

September 17, 2012

**BY ELECTRONIC FILING**

Ms. Sauntia Warfield  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: Amendments to CME/CBOT/NYMEX Rule 971, Submission #12-282**

Dear Ms. Warfield:

Pursuant to Commission Regulation 40.6(a), Chicago Mercantile Exchange Inc. (CME), the Board of Trade of the City of Chicago (CBOT) and the New York Mercantile Exchange, Inc. (NYMEX) hereby notify the Commodity Futures Trading Commission that they will adopt revisions to CME/CBOT/NYMEX Rule 971 (Segregation, Secured and Cleared Swaps Customer Account Requirements). The proposed effective date for these revisions is after November 5, 2012,<sup>1</sup> and in coordination with implementation by the National Futures Association (NFA) of parallel revisions to NFA rules.

In a continuing effort to enhance regulation of customer funds at the futures commission merchant (FCM) level, and to harmonize industry requirements, we propose to amend Rule 971 to add new subpart C. As amended, Rule 971.C will require FCM clearing members to provide the Audit Department of CME's clearing house division with view-only access of segregated, secured/30.7 and Cleared Swaps Customer accounts at banks or trust companies. Amended Rule 971.C will provide the Audit Department with enhanced capabilities to review FCM funds at a bank or trust company for verification on a real-time and surprise basis, without seeking further authorization from FCM clearing members.

The text of these proposed amendments to Rule 971 is attached, with additions underlined and deletions overstruck. The amendments comport with DCO Core Principle F (Treatment of Funds).

No substantive opposing views regarding these proposed rule revisions were expressed to CME, CBOT or NYMEX. CME, CBOT and NYMEX certify that this submission has been concurrently posted on their

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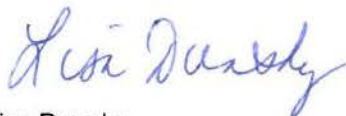
<sup>1</sup> On November 5, 2012, in connection with implementation of the Commission's Part 22 Regulations, and in accordance with prior CME rule submissions, references to "sequestered" accounts in Rule 971 will be changed to Cleared Swaps Customer accounts, and references to CME rules for sequestered accounts will be deleted. Because the proposed effective for the rules at issue in this submission is after November 5, the attached redline of Rule 971 contains the new "Cleared Swaps" terminology. It also reflects revisions to Rule 971 contained in CME submission number 12-281, which have a proposed effective date of September 28, 2012.

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website at <http://www.cmegroup.com/market-regulation/rule-filings.html>. CME, CBOT and NYMEX further certify that these rule amendments comply with the Commodity Exchange Act and regulations promulgated thereunder.

Should you have any questions regarding this submission, please contact me at (312) 338-2483 or via e-mail at [Lisa.Dunsky@cmegroup.com](mailto:Lisa.Dunsky@cmegroup.com); or Jim Krause at (312) 930-8226 or via e-mail at [James.Krause@cmegroup.com](mailto:James.Krause@cmegroup.com). Please reference our Submission No. 12-282 in any related correspondence.

Sincerely,



Lisa Dunsky  
Executive Director and Associate General Counsel

## Revisions to CME/CBOT/NYMEX Rule 971

### **Chapter 9. CLEARING MEMBERS**

#### **Rule 971. SEGREGATION, SECURED AND CLEARED SWAPS CUSTOMER ACCOUNT REQUIREMENTS**

A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, 1.49, and 30.7, and Part 22 of the CFTC Regulations. This includes, but is not limited to, the following:

1. Maintaining sufficient funds at all times in segregation, secured 30.7 and Cleared Swaps Customer accounts;
2. Computing, recording and reporting completely and accurately the balances in the:
  - a. Statement of Segregation Requirements and Funds in Segregation;
  - b. Statement of Secured Amounts and Funds Held in Separate Accounts; and
  - c. Statement of Segregation Requirements and Cleared Swaps Customer Collateral Held in Cleared Swaps Customer Accounts.
3. Obtaining satisfactory segregation, secured 30.7 and Cleared Swaps Customer account acknowledgement letters and identifying segregated, secured 30.7 and Cleared Swaps Customer accounts as such; and
4. Preparing complete and materially accurate daily segregation, secured 30.7 and Cleared Swaps Customer amount computations in a timely manner.

B. All FCM clearing members must submit a daily segregated, secured 30.7 and Cleared Swaps Customer amount statement, as applicable, through Exchange-approved electronic transmissions by 12:00 noon on the following business day.

C. In addition to complying with all applicable CFTC regulations, in order for each of an FCM clearing member's customer segregated, secured 30.7 and Cleared Swaps Customer accounts held at a bank or trust company to be included as segregated and secured 30.7 funds and Cleared Swaps Customer Collateral in their respective origin and calculation:

1. The FCM clearing member must provide the Audit Department with view-only full access via the internet to the account information, in a form and manner prescribed by the Audit Department; and
2. The bank or trust company must allow the FCM clearing member to provide the Audit Department with view-only full access via the internet to the account information, in a form and manner prescribed by the Audit Department.

GD. All FCM clearing members must submit a report of investments in a manner as prescribed through Exchange-approved electronic transmissions as of the 15th of the month (or the following business day if the 15th is a holiday or weekend) and last business day of the month by the close of business on the following business day. The report of investments shall be prepared and shall identify separately for segregated and secured 30.7 funds and Cleared Swaps Customer Collateral held:

1. The dollar amount of funds held in cash and each permitted investment identified in CFTC Regulation 1.25(a); and

2. The identity of each depository holding funds and the dollar amount held at each depository.

DE. All disbursements not made for the benefit of a customer from a segregated, secured 30.7 or Cleared Swaps Customer account which exceed 25% of the FCM clearing member's excess segregated, secured 30.7 or Cleared Swaps Customer account of the respective origin must be pre-approved in writing by the FCM clearing member's Chief Executive Officer, or Chief Financial Officer or their authorized representative with knowledge of the firm's financial requirements and position.

1. In determining if a disbursement exceeds the 25% level, such disbursement must be:

a. Compared to the most recent calculation of excess segregated, secured 30.7 and Cleared Swaps Customer amounts; and

b. A single disbursement must be reviewed individually and in the aggregate with all other disbursements not made for the benefit of a customer of the respective segregated, secured 30.7 or Cleared Swaps Customer origin since the last calculation of excess funds.

2. Upon approval of a single disbursement or the disbursement which in the aggregate exceeds the 25% level as defined in Rule 971.DE.1., the FCM clearing member must provide immediate notification to the Audit Department through Exchange-approved electronic transmissions. Such notification shall include:

a. Confirmation that the FCM clearing member's Chief Executive Officer, or Chief Financial Officer or their authorized representative with knowledge of the firm's financial requirements and position pre-approved in writing the disbursement(s);

b. The amount(s) and recipient(s) of such disbursement(s); and

c. A description of the reasons for the single or multiple transaction(s) that resulted in the disbursement(s).

3. The FCM clearing member's Chief Executive Officer and Chief Financial Officer will remain responsible for the pre-approvals by their authorized representatives and for compliance with this rule.

EE. All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation, secured 30.7 or Cleared Swaps Customer accounts. The Audit Department must receive immediate written notification when a clearing member knows or should have known of such failure.

FG. Each statement and report filing required under this Rule must be submitted by the Chief Executive Officer, Chief Financial Officer or their authorized representative as approved by CME using their assigned User Identification ("User ID"). The User ID will constitute and become a substitute for the manual signature of the authorized signer to the electronically submitted daily segregated, secured 30.7 and Cleared Swaps Customer amount statements. The User ID is a representation by the authorized signer that, to the best of his or her knowledge, all information contained in the statement being transmitted under the User ID is true, correct and complete. The unauthorized use of a User ID for electronic attestation by an unauthorized party is expressly prohibited.

GH. Exchange staff may prescribe additional segregation, secured 30.7 and Cleared Swaps Customer amount requirements.