

**SUBMISSION COVER SHEET**

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

**Registered Entity Identifier Code (optional):** 19-097 (3 of 5)

**Organization:** The Board of Trade of the City of Chicago, Inc. ("CBOT")

**Filing as a:** DCM SEF DCO SDR

**Please note - only ONE choice allowed.**

**Filing Date (mm/dd/yy):** February 5, 2019      **Filing Description:** Amendments to CME/CBOT/NYMEX/COMEX Rule 930.C. ("Acceptable Performance Bond Deposits") Permitting Clearing Members to Accept Fully Collateralized Letters of Credit as Performance Bond.

**SPECIFY FILING TYPE**

**Please note only ONE choice allowed per Submission.**

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

**Rule Numbers:** 930.C.

**New Product**

**Please note only ONE product per Submission.**

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

**Official Product Name:**

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

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

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

**Rule Numbers:**

February 5, 2019

**VIA ELECTRONIC PORTAL**

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

**Re: CFTC Regulation 40.6(a) Certification. Notification Regarding Amendments to CME/CBOT/NYMEX/COMEX Rule 930.C. (“Acceptable Performance Bond Deposits”) Permitting Clearing Members to Accept Fully Collateralized Letters of Credit as Performance Bond.  
CBOT Submission 19-097 (3 of 5)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), Chicago Mercantile Exchange Inc., in its capacities as both a designated contract market (“DCM”) (“CME”) and a derivatives clearing organization (“DCO”) (“CME Clearing”), The Board of Trade of the City of Chicago, Inc., (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”), and Commodity Exchange, Inc. (“COMEX”), each in their capacities as a DCM (each an “Exchange” and collectively, the “Exchanges”) hereby notify the Commission that they are self-certifying amendments to CME/CBOT/NYMEX/COMEX Rule 930.C. (“Acceptable Performance Bond Deposits”) to provide that clearing members would be permitted to accept fully collateralized letters of credit issued under the Prefunded Treasury Facility (the “PTF”) as acceptable performance bond (collectively, the “Rule Amendments”) effective on trade date Thursday, February 21, 2019.

As the Commission is aware, Rule 930.C. currently permits clearing members to accept bank-issued letters of credit as performance bond from their account holders. In addition, the Exchanges permit clearing members to pledge these letters of credit to CME Clearing in order to satisfy their performance bond requirements. Thus, clearing members are permitted to utilize these bank-issued letters of credit on a “pass-through” basis.

Under this mechanism, pass-through letters of credit are issued to CME Clearing and the depositing clearing member as joint beneficiaries. These letters of credit will provide that they are not payable to the clearing member unless the clearing member presents the originally signed letter of credit to the issuing bank. The Exchanges maintain possession of these letters of credit and will not transfer them to the depositing clearing members unless these clearing members are in compliance with their performance bond obligations at CME Clearing after giving effect to the release of this collateral. This mechanism ensures that CME Clearing’s right to draw on the letter of credit takes priority over the clearing member’s right to draw on the letter of credit.

The Exchanges are proposing to amend Rule 930.C. to permit clearing members to accept the PTF from their account holders as performance bond. As the Commission knows, CME Clearing currently is permitted to accept the PTF as performance bond for clearing members’ futures and options positions that are cleared in the House origin. Pursuant to the Rule Amendments, clearing members would be permitted

to accept the PTF from their affiliates for the account holders' futures and options positions and would then be permitted to pass-through the PTF to CME to satisfy their performance bond obligations at CME.

Pursuant to the Rule Amendments, the PTF will operate in essentially the same manner as previously reviewed by the Commission. However, instead of issuing the letter of credit solely to CME Clearing as beneficiary, the Trust would issue a letter of credit which identifies both CME Clearing and the clearing member as joint beneficiaries under the letter of credit.<sup>1</sup> Similar to bank-issued letter of credit, the letter of credit issued under the PTF will explicitly provide that it is not payable to the clearing member unless the clearing member presents the originally signed letter of credit to the Trust, and CME Clearing will maintain possession of the letter of credit to ensure that its rights under the letter of credit take priority over the rights of the clearing member. CME Clearing will not release the letter of credit back to the clearing member unless the clearing member's performance bond obligations are completely satisfied.

At the time of any such release, CME Clearing will assign its rights as secured party in the letter of credit issued under the PTF to the clearing member pursuant to an assignment agreement<sup>2</sup> between CME Clearing and the clearing member and will return the originally signed letter of credit to the clearing member. Thus, in the event the clearing member takes possession of the letter of credit as described above, it will have recourse to the assets collateralizing the Trust's payment obligations thereunder.

### Core Principle Review

The Exchanges reviewed the DCO and DCM core principles (collectively, the "Core Principles") as set forth in the Commodity Exchange Act ("CEA" or "Act") and identified that the Rule Amendments may have some bearing on the following Core Principles:

**DCO Core Principle D – Risk Management.** The PTF will not impact the ability of CME Clearing or its clearing members to manage risk. Clearing members are currently permitted to accept bank-issued letters of credit as performance bond for commodity futures positions and "pass-through" these letters of credit to CME. CME intends to permit clearing members to do the same with respect to the PTF. The structure of the PTF is such that the risk profile of the collateralized letters of credit issued thereunder can be viewed as more closely analogous to the acceptance of U.S. Treasury securities (which clearing members are currently permitted to accept as performance bond and pass through to CME Clearing) than to bank-issued letters of credit.

**DCO Core Principle L – Public Information.** The Rule Amendments will be publicly available on the CME Group website. In addition, CME Clearing will release a notice to the marketplace regarding the Rule Amendments in advance of the effective date.

**DCO Core Principle R – Legal Risk.** CME Clearing has determined that the Rule Amendments are consistent with the requirement to have a well-founded, transparent and enforceable legal framework for each aspect of the activities of the DCO.

**DCM Core Principle 7 – Availability of General Information.** The Rule Amendments will be publicly available on the CME Group website. In addition, the Exchanges will release a notice to the marketplace regarding the Rule Amendments in advance of the effective date.

Exhibit A, which is attached hereto, sets forth the changes proposed to be made to Rule 930.C.

The Exchanges certify that the Rule Amendments comply with the Act and regulations thereunder. There were no substantive opposing views to this action.

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<sup>1</sup> The form of letter of credit to be used is attached to Supplemental Submission 19-097S as Exhibit A. CME is requesting confidential treatment for this exhibit.

<sup>2</sup> The form of assignment agreement to be used is attached Supplemental Submission 19-097S as Exhibit B. CME is requesting confidential treatment for this exhibit.

Notice of this submission has been concurrently posted on CME Group's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please contact the undersigned at 212-299-2200 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director & Chief Regulatory Counsel

Attachment: Exhibit A – Rule 930.C. (“Acceptable Performance Bond Deposits”)  
(blackline format)

## EXHIBIT A

### **CME Rulebook Chapter 9 ("Clearing Members")**

(additions underlined)

#### **930.C. Acceptable Performance Bond Deposits**

1. Non-security Futures and OTC Derivatives

Clearing members may accept from their account holders as performance bond cash currencies of any denomination, readily marketable securities (as defined by SEC Rule 15c3-1(c)(11) and applicable SEC interpretations), money market mutual funds allowable under CFTC Regulation 1.25, bank-issued letters of credit, fully collateralized pass-through letters of credit allowable under the Clearing House's collateral acceptance programs, warrants, warehouse receipts and shipping certificates that are registered as deliverable for commodities traded on Chicago Mercantile Exchange Inc., Chicago Board of Trade Inc., New York Mercantile Exchange, Inc. or Commodity Exchange, Inc., and "London Good Delivery" gold, as defined by the London Bullion Market Association. Clearing members shall not accept as performance bond from an account holder securities that have been issued, sponsored or otherwise guaranteed by the account holder or an affiliate of the account holder unless the clearing member files a petition with and receives permission from Clearing House staff.

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

Bank-issued letters of credit and fully collateralized pass through letters of credit must be in a form acceptable to the Clearing House. Such letters of credit must be drawable in the United States. Clearing members shall not accept as performance bond from an account holder letters of credit issued by the account holder, an affiliate of the account holder, the clearing member, or an affiliate of the clearing member. All assets deposited by account holders to meet performance bond requirements must be and remain unencumbered by third party claims against the depositing account holder. Except to the extent that Clearing House staff shall prescribe otherwise, cash currency performance bond deposits shall be valued at market value. All other performance bond deposits other than letters of credit, warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed market value less applicable haircuts as set forth in SEC Rule 240.15c3-1. Warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed the market value of the commodities represented by the warrants, warehouse receipts or shipping certificates, less a deduction in the same amount as the inventory haircut specified in Commission Regulation 1.17(c)(5)(ii).

2. Security Futures

- a. Clearing Members may accept from their Customers as performance bond (or "margin") for Security Futures held in a futures account, deposits of cash, margin securities (subject to the limitations set forth in the following sentence), exempted securities, any other assets permitted under Regulation T of the Board of Governors of the Federal Reserve System (as in effect from time to time) to satisfy a performance bond deficiency in a securities margin account, and any combination of the foregoing, each as valued in accordance with CFTC Regulations 41.46(c) and 41.46(e); and, SEC Regulations 242.404(c) and 242.404(e).

Shares of a money market mutual fund that meet the requirements of CFTC Regulation 1.25 may be accepted as a performance bond deposit from a Customer for purposes of this Rule.

- b. A Clearing Member shall not accept as performance bond from any Customer securities that have been issued by such Customer or an Affiliate of such Customer unless such Clearing Member files a petition with and receives permission from the Exchange for such purpose.
- c. All assets deposited by a Customer to meet performance bond requirements must be and remain unencumbered by third party claims against the depositing Customer.

## **CBOT/NYMEX/COMEX Rulebooks**

### **Chapter 9**

### **(“Clearing Members”)**

(additions underlined)

#### **930.C. Acceptable Performance Bond Deposits**

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

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

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

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

All assets deposited by account holders to meet performance bond requirements must be and remain unencumbered by third party claims against the depositing account holder.

Except to the extent that Clearing House staff shall prescribe otherwise, cash currency performance bond deposits shall be valued at market value. All other performance bond deposits other than letters of credit, warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed market value less applicable haircuts as set forth in SEC Rule 240.15c3-1. Warrants, warehouse receipts and shipping certificates shall be valued at an amount not to exceed the market

value of the commodities represented by the warrants, warehouse receipts or shipping certificates, less a deduction in the same amount as the inventory haircut specified in Commission Regulation 1.17(c)(5)(ii).