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Christopher Bowen
Managing Director and Chief Regulatory Counsel
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December 26, 2012

BY ELECTRONIC FILING

Ms. Sauntia Warfield
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

**RE: Revisions to KCBTCC By-Laws 7.01, 7.02, 7.03 and 7.04
Submission #12-462**

Dear Ms. Warfield:

Pursuant to Commission Regulation 40.6(a), the Kansas City Board of Trade Clearing Corporation ("KCBTCC") hereby notifies the Commodity Futures Trading Commission (the "Commission") of proposed revisions to KCBTCC By-Laws 7.01, 7.02, 7.03 and 7.04 (the "By-Laws"). The proposed effective date for these revisions is January 11, 2013.

Exhibit 1 sets forth the proposed revisions to the By-Laws. The modifications appear below with additions underscored and deletions ~~overstruck~~.

Pursuant to the November 30, 2012 acquisition of KCBTCC by CME Group Inc., KCBTCC proposes amending certain articles of its By-Laws to conform KCBTCC clearing participant default procedures and guaranty fund requirements to those of Chicago Mercantile Exchange Inc. ("CME") clearing members. The proposed material changes to the By-Laws are set out below:

- Making CME clearing member default rules applicable to KCBTCC clearing participants
- Establishing a clearing membership price for KCBTCC clearing participants that are not currently CME clearing members
- Establishing guaranty fund deposit amounts for KCBTCC clearing participants that are not currently CME clearing members
- Conforming amendments to a defined term referenced in the By-Laws

The Clearing House Risk Committee and the Legal Department collectively reviewed the derivatives clearing organization ("DCO") core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA"). During the review, KCBTCC staff identified the following Core Principles as potentially being impacted by the revisions:

Financial Resources. Guaranty fund deposits assist the clearing house in meeting its financial obligations to its members, notwithstanding a clearing member default. The KCBTCC clearing participant guaranty fund requirement enables KCBTCC to manage its business risks and contributes to the resources available to cover losses either in the course of its business or in the event of a clearing member default.

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Risk Management. The proposed revision applies CME's risk-based margin requirements to KCBTCC clearing participants, limits the exposure of KCBTCC to potential losses by a defaulting clearing participant, and ensures that in the event of a default, DCO operations would not be disrupted and non-defaulting members will not be exposed to unanticipated or uncontrolled losses. Applying CME clearing member default rules to KCBTCC clearing participants ensures that CME risk management, risk analysis, and risk control mechanisms are applied to clearing participants and that clearing participant credit exposures are adequately monitored.

Default Rules and Procedures. The proposed rule amendments are designed to allow for efficient, fair, and safe management of funds and obligations in the event a KCBTCC clearing participant becomes insolvent or otherwise defaults on its obligations. The default procedures are clearly stated, publicly available, and ensure that KCBTCC is able to take timely action to contain losses and continue meeting its obligations in the event of a clearing participant default.

Public Information: The revised By-Laws clarify public-facing materials relevant to the activities, procedures, requirements, and governance of KCBTCC. Standardizing the language in the By-Laws provides clarity and consistency to market participants.

KCBTCC certifies that this submission has been concurrently posted on its website at http://www.kcbs.com/KCBTCC_pending_certif.html.

KCBTCC further certifies that these amendments to the By-Laws comply with the CEA and regulations promulgated thereunder. No substantive opposing views regarding the proposed amendments to the By-Laws were expressed to KCBTCC.

Should you have any questions regarding this submission, please contact me at 212-299-2200 or via e-mail at christopher.bowen@cmegroup.com. Please reference our Submission No. 12-462 in any related correspondence.

Sincerely,

/s/ Christopher Bowen
Managing Director, Chief Regulatory Counsel

Attachment: Exhibit 1 – Proposed Revisions to KCBTCC By-Laws 7.01, 7.02, 7.03 and 7.04

EXHIBIT 1

PROPOSED REVISIONS TO KCBTCC BY-LAWS 7.01, 7.02, 7.03 AND 7.04

KCBTCC By-Laws

Article VII. CLEARING PARTICIPANT REQUIREMENTS

7.01.-

- (a) Any person who is a Permit Holder of the Exchange, in good standing with full trading privileges, may apply for the privilege of doing business with the Company, individually, or as representing a partnership, firm or corporation, which shall guarantee his trades, provided, however, any such person, individually, or the partnership, firm or corporation such person represents, which is guaranteeing his trades, shall own two Trading Permits of the Exchange unless:
- i. such person is an individual who owns the one Trading Permit of the Exchange and operates as a Floor Trader at Exchange and clears trades made only for his account, whether he represents himself, his sole proprietorship or a corporation owned solely by him, or
 - ii. such person is approved for the privilege of doing business with the Company, even though he does not own 2 Trading Permits of the Exchange but has elected not to clear trades through the Company at such time, said Clearing Participant being sometimes referred to as an "inactive clearing participant."

In addition, a Clearing Participant as of November 30, 2012 that is not a Chicago Mercantile Exchange ("CME") Clearing Member is also subject to a participant requirement amount of \$200,000.

[The remainder of By-Law 7.01 is unchanged]

7.02.-Security Deposits – The Clearing House shall determine the aggregate "base" amount of security deposits that must be deposited with the Company by Clearing Participants. Each Clearing Participant's proportionate share of the required aggregate base amount shall be determined based on a formula determined by the Clearing House. The required aggregate base amount and the formula for determining each Clearing Participant's proportionate share shall be reviewed each calendar quarter or such other times as necessary in response to changing conditions. The Company may require a Clearing Participant's security deposit ("Security Deposit") to be subject to a determined minimum amount in excess of its calculated proportional amount. The form of security deposits shall be determined by the Company, who may place limitations on certain forms.

The minimum "base" security deposit amount (i.e., the Base Guaranty Fund Deposit Amount pursuant to CME Rule 316) of a Clearing Participant at the Kansas City Board of Trade Clearing Corporation that is not a CME Clearing Member shall be set at an amount of \$500,000.

7.03-Default Procedures —If a Clearing Participant fails to meet its financial obligations to the Company (“Default”), the Company may act immediately to take steps necessary to mitigate the risks associated by such default, including:

(a) —in the event of a Clearing Participant House (Proprietary) Account Default:

- i. —Attempt to transfer any segregated customer positions and monies of the defaulting Clearing Participant to another Clearing Participant;
- ii. —Take control of or liquidate the positions in the defaulting Clearing Participant’s House (Proprietary) Account;
- iii. —Apply the defaulting Clearing Participant’s house margin deposits and security deposit against the shortfall amount;
- iv. —Should a shortfall remain, the Company will then apply (on a pro-rata basis) the remaining aggregate base amount of security deposits of non-defaulting Clearing Participants. Non-defaulting Clearing Participants must restore their security deposits to pre-default levels by the next business day;
- v. —Should a shortfall remain, the Company will then utilize its surplus funds (defined as funds in excess of that necessary for continuing Company operations) as determined by the Board of Directors in its discretion;
- vi. —Should a shortfall remain, the Company shall assess all non-defaulting Clearing Participants on the basis of their proportional share of the aggregate base security deposit amount, up to a maximum of four hundred percent (400%) of each such Clearing Participant’s proportional share of the aggregate base security deposit amount. Clearing Participants shall respond to the Company’s assessment call via wire transfer of funds in the same prompt manner that they would a daily variation margin call. Any Clearing Participant resignation does not relieve such Clearing Participant of any and all obligations under Company rules and policies for defaults that occur prior to such resignation;
- vii. —Should a shortfall remain, the Company may apply any of its remaining funds or borrow funds to cover such obligations; and
- viii. —The Company shall, through whatever means available (i.e., attaching other assets of the defaulting Clearing Participant, invoking any parent company guarantee or other actions available by law), attempt to recover from the defaulting Clearing Participant any losses sustained by Company and/or non-defaulting Clearing Participants. Any such monies recovered (net of all costs incurred by Company in recovering such monies) shall be repaid to Company and non-defaulting Clearing Participants in proportion to the total amount contributed to the loss.

(b) —in the event of a Clearing Participant Customer Account Default:

- i. —Attempt to transfer non-defaulting customer positions of the defaulting Clearing Participant to another Clearing Participant;
- ii. —Take control of or liquidate customer and house positions of the defaulting Clearing Participant;
- iii. —Apply the defaulting Clearing Participant’s customer and house margin deposits and security deposit against the shortfall amount;
- iv. —Should a shortfall remain, the Company will then apply (on a pro-rata basis) the remaining aggregate base amount of security deposits of non-defaulting Clearing Participants. Non-defaulting Clearing Participants must restore their security deposits to pre-default levels by the next business day;

- v. ~~Should a shortfall remain, the Company will then utilize its surplus funds (defined as funds in excess of that necessary for continuing Company operations) as determined by the Board of Directors in its discretion;~~
- vi. ~~Should a shortfall remain, the Company shall assess all non defaulting Clearing Participants on the basis of their proportional share of the aggregate base security deposit amount, up to a maximum of four hundred percent (400%) of each such Clearing Participant's proportional share of the aggregate base security deposit amount. Clearing Participants shall respond to the Company's assessment call via wire transfer of funds in the same prompt manner that they would a daily variation margin call. Any Clearing Participant resignation does not relieve such Clearing Participant of any and all obligations under Company rules and policies for defaults that occur prior to such resignation;~~
- vii. ~~Should a shortfall remain, the Company may apply any of its remaining funds or borrow funds to cover such obligations; and~~
- viii. ~~The Company shall, through whatever means available (i.e., attaching other assets of the defaulting Clearing Participant, invoking any parent company guarantee or other actions available by law), attempt to recover from the defaulting Clearing Participant any losses sustained by Company and/or non defaulting Clearing Participants. Any such monies recovered (net of all costs incurred by Company in recovering such monies) shall be repaid to Company and non defaulting Clearing Participants in proportion to the total amount contributed to the loss.~~

The Chicago Mercantile Exchange ("CME") Base Guaranty Fund default management procedures and financial resources set forth in CME Rule 802 shall be applicable in the event of a default (as defined in that rule). CME Rule 802 is set forth below, in pertinent part. All cross-references to "Rules" set forth in Rule 802 and any definitions therein shall refer to the CME Rules.

CME Rule 802 PROTECTION OF CLEARING HOUSE

802.A. Default by Clearing Member or Other Participating Exchanges

The Clearing House shall establish a guaranty fund (the "Base Guaranty Fund") for products other than CDS Products, IRS Products and any positions commingled with IRS Contracts pursuant to Rule 8G831 (such products, the "Base Guaranty Fund Products" and each product, a "Base Guaranty Fund Product Class"). Each clearing member shall contribute to the Base Guaranty Fund in accordance with the requirements of Rule 816. A 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 any cleared Base Guaranty Fund Product Class (as defined below) regardless of the Base Guaranty Fund Product Classes a clearing member clears. However, in order to accommodate differences in time frames and processes associated with the liquidation of certain Base Guaranty Fund Product Classes, Losses will be allocated among a set of Base Guaranty Fund tranches established to reflect the relative contributions of different product classes to the total Base Guaranty Fund. Notwithstanding this prioritization of the Clearing House's recourse, ultimately the entire Base Guaranty Fund will be available if necessary to satisfy all losses regardless of Base Guaranty Fund Product Class.

1. Default by Clearing Member

If a clearing member of CME, CBOT, NYMEX, COMEX, or an OTC Clearing Member or a Clearing Participant of the Kansas City Board of Trade Clearing Corporation (which, for the purposes of this rule shall be considered within the definition of the term "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 or other applicable law, the Clearing House may declare such clearing member to be in default. For purposes of this Rule 802, each default by a clearing member will be considered a separate default event, provided that if a clearing member has been declared in default, subsequent failures to pay by such defaulting clearing member shall not be considered separate default events unless and until the original default has been fully resolved and such clearing member has been restored to good standing.

2. Defaulting Clearing Member's Collateral

If a clearing member defaults, its Base Guaranty Fund contribution (pursuant to Rule 816), its performance bonds on deposit with the Clearing House relating to the Base Guaranty Fund Product Classes, the proceeds of the sale of any membership assigned to it for clearing qualification, and any of its other assets held by, pledged to or otherwise available to the Clearing House, shall be applied by the Clearing House to discharge the clearing member's obligation to the Clearing House. The defaulting 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 Fund Products and other assets of a 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 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 clearing member to the Clearing House, which the Clearing House may collect from any other assets of such clearing member or by process of law.

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 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 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. Allocation of Base Guaranty Fund into Tranches

The Base Guaranty Fund shall be composed of the required Base Guaranty Fund contributions of clearing members pursuant to Rule 816, or any comparable security deposit contributions from a Participating Exchange or Partner Clearinghouse. The Clearing House shall allocate the Base Guaranty Fund into tranches as follows:

i. Base Tranche. Base Guaranty Fund Product Classes that are not associated with an Alternate Tranche as described below shall comprise the Base Product Class. The first 80% of Base Guaranty Fund amounts contributed with respect to the Base Product Class shall be the "Base Tranche".

ii. [Reserved]

iii. Alternate Product Class Tranches. Any other product class approved by the Clearing House Risk Committee to support a product-specific Base Guaranty Fund tranche hereunder shall comprise an Alternate Product Class. The first 80% of Base Guaranty Fund amounts contributed with respect to each such an Alternate Product Class shall be an "Alternate Tranche".

iv. Commingled Tranche. The remaining 20% of Base Guaranty Fund amounts contributed with respect to all of the foregoing Product Classes shall be the "Commingled Tranche".

As set forth below in 802.B, if the collateral of the defaulting clearing member, as described in Rule 802.A.2, Participating Exchange or Partner Clearinghouse is insufficient to satisfy its obligation to the Clearing House, the Tranche associated with a particular Base Guaranty Fund Product Class will be the Tranche first applied to reimburse the Clearing House for Losses attributable to that Base Guaranty Fund Product Class, as determined in accordance with Rule 802.A.5, (i.e., the Base Tranche will first be applied to Losses attributed to the Base Product Class, and the Alternate Tranche will first be applied to Losses attributed to an Alternate Product Class). The Base Guaranty Fund requirements of clearing members for purposes of allocation of such amounts into the Tranches shall be the required amounts in effect for each clearing member at the time of the default.

5. Apportionment Among Base Guaranty Fund Product Classes; Application of Defaulting Clearing Member's Collateral

Upon a default, the Clearing House shall apply the defaulting clearing member's collateral to the deficiency in accordance with the following procedures:

i. Initial Allocation of Assets to Base Guaranty Fund Product Classes. 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 clearing member to the different Base Guaranty Fund Product Classes in which the clearing member has open positions as follows: (a) the defaulting clearing member's Base Guaranty Fund requirement associated with each Base Guaranty Fund Product Class shall be attributed to such Class, (b) the defaulting clearing member's required performance bond amounts for each Base Guaranty Fund Product Class as of the prior clearing cycle shall be allocated to such Class, (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 clearing member's other assets held by, pledged to or otherwise available to the Clearing House shall be divided among the Base Guaranty Fund Product Classes in proportion to the defaulting clearing member's Base Guaranty Fund requirement.

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: any excess Base Guaranty Funds, any excess performance bond from the prior clearing cycle for Base Guaranty Fund Product Classes, any partial payment by the clearing member for the default cycle, and any other available assets of the clearing member that are not specific to a Base Guaranty Fund Product Class. Such unassigned assets shall be allocated first to any net settlement variation payment obligation of the defaulting clearing member to the Clearing House relating to Base Guaranty Fund Product Classes, pro rata across account classes relative to the net settlement variation payment obligation for each account class. If the unassigned funds so allocated are sufficient to satisfy the clearing member's immediate settlement variation payment obligations for Base Guaranty Fund Product Classes, any remaining unassigned funds shall be divided among the Base Guaranty Fund Product Classes, pro rata in proportion to the size of the performance bond requirements for each Base Guaranty Fund Product Class for the clearing cycle immediately prior to the default. If the unassigned funds are not sufficient to satisfy the clearing member's settlement variation payment obligations for Base Guaranty Fund Product Classes for the default cycle, then (i) the Clearing House shall apply the unassigned funds to such obligations, pro rata relative to the size of such obligations on a per-Base Guaranty Fund Product Class basis, and within each Base Guaranty Fund Product Class, pro rata across account classes, and (ii) the remaining settlement variation payment obligations for such clearing cycle shall be satisfied on a per-Base Guaranty Fund Product Class basis only from the assets allocated to the relevant Base Guaranty Fund Product Class pursuant to 802.A.5.i. If the Clearing House is unable to satisfy a settlement variation payment obligation attributable to any Base Guaranty Fund Product Class from such assets, 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 clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account.

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 clearing member, the Clearing House shall satisfy any settlement variation payment obligations owed by the defaulting Clearing member to the Clearing House, or other realized losses of or expenses to the Clearing House with respect to the default, on a per-Base

Guaranty Fund Product Class basis, only from the assets allocated to the relevant Base Guaranty Fund Product Class pursuant to 802.A.5.i. Any settlement variation gain to the defaulting clearing member in any Base Guaranty Fund Product Class during such subsequent clearing cycles shall be added to collateral allocated to such Product Class pursuant to 802.A.5.i. Any additional assets of the defaulting clearing member obtained by the Clearing House during subsequent clearing cycles (including amounts from CDS Products and IRS Products made available to Base Guaranty Fund Product Classes) shall be divided among the Base Guaranty Fund Product Classes pro rata in proportion to the size of the performance bond requirements for each Base Guaranty Fund Product Class for the clearing cycle immediately prior to the default. 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 and 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 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 clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account.

Final determination of gain or deficiency for each Product Class. When the Clearing House determines the final net deficiency for a Base Guaranty Fund Product Class, it shall apply any remaining collateral of the defaulting clearing member with respect to such Base Guaranty Fund Product Class to satisfy the deficiency. If the Clearing House achieves a final gain, or if any excess collateral remains following satisfaction of a deficiency, the Clearing House shall allocate such excess funds to the defaulting clearing member's collateral for Base Guaranty Fund Product Classes within the same account class as to which a final gain or deficiency is yet to be determined, pro rata in proportion to the size of the performance bond requirements for such Base Guaranty Fund Product Classes for the clearing cycle immediately prior to the default. 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 clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account. Any gains or excess collateral within a segregated customer account class following final determination of the defaulting 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 in other Product Classes, but shall not be added to the clearing member's collateral generally.

Any remaining unsatisfied obligations of the defaulting 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 clearing member's collateral as set forth in Rule 802.A, to satisfy all of the 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 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, 8D, 8E or 8F; or 4) any other cause. All of the foregoing shall be deemed Losses to the Clearing House, which shall be apportioned by the Clearing House to Loss categories associated with the Base Guaranty Fund Product Class producing the Loss. Losses that cannot readily be attributed to a specific Base Guaranty Fund Product Class shall be apportioned by the Clearing House across all Base Guaranty Fund Product Classes in proportion to relative size of the Tranches (excluding the Commingled Tranche). Losses shall be satisfied by the Clearing House in the order of priority hereafter listed. Non-defaulting 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 Losses Are Limited to the Base Product Class

i. The corporate contribution of CME, which shall equal \$100,000,000 (the "CME Contribution").

ii. The Base Tranche.

iii. The Commingled Tranche.

iv. The Alternate Tranche.

v. The balance of any Losses remaining after the application of the above funds shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members). Each clearing member (excluding any insolvent or defaulting 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 clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to all defaulted 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. If Losses Are Limited to an Alternate Product Class:

i. The CME Contribution.

ii. The Alternate Tranche.

iii. The Commingled Tranche.

iv. The Base Tranche and any other Alternate Tranche, pro rata in accordance with the relative size of such Tranches.

v. The balance of any Losses remaining after the application of the above funds shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members). Each clearing member (excluding any insolvent or defaulting 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 clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to all defaulted 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.

4. If Losses Are Apportioned Among Multiple Product Classes:

Because of differences in the timeframes and processes associated with the liquidation of certain product types, the Clearing House may finalize Loss amounts associated with different Base Guaranty Fund Product Classes at different points in time. Notwithstanding this, the Clearing House will act with all possible speed to satisfy the Losses as they are finalized, in the order of priority and per the schedule set forth below.

i. The CME Contribution shall be applied. The CME Contribution shall be divided by the Clearing House into separate segments in proportion to the size of each Tranche except for the Commingled Tranche. Each segment of the CME Contribution shall be applied first to Losses associated with the applicable Base Guaranty Fund Product Class for such segment, and only at such time as one or more Losses associated with such Tranche are finalized. Subject to paragraph 802.C if any of the CME Contribution remains after such initial application, such funds shall be reserved to be later applied to Losses associated with other Product Classes as set forth in paragraph 802.B.4.v.

ii. The Base Tranche shall be applied to Losses associated with the Base Product Class and any Alternate Tranche shall be applied to Losses associated with the applicable Alternate Product Class, in each case when one or more Losses associated with such Tranche are finalized. Subject to paragraph 802.C, if the Tranche is not exhausted, any remaining funds shall be held in such Tranche and may later be applied to other Losses as set forth in paragraph 802.B.4.v.

iii. The Commingled Tranche funds shall be applied to remaining Losses associated with any Base Guaranty Fund Product Class immediately as such Losses are finally determined by the Clearing House, in the order that the amounts of such Losses are finalized. Consequently, the application of Commingled Tranche funds to Losses associated with one Base Guaranty Fund Product Class may occur prior to the finalization of Losses associated with other Base Guaranty Fund Product Classes (i.e., prior to the completion of the processes set forth in paragraphs 802.B.4.i and 802.B.4.ii with respect to Losses associated with another Base Guaranty Fund Product Class). If Losses associated with more than one Base Guaranty Fund Product Class are to be finalized pursuant to auction processes being conducted concurrently, then any remaining Commingled Tranche funds shall be divided and allocated to such auctions during the auction process, pro rata in proportion to the relative sizes of the mark-to-market losses for such Base Guaranty Fund Product Classes.

iv. Any Losses remaining after the application of the processes set forth above shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members) up to an amount that does not exceed (A) a total of 275 per cent of the aggregate guaranty fund requirements across all clearing members (excluding any insolvent or defaulting clearing members) at the time of the default with respect to the Base Guaranty Fund Product Class with which the Loss is associated with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of the aggregate guaranty fund requirements across all clearing members (excluding any insolvent or defaulting clearing members) at the time of the default with respect to the Base Guaranty Fund Product Class with which the Loss is associated and all defaulted clearing members during a Base Cooling Off Period. Such assessments shall occur on a per- Base Guaranty Fund Product Class basis as Losses associated with each Base Guaranty Fund Product Class are finalized by the Clearing House. Consequently, the application of an assessment against clearing members with respect to Losses associated with one Base Guaranty Fund Product Class may occur prior to the finalization of Losses associated with other Base Guaranty Fund Product Classes. 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, without regard to the Base Guaranty Fund Product Classes cleared by such clearing member or the proportion to which such Base Guaranty Fund Product Classes contribute to such clearing member's maximum assessment exposure. (For example, a clearing member that clears only Alternate Tranche products and that is subject to a maximum \$1 billion assessment because of that clearing activity will be subject to assessment of up to \$500 million for a Loss associated with the Base Product Class if 50% of the Clearing House's aggregate assessment powers are generated by Base Guaranty Fund requirements with respect to the Base Product Class.) Any remaining unused assessment authority associated with Base Guaranty

Fund Product Classes as to which Losses are fully satisfied shall be reserved and later may be applied to Losses associated with other Product Classes as set forth in paragraph 802.B.4.v below.

v. (a) Collateral of the defaulting clearing member, (b) the CME Contribution, (c) Base Tranche funds or Alternate Tranche funds, and (d) assessment powers shall be applied to remaining Losses as they are finalized with respect to each Base Guaranty Fund Product Class and in such order, provided that if at the time of any such application, Losses associated with another Base Guaranty Fund Product Class remain to be finalized, the Clearing House shall continue to reserve a portion of such remaining funds or assessment powers, pro rata in proportion to the size of the Tranches originally supporting such Base Guaranty Fund Product Classes, until such remaining Losses are finalized. When all Losses have been finalized by the Clearing House, any remaining reserved funds and assessment powers of any kind may be applied to satisfy such Losses, pro rata relative to the size of the remaining losses for the Base Guaranty Fund Product Classes.

5. Fedwire and Satisfaction of Assessment

All amounts assessed by the Clearing House against a 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 clearing member prior to the close of Fedwire on such day; 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 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 clearing members pursuant to the applicable paragraph.

If a 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 clearing member with respect to its own assessment, (ii) has replenished any deficiency in its Base Guaranty Fund contribution in accordance with Rule 802.D, 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 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 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 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 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 clearing member, shall be conducted by the Clearing House in

consultation with the Clearing House Risk Committee, with the approval of the Board, and/or such other committee as the Board may designate.

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 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 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.

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.

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

Notwithstanding any requirements to reserve funds set forth in Rule 802.A or Rule 802.B, 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 reserved from the defaulting clearing member's collateral, the CME Contribution or any Tranche (other than the Commingled Tranche, which shall have been exhausted pursuant to paragraph 802.B.4.iii), 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 reserved 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 with respect to all Base Guaranty Fund Product Classes, 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 reserved collateral segments, the CME Contribution segments or Tranches 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 clearing member's default.

802.D. Restoration of Funds Following Final Determination of Losses

If after the default of a clearing member is finally resolved, the Clearing House determines that collateral of the defaulting clearing member, the CME Contribution, Tranche funds other than the Commingled Tranche, 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 (i) distributions to the non-defaulting firms whose Base Guaranty Funds were applied or who were assessed and/or (ii) rebalancing allocations among Base Guaranty Fund tranches.

802.E. Rights of Exchange for Recovery of Loss

Losses caused by the default of a clearing member, Participating Exchange or Partner Clearinghouse are amounts due to the Clearing House from such clearing member, exchange or clearing house and shall remain legal obligations thereof notwithstanding the Clearing House's recourse to the loss; mutualization provisions of this Rule 802, which amounts the Clearing House shall take commercially reasonable steps to recover (including claims submitted in bankruptcy court). If a Loss for which clearing members or their Base Guaranty Fund contributions have been assessed is subsequently recovered by the Exchange in whole or in part, the net amount of such recovery shall be credited to such clearing members (whether or not they are still clearing members at the time of recovery) in proportion to the amount of the assessment.

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, 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. Upon a default, the Clearing House may, in accordance with applicable law, act immediately to attempt to transfer to alternate 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 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 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.

2. In order to minimize disruptions and loss to its public customers if a clearing member defaults, each 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 clearing member.

3. The Clearing House shall treat positions and collateral of the cleared swaps customers of a 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 clearing Member, the Clearing House shall cease netting settlement variation among the cleared swaps customers of the defaulted clearing member.

4. If the Clearing House ceases to not settlement variation margin of the customers of a defaulted 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 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 clearing member's proprietary account, any remaining collateral may be applied by the Clearing House to losses remaining in the defaulting clearing member's customer account classes, provided that such collateral shall be divided among the Product Classes as described above. If the defaulting clearing member has more than one customer account class that has been declared to have defaulted, proceeds from the defaulting clearing member's proprietary account for each relevant Product Class 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 clearing member. If more than one clearing member default occurs at a time or in close sequence, including a default that occurs by reason of a clearing member's failure to satisfy an assessment demand, the Clearing House shall manage the defaults separately. Upon any default, non-defaulted 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 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 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 clearing member's required Guaranty Fund contribution would exceed such maximum, the 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.

7.04.-Close-Out Netting

...

- (e) Interpretation in Relation to FDICIA. The Company intends that certain provisions of this Rule be interpreted in relation to certain terms (identified by quotation marks) that are defined in the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), as amended, as follows:
- i. The Company is a "clearing organization."
 - ii. An obligation of a Clearing Participant to make a payment to the Company, or of the Company to make a payment to a Clearing Participant, subject to a netting agreement, is a "covered clearing obligation" and a "covered contractual payment obligation."
 - iii. Entitlement of a Clearing Participant to receive a payment from the Company, or of the Company to receive a payment from a Clearing Participant, subject to a netting contract, is a "covered contractual payment entitlement."
 - iv. The Company is a "member," and each Clearing ~~Member-Participant~~ is a "member."
 - v. The By-Laws and Rules of the Company, including this Rule, are a "netting contract."

[The remainder of By-Law 7.04 is unchanged]