

February 6, 2009

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

**RE: CME Rule 818. ("Close-Out Netting")
CME Submission No. 08-183RR**

Dear Mr. Stawick:

Pursuant to Regulation 40.5(a), Chicago Mercantile Exchange Inc. ("CME" or "Exchange") hereby submits a revised version of Rule 818. In accordance with Regulation §40.5(a), the Exchange hereby requests that CME Rule 818 be approved pursuant to section 5c(c) of the Commodity Exchange Act. The text of CME Rule 818 is attached.

Rule 818 is a statement of the rights of clearing members in the event of certain defaults by or bankruptcy of CME and consequently of CME's clearing house. Rule 818 provides that clearing members will have a right promptly to close-out their open positions at the clearing house and net their obligations to and from the clearing house and the Exchange. We understand that such a rule is necessary to avoid certain capital charges that might otherwise be imposed on bank clearing members (or their bank parent) with respect to such clearing members' proprietary positions held at the clearing house.

This request for Commission approval is occasioned by concerns that section 561(b)(2) of the Bankruptcy Code sets forth certain limitations to contractual netting rights that are applicable in the bankruptcy of a "commodity broker." In connection with efforts to secure a legal opinion as to the effectiveness of the close-out and netting rule, there was concern that the limitations might create interpretive issues if contested. Section 561(b)(3) of the Bankruptcy Code, however, provides an exception to the restrictions created by section 561(b)(2) if the offset right arises under a "netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission." We seek approval of Rule 818 to resolve any uncertainty.

CME certifies that this change complies with the Commodity Exchange Act and regulations thereunder.

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

Sincerely,

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

Rule 818 Close-Out Netting

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.

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 thirty 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 secured) positions at the Clearing House shall, at the election of that Clearing Member, be closed promptly.

C. Netting and Offset. At such time as a Clearing Member's positions are closed, the obligations of the Clearing House to a Clearing Member in respect of all of its proprietary positions, accounts, collateral and deposits to the security deposit fund shall be netted, in accordance with the Bankruptcy Code, the Commodity Exchange Act and the regulations adopted thereunder in each case, against the obligations of that Clearing Member in respect of both its proprietary and its customers' positions, accounts, collateral and its then matured obligations to the security deposit fund to the Clearing House and to the Exchange. All obligations of the Clearing House to a Clearing Member in respect of its customer positions, accounts, and collateral shall be separately netted against the positions, accounts and collateral of its customers in accordance with the requirements of the Bankruptcy Code, the Commodity Exchange Act and the Regulations adopted thereunder in each case. At the time 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 security deposit, arising after the Bankruptcy Event, shall terminate. All positions open immediately prior to the close-out shall be valued in accordance with the procedures of Paragraph D of this Rule.

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.

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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.

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.

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:

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."

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."