



**KANSAS CITY
BOARD OF TRADE
CLEARING CORPORATION**

C.F.T.C.
OFFICE OF THE SECRETARIAT
2010 AUG 31 AM 10 13

August 25, 2010

SENT VIA E-MAIL
submissions@cftc.gov

Mr. David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Submission pursuant to Commission Regulation Section 40.6(a)

Dear Mr. Stawick:

- I. **Certification.** The Kansas City Board of Trade Clearing Corporation ("KCBOTCC") hereby gives notification to the Commission pursuant to Commission Regulation Section 40.6(a), of its intention to amend Rule 8.03 pertaining to default procedures. The KCBOTCC Board of Directors, in a meeting held on August 18, 2010, unanimously approved the amendments to Rule 8.03 acting pursuant to authority granted them under Rule 3.04. KCBOTCC certifies to the Commission that to the best of its knowledge the amendments to Rule 8.03 are in compliance with the Commodity Exchange Act and the regulations thereunder.
- II. **Date of Implementation.** KCBOTCC intends to make amended Rule 8.03 effective on Wednesday, September 1, 2010.
- III. **Substantive Opposing Views.** To the knowledge of the Board of Directors and staff, no substantive opposing views were expressed by members or others regarding amended Rule 8.03.
- IV. **Text of Amended Rule.** The text of amended Rule 8.03 is shown as follows with additions underlined and bold and deletions lined out:

8.03. Default Procedures – If a clearing member fails to meet its financial obligations to the Company ("default"), the Company may act immediately to take steps necessary to mitigate the risks associated by such default, including:

- (a) Clearing Member House (Proprietary) Account Default
 - 1) Attempt to transfer any segregated customer positions and monies of the defaulting clearing member to another clearing member;
 - 2) Take control of or liquidate the positions in the defaulting clearing member's house account;
 - 3) Apply the defaulting clearing member's house margin deposits and security deposit;
 - 4) Should a shortfall remain, the Company will then apply (on a pro-rata basis) the remaining aggregate base amount of security deposits of non-defaulting clearing members. Non-defaulting clearing members must restore their security deposits to pre-default levels by the next business day;

- 5) Should a shortfall remain, the Company will then utilize its surplus funds (defined as funds in excess of that necessary for continuing Company operations) as determined by the Board of Directors in their discretion;
- 6) Should a shortfall remain, the Company shall assess all non-defaulting clearing members on the basis of their proportional share of the aggregate base security deposit amount, up to a maximum of ~~400~~ 200 percent of each such clearing member's proportional share of the aggregate base security deposit amount. Clearing members shall respond to the Company's assessment call via wire transfer of funds in the same prompt manner that they would a daily variation margin call. Any clearing member resignation does not relieve such clearing member of any and all obligations under Company rules and policies for defaults that occur prior to such resignation;
- 7) Should a shortfall remain, the Company may apply any of its remaining funds or borrow funds to cover such obligations;
- 8) The Company shall, through whatever means available (i.e., attaching other assets of the defaulting clearing member, invoking any parent company guarantee or other actions available by law), attempt to recover from the defaulting clearing member any losses sustained by Company and/or non-defaulting clearing members. Any such monies recovered (net of all costs incurred by Company in recovering such monies) shall be repaid to Company and non-defaulting clearing members in proportion to the total amount contributed to the loss.

(b) Clearing Member Customer Account Default

- 1) Attempt to transfer non-defaulting customer positions of the defaulting clearing member to another clearing member;
- 2) Take control of or liquidate customer and house positions of the defaulting clearing member;
- 3) Apply the defaulting clearing member's customer and house margin deposits and security deposit;
- 4) Should a shortfall remain, the Company will then apply (on a pro-rata basis) the remaining aggregate base amount of security deposits of non-defaulting clearing members. Non-defaulting clearing members must restore their security deposits to pre-default levels by the next business day;
- 5) Should a shortfall remain, the Company will then utilize its surplus funds (defined as funds in excess of that necessary for continuing Company operations) as determined by the Board of Directors in their discretion;
- 6) Should a shortfall remain, the Company shall assess all non-defaulting clearing members on the basis of their proportional share of the aggregate base security deposit amount, up to a maximum of ~~400~~ 200 percent of each such clearing member's proportional share of the aggregate base security deposit amount. Clearing members shall respond to the Company's assessment call via wire transfer of funds in the same prompt manner that they would a daily variation margin call, Any clearing member resignation does not relieve such clearing member of any and all obligations under Company rules and policies for defaults that occur prior to such resignation;
- 7) Should a shortfall remain, the Company may apply any of its remaining funds or borrow funds to cover such obligations.
- 8) The Company shall, through whatever means available (i.e., attaching other assets of the defaulting clearing member, invoking any parent company guarantee or other actions available by law), attempt to recover from the defaulting clearing member any losses sustained by Company and/or non-defaulting clearing members. Any such monies recovered (net of all costs incurred by Company in recovering such monies) shall be repaid to Company and non-defaulting clearing members in proportion to the total amount contributed to the loss.

Rationale for Action Taken. Since implementation of Rule 8.03 in 2008, KCBOTCC has been monitoring clearing member risk exposure for consideration of changes to both clearing member security deposit requirements set forth in Rule 8.02 and the additional financial resources available under Rule 8.03. Effective July 1, 2010, KCBOTCC increased the aggregate base amount of security deposits of clearing members pursuant to Rule 8.02 in response to a significant increase in open interest over the past year. Recent volatility in the wheat market caused KCBOTCC to reevaluate the clearing member assessment multiple set forth in Sections a(6) and b(6) of Rule 8.03. Accordingly, KCBOTCC determined that the multiple should be increased from 200% to 400% of each clearing member's proportional share of the aggregate base security deposit amount in order to supplement the financial resources available for backing trades cleared at KCBOTCC.

V. **Closing.** Any questions regarding this submission should be directed to the undersigned at 816-931-8964.

Sincerely,

A handwritten signature in cursive script that reads "Charles M. Savage". The signature is written in black ink and is positioned above the typed name and title.

Charles M. Savage
Assistant Vice President & Manager

Cc: Rick Shilts – CFTC Washington
Tom Bloom – CFTC Kansas City
Robin Hagedorn – CFTC Kansas City