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**KANSAS CITY
BOARD OF TRADE
CLEARING CORPORATION** THE SECRETARIAT

October 30, 2008

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 implement new Rules 8.02 & 8.03 pertaining to security deposits and default procedures. The KCBOTCC Board of Directors, in a meeting held on September 18, 2008, unanimously approved Rule 8.02. In a meeting held on October 27, 2008, the KCBOTCC Board of Directors approved Rule 8.03 by a vote of 6 for and 1 against. Rules 8.02 and 8.03 were approved by the Board acting pursuant to authority granted them under Rule 3.04. KCBOTCC certifies to the Commission that to the best of its knowledge the provisions of Rules 8.02 & 8.03 are in compliance with the Commodity Exchange Act and the regulations thereunder.
- II. **Date of Implementation.** KCBOTCC intends to make Rule 8.02 effective on Monday, November 3, 2008 and Rule 8.03 effective on Monday, December 1, 2008.
- 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 Rules 8.02 & 8.03.
- IV. **Text of New Rules.** The text of Rules 8.02 & 8.03 is shown as follows:

8.02. Security Deposits – The Board of Directors of the Kansas City Board of Trade Clearing Corporation shall determine the aggregate "base" amount of security deposits that must be deposited with the Company by clearing members. Each clearing member's proportionate share of the required aggregate base amount shall be determined based on a formula determined by the Company. The required aggregate base amount and the formula for determining each clearing member's proportionate share shall be reviewed each calendar quarter or such other times as necessary in response to changing conditions. The Company may require a clearing member's security deposit to be subject to a determined minimum amount in excess of its calculated proportional amount. The form of security deposits shall be determined by the Company, who may place limitations on certain forms.

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 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 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.

- V. **Rationale for Action Taken.** For some time, the KCBOTCC has been evaluating and considering additional resources used by other industry Designated Clearing Organizations to supplement the financial safeguards available in the event a clearing member fails to meet its financial obligations. Rules 8.02 & 8.03 are the result of such efforts and combine commonly used industry resources with KCBOTCC's own funds to provide a more comprehensive set of financial resources backing trades cleared at KCBOTCC. Rule 8.03 also sets forth detailed procedures in the unlikely event of a clearing member default.

Rule 8.03 is being made effective December 1, 2008 in order to give clearing members reasonable time to consider any business adjustments necessary to comply with the new rule.

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

Sincerely,



Charles M. Savage
Assistant Vice President & Manager

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