

May 30, 2012

**BY ELECTRONIC FILING**

Mr. David Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: Amendments to CME, CBOT and NYMEX Rules 930.C and 971, Submission #12-178**

Dear Mr. Stawick:

Pursuant to Commission Regulation 40.6(a), Chicago Mercantile Exchange Inc. (CME), the Board of Trade of the City of Chicago, Inc. (CBOT) and the New York Mercantile Exchange, Inc. (NYMEX) hereby notify the Commodity Futures Trading Commission that they will adopt revisions to CME, CBOT and NYMEX Rules 930.C and 971. The proposed effective date for the revisions to Rule 971.C is July 1, 2012. The effective date for the revisions to Rule 971.D (colloquially referred to as the "Corzine rule", which was a subject of an NFA filing to the Commission on May 29, 2012), is expected to be in the July 2012 time period. The proposed effective date for all other revisions included in this submission is June 14, 2012.

**Rule 930.C**

Rule 930.C (Acceptable Performance Bond Deposits) is being amended to allow warrants, shipping certificates and warehouse receipts registered as deliverable on commodities traded at CME, CBOT, NYMEX and the Commodity Exchange ("COMEX") to be acceptable performance bond deposits at all of these Exchanges at the account-holder level. For example, under the revised Rule, a clearing member could accept COMEX warrants that are registered as deliverable to satisfy a customer's performance bond requirements for positions on CME, CBOT, COMEX and/or NYMEX. This revision will broaden the acceptability of performance bond deposits for customers trading at multiple Exchanges within CME Group Inc.

**Rule 971**

In connection with recommendations developed by CME, the NFA, the Futures Industry Association and other industry groups, CME Clearing (CME's clearing house division) issued an Audit Information Bulletin ("AIB") on April 2, 2012 announcing enhanced clearing member reporting requirements designed to further safeguard customer funds at the firm level. Certain of the proposed amendments to Rule 971 described below further institute changes announced in the AIB. In addition several housekeeping

changes are proposed to harmonize use of the terms "secured", "separate", and "set-aside" as "secured 30.7" and to better organize the Rule's requirements.

- *Maintenance of Excess Segregated, Secured 30.7 and Sequestered Funds.* Revised Rule 971.A.1 clarifies that FCM clearing members must maintain excess segregated, secured 30.7 and "sequestered" (i.e., customer cleared swaps) funds at all times, including on an intra-day basis.
- *Daily Segregated, Secured 30.7 and Sequestered Statements.* Subparts B and F of revised Rule 971 require FCM clearing members to file daily segregated, secured 30.7 and sequestered statements, as applicable, through WinJammer, by 12:00 noon on the following business day. These daily statements must be electronically submitted and signed off by the firm's Chief Executive Officer, Chief Financial Officer or their designated representative, as approved by CME and as authorized on the User Identification Request Form.
- *Bi-monthly Investment Reports.* Revised Rule 971.C requires FCM clearing members to file bi-monthly reports reflecting how customer segregated, secured 30.7 and sequestered funds are invested and where those funds are held. The reports of investments will be filed electronically through WinJammer as of the 15th of the month and last day of the month.
- *Disbursement Approvals.* Rule 971.D requires all disbursements made by FCM clearing members of customer segregated, secured 30.7 or sequestered funds that are not made for the benefit of customers of the respective customer origin and that exceed 25% of the excess segregated, secured 30.7 or sequestered funds, as applicable, to be pre-approved in writing by the FCM's Chief Executive Officer or Chief Financial Officer. In determining if the 25% level has been exceeded, all such disbursements not made for the benefit of customers by customer origin should be aggregated and compared to the most current daily segregated, secured 30.7 and sequestered calculations, as applicable. In addition, CME must be immediately notified upon pre-approval of such disbursements through WinJammer notification filings, including a description of the nature of the disbursement(s) and confirmation of pre-approval.

Proposed revisions to Rule 930.C comport with DCO Core Principle D (Risk Management), and with subpart (g)(10) of Commission Regulation 39.13 (Risk management), which requires each DCO to "limit the assets it accepts as initial margin to those that have minimal credit, market and liquidity risks." Proposed revisions to Rule 971 comport with DCO Core Principle F (Treatment of Funds), which requires each DCO to "have standards and procedures designed to ensure the safety of member and participant funds."


The text of the amendments to Rules 930.C and 971 is attached, with additions underlined and deletions overstruck. No substantive opposing views regarding these proposed rule amendments were expressed to CME, CBOT or NYMEX.

CME, CBOT and NYMEX certify that this submission has been concurrently posted on its website at <http://www.cmegroup.com/market-regulation/rule-filings.html>. CME, CBOT and NYMEX further certify that these rule amendments comply with the Commodity Exchange Act and regulations promulgated thereunder.

Mr. David Stawick  
May 30, 2012  
Page 3

Should you have any questions regarding this submission, please contact me at (312) 338-2483 or via e-mail at [lisa.dunsky@cmegroup.com](mailto:lisa.dunsky@cmegroup.com). Please reference our Submission No. 12-178 in any related correspondence.

Sincerely,



Lisa Dunsky  
Executive Director and Associate General Counsel

## Chapter 9. CLEARING MEMBERS

### CBOT Rulebook

#### Rule 930.C ACCEPTABLE PERFORMANCE BOND DEPOSITS

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, deliverable 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.

Bank-issued 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).

## CME Rulebook

### Rule 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, 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.

Bank-issued 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.

## **NYMEX Rulebook**

### **Rule 930.C ACCEPTABLE PERFORMANCE BOND DEPOSITS**

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, deliverable 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. the Exchange provided that such receipts will be valued as margin at no more than 75% of the value of the commodity, 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.

Bank-issued 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).

**CME, CBOT and NYMEX Rulebooks**

**Rule 971. SEGREGATION, SECURED AND SEQUESTERED REQUIREMENTS**

A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, and 30.7, and CME Rules 8F100 through 8F136. This includes, but is not limited to, the following:

1. Maintaining sufficient funds at all times in segregation ~~or set aside in separate or, secured 30.7 and~~ sequestered 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 Sequestration Requirements and Funds Held in Sequestered Accounts.

3. Obtaining satisfactory segregation, ~~separate secured 30.7 and~~ sequestered account acknowledgement letters and identifying segregated, ~~separate secured 30.7 and~~ sequestered accounts as such; and

4. Preparing complete and materially accurate daily segregation, secured 30.7 and sequestered amount computations in a timely manner.

~~B. Exchange staff may prescribe additional segregation, secured and sequestered amount requirements. All FCM clearing members must submit a daily segregated, secured 30.7 and sequestered amount statement, as applicable, through Exchange-approved electronic transmissions by 12:00 noon on the following business day.~~

~~C. All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation or set aside in separate or sequestered accounts. The Audit Department must receive immediate written notification when a clearing member knows or should have known of such failure. All FCM clearing members must submit a report of investments in a manner as prescribed through Exchange-approved electronic transmissions as of the 15th of the month (or the following business day if the 15th 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, secured 30.7 and sequestered funds 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.



D. All disbursements not made for the benefit of a customer from a segregated, secured 30.7 or sequestered account which exceed 25% of the FCM clearing members excess segregated, secured 30.7 or sequestered of the respective origin must be pre-approved in writing by the clearing member's Chief Executive Officer or Chief Financial Officer.

Formatted: Left

1. In determining if a disbursement exceeds the 25% level, such disbursement must be:

Formatted: Left, Indent: Left: 0.5"

a. Compared to the most recent calculation of excess segregated, secured 30.7 and sequestered amounts; and

Formatted: Left, Indent: Left: 1"

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 sequestered 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.D.1., the FCM clearing member must provide immediate notification to the Audit Department through Exchange-approved electronic transmissions. Such notification shall include:

Formatted: Left, Indent: Left: 0.5"

a. Confirmation that the FCM clearing member's Chief Executive Officer or Chief Financial Officer pre-approved in writing the disbursement(s);

Formatted: Left, Indent: Left: 1"

b. The amount(s) and recipient(s) of such disbursement(s); and

Formatted: Left, Indent: Left: 0.5", First line: 0.5"

c. A description of the reasons for the single or multiple transaction(s) that resulted in the disbursement(s).

Formatted: Indent: Left: 1"

E. All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation, secured 30.7 or sequestered accounts. The Audit Department must receive immediate written notification when a clearing member knows or should have known of such failure.

F. 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 sequestered amount statements. The User ID is a representation by the authorized signer that, to the best of his or her 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.

G. Exchange staff may prescribe additional segregation, secured 30.7 and sequestered amount requirements.