or basket of security futures representing each component of a narrow-based securities index) and long call option or warrant on the same underlying security (or index)	Individual stock or narrow-based security index.	20% of the current market value of the short security future, plus pay for the call in full.	The lower of: (1) 10% of the aggregate exercise price of the call, plus the aggregate call out-of-the-money amount, if any; or (2) 20% of the current market value of the short security future.
Short security future, Short put option and long call option. The short security future, short put and long call must be on the same underlying security and the put and call must have the same exercise price. (Reverse Conversion)	Individual stock or narrow-based security index.	20% of the current market value of the short security future, plus the aggregate put in-the-money amount, if any, plus pay for the call in full. Proceeds from put sale may be applied.	10% of the aggregate exercise price, plus the aggregate put in-the-money amount, if any.
Long (short) a basket of security futures, each based on a narrow-based security index that together tracks the broad-based index and short (long) a broad-based index future	Narrow-based security index	5% of the current market value for the long (short) basket of security futures.	5% of the current market value of the long (short) basket of security futures.

DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
Long (short) a basket of security futures that together tracks a narrow-based index and short (long) a narrow-based index future	Individual stock or narrow-based security index	The greater of: (1) 5% of the current market value of the long security future(s); or (2) 5% of the current market value of the short security future(s).	The greater of: (1) 5% of the current market value of the long security future(s); or (2) 5% of the current market value of the short security future(s).
Long (short) a security future and short (long) an identical security future traded on a different market.	Individual stock or narrow-based security index	The greater of: (1) 3% of the current market value of the long security future(s); or (2) 3% of the current market value of the short security future(s).	The greater of: (1) 3% of the current market value of the long security future(s); or (2) 3% of the current market value of the short security future(s).

### 930.C. Acceptable Performance Bond Deposits

#### 1. Non-Security Futures and OTC Derivatives

Clearing members may accept from their account holders as performance bond cash currencies of any denomination, readily marketable securities (as defined by SEC Rule 15c3-1(c)(11) and applicable SEC interpretations), money market mutual funds allowable under CFTC Regulation 1.25, bank-issued letters of credit, fully collateralized pass-through letters of credit allowable under the Clearing House's collateral acceptance programs, warrants, warehouse receipts and shipping certificates that are registered as deliverable for commodities traded on Chicago Mercantile Exchange Inc., Chicago Board of Trade Inc., New York Mercantile Exchange, Inc. or Commodity Exchange, Inc., and "London Good Delivery" gold, as defined by the London Bullion Market Association.

Clearing members shall not accept as performance bond from an account holder securities that have been issued, sponsored or otherwise guaranteed by the account holder or an affiliate of the account holder unless the clearing member files a petition with and receives permission from Clearing House staff.

Unless permitted (either not restricted or specifically authorized) by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") and/or any Sanctioning Body, as applicable, Clearing members may not accept from their account holders as performance bond any debt or equity security issued by Sanctioned Parties as defined in Rule 543, assets in which Sanctioned Parties have an interest, or any other assets that are or would be subject to blocking restrictions or sectoral sanction restrictions imposed by the OFAC or are subject to similar restrictions imposed by another Sanctioning Body.

Bank-issued letters of credit and fully collateralized pass through letters of credit must be in a form acceptable to the Clearing House. Such letters of credit must be drawable in the United States. Clearing members shall not accept as performance bond from an account holder letters of credit issued by the account holder, an affiliate of the account holder, the clearing member, or an affiliate of the clearing member.

All assets deposited by account holders to meet performance bond requirements must be and remain

unencumbered by third party claims against the depositing account holder.

Except to the extent that Clearing House staff shall prescribe otherwise, cash currency performance bond deposits shall be valued at market value. All other performance bond deposits other than letters of credit, warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed market value less applicable haircuts as set forth in SEC Rule 240.15c3-1. Warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed the market value of the commodities represented by the warrants, warehouse receipts or shipping certificates, less a deduction in the same amount as the inventory haircut specified in Commission Regulation 1.17(c)(5)(ii).

2. Security Futures

- a. Clearing Members may accept from their Customers as performance bond (or "margin") for Security Futures held in a futures account, deposits of cash, margin securities (subject to the limitations set forth in the following sentence), exempted securities, any other assets permitted under Regulation T of the Board of Governors of the Federal Reserve System (as in effect from time to time) to satisfy a performance bond deficiency in a securities margin account, and any combination of the foregoing, each as valued in accordance with CFTC Regulations 41.46(c) and 41.46(e); and, SEC Regulations 242.404(c) and 242.404(e). Shares of a money market mutual fund that meet the requirements of CFTC Regulation 1.25 may be accepted as a performance bond deposit from a Customer for purposes of this Rule.
- b. A Clearing Member shall not accept as performance bond from any Customer securities that have been issued by such Customer or an Affiliate of such Customer unless such Clearing Member files a petition with and receives permission from the Exchange for such purpose.
- c. All assets deposited by a Customer to meet performance bond requirements must be and remain unencumbered by third party claims against the depositing Customer.

**930.D. Acceptance of Orders**

Clearing members may accept orders for an account provided sufficient performance bond is on deposit in the account or is forthcoming within a reasonable time.

For an account which has been subject to calls for performance bond for an unreasonable time, clearing members may only accept orders that reduce the performance bond requirements of existing positions in the account.

Clearing members may not accept orders for an account that has been in debit an unreasonable time.

**930.E. Calls for Performance Bond**

1. Clearing members must issue calls for performance bond that would bring an account up to the initial performance bond requirement: a) when performance bond equity in an account initially falls below the maintenance performance bond requirement; and b) subsequently, when performance bond equity plus existing performance bond calls in an account is less than the maintenance performance bond requirement.

Such calls must be made within one business day after the occurrence of the event giving rise to the call. Clearing members may call for additional performance bond at their discretion. Notwithstanding the foregoing, a clearing member is not required to call for or collect performance bond for day trades.

2. Clearing members shall only reduce a call for performance bond through the receipt of performance bond deposits permitted under subsection C. of this rule. Clearing members may cancel a call for performance bond through: a) the receipt of performance bond deposits permitted under subsection C. of this rule only if such deposits equal or exceed the amount of the total performance bond call; or b) inter-day favorable market movements and/or the liquidation of positions only if performance bond equity in the account is equal to or greater than the initial performance bond requirement. Clearing members shall reduce an account holder's oldest outstanding performance bond call first.
3. Clearing members must maintain written records of all performance bond calls issued and satisfied in whole or in part.

**930.F. Release of Excess Performance Bond**

Subject to exceptions granted by Exchange staff, clearing members may only release performance bond deposits from an account if such deposits are in excess of initial performance bond requirements.

**930.G. Loans to Account Holders**

Clearing members may not make loans to account holders to satisfy their performance bond requirements unless such loans are secured as defined in CFTC Regulation 1.17(c)(3). The proceeds of such loans must be treated in accordance with CFTC Regulation 1.30.

**930.H. Aggregation of Accounts and Positions<sup>4</sup>**

Clearing members may aggregate and net positions in accounts under identical ownership within the same classifications of customer segregated, customer secured, Cleared Swaps Customer, and nonsegregated for performance bond purposes. Clearing members may compute performance bond requirements on identically owned concurrent long and short positions on a net basis.

**930.I. Risk Profile of Accounts**

A Clearing Member must determine a risk profile for each account it carries, consistent with its risk management policies and procedures and the requirements of Rule 982.A.7, and collect performance bond in an amount commensurate with the account's risk profile. Each account that the Clearing Member determines to have a heightened risk profile shall be subject to initial performance bond requirements established by the Exchange. For each account that does not have a heightened risk profile the initial performance bond requirement shall equal the maintenance performance bond requirement established by the Exchange. A Clearing Member may call for additional performance bond at its discretion as set forth in this Rule.

**930.J. Omnibus Accounts**

1. Clearing members shall collect performance bond on a gross basis for positions held in domestic and foreign omnibus accounts.
2. Clearing members shall obtain and maintain written instructions and/or documentation from domestic and foreign omnibus accounts for positions which are entitled to available performance bond offsets or credits.

**930.K. Liquidation of Accounts**

1. Non-Security Futures and OTC Derivatives

If an account holder fails to comply with a performance bond call within a reasonable time (the clearing member may deem one hour to be a reasonable time), the clearing member may close out the account holder's trades or sufficient contracts thereof to restore the account holder's account to required performance bond status. Clearing members shall maintain full discretion to determine when and under what circumstances positions in any account shall be liquidated.

2. Security Futures

If a Customer fails to comply with a performance bond (or "margin") call within a reasonable period of time (the clearing member may deem one hour to be a reasonable period of time), the relevant clearing member shall take the deduction required with respect to an undermargined account in computing its net capital under applicable CFTC and SEC Regulations.

If at any time there is a liquidating deficit in an account in which security futures are held, the clearing member shall take steps to liquidate positions in the account promptly and in an orderly manner.

**930.L. Clearing House Authority to Require Additional Performance Bond<sup>5</sup>**

The Clearing House, in its sole discretion, has the authority to require clearing members to collect additional performance bond from specific account holders in circumstances deemed necessary by the Clearing House.

**930.M. Failure to Maintain Performance Bond Requirements<sup>6</sup>**

If a clearing member fails to maintain performance bond requirements for an account in accordance with this rule, the Exchange or the Clearing House may direct such clearing member to immediately liquidate all or part of the account's positions to eliminate the deficiency.

**930.N. OTC Derivatives Undermargined Capital Charge<sup>7</sup>**

Clearing members must compute an OTC derivatives undermargined capital charge for customer and noncustomer accounts containing cleared swap positions when performance bond calls on the accounts have been outstanding for more than three business days. The OTC derivatives undermargined capital

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<sup>4</sup> Revised October 2010.

<sup>5</sup> Revised December 2008.

<sup>6</sup> Revised December 2008.

<sup>7</sup> Adopted October 2010.

charge is calculated as the amount of funds required in such account to meet maintenance performance bond requirements less account equity and acceptable performance bond collateral. Provided, to the extent a deficit is excluded from current assets in the net capital computation, such amount shall not also be deducted under this rule.

**931.-948. [RESERVED]**

**949. CREDIT CONTROLS**

Clearing Members shall comply with all credit control policies developed by the Exchange for customer and proprietary transactions. Such credit control policies may include, but not be limited to, registration of credit control administrators with the Exchange, definition of credit control limits, and maintenance of written procedures verifying compliance with Exchange credit control requirements. For general reference purposes, credit control functionality that may be developed for Globex is a system or service pursuant to Rule 578. Any credit control functionality required by the Exchange shall be in addition to a clearing member's internal risk monitoring and credit control procedures.

**SALES PRACTICES AND CUSTOMER PROTECTION**

**950. SUPERVISION**

Each clearing member shall adopt and enforce written procedures pursuant to which it will supervise in accordance with the requirements of these Rules and the CEA and CFTC Regulations thereunder, each customer's account(s). For purposes of this rule, the term "customer" does not include another futures commission merchant.

**951. DISCLOSURE REQUIREMENTS**

Each clearing member must comply with all disclosure requirements set forth in applicable CFTC and NFA Rules and Regulations.

**952. SALES COMMUNICATIONS**

No clearing member shall make fraudulent or high-pressure sales communications relating to the offer or sale of commodity futures and options.

**953. PROMOTIONAL MATERIAL**

No clearing member shall use any promotional material which is likely to deceive or mislead the public. Each clearing member shall maintain a copy of all written and electronic promotional material at the clearing member's principal place of business and shall make such promotional material available to the Exchange upon request.

**954. CUSTOMER COMPLAINTS**

Each clearing member shall retain all written customer complaints, and make and retain a record of the date each complaint was received, the associated person who serviced the account, a general description of the matter complained of, and what, if any, action was taken by the clearing member regarding the complaint. With respect to verbal complaints, each clearing member shall develop and implement a written program approved by senior management that requires clearing member staff to direct individuals with verbal complaints to place such complaints in written form and submit such complaints to the Compliance Officer of the clearing member. Such complaints and related records must be maintained at the clearing member's principal place of business.

**955. ASSIGNMENT AND NOTIFICATION OF EXERCISE NOTICES**

- A. Each clearing member shall adopt written procedures pursuant to which it shall allocate option exercise notices in a fair and non-preferential manner.
- B. Upon notification from the Clearing House of assignment of an exercise notice, the clearing member shall promptly notify the option grantor to whom the notice has been allocated.

**956. DISCRETIONARY, CONTROLLED AND MANAGED ACCOUNTS**

**956.A. Requirements**

1. Power of Attorney

No clearing member shall accept or carry an account over which a person other than the account owner exercises discretionary trading authority or control (hereinafter referred to as a discretionary, controlled, or managed account) without first obtaining a written power of attorney, trading authorization, or similar document (hereinafter referred to as a power of attorney). Such power of attorney must be signed and dated by the account owner and clearly designate the person to whom discretionary trading authority has been granted.

2. Discretionary Account Listing

A clearing member must clearly identify each discretionary trading account it carries and promptly provide the Exchange with a complete and accurate list of such accounts upon request.

**956.B. Presumption of Authority**

Except where specifically indicated by the phrase “discretion not exercised” written on the order ticket, and subsequently confirmed to the customer as such, every trade in a discretionary trading account shall be presumed to have been made pursuant to the power of attorney and subject to the requirements of this rule.

**956.C. Supervision and Trading of Discretionary Trading Accounts**

1. Discretionary Trading Account Activity

Each clearing member shall have a supervisory employee (other than the person granted discretionary trading authority) supervising activity in discretionary trading accounts. The supervision shall include, but is not limited to, a review of excessive trading in amount or frequency in relation to account equity. This requirement shall only apply to discretionary trading accounts controlled by an employee of the clearing member or the clearing member’s guaranteed introducing brokers.

2. Floor Trading

No member shall execute a transaction in the trading pit for an account over which they have discretionary trading authority unless the transactions are for a) family accounts as defined in Section E.1. or b) another member of the Exchange for an account owned by such other member or proprietary accounts of member firms as set forth in Section E.2.

**956.D. [RESERVED]**

**956.E. Exceptions**

The provisions of Sections B. and C.1. of this rule shall not apply to the following accounts:

1. Family Accounts

Accounts controlled or managed by persons for their own family. For purposes of this rule, members of one’s family shall include a spouse, parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece or in-law.

2. Member and Proprietary Accounts

Accounts of members or proprietary accounts as defined by CFTC Regulation 1.3(y).

**957. CONFIRMATIONS TO CUSTOMERS**

A clearing member shall confirm to the customer every transaction made for the customer no later than the following business day. Such confirmation shall be in electronic or written form and shall show facts relevant to the economic terms of the transaction, such as the product bought or sold, the quantity, the price, the expiration, maturity date or the contract month/year (as applicable), and, for options, strike price, put or call and expiration.

**958. BRANCH OFFICES, GUARANTEED INTRODUCING BROKERS, AND ASSOCIATED PERSONS**

A. Each clearing member must maintain a complete and accurate list of all branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers. Such list shall be promptly provided to the Exchange upon request.

B. Branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers must comply with Exchange rules. Each associated person

of the clearing member or its guaranteed introducing brokers shall be bound by Exchange rules to the same extent as if such person were a member.

- C. Each clearing member must diligently supervise its branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers.
- D. Each clearing member shall be responsible for the acts or omissions of its branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers. Any violation of an Exchange rule by any such person may be considered a violation by the clearing member.

**959. [RESERVED]**

#### OMNIBUS AND CARRYING BROKER ACCOUNTS

**960. OMNIBUS AND CARRYING BROKER ACCOUNTS**

- A. All clearing members must maintain a complete list of all omnibus and carrying broker accounts maintained on their books. Such list shall be promptly provided to the Exchange upon request. Information for each such account must include account name, number and address, and classification of the account as either customer or house. Additionally, the identities and position of the beneficial owners of any omnibus account must be immediately disclosed to the Exchange upon request.
- B. A clearing member carrying an omnibus account shall have the responsibility for ensuring that each person carried in the account does not exceed speculative limits unless granted an exemption pursuant to Rule 559.
- C. Each clearing member carrying an omnibus account must at all times reflect in its records the gross long and short positions held in such omnibus account.
- D. Clearing members may only carry omnibus accounts for entities that have received a notice from the clearing member (i) expressly prohibiting the omnibus account from acting for customers of the Exchange, directly or indirectly, that are Sanctioned Parties as defined by Rule 543 and (ii) requiring it to send a similar notice to its omnibus customers.
- E. Each clearing member that maintains an omnibus account with another clearing member shall also bear financial responsibility to the Exchange for that omnibus account.
- F. Clearing members may only carry omnibus accounts for entities that have received a notice from the clearing member (i) notifying the omnibus account of the EU Retail Customer restrictions contained in Rule 570 and (ii) requiring it to send a similar notice to its omnibus customers.

**961.-969. [RESERVED]**

#### FINANCIAL REQUIREMENTS AND FINANCIAL EMERGENCIES

**970. FINANCIAL REQUIREMENTS**

- A. Subject to exemptions granted by Exchange staff, all clearing members, including non-FCMs, must comply with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18. This includes, but is not limited to, the following:
  - 1. Maintenance of minimum capital requirements of at least \$5 million except that a clearing member that is a bank must maintain minimum Tier I Capital (as defined in accordance with regulation applicable to the relevant bank) of at least \$5 billion;
  - 2. Submission of a Form 1-FR, FOCUS Report or other requested information within the specified period of time;
  - 3. Notification requirements when a clearing member:
    - a. Fails to maintain minimum capital requirements;
    - b. Fails to maintain early warning capital requirements;



- c. Fails to maintain current books and records; or
- d. Determines the existence of a material inadequacy as specified in CFTC Regulation 1.16(d)(2);
- e. Changes its fiscal year; or
- f. Changes its public accountant;

In addition to the notifications required by CFTC regulations, all clearing members must provide written notice to the Financial and Regulatory Surveillance Department of the above events.

- 4. Completely and accurately computing and recording the balances in the net capital computation including capital requirements;
  - 5. Subordination agreement requirements, including the filing of such agreements; and
  - 6. Preparation of a monthly computation of adjusted net capital and minimum financial requirements.
- B. For non-FCMs, all filing, notification, and approval requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18 and in the rules of the Exchange must be submitted to or obtained from the Financial and Regulatory Surveillance Department, if necessary, rather than the Commission. Non-FCM clearing members shall make available to the CFTC, upon the CFTC's request, copies of financial reports required to be submitted to the Financial and Regulatory Surveillance Department under this Rule.
- C. In conjunction with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17, and 1.18, clearing members must comply with the following requirements:
- 1. Submit a monthly Form 1-FR or FOCUS Report and the Exchange Supplementary Information schedule including an unaudited monthly Form 1-FR or FOCUS Report as of the clearing member's fiscal year-end, within the time requirements set forth in CFTC Regulation 1.10. A clearing member must include with its Form 1-FR or FOCUS Report a Statement of Income (loss) for the period between the date of the most recent financial statement or, at the option of the clearing member, the most recent certified financial statement filed with the Financial and Regulatory Surveillance Department and the date for which the report is made.
  - 2. Submit a certified Form 1-FR or FOCUS Report as of the clearing member's fiscal year-end within the time requirements set forth in CFTC Regulation 1.10. A clearing member must include with its certified Form 1-FR or FOCUS Report, a reconciliation from the certified Form 1-FR or FOCUS Report to the monthly Form 1-FR or FOCUS Report as of the same date or a statement that no differences were noted.
  - 3. A clearing member for which CME is the designated self-regulatory organization may request the Financial and Regulatory Surveillance Department's permission to change its fiscal year. Such request will only be granted for good cause and in accordance with the requirements of CFTC Regulation 1.10(e)(2). The Financial and Regulatory Surveillance Department's grant of the change in fiscal year will fulfill the approval requirements of CFTC Regulation 1.10(e)(2).
- D. Exchange staff may prescribe additional accounting, reporting, and other financial and/or operational requirements and clearing members must comply with such requirements. All clearing members must provide notice to the Financial and Regulatory Surveillance Department of a failure to comply with the additional accounting, reporting, financial, and/or operational requirements. The Financial and Regulatory Surveillance Department must receive immediate written notification when a clearing member knows or should know of such failure.
- E. Financial statement filing requirements under this Rule must be met through Exchange-approved electronic transmissions, except for certified Form 1-FRs or FOCUS Reports.

Personal Identification Numbers (PINS) must be submitted by authorized signers of the Form 1-FR or FOCUS Report. The PIN will constitute and become a substitute for the manual signature of the authorized signer to the electronically filed Form 1-FR or FOCUS Report. The PIN is a representation by the authorized signer that, to the best of their knowledge, all information contained in the statement

being transmitted under the PIN is true, correct and complete. The unauthorized use of a PIN for electronic attestation by an unauthorized party is expressly prohibited.

- F. Exchange staff may grant exceptions to the financial and reporting requirements of Rule 970 for good cause if it is determined that such exceptions will not jeopardize the financial integrity of the Exchange.

**971. SEGREGATION, SECURED AND CLEARED SWAPS CUSTOMER ACCOUNT REQUIREMENTS**

- A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, 1.49 and 30.7, and Part 22 of the CFTC Regulations. This includes, but is not limited to, the following:
  - 1. Maintaining sufficient funds at all times in segregation, secured 30.7 and Cleared Swaps Customer accounts;
  - 2. Computing, recording and reporting completely and accurately the balances in the:
    - a. Statement of Segregation Requirements and Funds in Segregation;
    - b. Statement of Secured Amounts and Funds Held in Separate Accounts; and
    - c. Statement of Segregation Requirements and Cleared Swaps Customer Collateral Held in Cleared Swaps Customer Accounts.
  - 3. Obtaining satisfactory segregation, secured 30.7 and Cleared Swaps Customer account acknowledgment letters and identifying segregated, secured 30.7 and Cleared Swaps Customer accounts as such; and
  - 4. Preparing complete and materially accurate daily segregation, secured 30.7 and Cleared Swaps Customer amount computations in a timely manner.
- B. All FCM clearing members must submit a daily segregated, secured 30.7 and Cleared Swaps Customer amount statement, as applicable, through Exchange-approved electronic transmissions by 12:00 noon on the following business day.
- C. In addition to complying with all applicable CFTC regulations, in order for each of an FCM clearing member's customer segregated, secured 30.7 and Cleared Swaps Customer accounts held at a depository to be included as segregated and secured 30.7 funds and Cleared Swaps Customer Collateral in their respective origin and calculation:
  - 1. The FCM clearing member must provide the Financial and Regulatory Surveillance Department with access to the account information, in a form and manner prescribed by the Financial and Regulatory Surveillance Department; and
  - 2. The depository must allow the FCM clearing member to provide the Financial and Regulatory Surveillance Department with access to the account information, in a form and manner prescribed by the Financial and Regulatory Surveillance Department.
- D. All FCM clearing members must submit a report of investments in a manner as prescribed through Exchange-approved electronic transmissions as of the 15<sup>th</sup> of the month (or the following business day if the 15<sup>th</sup> is a holiday or weekend) and last business day of the month by the close of business on the following business day. The report of investments shall be prepared and shall identify separately for segregated and secured 30.7 funds and Cleared Swaps Customer Collateral held:
  - 1. The dollar amount of funds held in cash and each permitted investment identified in CFTC Regulation 1.25(a); and
  - 2. The identity of each depository holding funds and the dollar amount held at each depository.
- E. All disbursements not made for the benefit of a customer from a segregated, secured 30.7 or Cleared Swaps Customer account which exceed 25% of the FCM clearing members excess segregated, secured 30.7 or Cleared Swaps Customer of the respective origin must be pre-approved in writing by the clearing member's Chief Executive Officer, Chief Financial Officer or their authorized representative with knowledge of the firm's financial requirements and position.

1. In determining if a disbursement exceeds the 25% level, such disbursement must be:
  - a. Compared to the most recent calculation of excess segregated, secured 30.7 and Cleared Swaps Customer amounts; and
  - b. A single disbursement must be reviewed individually and in the aggregated with all other disbursements not made for the benefit of a customer of the respective segregated, secured 30.7 or Cleared Swaps Customer origin since the last calculation of excess funds.
2. Upon approval of a single disbursement or the disbursement which in the aggregated exceeds the 25% level as defined in Rule 971.E.1., the FCM clearing member must provide immediate notification to the Financial and Regulatory Surveillance Department through Exchange-approved electronic transmissions. Such notification shall include:
  - a. Confirmation that the FCM clearing member's Chief Executive Officer, Chief Financial Officer or authorized representative with knowledge of the firm's financial requirements and position pre-approved in writing the disbursement(s);
  - b. The amount(s) and recipient(s) of such disbursement(s); and
  - c. A description of the reasons for the single or multiple transaction(s) that resulted in the disbursement(s).
3. The FCM clearing member's Chief Executive Officer and Chief Financial Officer will remain responsible for the pre-approvals by their authorized representative and for compliance with this rule.
- F. All clearing members must provide written notice to the Financial and Regulatory Surveillance Department of a failure to maintain sufficient funds in segregation, secured 30.7 or Cleared Swaps Customer accounts. The Financial and Regulatory Surveillance Department must receive immediate written notification when a clearing member knows or should have known of such failure.
- G. Each statement and report filing required under this Rule must be submitted by the Chief Executive Officer, Chief Financial Officer or their authorized representative as approved by CME using their assigned User Identification ("User ID"). The User ID will constitute and become a substitute for the manual signature of the authorized signer to the electronically submitted daily segregated, secured 30.7 and Cleared Swaps Customer amount statements. The User ID is a representation by the authorized signer that, to the best of their knowledge, all information contained in the statement being transmitted under the User ID is true, correct and complete. The unauthorized use of a User ID for electronic attestation by an unauthorized party is expressly prohibited.
- H. Exchange staff may prescribe additional segregation, secured 30.7 and Cleared Swaps Customer amount requirements.

**972. REDUCTIONS IN CAPITAL**

A clearing member must provide written notice to the Financial and Regulatory Surveillance Department as set forth below of any substantial reduction in capital as compared to the most recent filing of a financial report.

1. If any event or series of events, including any withdrawal, advance, loan or loss would cause, on a net basis, a reduction in net capital as reported on the Form 1-FR, or in tentative net capital as reported on the FOCUS Report for broker/dealers, of 20% or more, notice must be provided within two business days of the event or series of events causing the reduction; and
2. If equity capital of the clearing member or a subsidiary or a consolidated affiliate would be withdrawn by action of a stockholder or a partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, or an unsecured advance or loan would be made to a stockholder, partner, sole proprietor, employee or affiliates, such that the withdrawal, advance or loan would cause, on a net basis, a reduction in excess net capital of 30% or more, notice must be provided at least two business days prior to the withdrawal, advance or loan that would cause the reduction.
3. A clearing member that is a bank must provide notice if any event or series of events, including any withdrawal, advance, loan or loss would cause, on a net basis, a reduction in Tier I capital as reported

on the most recent filing of a financial report, of 20% or more. Notice must be provided within five business days of the event or series of events causing the reduction or when the clearing member knows or should know of the reduction in Tier I capital.<sup>8</sup>

The foregoing shall not apply in the case of a reduction in capital resulting from (1) the repayment or prepayment of subordinated liabilities for which notice has been given in accordance with Rule 970 or (2) any futures or securities transaction in the ordinary course of business between a clearing member and any affiliate where the clearing member makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for such transaction within two business days from the date of the transaction.

**973. CUSTOMER ACCOUNTS WITH THE CLEARING HOUSE<sup>9</sup>**

All customer funds deposited with the Clearing House on behalf of customers protected by CFTC Regulation 1.20 shall be held in accordance with the Commodity Exchange Act and CFTC Regulation 1.20 in an account identified as Customer Segregated. Such customer funds shall be segregated by the Clearing House and treated as belonging to the customers of the clearing member. Pursuant to this rule, a clearing member shall satisfy the segregation acknowledgement letter requirement of CME Rule 971.A.3., the Commodity Exchange Act, and CFTC Regulation 1.20 for customer deposits held at the Clearing House. A clearing member fully authorizes the Clearing House to comply with all requirements of CFTC Regulation 1.20 with regards to its Customer Segregated account.

All Cleared Swaps Customer Collateral deposited with the Clearing House on behalf of Cleared Swaps Customers shall be held in accordance with Part 22 of the CFTC Regulations in an account identified as a Cleared Swaps Customer Account. Such Cleared Swaps Customer Collateral shall be segregated by the Clearing House and treated as belonging to such customers of the clearing member. Pursuant to this rule, a clearing member shall satisfy the Cleared Swaps Customer Account acknowledgement letter requirement of CME Rule 971.A.3, the Commodity Exchange Act, and CFTC Regulation 22.5 for customer deposits held at the Clearing House. A clearing member fully authorizes the Clearing House to comply with all requirements of CFTC Regulation 22.5 with regards to its Cleared Swaps Customer account.

All customer funds deposited with the Clearing House on behalf of customers protected by CFTC Regulation 30.7 shall be held in a manner consistent with CFTC Regulation 30.7 in an account identified as Customer Secured 30.7. Such customer funds shall be segregated by the Clearing House and treated as belonging to such customers of the clearing member. Pursuant to this rule, a clearing member shall satisfy the acknowledgement letter requirement of CME Rule 971.A.3., the Commodity Exchange Act, and CFTC Regulation 30.7 for customer deposits held at the Clearing House. A clearing member fully authorizes the Clearing House to comply with all requirements of CFTC Regulation 30.7 with regards to its Customer Secured 30.7 account.

**974. [RESERVED]**

**975. EMERGENCY FINANCIAL CONDITIONS**

If the Global Head of Clearing & Post-Trade Services 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, they may empanel the Chief Executive Officer, the Chairman of the Board, a Chairman of the Clearing House Risk Committee, and the Global Head of Clearing & Post-Trade Services. (“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. 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

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<sup>8</sup> Adopted May 2011.

<sup>9</sup> Revised October 2010.

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 Global Head of Clearing & Post-Trade Services 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.

**977. SUSPENSION OF OFFICERS OR PARTNERS**

Whenever an officer, owner or partner of a clearing member is suspended or expelled, the respective clearing member may be suspended or expelled for a like term. Members and clearing members affected by 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 Global Head of Clearing & Post-Trade Services or their delegate 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 Global Head of Clearing & Post-Trade Services, 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 Global Head of Clearing & Post-Trade Services 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, or the Global Head of Clearing & Post-Trade Services.

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.

**RECORDS AND REPORTS**

**980. REQUIRED RECORDS AND REPORTS**

- A. Each clearing member shall prepare, maintain and keep current those books and records required by the rules of the Exchange, the Commodity Exchange Act and the Regulations thereunder. Such books and records shall be open to inspection and promptly provided to the Exchange upon request.
- B. Each clearing member shall maintain an adequate accounting system, internal accounting controls, and procedures for safeguarding customer and firm assets. This includes, but is not limited to, the following:
  - 1. Preparation and maintenance of complete and accurate reconciliations for all accounts;
  - 2. Resolution of reconciling items in a timely manner; and
  - 3. Prevention of a material inadequacy as defined in CFTC Regulation 1.16(d)(2).
- C. A clearing member must file any information requested by the Exchange within the time period specified in the request.
- D. Each clearing member shall maintain at all times the ability to provide to the Exchange in an acceptable form a complete set of equity systems reports (including, at a minimum, the equity run, open position listing, day trade listing, cash adjustments listing and performance bond call and debit equity listing). Such reports shall be available to the Exchange in Chicago no later than 8:00 a.m. Chicago time on the business day following the report date.
- E. Each clearing member shall maintain at all times the ability to provide to the Exchange a listing of each customer's method of access to CME markets, including front end applications and network connections.
- F. Exchange staff may impose administrative fees upon clearing members for late submissions of reports and other information required to be submitted to the Financial and Regulatory Surveillance Department by Exchange Rules. The administrative fees permitted by this Rule 980.F. shall not exceed \$1,000 for the initial late submission, plus \$1,000 for each additional business day that such report or information is not submitted. Where the late submission of reports or other information may be due to insufficient internal accounting controls or procedures, the Business Conduct Committee may impose disciplinary sanctions in lieu of, or in addition to, the administrative fees.
- G. Each Clearing Member must submit daily reports that include all information required by the Clearing House, including but not limited to legal entity identifiers, where available, and end-of-day gross positions by each house origin, by each customer origin and by each individual customer-level account within each customer origin. Daily reporting of individual customer-level account information pursuant to this paragraph does not oblige a clearing FCM to look through an omnibus account that it clears for a carrying broker to the underlying customer account.

**981. ANTI-MONEY LAUNDERING AND ECONOMIC SANCTIONS COMPLIANCE**

Each clearing member shall develop and implement a written compliance program approved in writing by senior management reasonably designed to achieve and monitor the clearing member's compliance with all applicable requirements of the Bank Secrecy Act (31 U.S.C. § 5311 et seq.), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq. ) ("IEEPA"), the Trading with the Enemy Act (50 U.S.C. App. § 1 et seq.) ("TWEA"), and the Executive Orders and regulations issued pursuant thereto, including the regulations issued by the U.S. Department of the Treasury and, as applicable, the Commodity Futures Trading Commission. That compliance program shall, at a minimum,

- 1. Establish and implement policies, procedures and internal controls reasonably designed to prevent the financial institution from being used for money laundering or the financing of terrorist activities and to achieve compliance with all applicable provisions of the Bank Secrecy Act, IEEPA, TWEA, and all applicable Executive Orders and regulations issued pursuant thereto;
- 2. Provide for independent testing for compliance to be conducted by clearing member personnel or by a qualified outside party;
- 3. Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program;
- 4. Provide ongoing training for appropriate personnel; and
- 5. Include appropriate risk-based procedures for conducting ongoing customer due diligence, including, but not limited to:
  - a. understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

- b. conducting ongoing monitoring to identify and report suspicious transactions, and, on a risk basis, to maintain and update customer information, including the information regarding the beneficial owners of legal entity customers.

Clearing members must also supervise and ensure that their guaranteed introducing brokers are in compliance with the provisions contained in this Rule.

## **982. RISK MANAGEMENT**

All clearing members must have written risk management policies and procedures in place to ensure they are able to perform certain basic risk and operational functions at all times. At a minimum, the following areas must be considered in the firm's policies and procedures, depending on the firm's size and its business and product mix:

- A. Trade Submission and Account Monitoring. Clearing members must have procedures in place to demonstrate compliance in the following areas for trades executed through both electronic platforms and open outcry:
  1. Monitoring the credit risks of accepting trades, including give-up trades, of specific customers.<sup>10</sup>
  2. Monitoring the risks associated with proprietary trading.
  3. Limiting the impact of significant market moves through the use of tools such as stress testing or position limits.
  4. Maintaining the ability to monitor account activity on an intraday basis, including overnight.<sup>11</sup>
  5. Ensuring order entry systems include the ability to set automated credit controls or position limits or requiring a firm employee to enter orders.
  6. Defining sources of liquidity for increased settlement obligations.
  7. Determining a risk profile for each account it carries, including whether such account presents a heightened risk profile.
- B. Additional and/or Alternative Requirements. Exchange or Clearing House staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.
- C. Each clearing member shall promptly provide to Clearing House staff, upon request, information and documents regarding its risk management policies, procedures and practices, including, without limitation, information and documents relating to the liquidity of its financial resources, settlement procedures and operational issues.
- D. Each clearing member shall make information and documents regarding its risk management policies, procedures and practices available to the CFTC upon the CFTC's request.

In addition, all FCM clearing members must *comply with* the risk management requirements set forth in CFTC Regulation 1.11: *Risk Management Program for futures commission merchants*.

## **983. DISASTER RECOVERY AND BUSINESS CONTINUITY**

All clearing members must have written disaster recovery and business continuity policies and procedures in place to ensure they are able to perform certain basic operational functions in the event of a significant internal or external interruption to their operations. At a minimum, the following areas must be considered in the firm's policies and procedures, depending on the firm's size and its business and product mix:

- A. Clearing members must have procedures in place to allow them to continue to operate during periods of stress or to transfer accounts to another fully operational clearing member with minimal disruption to either the Exchange or their customers. In order to satisfy this requirement, clearing members must perform:
  1. Periodic testing of disaster recovery and business continuity plans.
  2. Duplication of critical systems at back up sites.
  3. Periodic back-up of critical information.
- B. Key Staff Contacts. Clearing members must maintain and, at the request of the Exchange, provide accurate and complete information for their key personnel. Clearing members must inform the Exchange in a timely manner whenever a change to their key personnel is made.
- C. Additional and/or Alternative Requirements. Exchange staff may prescribe additional and/or

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<sup>10</sup> Revised December 2008.

<sup>11</sup> Revised December 2008.

alternative requirements in order for clearing members to comply with this Rule.

## TAX COMPLIANCE

### 990. U.S. WITHHOLDING TAX

- A. Beginning January 1, 2017, the date on which Section 871(m) of the Internal Revenue Code of 1986, as amended (for purposes of this Rule 990, the “Code”), and related Treasury regulations and other official interpretations thereof, first apply to any transactions on the Exchange:
1. No Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall conduct any transaction in equity index products on the Exchange unless:
    - a. such Clearing Member has entered into a qualified intermediary agreement with the Internal Revenue Service (“IRS”) in which the Clearing Member has agreed to assume primary responsibility for reporting, collecting and remitting withholding taxes imposed pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 and Section 3406, of the Code with respect to any income (including dividend equivalents, as such term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto) arising from transactions on the Exchange that are entered into by the Clearing Member as an intermediary, including transactions entered into on behalf of such Clearing Member’s customers;
    - b. (i) such Clearing Member has entered into a qualified intermediary agreement with the IRS to become a qualified derivatives dealer (“Qualified Derivatives Dealer”) that permits the Exchange to make payments of dividend equivalents (as such term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto) or deemed payments, to such Clearing Member free from U.S. withholding taxes imposed pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 and Section 3406, of the Code arising from transactions on the Exchange that are entered into by the Clearing Member for its own account; and  
(ii) such transaction entered into by the Clearing Member is within the scope of the exemption from withholding tax for dividend equivalents (as such term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto) paid to Qualified Derivative Dealers pursuant to Chapters 3 and 4 of subtitle A, and Chapter 61 and Section 3406, of the Code; and
    - c. such Clearing Member has qualified under such procedures promulgated by the IRS as are in effect from time to time to establish an exemption from withholding under FATCA (as defined below), such that the Exchange will not be required to withhold any amount with respect to any payment made or deemed to be made to such Clearing Member under FATCA. For purposes of this subparagraph c., “FATCA” means the provisions of Sections 1471 through 1474 of the Code, which were enacted as part of the Foreign Account Tax Compliance Act (or any amendment thereto or any successor sections thereof), and related Treasury Regulations and other interpretations thereof, as in effect from time to time, and the provisions of any intergovernmental agreement to implement the FATCA as in effect from time to time between the United States and the jurisdiction of the relevant Clearing Member’s residency.
  2. Beginning on January 1, 2017, and on each anniversary thereafter, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes and that conducts any transaction in equity index products on the Exchange in accordance with Rule 990.A. 1. shall certify to the Exchange that such Clearing Member satisfies the requirements of Rule 990.A.1.(a) through (c) by providing to the Exchange appropriate tax documentation attesting to such Clearing Member’s federal income tax status, with the first such certification being delivered to the Exchange no later than January 1, 2017. Each such Clearing Member is required to promptly update its certification to the Exchange if required by applicable law or administrative guidance or if the certification is no longer accurate.



3. Beginning on January 1, 2017, and on each anniversary thereafter, each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall provide the Exchange with information relating to the dividend equivalents (as such term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto) the Exchange pays or is deemed to pay such Clearing Member in sufficient detail and in a sufficiently timely manner to enable the Exchange to report on IRS Forms 1042 and 1042-S (or any successor forms) under Chapters 3 and 4 of subtitle A of the Code, the required amounts and other information relating to dividend equivalents (as such term is defined in Section 871(m)(2) of the Code and Treasury Regulations Section 1.871-15(c) or any successor thereto) and transactions giving rise thereto between the Exchange and the Clearing Member.
4. Each Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall promptly inform the Exchange in writing if it undergoes a change in circumstance that would affect its compliance with this Rule 990, or otherwise knows or has reason to know that it is not, or will not be, in compliance with this Rule 990, but in each case, such writing must be delivered to the Exchange no later than within two days of the Clearing Member's knowledge thereof.
5. A Clearing Member that is treated as a non-U.S. entity for U.S. federal income tax purposes shall indemnify the Exchange for any loss, liability or expense (including taxes and penalties) sustained by the Exchange as a result of such Clearing Member failing to comply with the requirements of this Rule 990.

(End Chapter 9)