

**SUBMISSION COVER SHEET**

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

**Registered Entity Identifier Code (optional):** 18-288 (5 of 5)

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

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

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

**Filing Date (mm/dd/yy):** 07/03/18 **Filing Description:** Rule Amendments for CME to Clear for FEX Exchange.

**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:** See filing.

**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

**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:**

July 3, 2018

**VIA ELECTRONIC PORTAL**

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

**RE: CFTC Regulation 40.6(a) Certification. Rule Amendments for CME to Clear for  
FEX Exchange.  
CME/CBOT/NYMEX/COMEX Submission No. 18-288 (5 of 5)**

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC”) Regulation 40.6(a), Chicago Mercantile Exchange Inc. (“CME”), The Board of Trade of the City of Chicago, Inc. (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”) and Commodity Exchange, Inc. (“COMEX”) (collectively, the “Exchanges”), hereby notify the CFTC they are self-certifying rule amendments to facilitate the provision of clearing services for FEX Global Marketplace (“FEX”), an Australian-based derivatives exchange, and to make additional clarifying rule amendments (collectively, the “Rule Amendments”) effective concurrently and upon receipt of all necessary regulatory approvals to launch clearing services for FEX.

CME and FEX are parties to a clearing services agreement under which the clearing house division of CME (the “Clearing House”) will provide clearing services to FEX, subject to both CME and FEX having obtained all necessary licenses, regulatory approvals and permissions. FEX holds an Australian Market License permitting it to operate a financial market<sup>1</sup> and requires additional regulatory approval to list futures and options on futures (collectively, “futures”) contracts to be cleared at CME (“FEX Products”). CME holds an Australian Clearing and Settlement Facility License (“CS License”) allowing the Clearing House to provide direct clearing services to local participants in over-the-counter interest rate swaps (“OTC IRS”) and interest rate futures eligible for portfolio margining with OTC IRS. CME must vary its existing CS License in order to be permitted under Australian law to clear FEX Products. CME is in the process of varying the CS License in order to comply with Australian regulatory requirements.

**Description of Rule Amendments**

The Rule Amendments will clarify the application of the Exchanges’ rules to the clearing of instruments listed on foreign boards of trade (“FBOT”)<sup>2</sup> such as FEX. The Rule Amendments do not substantively alter the Clearing House’s rules, procedures or agreements with respect to clearing for FBOTs. The key revisions include:

- Revising defined terms to distinguish futures contracts cleared in the customer segregated account origin from those in the foreign futures (secured 30.7) origin (see Chapter iii, definitions

<sup>1</sup> See <https://download.asic.gov.au/media/1337540/Fex-global-australian-market-licence.pdf>.

<sup>2</sup> Please note that the term “FBOT” as used herein and to be defined in the Exchanges’ rules under the Rule Amendments encompasses all foreign exchanges to which CME provides clearing services, including but not limited to those exchanges which are registered as a “foreign board of trade” as defined at CFTC Regulation 1.3(ss); 17 C.F.R. § 1.3(ss).

of “Base Customer Collateral”, “Foreign Board of Trade”, “Futures”, “Futures Commission Merchant”, and “Participating Exchange”) (Rule 800);

- Revising applicable sections of default management and netting rules to account for separate netting and setoff of customer segregated and secured 30.7 contracts, as required under U.S. law and as would be the Clearing House’s practice in a default event today (Rules 802.B; 802.G);
- Clarifying rules to expressly state the applicability of Exchange business hours to FBOTs (Rule 802.B), the type of segregated accounts in which FBOT customer positions and collateral will be held (Rule 8C04; Rule 800); the time at which Clearing House novation of FBOT contracts occurs (Rule 804), and to affirm the FBOT’s responsibility to comply with regulatory requirements in its local jurisdiction (Rule 808.B);
- Adding language to Rule 8C04 clarifying CME’s ability to terminate clearing services for FBOTs;
- Adding Rule 8C05 to clarify the interaction of Clearing House and FEX rules with respect to trade submission, acceptance and rejection;
- Clarifying the Clearing House’s existing authority to establish eligibility requirements for clearing members clearing products listed on an FBOT (Rules 901.T and 8C04) and to establish additional settlements cycles (Rule 814);
- Other clarifying amendments related to the requirement to post gross margin for omnibus accounts (Rule 820), eligibility requirements for letters of credit posted to the Clearing House (Rule 930.C.1) and the Clearing House Risk Committee’s authority over listed contracts (e.g., Rule 824).

## Overview of FEX Clearing Service

The FEX Products will initially consist of thirteen (13) USD- and AUD-settled Australian power, energy and commodity futures contracts. FEX intends to serve global customers with an emphasis on participants based in the Asia-Pacific region, including generators, end-users and market makers. Below are descriptions of key features for the CME clearing service for the FEX Products as expected to operate at the outset.

### *1. Applicable Rules*

Execution of trades in the FEX Products will be subject to Australian law and regulation and subject to the oversight and supervision of Australian regulatory authorities. Trade practice and sales practice rules and procedures, including market regulation, market surveillance and customer protection rules and procedures will be governed by the rules of FEX. Clearing House rules and procedures will apply to positions submitted for clearing and positions resulting from novated trades in FEX Products.

### *2. Risk Management and Financial Resources*

The FEX Products will be supported by the Clearing House’s Base Guaranty Fund. The Clearing House currently supports clearing and settlement for power, energy and commodity contracts similar to the FEX Products. Performance bond requirements, risk management and market risk monitoring at the clearing-level will follow current Clearing House practices.

Performance bond requirements for FEX Products will be calculated using the Clearing House’s SPAN methodology. Options on FEX Products at launch will be margined futures-style with daily mark-to-market.

Estimated margin requirements for the FEX Products are not expected to materially impact the financial resources or the financial position of the Clearing House. Liquidity for USD requirements will utilize existing arrangements and liquidity risk for AUD-settled products will be mitigated through requiring margin in AUD cash for AUD-settled products. As necessary, the Clearing House will examine the need to utilize a local facility supported by locally acceptable collateral for AUD liquidity.

### *3. Clearing Access*

Australian client-level participants will initially access the Clearing House via Australian brokers (“Trading Participants”) that clear on an omnibus basis via a third-party or affiliated FCM Clearing Member. This access model has long-standing use and acceptance in the U.S. and is the method by which many international participants indirectly access the Clearing House’s services today. Clearing Members for FEX Products will be NYMEX Clearing Members that meet the Clearing House’s eligibility criteria, including completion of all necessary documentation.

### *4. Settlements*

The FEX Products will be cash-settled in either AUD or USD, both of which are currencies the Clearing House supports today. The Clearing House will run a separate settlement cycle specifically for FEX Products, with a minimum of one clearing cycle per day in which it processes settlement variation and performance bond margin in AUD. The Clearing House will also run an intraday (“ITD”) mark-to-market calculation to determine risk accumulated since the end-of-day cycle, and will assess the need to call for intraday settlement variation on an ongoing basis. AUD contracts will be marked EOD and ITD, Sydney time, while USD products will be marked EOD, Sydney time. There are no delivery considerations as the FEX Products are cash-settled.

Settlements in the FEX Products will initially be made via a U.S.-based settlement bank that currently offers settlement banking services to the Clearing House and its clearing members. Additional banks may be added in the future. Australian brokers, settlement banks and FCM Clearing Members are expected to establish Secured 30.7 accounts as necessary.

### *5. Operations*

Operational support for the clearing cycle will closely match existing clearing cycles and leverage the Clearing House’s global operations teams, using systems and staggered times based on the Sydney business day.

### *6. Business Continuity*

With respect to business continuity and disaster recovery for the FEX service, the Clearing House will provide parallel versions of existing systems, which will fall under the same backup and disaster recovery policies as the existing business. These parallel versions will be included in scheduled disaster recovery testing, with matching global coverage.

### *7. Default Procedures*

The Clearing House’s default rules and procedures will apply to the FEX clearing service. In the event of a default, the Clearing House would coordinate with FEX and Australian regulators, as it would today if a foreign clearing member were to default.

Additional modifications to the service will be assessed against regulatory requirements and relevant standards.

## Core Principle Review

The Exchanges reviewed the designated contract market core principles and the derivatives clearing organization core principles (collectively, the “Core Principles”) as set forth in the Commodity Exchange Act (“CEA”). During the review, staff identified that the Rule Amendments may have some bearing on the following Core Principles:

*DCO Core Principle B – Financial Resources.* The Clearing House’s financial resource requirements are not expected to be impacted materially by clearing the FEX Products.

*DCO Core Principle C – Participant and Product Eligibility.* The FEX Products are similar to and complement products in NYMEX’s existing power, energy and commodity product complex and fit into the Clearing House’s existing commodity margin model. The clearing members for the service will consist of existing NYMEX FCM Clearing Members that meet eligibility criteria to clear the FEX Products, including FCM registration where clearing customer business.

*DCO Core Principle D – Risk Management.* The Clearing House has risk management expertise in power, energy and commodity contracts similar to the FEX Products. The FEX Products will be supported by the Base Guaranty Fund. Performance bond requirements, risk management and market risk monitoring at the clearing-level will follow current Clearing House practices. In clearing for FEX the Clearing House will leverage the existing risk management infrastructure currently used for external partnerships.

*DCO Core Principle E – Settlement Procedures.* Clearing Members for the FEX Products will initially deposit margin and conduct settlements using U.S.-based settlement banking arrangements during Australian business hours. Additional banks may be added as the service expands and matures. Settlement risk analysis and escalation guidelines will follow current Clearing House practices to ensure completion of money settlements on a timely basis and that settlement bank risks are identified and managed.

*DCO Core Principle G – Default Rules and Procedures.* Existing default management rules and procedures will apply to the FEX clearing service. In the event a Clearing Member with open positions in the FEX Products defaults to the Clearing House, the Clearing House would coordinate with FEX and the Australian regulators.

*DCO Core Principle I – System Safeguards.* The Clearing House will provide versions of existing business continuity and disaster recovery systems for the FEX clearing offering, which will be included in scheduled disaster recovery testing with matching global coverage. The Exchanges’ current program of risk analysis and oversight to identify and minimize sources of risk will include the FEX clearing offering.

*DCO Core Principle L – Public Information.* The Rule Amendments and relevant information for participants will be posted publicly on the CME Group website in satisfaction of this requirement.

*DCO Core Principle O – Governance.* The FEX clearing service will form part of the Clearing House’s futures and options on futures cleared offering and will be subject to the oversight of the Clearing House Risk Committee and Clearing House Oversight Committee. The Exchanges do not expect the initial clearing of FEX Products to necessitate governance changes.

*DCO Core Principle R – Legal Risk.* The Exchanges have commissioned analysis from qualified counsel examining its ability to operate pursuant to a well-founded, transparent and enforceable legal framework in relation to the FEX Products.

*DCO Regulation Part 39.33 – Financial resources requirements for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.* Liquidity for USD requirements will utilize existing arrangements and liquidity risk for AUD-settled products will

be mitigated through requiring margin in AUD cash for AUD-settled products. As necessary, CME will examine the need to utilize a local facility supported by locally acceptable collateral for AUD liquidity.

*DCM Core Principle 7 – Availability of General Information.* The Rule Amendments and relevant information for participants will be posted publicly on the CME Group website in satisfaction of this requirement.

The Rule Amendments are reflected in Exhibit A, with additions underscored and deletions ~~overstruck~~.

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

The Exchanges certify that this submission has been concurrently posted on the CME Group website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please e-mail. [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com). Please reference CME/CBOT/NYMEX/COMEX Submission No. 18-288 in any related correspondence.

Sincerely,

/s/Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A – Rule Amendments for CME to Clear for FEX Exchange (blackline format)

## Exhibit A

### CME/CBOT/NYMEX/COMEX RULE CHANGES TO CLEAR FOR FEX

(additions underlined; deletions ~~overstruck~~)

#### CME/CBOT/NYMEX/COMEX - DEFINITIONS

\* \* \* \*

##### **BASE CUSTOMER COLLATERAL**

The sum of Base Swap Customer Collateral ~~and~~, Base Futures Customer Collateral and Base Futures 30.7 Customer Collateral, each as applicable pursuant to Rule 802.A.2.

\* \* \* \*

##### **FOREIGN BOARD OF TRADE OR FBOT**

A board of trade or exchange located outside the U.S., its territories or possessions and which is not registered with the CFTC as a designated contract market.

\* \* \* \*

##### **FUTURES COMMISSION MERCHANT OR FCM**

~~An individual or organization which~~A person that solicits or accepts customer orders to buy or sell futures or options on futures contracts or that clears transactions in swaps or futures or options on futures contracts for customers and accepts money or other assets from ~~customer~~customers in connection with such orders. ~~An FCM must~~ or transactions, and that is required to be registered as an FCM with the CFTC. As used in the Rules the terms do not include a person that is exempt from registration as an FCM pursuant to Commission Regulations.

##### **FUTURES CONTRACT**

A legally binding agreement to buy or sell a commodity or financial instrument at a later date pursuant to the Rules of the Exchange or the rules of another exchange for which the Clearing House provides clearing services. Futures contracts are normally standardized according to the quality, quantity, delivery period and location for each commodity, with price as the only variable.

\* \* \* \*

##### **PARTICIPATING EXCHANGE**

An exchange or clearing house that has entered into a business relationship with the Exchange for clearing, order routing or any other business purpose, except as otherwise expressly provided in the Rules.

\* \* \* \*

**CME/CBOT/NYMEX/COMEX**  
**Chapter 8**  
**Clearing House and Performance Bonds**

**802. PROTECTION OF CLEARING HOUSE**

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

The Clearing House shall establish a guaranty fund (the “Base Guaranty Fund”) for products other than IRS Products and any positions commingled with IRS Contracts pursuant to Rule 8G831 (such products, the “Base Guaranty Fund Products” and each product, a “Base Guaranty Fund Product Class”). Each clearing member shall contribute to the Base Guaranty Fund in accordance with the requirements of Rule 816. A clearing member’s Base Guaranty Fund contribution may be applied by the Clearing House in accordance with this Rule 802 to mitigate a Loss (as defined below) to the Clearing House attributable to any cleared Base Guaranty Fund Product Class ~~(as defined below)~~ regardless of the Base Guaranty Fund Product Classes a clearing member clears. However, in order to accommodate differences in time frames and processes associated with the liquidation of certain Base Guaranty Fund Product Classes, Losses will be allocated among a set of Base Guaranty Fund tranches established to reflect the relative contributions of different product classes to the total Base Guaranty Fund. Notwithstanding this prioritization of the Clearing House’s recourse, ultimately the entire Base Guaranty Fund will be available if necessary to satisfy all losses regardless of Base Guaranty Fund Product Class.

**1. Default by Clearing Member**

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

**2. Defaulting Clearing Member’s Collateral**

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

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

A Loss arising in the defaulted Base Clearing Member’s proprietary account class shall be satisfied from the Base Collateral. A Loss resulting from any cleared swaps customer’s cleared swap position in a Base Product [held in a cleared swaps account](#) shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held for the respective cleared swaps customer consistent with Part 22 of the CFTC’s regulations (collectively, “Base Swap Customer Collateral”). A Loss resulting from any customer’s ~~futures~~ position ~~or in any futures held in a futures segregated account, or any~~ swap position in a Base Product [or foreign futures position](#) that is commingled with [such](#) futures positions [in such segregated account](#), shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held in the Base Clearing Member’s customer account in a manner consistent with section 4d(a) of the ~~Commodity Exchange Act~~[CEA and CFTC Regulation 1.20](#) (collectively, “Base Futures Customer Collateral”).

[A Loss resulting from any customer’s position in any foreign futures held in a secured account shall be](#)

[satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held in the Base Clearing Member's customer account in a manner consistent with Commission Regulation 30.7 \(collectively, "Base Futures 30.7 Customer Collateral"\).](#)

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

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

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

### 4. Allocation of Base Guaranty Fund into Tranches

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

- i. Base Tranche. Base Guaranty Fund Product Classes that are not associated with an Alternate Tranche as described below shall comprise the Base Product Class. The first 80% of Base Guaranty Fund amounts contributed with respect to the Base Product Class shall be the "Base Tranche".
- ii. [Reserved]
- iii. Alternate Product Class Tranches. Any other product class approved by the Clearing House Risk Committee to support a product-specific Base Guaranty Fund tranche hereunder shall comprise an Alternate Product Class. The first 80% of Base Guaranty Fund amounts contributed with respect to each such an Alternate Product Class shall be an "Alternate Tranche".
- iv. Commingled Tranche. The remaining 20% of Base Guaranty Fund amounts contributed with respect to all of the foregoing Product Classes shall be the "Commingled Tranche".

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

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

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

- i. Initial Allocation of Assets to Base Guaranty Fund Product Classes. Subject to the provisions of 802.G, as of the cycle in which the default occurs, the Clearing House shall allocate assets of the defaulting clearing member to the different Base Guaranty Fund Product Classes in which the clearing member has open positions as follows: (a) the defaulting clearing member's Base Guaranty Fund requirement associated with each Base Guaranty Fund Product Class shall be attributed to such Class, (b) the defaulting clearing member's required performance bond amounts for each Base Guaranty Fund Product Class as of the prior clearing cycle shall be allocated to such Class, (c) any CME shares (whether common shares or class B shares) or any cash posted in lieu of such shares, and (d) any of the defaulting clearing member's other assets held by, pledged to or otherwise available to the Clearing House shall be divided among the Base Guaranty Fund Product Classes in proportion to the defaulting clearing member's Base Guaranty Fund requirement.
- ii. Management of Obligations for Cycle of Default. As of the cycle in which the default occurs, the Clearing House shall aggregate the following assets: any excess Base Guaranty Funds, any excess

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

iii. Payment Obligations as Losses are Finalized. During any subsequent clearing cycles in which the Clearing House is managing and/or liquidating open positions in respect of the defaulting clearing member, the Clearing House shall satisfy any settlement variation payment obligations owed by the defaulting Clearing member to the Clearing House, or other realized losses of or expenses to the Clearing House with respect to the default, on a per-Base Guaranty Fund Product Class basis, only from the assets allocated to the relevant Base Guaranty Fund Product Class pursuant to 802.A.5.i. Any settlement variation gain to the defaulting clearing member in any Base Guaranty Fund Product Class during such subsequent clearing cycles shall be added to collateral allocated to such Product Class pursuant to 802.A.5.i. Any additional assets of the defaulting clearing member obtained by the Clearing House during subsequent clearing cycles (including amounts from IRS Products made available to Base Guaranty Fund Product Classes) shall be divided among the Base Guaranty Fund Product Classes pro rata in proportion to the size of the performance bond requirements for each Base Guaranty Fund Product Class for the clearing cycle immediately prior to the default. The Clearing House shall apply such collateral to such payment obligations for all account classes, giving priority to customer account classes (i.e., customer accounts ~~and~~over proprietary accounts). If the Clearing House is unable to satisfy a settlement variation payment obligation to the Clearing House, or other realized loss or expense to the Clearing House, from the defaulting clearing member's collateral as set forth in this paragraph, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures in Rule 802.B. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account. ~~and shall not use performance bond amounts or other collateral held in one account class for customers of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of another account class for customers of the defaulting clearing member.~~

iv. Final determination of gain or deficiency for each Product Class. When the Clearing House determines the final net deficiency for a Base Guaranty Fund Product Class, it shall apply any remaining collateral of the defaulting clearing member with respect to such Base Guaranty Fund Product Class to satisfy the deficiency. If the Clearing House achieves a final gain, or if any excess collateral remains following satisfaction of a deficiency, the Clearing House shall allocate such excess funds to the defaulting clearing member's collateral for Base Guaranty Fund Product Classes within the same account class as to which a final gain or deficiency is yet to be determined, pro rata in proportion to the size of the performance bond requirements for such Base Guaranty Fund Product Classes for the clearing cycle immediately prior to the default. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account. Any gains or excess collateral within a segregated customer account class following final determination of the defaulting clearing member's losses shall remain segregated to the relevant customer account class, where it may be used to satisfy payment

obligations arising from such account class in other Product Classes, but shall not be added to the clearing member's collateral generally.

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

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

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

1. If Losses Are Limited to the Base Product Class

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

ii. The Base Tranche.

iii. The Commingled Tranche.

iv. The Alternate Tranche.

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

2. [Reserved]

3. If Losses Are Limited to an Alternate Product Class:

i. The CME Contribution.

ii. The Alternate Tranche.

iii. The Commingled Tranche.

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

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

#### 4. If Losses Are Apportioned Among Multiple Product Classes:

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

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

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

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

iv. Any Losses remaining after the application of the processes set forth above shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members) up to an amount that does not exceed (A) a total of 275 per cent of the aggregate guaranty fund requirements across all clearing members (excluding any insolvent or defaulting clearing members) at the time of the default with respect to the Base Guaranty Fund Product Class with which the Loss is associated with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of the aggregate guaranty fund requirements across all clearing members (excluding any insolvent or defaulting clearing members) at the time of the default with respect to the Base Guaranty Fund Product Class with which the Loss is associated and all defaulted clearing members during a Base Cooling Off Period. Such assessments shall occur on a per- Base Guaranty Fund Product Class basis as Losses associated with each Base Guaranty Fund Product Class are finalized by the Clearing House. Consequently, the application of an assessment against clearing members with respect to Losses associated with one Base Guaranty Fund Product Class may occur prior to the finalization of Losses associated with other Base Guaranty Fund Product Classes. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House's assessment authority with respect to each clearing member, without regard to the Base Guaranty Fund Product Classes cleared by such clearing member or the proportion to which such Base Guaranty Fund Product Classes contribute to such clearing member's maximum assessment exposure. (For example, a clearing member that clears only Alternate Tranche products and that is subject to a maximum \$1 billion assessment because of that clearing activity will be subject to assessment of up to \$500 million for a Loss associated with the Base Product Class if 50% of the Clearing House's aggregate assessment powers are generated by Base Guaranty Fund requirements with respect to the Base Product Class.) Any remaining unused assessment authority associated with Base Guaranty Fund Product Classes as to which Losses are fully satisfied shall be reserved and later may be applied to Losses associated with other Product Classes as set forth in paragraph 802.B.4.v below.

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

finalized by the Clearing House, any remaining reserved funds and assessment powers of any kind may be applied to satisfy such Losses, pro rata relative to the size of the remaining losses for the Base Guaranty Fund Product Classes.

#### 5. Fedwire and Satisfaction of Assessment

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

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

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

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

#### 6. Details of Implementation

While adherence to the provisions of this Rule 802.B shall be mandatory, the detailed implementation of the process of finalizing Losses with respect to a default, including the liquidation, auction or sale of positions or assets of the defaulting clearing member, shall be conducted by the Clearing House in consultation with the Clearing House Risk Committee, with the approval of the Board, and/or such other committee as the Board may designate.

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

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

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

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

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

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

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

(B) For a Base Clearing Member that is an FCM, for (i) the ~~non-swap futures~~ positions of the Base Clearing Member’s customers in Base Contracts held in a futures segregated account and (ii) any swap positions or foreign futures positions of such customers that are commingled with such ~~non-swap futures~~ positions in an such account ~~consistent with section 4d(a) of the Commodity Exchange Act~~ (the net portfolio gain or net portfolio loss for such ~~non-swap positions and swap~~ positions described in (i) and (ii) collectively, “Customer Futures Collects” or “Customer Futures Pays.”), ~~and~~

(C) For a Base Clearing Member that is an FCM, for (i) the swap positions in Base Contracts of each customer of the Base Clearing Member held in an a cleared swaps customer account ~~consistent with Part 22 of the CFTC’s regulations~~ for such customer and (ii) any Commingled Futures Positions (as such term is defined in Rule 8G831) for each customer (the net portfolio gain or net portfolio loss for such swap positions and Commingled Futures Positions described in (i) and (ii) collectively, “Individual Customer Swap Collects” or “Individual Customer Swap Pays”).

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

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

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

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

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

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

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

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

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

(C) The Clearing House Oversight Committee may instruct the Clearing House to extend or reduce the number of days during which Base Gains Haircuts are applied by one or two Business Days, provided that in no circumstance may the Clearing House conduct settlement cycles in which Base Gains Haircuts are applied for longer than five Business Days. Before providing such instruction, the Clearing House Oversight Committee must consider any recommendation of the Emergency Financial Committee. Any recommendation of the Emergency Financial Committee and the decision of the Clearing House Oversight Committee, each regarding adjusting the duration of settlement cycles with Base Gains

Haircuts, must be based upon then existing facts and circumstances, be in furtherance of the integrity of the Clearing House and the stability of the financial system, and take into consideration the legitimate interests of clearing members and market participants;

(D) For each settlement cycle conducted in accordance with this subparagraph (v), absent a Bankruptcy Event, the Clearing House shall pay the haircut Proprietary Base Collects, Customer Futures Collects, and Individual Customer Swap Collects to Base Clearing Members as soon as practicable after receipt of the Aggregate Base Available Funds. Subject to applicable law, the Clearing House will make arrangements to pay the customers of a defaulted Base Clearing Member; and

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

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

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

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

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

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

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

(C) take into consideration the legitimate interests of clearing members and market participants; and

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

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

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

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

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

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

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

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

If a default occurs, Base Collateral, Base Customer Collateral and the Base Priority of Payments shall be the sole source of payments to cover the Loss until the default is fully and finally resolved, as applicable. In the event the Base Collateral, Base Customer Collateral and the Base Priority of Payments are insufficient to cover the Loss, regardless of whether the CME is able to require a Base Clearing Member to cure a deficiency in the Base Guaranty Fund because of the occurrence of a Bankruptcy Event (as such term is defined in Rule 818.A.), Base Clearing Members and the holders of Base Contracts shall

have no recourse to any other funds or any other entity, including without limitation the guaranty funds that support clearing of other products, CME, CME Group Inc. or any of its affiliates, other than any amounts recovered as described in Rule 802.E.

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

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

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

#### 11. Non-Petition

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

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

Notwithstanding any requirements to reserve funds set forth in Rule 802.A or Rule 802.B, if at any point following a default, the Clearing House will be unable to timely fulfill its obligations following application of the funds described above in the priority described above, such that the Clearing House is in imminent danger of defaulting on its obligations or being declared insolvent, then the Clearing House shall be entitled to apply to such obligation any available funds reserved from the defaulting clearing member's collateral, the CME Contribution or any Tranche (other than the Commingled Tranche, which shall have been exhausted pursuant to paragraph 802.B.4.iii), in the foregoing order of priority, if necessary to avoid a default by the Clearing House or a declaration of its insolvency. Such use of reserved funds may only be made (i) if the Clearing House reasonably concludes that there is a reasonable expectation that (A) the use of such funds will satisfy the immediate obligation and avoid a default or insolvency and (B) that the remaining funds in the overall financial safeguards package (including assessment powers) will be sufficient to satisfy the finalized Losses with respect to all Base Guaranty Fund Product Classes, and (ii) the Clearing House reaches such conclusion in consultation with the Clearing House's primary regulator as to the specific facts, circumstances and estimates of Losses supporting such conclusion. In such case, the Clearing House shall restore the funds so employed to the reserved collateral segments, the CME Contribution segments or Tranches from which they were drawn promptly following receipt by the Clearing House of assessment payments or any other amounts that become available to it in respect of obligations arising out of the defaulted clearing member's default.

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

1. After the default of a Base Clearing Member is finally resolved, excess Base Collateral of the clearing member may be used by the Clearing house for losses to the Clearing House of such clearing member for IRS Products on a pro rata basis based on the amount of any unresolved losses for such product classes.

2. If after the default of a clearing member is finally resolved, the Clearing House determines that collateral of the defaulting clearing member, the CME Contribution, Tranche funds other than the Commingled Tranche, or assessment powers were employed in a manner different from what would have occurred had all assets been secured and liquidated immediately and all Losses finalized simultaneously, then the Clearing House shall make appropriate (i) distributions to the non-defaulting firms whose Base Guaranty Funds were applied or who were assessed and/or (ii) rebalancing allocations among Base Guaranty Fund tranches.

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

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

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

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

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

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

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

2. In order to minimize disruptions and loss to its public customers if a clearing member defaults, each clearing member shall cause its cleared swaps customers to establish arrangements to directly make all required performance bond and settlement variation payments directly to the Clearing House and to keep current and on file with the Clearing House any direction to transfer its open positions and collateral to another clearing member.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The process of submission of a block trade or an exchange for related position Transaction ("EFRP") executed pursuant to Rules 526 or 538, as applicable, shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the

Transaction to the Clearing House as a block trade or an Exchange of Futures for Physical ("EFP"), an Exchange of Futures for Risk ("EFR") or an Exchange of Options for Options ("EOO"), as applicable, pursuant to the provisions of this Rule and the requirements of Rule 804.

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

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

**808.E. Trade Submission Procedures**

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

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

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

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

With the exception of Interest Rate Swap ("IRS") Transactions, for each account number that has been registered with the Exchange pursuant to Section F. of this Rule, a Clearing Member must also input into the CME Account Manager system an authorization identifying the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this Rule and the account risk limit(s) assigned by the Clearing Member for Transactions for that account. Requirements IRS Transactions are set forth in the applicable sections of the Clearing House Manual of Operations for those products.

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

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

**808.I. Entry of Transactions**

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

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

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

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

**808.K. Trade Submission Deadlines**

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

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

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

\* \* \* \*

**814. SETTLEMENTS, SETTLEMENT VARIATION PAYMENTS, AND OPTION VALUE**

When a clearing member or its customer is long or short any amount of any Commodity for a settlement cycle, as indicated by Clearing House records, settlement for any outstanding exposure shall be made with the Clearing House. A settlement cycle shall be conducted at least once each Business Day at such times as the Clearing House shall determine. [The Clearing House may establish different settlement cycles for different contracts.](#) For purposes of this Rule 814, "outstanding exposure" shall mean the obligations to pay, as applicable, any settlement variation payment and any other payments due in respect of a Commodity (including price alignment amount, coupon payments, option premiums and upfront fees and, for the avoidance of doubt, excluding any posting of performance bond).

Each clearing member for its proprietary and customer positions shall pay to, or collect from, the Clearing House any loss or profit for non-option Commodities as a settlement variation payment, as the case may be, represented by the difference between (x) the settlement price of the Commodity for such settlement cycle and (y) the settlement price of the Commodity for the prior settlement cycle (or, for the first settlement cycle after the purchase/sale of such Commodity, the price at which the Commodity was purchased or sold).

Except as otherwise specifically provided for in the contract chapters, for Commodities that are options, the Clearing House will determine option value for each option and the net option value of each portfolio. For a settlement cycle, (i) if the net option value of the portfolio is positive, such amount may be used to satisfy performance bond requirements for the portfolio, (ii) if the net option value of a portfolio is negative, such amount will increase the performance bond requirements for the portfolio.

All payments in satisfaction of outstanding exposures must be paid in cash or any other form of payment approved by the Clearing House Risk Committee; shall be settlement (within the meaning of CFTC Rule 39.14); and shall be final, irrevocable and unconditional no later than when the correct Clearing House bank account at the relevant settlement bank is debited or credited with the payment. Payments in satisfaction of outstanding exposures shall not constitute "property, cash, securities or collateral deposited with the Clearing House" for purposes of Rules 819 and 8F008 but, where such payments are retained by the Clearing House at the instruction of the Clearing Member, such payments shall be deemed to be property held by the Clearing House within the meaning of Section 761(10) of the US Bankruptcy Code.

For each of the Clearing House's classes of clearing (i.e., Base Guaranty Fund Products and IRS Products), once all payments in satisfaction of outstanding exposure between a clearing member and the Clearing House for a settlement cycle are final for any of the clearing member's house account, its customer segregated account, [its customer secured account](#) or its cleared swaps customer account, the outstanding exposure between the clearing member and the Clearing House for all Commodities in such class of clearing in the respective account subject to that settlement cycle shall be settled, and the fair value of each such Commodity shall then be reset to zero.

Notwithstanding the foregoing, the Clearing House shall not be required to pay any profit to a Participating Clearing Member in the event that such member or its Cross-Margining Affiliate fails to make any required settlement for that settlement cycle with a Cross-Margining Clearing Organization.

If the market conditions or price fluctuations are such that the Clearing House deems it necessary, it may call upon the clearing members, which in its opinion are affected, to pay funds to the Clearing House by such time and in such amount as specified by the Clearing House to meet such settlements as the Clearing House estimates may be necessary. The Clearing House may pay out funds to those clearing members that, in the opinion of the Clearing House, will have credit balances as a result of those same market conditions or price fluctuations; except that in no instance may the Clearing House pay out funds to a clearing member, other than at the regular settlement, in excess of the total original performance bond deposits it holds for such clearing member. All payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

\* \* \* \*

## 817. LIQUIDITY FACILITY

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

If a clearing member of CME, CBOT, NYMEX, COMEX or OTC Clearing Member (a) is unable to promptly discharge any obligation to the Clearing House or (b) is suspended or becomes subject to any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law, collateral deposited by the clearing member in satisfaction of its performance bond and guaranty fund requirements may be used to obtain liquidity to satisfy the clearing member's obligations to the Clearing House as follows: (1) performance bond collateral relating to a clearing member's proprietary account may be used to obtain liquidity to meet obligations relating to the clearing member's proprietary account, customer segregated account, [secured account](#) or cleared swaps customer account; (2) performance bond collateral relating to a clearing member's customer segregated account may only be used to obtain liquidity with respect to obligations of such account; [\(3\) performance bond collateral relating to a clearing member's secured account may only be used to obtain liquidity with respect to obligations of such account;](#) ~~(34)~~ performance bond deposits relating to a clearing member's cleared swaps customer account may only be used to obtain liquidity with respect to such account; and [\(45\)](#) guaranty fund collateral may be used in the order prescribed by Rules 802.B and 8G802.B.

In any case where the Rules of the Exchange permit the Clearing House to use guaranty fund collateral deposited by clearing members who have not failed to meet an obligation to the Clearing House, the Clearing House may convert collateral held in that Guaranty Fund to cash by means of a Liquidity Facility.

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

The Exchange, as each clearing member's attorney-in-fact, will have authority to enter into agreements on behalf of each clearing member and in each clearing member's name for the purpose of causing the clearing member's assets (or its customers' assets, as provided above) to be transferred to the Exchange's liquidity lenders. Any agreement entered into by the Exchange on behalf of clearing members

pursuant to this Rule 817 shall bind each clearing member and will contain provisions, including representations, warranties and covenants, required by lenders under any liquidity facility.

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

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

## **820. PERFORMANCE BONDS**

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

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

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

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

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## **824. ADDITIONAL PERFORMANCE BOND**

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as

much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market [in contracts traded on the exchange](#) or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

## CME/CBOT/NYMEX/COMEX Chapter 9 Clearing Members

### GENERAL

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#### 901. GENERAL REQUIREMENTS AND OBLIGATIONS

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

- A. It shall be a corporation (defined by the Rules of the Exchange to include a limited liability company), partnership or other entity approved by Exchange staff. It shall agree to: 1) abide by all Exchange Rules and to cooperate in their enforcement; 2) be responsible, even after it has withdrawn as a clearing member, for any violations of Exchange Rules committed by it while it was a clearing member; and 3) continue to meet all requirements applicable to clearing members, including all financial requirements provided by these rules;
- B. It shall have an authorized representative (i.e., officer, principal, or partner) who shall represent the clearing member before the Exchange and its committees. Such authorized representative shall be responsible to the Exchange for any representations made to the Exchange as if such person were a member as defined by Rule 400.
- C. It shall be qualified to do business in the State of Illinois or the State of New York or have a valid agency agreement with an entity qualified to do business in the State of Illinois or the State of New York;<sup>1</sup>
- D. It shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of a clearing member;
- E. It shall demonstrate such fiscal and moral integrity as would justify the Clearing House's assumption of the risks inherent in clearing its trades;
- F. It shall demonstrate financial capitalization commensurate with Exchange requirements as set by the Clearing House Risk Committee;
- G. If any person directly or indirectly controls, owns 10% or more of, or has the right to 10% or more of the profits of two or more clearing members, then each such clearing member shall guarantee the obligations of the others to the Clearing House and shall execute a written guarantee to the Clearing House on a form approved by the Clearing House.
- H. It shall notify the Exchange prior to any significant business transaction or significant change in operations which shall include, but is not limited to the following:
  1. The merger, combination or consolidation between the clearing member and another person or entity;
  2. The assumption or guarantee by the clearing member of all or substantially all of the liabilities of another in connection with a direct or indirect acquisition of all or substantially all of that person's or entity's assets;
  3. The sale by the clearing member of a significant part of its business and/or assets to another person or entity;
  4. A change in the direct or indirect beneficial ownership of 20% or more of the clearing member;
  5. Any change in the system provider used by the clearing member to process its trades; and
  6. A significant increase in the number of members that a clearing member qualifies.Additionally, a clearing member that qualifies members must provide fifteen days notice to the Exchange of any proposal to terminate such business or any material part of such business.
- I. It shall agree to guarantee and assume complete responsibility for the financial obligations attendant

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.

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<sup>1</sup> Revised December 2008.

to: 1) all trades and orders executed or accepted for execution by a member it qualifies, including trades and orders executed, or which such member fails to execute, negligently, fraudulently or in violation of Exchange rules; 2) an unpaid arbitration award issued by a panel of the Arbitration Committee against a member it qualifies in circumstances where the dispute is related to a matter described in number 1) above; 3) an unpaid restitution order issued against a member it qualifies by a panel of the Business Conduct Committee, the Clearing House Risk Committee or a hearing panel of the Board of Directors; and 4) unpaid Exchange disciplinary fines imposed upon a member it qualifies if the member is also an employee of the clearing member or its affiliate, subject to a determination by the sanctioning entity.

- J. It shall notify the Financial and Regulatory Surveillance Department in a timely manner of any material change in key personnel who are responsible to act on behalf of the clearing member.
- K. [Reserved]
- L. [Reserved]
- M. It shall guarantee and assume financial responsibility for all trading activity routed through a Globex portal, or routed through any other electronic trading system to CME for clearing of such transactions. Such activity is guaranteed to CME by the clearing member via any connection, terminal, link, telecommunications hub or handheld unit provided by the clearing member to a third party as well as any other applicable electronic trading systems and terminals that the clearing member provides to a third party to enter orders.
- N. It shall be responsible for the acts of Globex terminal operators accessing the Globex system through its connections, including direct connections or other connections that it provides to firms that are under common ownership with it. It shall be the duty of the clearing member to supervise its employees and agents acting as Globex terminal operators to ensure such employees and agents comply with Exchange rules, and any violation of Exchange rules by such terminal operators shall be considered a violation by the clearing member.
- O. It shall agree to guarantee and assume complete responsibility for trades executed on Marketplaces for which the Exchange provides clearing services.
- P. Each clearing member shall use systems and appropriate procedures to track accurately, and to provide to the Clearing House accurately, the positions and collateral of each of the cleared swaps customers.
- Q. Requirement to Establish Uncommitted Repo. Each clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate shall enter into (or arrange for such affiliate, or an affiliate that is a bank, to enter into) a master repurchase agreement with CME on terms substantially similar to those set out by the Clearing House. Each clearing member that has entered into such master repurchase agreement shall (or shall cause its affiliate that has entered into such master repurchase agreement to) periodically test repurchase transactions with the Clearing House when requested by the Clearing House.
- R. Reserved
- S. The obligation of a clearing member to pay settlement variation during each settlement cycle is satisfied when all required cash is credited as a settlement variation payment into the correct CME bank account at the relevant settlement bank. The obligation of a clearing member to post performance bond during each settlement cycle is satisfied when all required assets are deposited as performance bond into the correct CME bank account at the relevant custodial bank.
- T. [To clear transactions in futures or options on futures executed on or subject to the rules of a foreign board of trade identified in Rule 8C04, the applicant must meet any other conditions that the Clearing House may require.](#)

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## **FINANCIAL REQUIREMENTS AND FINANCIAL EMERGENCIES**

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### **973. CUSTOMER ACCOUNTS WITH THE CLEARING HOUSE**

All customer funds deposited with the Clearing House on behalf of customers protected by CFTC Regulation 1.20 shall be held in accordance with the Commodity Exchange Act and CFTC Regulation 1.20 in an account identified as Customer Segregated. Such customer funds shall be segregated by the Clearing House and treated as belonging to the customers of the clearing member. Pursuant to this rule,

a clearing member shall satisfy the segregation acknowledgement letter requirement of CME Rule 971.A.3., the Commodity Exchange Act, and CFTC Regulation 1.20 for customer deposits held at the Clearing House. A clearing member fully authorizes the Clearing House to comply with all requirements of CFTC Regulation 1.20 with regards to its Customer Segregated account.

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

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

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## CME Chapter 8 Clearing House and Performance Bonds

### GENERAL

#### 800. CLEARING HOUSE

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

For purposes of these Chapter 8 rules and except as otherwise noted within a particular rule, all references to requirements, conditions or procedures of the Clearing House, shall be deemed to apply to ~~Dubai Mercantile Exchange Limited (“DME”) contracts. The Clearing House, in relation to providing clearing services to DME for transactions effected~~ traded on or subject to the rules of ~~the DME, will provide reports and such other information to the DME as may be required for the business operation and regulatory requirements applicable to the DME,~~ an FBOT identified in Rule 8C04; the term “foreign futures” refers to futures and options on futures traded on or subject to the rules of such FBOT; and such FBOT is not a Participating Exchange.

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

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

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#### 818. CLOSE-OUT NETTING

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

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

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

If at any time the Exchange fails to comply with an undisputed obligation to pay money or deliver property to a Clearing Member that is due and owing in connection with a transaction on the Exchange or cleared by the Exchange, for a period of five Business Days from the date that the Exchange receives notice from the Clearing Member of the past due obligation, the Clearing Member's open proprietary and customer (including, for this rule, CFTC Regulation Section 30.7 customers and cleared swaps customers) positions at the Clearing House shall, at the election of that Clearing Member, be closed promptly. For the avoidance of doubt, any modification to any Base Contract under Rule 802.B.7. or any IRS Contract under

8G802.B.3. shall not be considered a failure by the Exchange to comply with an obligation to pay money or deliver property.

**818.C. Netting and Offset**

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

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

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

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

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

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

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

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

**818.D. Valuation**

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

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

If a default of a Base Clearing Member or IRS Clearing Member has also occurred, if a settlement cycle was conducted pursuant to Rules 802.B. and 8G802.B. as applicable, and the Clearing House has not fully liquidated (or ported) all of the clearing member's proprietary and customer positions, the Exchange

shall value open positions subject to close-out by using the prices that were determined pursuant to the final settlement cycle that was conducted pursuant to Rules 802.B. and 8G802.B., as appropriate.

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

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

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

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

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

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**CME Chapter 8C  
Clearing Services**

**GENERAL**

**8C01. SCOPE OF CHAPTER**

This chapter authorizes the Exchange to provide clearing services to another exchange or market. The procedures for the clearing, settlement and guarantee of trades executed on another exchange or market that are not specifically covered herein shall be governed by the Rules of the Exchange. Except as otherwise specifically provided herein, trade practice and sales practice rules and procedures, including, but not limited to, market regulation, market surveillance and customer protection rules and procedures, shall be governed by the rules of the other exchange or market at which the transaction takes place.

**8C02. CONDITIONS TO CLEAR CONTRACTS**

The Clearing House may clear transactions executed on or subject to the rules of another exchange or market in accordance with a clearing services agreement approved by the Board and subject to any necessary regulatory approvals of the clearing services agreement and the activities of such exchange or market.

**8C03. TRANSFERS**

The Clearing House may accept transfers of positions from another clearing house in order to perform clearing services for another exchange or Market. Such transfers shall be made in accordance with the Rules and operating procedures of the Exchange. Such transfers must be made at the daily settlement value per Rule 813.F.

[\(End of Chapter 8-C\)](#)

**8C04. FUTURES LISTED FOR TRADING ON A FOREIGN BOARD OF TRADE**

[Without limiting the generality of Rule 8C01, the Clearing House may provide clearing services to a foreign board of trade with respect to transactions in futures or options on futures traded on or subject to the rules](#)

of such FBOT. The Clearing House, in relation to providing such clearing services, will provide reports and such other information to the FBOT as may be required for the business operations and regulatory requirements applicable to the FBOT.

The Clearing House will clear customer positions in the FBOT's contracts for an FCM Clearing Member in a manner consistent with CFTC Regulation 30.7 or, subject to CFTC approval and any regulatory approval required in the FBOT's local jurisdiction, in a futures segregated account held in accordance with section 4d(a) of the CEA and CFTC regulations thereunder or in a cleared swaps customer account held in accordance with the CFTC Part 22 Regulations.

The Clearing House may require a person to be authorized as a clearing member for CME, CBOT, NYMEX or COMEX contracts as a condition to be authorized to clear transactions in the contracts of a particular FBOT.

The Clearing House provides clearing services pursuant to this Rule 8C04 to the Dubai Mercantile Exchange Limited and to FEX Global Pty Limited ("FGL"). CME may terminate clearing services for FBOTs subject to applicable terms.

## **8C05. FGL TRADE SUBMISSION TO THE CLEARING HOUSE**

### **8C05.A. Exclusivity of Clearing House Rules**

The Clearing House Rules shall exclusively apply, and prevail to the extent there is any conflict with any FGL rules, to all trades and resulting positions, from the time the trade is submitted for clearing. Notwithstanding the foregoing, if the Clearing House rejects an FGL trade for clearing, the Clearing House Rules shall cease to apply to that FGL trade until such trade is resubmitted for clearing.

### **8C05.B. Clearing House Authority**

The Clearing House will have the sole authority to:

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

### **8C05.C. Voids and Price Adjustments**

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

### **8C05.D. Submission to Clearing House Rules and Access to Execution Platforms**

FGL and its Trading Participants shall be bound by Clearing House Rules, including, but not necessarily limited to, the disciplinary Rules and the emergency Rules contained in Chapters 2, 4, 8, 8C and 9 and shall, at all times, provide the Clearing House with access to its execution platform for risk management purposes.

## **CME Chapter 9 Clearing Services**

### **ACCOUNT HOLDER PERFORMANCE BOND REQUIREMENTS**

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

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

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

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

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

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

Bank-issued letters of credit [issued for the benefit of the Clearing Member](#) 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).

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## CBOT/NYMEX/COMEX Chapter 9 Clearing Services

### ACCOUNT HOLDER PERFORMANCE BOND REQUIREMENTS

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

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##### 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, warrants, warehouse receipts and shipping certificates that are registered as deliverable for commodities traded on Chicago Mercantile Exchange Inc., Chicago Board of Trade Inc., New York Mercantile Exchange, Inc. or Commodity Exchange, Inc., and "London Good Delivery" gold, as defined by the London Bullion Market Association.

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

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

Bank-issued letters of credit [issued for the benefit of the Clearing Member](#) 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).

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## CME/NYMEX/COMEX Chapter 8 Clearing House and Performance Bonds

### 804. SUBSTITUTION

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

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

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

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