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November 27, 2006

Ms. Jean A. Webb  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**RE: CME Rulebook Chapter Nine  
Submission No. 06-104R**

Dear Ms. Webb:

Chicago Mercantile Exchange Inc. ("CME" or "Exchange") hereby notifies the Commission that the Exchange has approved revisions to CME Rulebook Chapter 9 ("Clearing Members"). These changes were made to streamline and consolidate or eliminate rules where appropriate and to improve and update rule language to increase the clarity of the rules in CME's Rulebook.

Attached is Chapter 9 with additions underlined and deletions lined out. The main changes are summarized below:

**Rule 900 (Categories of Clearing Members)**

This rule was modified to update and to more accurately describe the different categories of clearing members at CME. A description of "In-Active" Clearing Members was added to the rule since in-active clearing members were not previously described in the Rules.

**Rule 901.M. (General Requirements and Obligations)**

This rule was modified to more accurately reflect a clearing member's financial responsibility for the electronic trading activities of the individuals and entities it guarantees and includes transactions routed through the Globex platform as well as transactions routed through other electronic trading facilitates that are cleared at CME.

**Rule 923 (Emergency Financial Conditions)**

This rule was broadened to allow for the determination of a "clearing member emergency financial condition" if an affiliate of a clearing member experiences a financial or operational condition that may jeopardize the integrity of the Exchange. This change

provides added flexibility to the Exchange to declare an emergency exists and suspend a clearing member when an affiliate of a clearing member has a financial or operational problem and the clearing member itself is not in immediate financial or operational difficulties.

**Rule 940 (Suspension of Clearing Member)**

This rule was modified to allow for the suspension of a clearing member if the financial condition of one of its affiliates is such that the clearing member's continued operation would jeopardize the integrity of the Exchange.

**Rule 942 (Open Trades of Suspended Member)**

This rule was clarified to allow the trades of a suspended clearing member to not only be transferred to another clearing member for liquidation but to allow another clearing member to be appointed to liquidate the positions while the positions are maintained on the suspended clearing member's books.

**Rule 980 (Required Records and Reports)**

This new rule was created to require each clearing member to maintain the ability to provide the Exchange with a list of each customer's method of access to CME markets, including front-end applications and network connections. During the Refco matter, it became apparent that having the above information would make it easier to attempt to manage a clearing member emergency.

The Exchange certifies that this regulatory advisory neither violates nor is inconsistent with any provision of the Commodity Exchange Act or of the rules and regulations thereunder.

If you have any questions regarding this matter, please call me at (312) 648-5422.

Sincerely,

/S/ Stephen M. Szarmack  
Director and Associate General Counsel

## Chapter 9 Clearing Members

### GENERAL

#### 900. <sup>1</sup> CATEGORIES OF CLEARING MEMBERS <sup>2</sup>

The Exchange may establish different clearing member categories and alter the rights and responsibilities of such categories from time to time. The clearing member categories set forth below may be modified by the Exchange.

##### 900.A. Clearing Members

The term "clearing member" as used in the Rules, shall include all clearing member categories set forth in this Rule 900 ~~or other applicable rule~~, unless otherwise specified~~stated~~ in a particular rule, ~~policy or the Manual.~~

##### 900.B. CME Clearing Members

CME Clearing Members shall be ~~fully vested clearing members with~~have all the applicable rights, responsibilities and privileges attendant thereof, subject to the provisions of these rules and shall be qualified to clear transactions for all CME products.

##### 900.C. Inactive Clearing Members

Inactive clearing members shall: (i) have no customers, (ii) not qualify traders, and (iii) have no direct clearing relationship with the Exchange. Inactive clearing members must meet all clearing membership requirements except certain financial capital and reporting requirements as determined by Exchange staff.

##### 900.BD. Special CME Clearing Members

~~Notwithstanding any other provision in the Rules, a~~All individuals and firms that were CBOT Clearing Members on or before April 16, 2003, ~~shall be~~were eligible to be admitted as Special CME Clearing Members at CME. Individuals and firms that become CBOT Clearing Members after April 16, 2003, shall be admitted as Special CME Clearing Members at CME if such CBOT Clearing Members meet ~~CME's~~CME's requirements for clearing membership.

Except as otherwise provided in the Rules, CBOT Clearing Members admitted as Special CME Clearing Members shall not be subject to the assignment ownership~~requirements~~ of CME memberships and Class A ~~and B~~ Shares. Applicants seeking for Special CME Clearing Membership at CME must apply for membership on the ~~home~~CBOT~~exchange~~.

Special CME Clearing Members shall, unless otherwise stated in the Rules, ~~be fully vested clearing members with~~have all of the applicable rights, responsibilities and privileges attendant thereof, subject to the provisions of the Rules. Unless otherwise provided by the Exchange, Special CME Clearing Members shall only be qualified to clear products traded on such Special CME Clearing Member's home exchange.

#### 901. GENERAL REQUIREMENTS AND OBLIGATIONS <sup>3</sup>

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. Exchange staff may grant exemptions to the General Requirements and Obligations set forth below for ~~Special CME Clearing Members~~ if it is determined that such an exemption will not jeopardize the financial integrity of the Exchange. 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 ~~cooperative association~~other entity approved by Exchange staff; it shall agree to: 1) abide by all CME Rules and to cooperate in their enforcement; 2) be responsible, even after it has withdrawn as a clearing member, for any violations of CME Rules committed by it while it was a clearing member; and 3) continue to meet all requirements of clearing members, including all financial requirements provided by these rules, or suffer

<sup>1</sup> NOTE: Associate broker and sub-broker membership classifications eliminated March 1979; inoperative negotiated commissions March 1978; also reference to IOM clearing members deleted November 1984. Revised November 1995; October 2001.

<sup>2</sup> Revised June 2003.

<sup>3</sup> Rule 901.N. eliminated July 1998; Revised November 2000; June 2003.

<sup>4</sup> Revised August, 1992.

~~suspension and revocation of its membership.~~<sup>5</sup>

- 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 was a member as defined by Rule 400.
- C. It shall be qualified to do business in the State of Illinois or have a valid ~~a~~Agency ~~a~~Agreement with an entity qualified to do business in the State of Illinois;
- 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 ~~in order to justify assumption of clearing activities;~~
- 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 ~~Class A~~ clearing members, then each such clearing member shall guarantee the obligations of the others to the Exchange and shall execute a written guarantee to the Exchange on a form approved by the Exchange. ~~Exchange staff may grant exemptions from the guarantee requirements of this Rule 901.G. if it is determined that such exemptions will not jeopardize the financial integrity of the Exchange.~~<sup>6</sup>
- 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. An increase in the number of members that a clearing member qualifies as determined by the Clearing House Risk Committee or Exchange staff.

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 Clearing House Risk 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.

~~A violation of this Rule may constitute a major offense.~~<sup>7</sup>

- I. It shall agree to guarantee and assume complete responsibility for: 1) all trades executed or directed to be executed in any division by floor brokers and traders qualified by it; and 2) all orders that floor brokers qualified by it negligently execute or fail to execute;

J. and K. [Reserved]

- ~~J. It shall agree to 1) abide by all CME rules and to cooperate in their enforcement and 2) be responsible, even after it has withdrawn as a clearing member, for any violations of CME Rules committed by it while it was a clearing member;~~

- ~~K. It shall agree to continue to meet all requirements of clearing members, including all financial requirements provided by these rules, or suffer suspension and revocation of its Clearing~~

<sup>5</sup> Revised December 1993.

<sup>6</sup> Revised July 1987; April 1991; November 2000.

<sup>7</sup> Revised February 1995.

~~House membership; and~~

- L. It shall submit to the Exchange a written guarantee, on a form provided by the Exchange, from each person or entity owning 5% or more of the equity securities of the clearing member, that shall guarantee all obligations of the clearing member to the Exchange arising out of accounts cleared by the clearing member that are:<sup>8</sup>
1. non-customer accounts, including proprietary accounts as defined by CFTC Regulation 1.3(y); and
  2. accounts carried by another futures commission merchant if such accounts would be considered non-customer accounts, including proprietary accounts as defined by CFTC Regulation 1.3(y), of the clearing member, if carried directly by the clearing member.

Notwithstanding anything herein to the contrary, the guarantee required by this Rule 901.L. shall not apply to any obligations of the clearing member to pay an assessment to the Exchange pursuant to Rule 802.B.

Each clearing member must submit and maintain with the Audit Department a current list of every person or entity who is directly, or indirectly through intermediaries, the beneficial owner of 5% or more of any class of equity security of the clearing member. If such person or entity owns the clearing member indirectly through intermediaries, all intermediaries must be listed including, if a corporation, all shareholders who own 5% or more of any class of equity security, or, if a partnership, all general and any limited or special partners who have contributed 5% or more of the partnership's capital. If the intermediary's shareholders or partners are not individuals, the clearing member must include the chain of ownership of 5% shareholders, general partners and 5% limited or special partners until individuals are listed.

If a corporation directly or indirectly owns 5% or more of the equity securities of the clearing member, the written guarantee shall be signed by an appropriate officer of the corporation, and a resolution granting such officer authority to sign the guarantee shall also be submitted to the Exchange. Exchange staff may also require each person or ~~entity~~ owning 5% or more of the equity securities of such parent corporation, or of parents of such parent corporation, to execute guarantees.

For purposes of this Rule 901.L., the term "equity security" shall include any stock, partnership interest or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security ~~which that~~ Exchange staff shall deem to be of similar nature and consider necessary or appropriate to treat as an equity security.

~~Exchange staff may grant exemptions from the guarantee requirements of this Rule 901.L. for good cause shown if it determines that such exemptions will not jeopardize the financial integrity of the Exchange.~~

- M. It shall guarantee and assume financial responsibility for all trading ~~through its GLOBEX terminals, any other applicable electronic trading system, and the terminals that it provides to others.~~ activity routed through a Globex portal, or routed through any other electronic trading system to CME for clearing of such transactions, and are 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. A clearing member shall also be responsible for the acts of ~~Globex~~LOBEX terminal operators using its terminals and the terminals that it provides to ~~Rule 406.L.~~ firms that are under common ownership with it. It shall be the duty of the clearing member to supervise such ~~Globex~~LOBEX terminal operators' compliance with Exchange rules, and any violation of Exchange rules by such terminal operators may be considered a violation by the clearing member.<sup>9</sup>
- N. It shall agree to guarantee and assume complete responsibility for trades executed on (1) the Exchange's electronic trading venue(s); or (2) Marketplaces for which the Exchange provides clearing services per Rule 8B02 and Rule 8-C.<sup>10</sup>

<sup>8</sup> Revised August, 1992.

<sup>9</sup> Effective February 1989.

<sup>10</sup> Adopted April 2002.

**902. CLEARING MEMBERSHIP ASSIGNMENT REQUIREMENTS <sup>11</sup>****902.A. Assignment Requirement <sup>12</sup>**

Subject to exemptions granted by Exchange staff, each CME clearing member shall have at least 15,000 Class A Shares assigned to it and shall have at least: two CME memberships, ~~at least two IMM memberships, and at least two IOM memberships, and at least one GEM membership~~ assigned. A clearing member which was an IMM Class A clearing member on or prior to May 6, 1987, shall have at least 15,000 Class A Shares assigned to it and shall have at least one CME membership, three IMM memberships, two IOM memberships, ~~at least and one~~ GEM membership assigned.

A higher Division membership ~~and associated Class B Share~~ may be substituted for a lower Division membership to satisfy these requirements. Class A Shares assigned to a clearing member may not be sold, pledged, hypothecated, lent, reregistered or otherwise transferred without the prior approval of the Exchange. Each clearing member assigning Class A Shares to CME hereby acknowledges that CME has control over such Class A Shares and further agrees to comply with any policies or procedures established by CME to affect control over Class A shares.

All of the membership interests and Class A and B Shares required for clearing memberships 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, if such clearing member was approved for membership after June 1, 2003.

A clearing member approved for membership on or before June 1, 2003, may continue to maintain the same number of independent membership assignments and the same ratio of independent Class A Share assignments as the clearing member held on June 1, 2003 (i.e., up to one CME, one IMM, and one IOM memberships, ~~the associated Class B Shares~~ and up to 50 percent of the Class A Shares). If a clearing member approved on or before June 1, 2003, or a person with an acceptable proprietary interest in the clearing member, subsequently purchases a membership ~~and associated Class B Share~~ or Class A Shares and substitutes such asset for one which was previously an independent assignment, such membership ~~and associated Class B Share~~ or Class A Shares must thereafter be owned by the clearing member or a person with an acceptable proprietary interest. <sup>13</sup>

Upon default of a clearing member in meeting its obligations to the Exchange or upon the Clearing House Risk Committee's determination that a clearing member's financial position jeopardizes the financial integrity of the Exchange, the Exchange may direct the sale of any or all of the clearing member's assigned CME memberships and ~~associated Class B Class A Shares~~ and any Membership Interests and associated shares of common stock of a Special CME Clearing Member held by or pledged to the Clearing House. The proceeds from the sale of the CME memberships, ~~Class B Shares, and Membership Interests~~ shall be used to satisfy Rule 110 obligations.

**902.B. Trading Privileges for Assigned Memberships <sup>14</sup>**

A member may assign his membership ~~and associated Class B Share~~ without trading restrictions.

**902.C. Assignment Process <sup>15</sup>**

A membership and/or Class A Shares ~~and Class B Shares~~ may be assigned to a clearing member upon the completion of an Exchange-approved form. A membership and Class A Shares ~~and Class B Shares~~ may be assigned to 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 Shareholder Relations and Membership Department, the newly assigned membership ~~and Class B Share~~ shall be posted to the membership for ten days. After all Rule 110 claims have been resolved to the satisfaction of the Exchange, the membership ~~and Class B Share~~ shall be assigned to the clearing member.

**902.D. Assignment Substitutions <sup>16</sup>**

A clearing member may substitute a membership ~~and associated Class B Share~~ and/or Class A Shares for an assigned membership ~~and associated Class B Share~~ and/or Class A Shares

<sup>11</sup> Revised November 1997; November 2000; April 2001; October 2001; November 2001; June 2003.

<sup>12</sup> Revised November 2000; November 2001.

<sup>13</sup> Effective September 1989. Revised November 1995; Revised November 2000; November 2001; April 2003.

<sup>14</sup> Revised November 2000; October 2001; November 2001.

<sup>15</sup> Revised November 2000; November 2001; April 2003.

<sup>16</sup> Revised November 2000; October 2001; November 2001; April 2003.

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 ~~and associated Class B Share~~ is assigned to another clearing member, the clearing member utilizing the membership ~~and associated Class B Share~~ for assignment shall have 10 business days to substitute another membership ~~and associated Class B Share~~ to fulfill the assignment requirements of this Rule. Such substitution shall be required to protect the financial integrity of the Exchange. Violation of this rule may be a major offense.

**902.E. Assignment Withdrawal Disputes<sup>17</sup>**

In the event a member wants to withdraw his assigned membership ~~and associated Class B Share~~ over the objection of the clearing member to which the membership ~~and associated Class B Share~~ is assigned, such member must request permission to do so from Exchange staff. The request must be in writing with a copy delivered to the clearing member to which the membership is assigned. Exchange staff may grant such requests under conditions that do not jeopardize the financial integrity of the Exchange.

**902.F. Lien on Membership Interests<sup>18</sup>**

Each clearing member and Special CME Clearing Member hereby grants to CME a first priority and unencumbered lien against all Membership Interests and any associated shares of common stock required for clearing membership by the Exchange or the Special CME Clearing Member's exchange or Market, as applicable. Clearing members and Special CME Clearing Members shall execute any documents required by the Exchange to create and enforce such lien.

(Next Rule 910)

**903. RISK MANAGEMENT<sup>19</sup>**

~~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 of specific customers.~~
  - ~~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.~~
  - ~~5. Ensuring order entry systems include the ability to set automated credit controls or position limits or requires a firm employee to enter orders.~~
  - ~~6. Defining sources of liquidity for increased settlement obligations.~~
- ~~B. Additional and/or Alternative Requirements. Exchange staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.~~

**904. DISASTER RECOVERY AND BUSINESS CONTINUITY<sup>20</sup>**

~~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.~~

<sup>17</sup> Revised November 2000; November 2001.

<sup>18</sup> Adopted June 2003. Revised October 2004.

<sup>19</sup> Adopted September 2003.

<sup>20</sup> Adopted September 2003.

- ~~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 whenever a change to its key personnel is made.~~
- ~~C. Additional and/or Alternative Requirements. Exchange staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.~~

**9035.— 909. [RESERVED]**

## APPLICATION PROCEDURES FOR CLEARING MEMBERS

### 910. APPLICATION FORMS <sup>21</sup>

Applicants for clearing membership shall submit an application, ~~and shall include therewith such~~ financial statements and other documentation as Exchange staff shall require.

### 911. SCREENING PROCEDURES <sup>22</sup>

Upon receipt of an application, the Audit Department shall ~~investigate~~ make a complete investigation of the applicant's qualifications, which may include an examination of the books and records of the applicant. The Audit Department shall coordinate its investigation with staff at the applicable exchange or market if the applicant is also applying for clearing membership at such exchange or market.

### 912. APPROVAL <sup>23</sup>

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

An applicant that fails to receive a majority vote shall be informed by the Clearing House Risk 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 Risk Committee's decision was ~~clearly erroneous or unreasonable~~ arbitrary, capricious or an abuse of the Committee's discretion.

### 913. WITHDRAWAL FROM CLEARING MEMBERSHIP <sup>24</sup>

#### 913.A. Voluntary Withdrawal

A clearing member may ~~apply to~~ withdraw from clearing membership upon approval of ~~and Exchange staff, and ratification by the~~ subject to ratification by the Clearing House Risk Committee, ~~Exchange staff shall base its decision on~~ shall have discretion to approve or deny such application based on all relevant factors, including, but not limited to, whether the withdrawal would ~~be~~ is consistent with the best interests of the Exchange, the membership and the public. The withdrawal shall be effective on the date that the withdrawal is posted.

#### 913.B. Release of Security Deposit, Membership and Class B Share Proceeds and Assignments

When a clearing member withdraws from clearing membership (whether voluntarily or involuntarily), its security deposit, the proceeds ~~from the sales of its memberships and associated Class B Shares~~ and of the its Class A Shares and Class B Shares assigned to it for clearing qualification ~~or any membership equivalent amounts, and any remaining assignments of assets available to the Exchange including, but not limited to, memberships, or Class A and Class B Shares, as well as any Membership Interests and any associated shares of common stock of a Special CME Clearing Member held by or pledged to the Clearing House, if applicable, will be released when the Clearing House Risk Committee~~ Exchange 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 futures transactions cleared on the Exchange have been paid or otherwise provided for, and (4) all obligations to other members and customers arising out of other arbitration claims 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

<sup>21</sup> Revised March 1979; November 2000.

<sup>22</sup> Revised February 1998; November 2000; June 2003.

<sup>23</sup> Revised March 1979; Revised November 2000; December 2001.

<sup>24</sup> Adopted April 1993; Revised November 2000; October 2001; November 2001; April 2002; June 2003; September 2004.

interest in such clearing member's "Assets" contemplated by Rule 816 in accordance with the terms of the liquidity facility contemplated thereby; provided, however, that in the event that ~~the Clearing House Risk Committee~~ 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 effective date of the clearing member's withdrawal from membership in the Clearing House. Notwithstanding the above, Exchange staff may grant an exemption to the above restriction for good cause shown if it determines that such exemption will not jeopardize the financial integrity of the Exchange. Further, for purposes of the above paragraph, 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 provided for in the Clearing House Risk Committee decision to approve the withdrawal.

(Next Rule 922)<sup>26</sup>

914.— 921. [RESERVED]

### FINANCIAL REQUIREMENTS

922. **FAILURE TO MEET MINIMUM FINANCIAL REQUIREMENTS**<sup>26</sup>

If, in the opinion of the Audit Department, a clearing member fails to meet the minimum financial requirements as prescribed herein or neglects to promptly furnish a statement upon request, a recommendation shall be made to the Clearing House Risk Committee to suspend the privileges of the clearing member. Thereupon, the Clearing House Risk Committee shall conduct a hearing and the said clearing member shall show cause why ~~his~~ its ~~privileges shall~~ should not be suspended. Upon finding that the minimum financial requirements are being violated, the Clearing House Risk Committee may suspend the privileges of such clearing member in accordance with the provisions of Chapter 4 of these rules. The CFTC shall be immediately notified of any clearing member who fails to meet the minimum financial requirements. Any suspended clearing member may appeal the decision of the Clearing House Risk Committee to the Board.

923. **EMERGENCY FINANCIAL CONDITIONS**<sup>27</sup>

~~In the event, after investigation, the Chief Executive Officer or President or the Managing Director and President of the Clearing House 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, he or negatively impacts the commodities 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, he or she~~ may empanel the Chief Executive Officer, the President, Chairman of the Board, the Chairman of the Clearing House Risk Committee and the Managing Director and President/Chief Executive Officer of the Clearing House. Such panel shall be duly authorized and, upon a unanimous vote of the committee 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, or (e) additional performance bond to be deposited with the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 411. In the event of suspension, the Chief Executive Officer shall, promptly after a ~~within five days~~ of suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of said clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of the clearing member, Rule 913.B shall apply and the clearing member shall be treated as a withdrawing clearing member.

924. **RESPONSIBILITY FOR QUALIFIED TRADERS**

A. ~~When a A~~ clearing member that qualifies a floor broker or trader ~~thereby it agrees to~~ guarantees and assumes complete responsibility for: 1) all trades and orders executed or directed to be executed by such floor broker or trader; and 2) all orders that such floor broker

<sup>25</sup> Rule 920. CAPITALIZATION AND POSITIONS and Rule 921. REDUCTION IN ADJUSTED NET CAPITAL IN EXCESS OF 20% rescinded October 1993.

<sup>26</sup> Revised February 1998; November 2000.

<sup>27</sup> Revised March 1979; November 2000; September 2004.

- negligently or fraudulently executes or fails to execute.
- 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 his qualification unless he has obtained a written release from the clearing member last qualifying him. A release shall not be withheld unless a member has failed to pay any indebtedness to the clearing member last qualifying him that arises out of a pledge of a membership and a Class B Share as collateral security on any such indebtedness, or ~~due to a deficit~~ arising out of futures transactions on the Exchange. Any other disputes between the parties shall be resolved 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 he has been requalified.
  - F. A member shall place all trades, including trades for his own account or any account which he controls, on the books of his 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 only place trades through his qualifying clearing member. Any clearing member that has 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 a GlobexLOBEX terminal 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 a GlobexLOBEX terminal to or clear any trade for a person in 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 GlobexLOBEX access guaranteed by a clearing member other than his qualifying clearing member, the qualifying clearing member may terminate the member's ability to place orders through GlobexLOBEX by notifying the clearing member providing the member access to GlobexLOBEX. The clearing member providing the access to GlobexLOBEX will be responsible for ensuring that the member does not place orders through GlobexLOBEX.

(Next Rule 930)

925.— 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 is the performance bond system adopted by the Exchange. SPAN 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 system.

Performance bond systems other than the SPAN system 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 performance bond requirements.

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

###### 1. Non-Security Futures

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 and be registered as a floor trader or a floor broker with the CFTC under Section 4f(a)(1) of the CEA; 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) 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 <sup>28</sup> ) and long put option <sup>29</sup> 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 <sup>30</sup> of the put plus the aggregate put out-of-the-money <sup>31</sup> amount, if any; or (2) 20% of the current market value of the long security future.

28 Baskets of securities or security futures contracts must replicate the securities that comprise the index, and in the same proportion.

29 Generally, for the purposes of these rules, unless otherwise specified, stock index warrants shall be treated as if they were index options.

30 "Aggregate exercise price," with respect to an option or warrant based on an underlying security, means the exercise price of an option or warrant contract multiplied by the numbers of units of the underlying security covered by the option contract or warrant. "Aggregate exercise price" with respect to an index option, means the exercise price multiplied by the index multiplier.

31 "Out-of-the-money" amounts shall be determined as follows:

- (1) for stock call options and warrants, any excess of the aggregate exercise price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);
- (2) for stock put options or warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;
- (3) for stock index call options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier; and
- (4) for stock index put options and warrants, any excess of the product of the current index value and the applicable index multiplier over the aggregate exercise price of the option or warrant. See, e.g., NYSE Rule 431 (Exchange Act Release No. 42011 (October 14, 1999)), 64 FR 57172 (October 22, 1999) (order approving SR-NYSE-99-03); Amex Rule 462 (Exchange Act Release No. 43582 (November 17, 2000)), 65 FR 71151 (November 29, 2000) (order approving SR-Amex-99-27)); CBOE Rule 12.3 (Exchange Act

	DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
2	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 <sup>32</sup>
3	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.
4	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.
5	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.
6	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.
7	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.
8	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.
9	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.

Release No. 41658 (July 27, 1999), 64 FR 42736 (August 5, 1999) (order approving SR-CBOE-97-67); or NASD Rule 2520 (Exchange Act Release No. 43581 (November 17, 2000), 65 FR 70854 (November 28, 2000) (order approving SR-NASD-00-15)).

<sup>32</sup> "In-the-money" amounts must be determined as follows:

- (1) for stock call options and warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;
- (2) for stock put options or warrants, any excess of the aggregate exercise price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);
- (3) for stock index call options and warrants, any excess of the product of the current index value and the applicable index multiplier over the aggregate exercise price of the option or warrant; and
- (4) for stock index put options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier.

	DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
40	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.
41	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.
42	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.
43	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.
44	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.
45	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.
46	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.
47	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).

	DESCRIPTION OF OFFSET	SECURITY UNDERLYING THE SECURITY FUTURE	INITIAL MARGIN REQUIREMENT	MAINTENANCE MARGIN REQUIREMENT
18	Long (short) a security future and short (long) an identical security future traded on a different market. <sup>33</sup>	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

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, and bank-issued letters of credit.

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

Bank-issued letters of credit must be in a form acceptable to the Exchange. 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 Exchange 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 shall be valued at an amount not to exceed market value less applicable haircuts as set forth in SEC Rule 240.15c3-1.

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.

<sup>33</sup> Two security futures will be considered "identical" for this purpose if they are issued by the same clearing agency or cleared and guaranteed by the same derivatives clearing organization, have identical contract specifications, and would offset each other at the clearing level.

**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 ~~[delete]~~ 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, ~~reduced, and deleted~~.

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

Subject to exceptions granted by Exchange staff, ~~C~~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 ~~extend~~ make loans to account holders to satisfy their ~~for~~ performance bond requirements ~~purposes~~—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**

Clearing members may aggregate and net positions in accounts under identical ownership within the same classifications of customer segregated, customer secured, special reserve account for the exclusive benefit of customers, 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. Hedge Positions**

Clearing members shall have reasonable support to classify positions as ~~for~~ bona-fide hedge and risk management positions, as defined by Rule 543, that are afforded hedge performance bond rates.

**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. For omnibus accounts, initial performance bond requirements shall equal maintenance performance bond requirements.
3. Clearing members shall obtain and maintain written instructions from domestic and foreign omnibus accounts for positions which are entitled to spread or hedge performance bond rates.

**930.K. Liquidation of Accounts**

1. Non-Security Futures

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 Regulations 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. Failure to Maintain Performance Bond Requirements

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

### 930.M. Violation

Violation of this rule may constitute a major offense.

~~(Next Rule 935)~~

931.— 934. [RESERVED]

## CUSTOMER ORDERS

### 935. RESPONSIBILITIES OF CLEARING MEMBER UPON RECEIPT OF CUSTOMER ORDER <sup>34</sup>

All orders received by a clearing member shall, immediately upon receipt from a customer, be reduced to writing, with the customer's designation indicated, and be time-stamped. All such orders shall be retained by the clearing member for a minimum of five years. In addition, all orders received by a clearing member for execution pursuant to the Mutual Offset System must be time-stamped upon transmission to the executing clearing member.

### 936. 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 ~~writing~~ electronic or written form and shall show the commodity bought or sold, the quantity, the price, the delivery month and, for options, strike price, put or call and expiration month.

~~(Next Rule 940)~~

937.— 939. [RESERVED]

## SUSPENSION AND EXPULSION

### 940. SUSPENSION OF CLEARING MEMBERS <sup>35</sup>

If a clearing member becomes insolvent, the fact of such insolvency shall be announced by the ~~President or the Managing Director and President of the Clearing House Chief Executive Officer of the Exchange,~~ and thereupon such member shall be deemed automatically suspended. If a corporation, limited liability company or cooperative association member of the Clearing House becomes insolvent, or for other reasons is suspended from the Clearing House, the officers who are members of the Exchange may also be suspended from the Exchange. If a partnership is suspended from the Clearing House, the partners who are members of the Exchange may 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 Board if it fails to meet the capital requirements of

<sup>34</sup> Effective October 1985.

<sup>35</sup> Revised November 2000; October 2001; April 2002; September 2004.

the Exchange or the Commodity Futures Trading Commission, 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 411. <sup>36</sup>

**941. SUSPENSION OF OFFICERS OR PARTNERS <sup>37</sup>**

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 411.

**942. OPEN TRADES OF SUSPENDED CLEARING MEMBERS <sup>38</sup>**

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. The foregoing shall not apply where a member is suspended for default upon his obligations to the Clearing House or otherwise suspended for insolvency.

When a clearing member ~~whethat~~ has open positions, having an open trade or trades has defaulted to the Clearing House in the deposit of performance bonds or settlements, or ~~is~~ has been suspended for insolvency, the ~~Chief Executive Officer and Exchange President or the Managing Director and President of the Clearing House and CH President~~ may appoint a clearing member to which all such open position trades shall be transferred for liquidation, ~~to be handled or may appoint a clearing member to manage~~ liquidate such positions on behalf of ~~for~~ such defaulted or suspended clearing member, ~~or may appoint a clearing member to close out such positions.~~ When ~~if~~ open positions ~~a trade or trades~~ are ~~so~~ transferred, all supporting performance bonds associated with these positions ~~and deposited thereon~~ and any settlement payments due or collected must be delivered to the Clearing House, to be entrusted to the clearing member designated to ~~liquidate~~ manage the positions, ~~handle the transactions.~~ The ~~managing~~ clearing member ~~appointed to liquidate the positions~~ shall have the right, under the direction of the Managing Director and President of the Clearing House, to buy or sell for the account of the member such commodities ~~for the delivery and in the quantity, in whole or in part,~~ 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 Chief Executive Officer to make or take delivery.

~~The clearing member shall be entitled to charge such commission as the Board may determine.~~

**943. REINSTATEMENT AFTER SUSPENSION <sup>39</sup>**

A clearing member of the Exchange suspended for insolvency may be reinstated upon affirmative proof to the Board that ~~of~~ ~~its~~ his financial responsibility, ~~has been re-established.~~ A member suspended because of the suspension of the clearing member ~~corporation, partnership or other entity sole proprietorship~~ with which he was connected, may be reinstated upon showing that the financial responsibility of ~~that clearing member such corporation, partnership or sole proprietorship~~ has been re-established; provided, however, that nothing herein shall prevent the member from withdrawing from the corporation, partnership or sole proprietorship and making an application for reinstatement to membership in the Exchange, provided that the previous failure of the clearing member ~~corporation, partnership or sole proprietorship~~ was not caused by that member's willful, reckless or unbusinesslike conduct.

**944. LIQUIDATION OF SUSPENDED OR EXPELLED CLEARING MEMBERS <sup>40</sup>**

~~A clearing member who is suspended or expelled, pursuant to order of the Board, the Chief Executive Officer, the President, the Managing Director and President of the Clearing House, exchange and ch president or the Clearing House Risk Committee, or pursuant to the provisions of Rule 940 or other rules of the Exchange resulting from failure to meet financial requirements, may be placed in liquidation by the Board.~~

In the event a clearing member has been placed in liquidation, the clearing member shall comply with all orders of the Board, the Chief Executive Officer, or the Clearing House Audit Department in matters relating to that liquidation or transfer of commitments and disbursements of funds.

<sup>36</sup> Revised May 1982.

<sup>37</sup> Revised March 1979; May 1982; June 2003.

<sup>38</sup> Revised November 1979; September 1989; June 1992; November 2000; October 2001; September 2004.

<sup>39</sup> Revised June 2003.

<sup>40</sup> Revised March 1979; February 1998; November 2000; September 2004.

In the event of refusal of a clearing member to comply with requirements placed upon it, the ~~Clearing House Audit Department~~ may take whatever means necessary in proceeding with compliance.

**945. ~~LIQUIDATION OF EXPELLED CLEARING MEMBER~~<sup>41</sup>**

A clearing member who has been expelled for violation of Exchange rules may be placed in liquidation by the Board, in accordance with the provisions of Rule 944

~~(Next Rule 950)~~

**9456.— 949. [RESERVED]**

**SALES PRACTICES AND CUSTOMER PROTECTION<sup>42</sup>**

**950. SUPERVISION<sup>43</sup>**

Each clearing member shall adopt and enforce written procedures pursuant to which it will ~~be able to supervise in accordance with the requirements of these Rules and the CEA and CFTC Regulations thereunder, adequately~~ each customer's account(s), including, but not limited to, the solicitation of any such account(s). For purposes of this rule, the term "customer" does not include another futures commission merchant. Exchange staff shall determine whether the sales practices and customer protection requirements set forth in the Rules shall be applicable to Special CME Clearing Members.

**951. DISCLOSURE REQUIREMENTS**

Each clearing member must comply with the disclosure requirements set forth in CFTC Regulation 33.7.

**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. Violation of this rule may constitute a major offense.

**953. PROMOTIONAL MATERIAL**

- A. No clearing member shall use any promotional material which is likely to deceive or mislead the public.
- B. Each clearing member shall maintain a copy of all written and electronic promotional material in a central file at the clearing member's principal place of business.
- C. Violation of this rule may constitute a major offense.

**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 in a central file 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 Exchange 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<sup>44</sup>**

**956.A. Requirements**

- 1. Power of Attorney

<sup>41</sup> Revised March 1979.

<sup>42</sup> Effective December 1993.

<sup>43</sup> Revised June 2003.

<sup>44</sup> Revised February 1996 (formerly Rule 932) ; September 2004.

No clearing member shall accept or carry an account over which a person other than the account owner, exercises 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 authority has been granted.

The power of attorney shall remain in effect until it is terminated by a written revocation signed and dated by the account owner or by the death or incapacity of the account owner. Written revocation may also be made by the person to whom trading authority has been granted.

## 2. Discretionary Account Listing

A clearing member must clearly identify each discretionary account it carries and promptly provide the Exchange with a complete and accurate list of such account 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 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 of Discretionary Trading

#### 1. Discretionary Account Activity

Each clearing member shall have a supervisory employee (other than the person granted discretionary authority) ~~continuously~~ supervising activity in discretionary 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 accounts controlled by an employee of the clearing member or the clearing member's guaranteed introducing brokers.

#### 2. Floor Trading

~~During Regular Trading Hours, e~~Each order for a discretionary account executed on the floor must be executed by a member in the pit other than the person granted discretionary trading authority over the account unless:

- a. The member granted discretionary authority does not trade for his personal account or an account referred to in Rule 956.E.;
- b. The member granted discretionary authority has filed with the Division of Market Regulation notice of his intention to execute orders for discretionary accounts for which he has power of attorney; and 45
- c. Whenever the member has discretionary authority over more than one account:
  - (1) The member shall disclose this fact to all persons having an interest in any of the discretionary accounts;
  - (2) The member shall have a similar financial interest (including, but not limited to, equity, brokerage and performance fees) in each such account;
  - (3) All such discretionary accounts shall be maintained with the member's qualifying clearing member; and
  - (4) The member's qualifying clearing member shall monitor the allocation of trades among such discretionary accounts.

### 956.D. Position Limits

A person with discretionary trading authority over one or more discretionary accounts shall not execute or order the execution of trades for such accounts where such trades, by themselves or in addition to his personal trades, exceed the limits prescribed in these rules regarding total positions in any contract.

A husband, wife and children are presumed to be a single entity and, as such, must adhere to the position limits as prescribed by the Exchange rules unless otherwise approved by ~~the~~ Exchange staff Chief Executive Officer upon written application.

**956.E. Exceptions**

The provisions of this rule shall not apply to the following accounts:

## 1. Family Accounts

Accounts controlled or managed by persons for their own family, except with regard to Rule 956.D. For purposes of this rule, members of one's family shall include one's spouse, brothers, sisters, parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren and in-laws.

## 2. Member and Proprietary Accounts

Accounts of members or proprietary accounts as defined by CFTC Regulation 1.3(y), except with regard to Rules 956.A.1. and 956.D.

**956.F. Violation**

Violation of this rule may be a major offense.

**957. AUTHORIZED TRADERS <sup>46</sup>**

For an account of a corporation, partnership, trust or similar organization, a clearing member must maintain a current list of authorized traders. During Regular Trading Hours, if a floor broker authorized to act on behalf of the organization executes orders for such organization, then the floor broker may not trade for any other account unless the organization specifically authorizes such floor broker to do so. A member or clearing member may not open an account in accordance with Rule 957 to avoid the requirements within Rule 956.

**958. BRANCH OFFICES, GUARANTEED INTRODUCING BROKERS, AND ASSOCIATED PERSONS <sup>47</sup>**

- 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.
- E. Violation of this rule may be a major offense.

~~(Next Rule 960)~~

**959. [RESERVED]****OMNIBUS AND CARRYING BROKER ACCOUNTS <sup>48</sup>****960. OMNIBUS AND CARRYING BROKER ACCOUNTS <sup>49</sup>**

- 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.
- 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 543.

<sup>46</sup> Revised February 1996 (formerly Rule 933).

<sup>47</sup> Adopted February 1996.

<sup>48</sup> Effective December 1993.

<sup>49</sup> Revised November 2000

- 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.  
Prior to the first delivery day in a contract month or as otherwise required by the Clearing House, each clearing member carrying an omnibus account must maintain a complete and accurate list of the purchase and sale dates of all open positions held in such omnibus account for that contract month. Such list must be current throughout the contract month to ensure that the delivery procedure is not impaired.
- D. Each clearing member that maintains an omnibus account with another clearing member shall also bear financial responsibility to the Exchange for that omnibus account.

~~(Next Rule 970)~~

**961.— 969. [RESERVED]**

**FINANCIAL REQUIREMENTS <sup>50</sup>**

**970. FINANCIAL REQUIREMENTS <sup>51</sup>**

- A. ~~Subject to exceptions granted by Exchange staff to Special CME Clearing Members regarding CME imposed financial requirements (Rules 970-973),~~ 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;
  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 Audit 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 Audit Department, if necessary, rather than the Commission.
- 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 file with the Audit 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

<sup>50</sup> Adopted October 1993.

<sup>51</sup> Adopted October 1993. Revised June 1996; March 1997; April 1998; July 1998; May 1999; July 1999; November 2000; June 2001; October 2001; November 2000; December 2001; June 2003.

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 to change their fiscal year from the Audit Department. Such request will only be granted for good cause and in accordance with the requirements of CFTC Regulation 1.10(e)(1). The Audit Department's grant of the change in fiscal year will fulfill the approval requirements of CFTC Regulation 1.10(e)(1).
  4. A clearing member for which CME is the designated self-regulatory organization may request an extension of time to file a monthly Form 1-FR, monthly FOCUS Report, certified Form 1-FR or certified FOCUS Report from the Audit Department. Such extension will only be granted for good cause and in accordance with the requirements of CFTC Regulations 1.10(f) and 1.16(f). The Audit Department's grant of extension will fulfill the approval requirements of CFTC Regulations 1.10(f) and 1.16(f).
- 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 Audit Department of a failure to comply with the additional accounting, reporting, financial, and/or operational requirements. The Audit 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 his or her knowledge, all information contained in the statement being transmitted under the PIN is true, correct and complete.
- 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.
- G. Special CME Clearing Members shall be subject to reporting and minimum capital requirements established by the Exchange.
- H. Violation of this rule may constitute a major offense.

#### 971. SEGREGATION AND SECURED REQUIREMENTS <sup>52</sup>

- A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, and 30.7. This includes, but is not limited to, the following:
1. Maintaining sufficient funds in segregation or set aside in separate accounts;
  2. Computing, recording and reporting completely and accurately the balances in the:
    - a. Statement of Segregation Requirements and Funds in Segregation; and
    - b. Statement of Secured Amounts and Funds Held in Separate Accounts;
  3. Obtaining satisfactory segregation and separate account acknowledgment letters and identifying segregated and separate accounts as such; and
  4. Preparing complete and materially accurate daily segregation and secured amount computations in a timely manner.
- B. Exchange staff may prescribe additional segregation and secured amount requirements. <sup>53</sup>
- 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 accounts. The Audit Department must receive immediate written notification when a clearing member knows or should know of such failure. <sup>54</sup>
- D. Violation of this rule may constitute a major offense.

<sup>52</sup> Adopted October 1993. Revised May 1999; November 2000.

<sup>53</sup> Revised November 2000.

<sup>54</sup> Revised July 1999.

**972. REDUCTIONS IN CAPITAL**<sup>55</sup>

- A. A clearing member must provide written notice to the Audit 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.

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.

- B. Violation of this rule may constitute a major offense.

**973. CUSTOMER ACCOUNTS WITH THE EXCHANGE**<sup>56</sup>

All customer funds deposited with the Exchange 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 Exchange and treated as belonging to the customers of the clearing member. Pursuant to this rule, a clearing member shall satisfy the segregation acknowledgment letter requirement of CME Rule 971.A.2., the Commodity Exchange Act, and CFTC Regulation 1.20 for customer deposits held at the Exchange.

All customer funds deposited with the Exchange on behalf of customers protected by SEC Regulation 15c3-3 shall be held in accordance with the Securities Exchange Act of 1934 and SEC Regulation 15c3-3 in an account identified as Special Reserve Account for the Exclusive Benefit of Customers. Such customer funds shall be segregated by the Exchange and treated as belonging to such customers of the clearing member.

~~(Next Rule 980)~~

**974.— 979. [RESERVED]****RECORDS AND REPORTS**<sup>57</sup>**980. REQUIRED RECORDS AND REPORTS**<sup>58</sup>

- A. ~~Subject to exceptions granted by Exchange staff,~~ 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 as set forth in CFTC Regulation 1.16(d)(2). This includes, but is not limited to, the following:
1. Preparation and maintenance of complete and accurate reconciliations for all accounts; and
  2. Resolution of reconciling items in a timely manner.

<sup>55</sup> Adopted October 1993. Revised June 1996; November 2000.

<sup>56</sup> Adopted July 1997. Revised 2002.

<sup>57</sup> Adopted October 1993.

<sup>58</sup> Revised July 2003.

- C. A clearing member must file any information requested by the Exchange within the time period specified in the request.
- D. 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 system 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.

**981. ANTI-MONEY LAUNDERING <sup>59</sup>**

Each clearing member shall develop and implement a written anti-money laundering program approved in writing by senior management reasonably designed to achieve and monitor the clearing member's compliance with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311, et. seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury and, as applicable, the Commodity Futures Trading Commission. That anti-money laundering program shall, at a minimum,

- (1) Establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;
- (2) Provide for independent testing for compliance to be conducted by 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; and
- (4) Provide ongoing training for appropriate personnel.

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

Violation of this rule may be a major offense.

(End Chapter 9)

**982. RISK MANAGEMENT <sup>60</sup>**

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 of specific customers.
  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.
  5. Ensuring order entry systems include the ability to set automated credit controls or position limits or requires a firm employee to enter orders.
  6. Defining sources of liquidity for increased settlement obligations.
- B. Additional and/or Alternative Requirements. Exchange staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.

**983. DISASTER RECOVERY AND BUSINESS CONTINUITY <sup>61</sup>**

<sup>59</sup> Adopted December 2002.  
<sup>60</sup> Adopted September 2003.

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 its key personnel is made.
- C. Additional and/or Alternative Requirements. Exchange staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.