



October 30, 2009

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

**RE: CME Rules 8F03., 8F04., 8F14. and 8F15.  
CME Submission No. 09-263**

OFFICE OF THE SECRETARIAT  
O.F.T.O.  
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Dear Mr. Stawick:

Chicago Mercantile Exchange Inc. ("CME" or "Exchange") hereby notifies the Commodity Futures Trading Commission ("Commission") of amendments to CME Rules: 8F03. ("Classification of Positions"), 8F04. ("OTC Clearing Member Obligations and Qualifications"), 8F14. ("Mitigation of Losses"). Additionally, revisions have been made to CME Rule 8F15. ("Trade Submission on CME ClearPort") related to OTC Derivatives transactions.

The rule changes are attached with additions underscored and deletions lined-out. The rule amendments will be made effective on November 4, 2009. CME certifies that these changes comply with the Commodity Exchange Act and regulations thereunder.

If you have any questions regarding the above, please contact Tim Doar, Managing Director, Clearing House at 312.930.3162 or me at 312.648.4522. Please reference CME Submission No. 09-263 in any related correspondence.

Sincerely,

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

## CME Rules

### **8F03. CLASSIFICATION OF POSITIONS'**

OTC Derivatives submitted for clearing by an OTC Clearing Member for its proprietary account shall be assigned to and held in a proprietary account of such Clearing Member. All collateral deposited as performance bond to support positions in the proprietary account of an OTC Clearing Member and all variation margin payments made from such account shall be deemed the property of the OTC Clearing Member and shall be subject to the Clearing House's lien and security rights as described in Rule 8F08.

OTC Derivatives submitted for clearing for the account of a Clearing Member's customer shall be assigned and held in a Regulation §30.7 account of such Clearing Member. All collateral deposited as performance bond to support positions in such Regulation §30.7 account and all positions, collateral or cash in such account shall be segregated from the Clearing Member's proprietary account and, for purposes of calculating the amount of funds required to be set aside under CFTC rules, the OTC Clearing Member shall use the net liquidating equity method as described in the CFTC's Form 1-FR-FCM instructions. All Clearing Members must comply with the requirements set forth in CME Rule 971 for such Regulation 30.7 accounts.

Notwithstanding the foregoing, if the CFTC issues an order permitting OTC Clearing Members to commingle customer funds used to margin particular OTC Derivatives that are cleared by CME with other funds held in CEA Section 4d(a)(2) customer segregated accounts, such positions may be held in the customer segregated accounts of an OTC Clearing Member and, if so held, all collateral deposited as performance bond to support such positions and all variation margin payments made from such accounts shall be comingled with similar property of regulated customers. All Clearing Members must comply with the requirements set forth in CME Rule 971 for such customer segregated accounts.

### **8F04. OTC CLEARING MEMBER OBLIGATIONS AND QUALIFICATIONS'**

OTC Clearing Members are subject to all relevant CME, CBOT and/or NYMEX Rules and the Clearing House Manual unless an exemption has been granted by staff or the Clearing House Risk Committee. OTC Clearing Members must execute all agreements and documents required by the Clearing House.

The qualifications and requirements to become an OTC Clearing Member, as well as the ongoing obligations, are set forth below. CME, CBOT, NYMEX and COMEX Clearing Members are not required to fulfill the requirements set forth below unless specifically provided otherwise.

1. An OTC Clearing Member must be in "good standing" under each applicable regulatory regime to which it is subject at the time it applies for OTC clearing membership and it must maintain its good standing status while it is an OTC Clearing Member.
  2. An OTC Clearing Member must be in compliance with all applicable regulatory capital requirements, however, an OTC Clearing Member must maintain a minimum of \$50 million in capital if it only clears commodity OTC Derivatives and \$300 million in capital if it clears financial or credit (i.e., equity, interest rate, etc.) of OTC Derivatives. A CME, CBOT, NYMEX and COMEX Clearing Member must maintain \$300 million in capital if it clears rate swaps or credit default swaps. Staff may grant an exemption to the minimum capital requirement for an OTC Clearing Member that is affiliated with a CME, CBOT, NYMEX or COMEX Clearing Member. An OTC Clearing Member that is an affiliate of a CME, CBOT, NYMEX or COMEX Clearing Member must be guaranteed by the CME, CBOT, NYMEX or COMEX Clearing Member with which it is affiliated unless an exemption is granted by CME Clearing.
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3. An OTC Clearing Member, and an OTC Clearing Member applicant, shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of an OTC Clearing Member.
4. An OTC Clearing Member shall maintain a membership-equivalent deposit with CME of at least \$5 million in cash or collateral, which shall be valued in the sole discretion of the Clearing House, to assure performance of all obligations arising out of OTC Derivatives submitted by it to the Clearing House.
5. An OTC Clearing Member must comply with the financial requirements set forth in CME Rule 970. However, if the OTC Clearing Member is regulated by another regulatory authority, then it shall submit to CME annual audited financial statements as well as all unaudited financial statements provided to its primary regulator within five days after such statements are provided to its regulator. All financial statements shall be in the English language.
6. The books and records of an OTC Clearing Member regarding OTC Derivatives cleared by the Clearing House and any CME, CBOT, NYMEX or COMEX activities in connection therewith shall be made promptly available for inspection upon request by CME and such books and records shall be subject to reasonable standards of confidentiality.
7. Each OTC Clearing member that is a Futures Commission Merchant shall keep the types of information and records that are described in Section 4g of the Commodity Exchange Act and CFTC regulations thereunder including, but not limited to, Regulation 1.35, with respect to all OTC Derivatives submitted for clearing.
8. At the request of the Clearing House, an OTC Clearing Member shall promptly provide prices for settlement determination purposes in an approved format.

#### 8F14. MITIGATION OF LOSSES

In the event of a failure of an OTC Clearing Member promptly to discharge any obligation to the Clearing House involving OTC Derivatives, all OTC Clearing Members shall work cooperatively with their counterparties and CME to mitigate any losses that may occur as a result of such failure.

OTC Clearing Members shall, upon request from the Emergency Financial Committee: 1) bid on a defaulting OTC Clearing Member's portfolio; 2) accept allocated positions of a defaulting OTC Clearing Member based on predetermined algorithms; and 3) take any other action as reasonably requested by the Emergency Financial Committee.

#### CME Rule

#### 8F15. TRADE SUBMISSION ON CME CLEARPORT

A. This rule governs all OTC Derivatives that the Clearing House has designated as eligible for clearing that are submitted for clearing via CME ClearPort and that are not extinguished and replaced by positions in regulated futures and options ("Transactions"). The parties to a Transaction and any person authorized under Section C of this Rule with brokering capability or trade submission authority (generally defined as "Broker" or "Brokers") must comply with applicable registration procedures for participation in CME ClearPort and must continue to comply with applicable registration procedures for OTC Derivatives, as may be amended from time to time. Transactions are also subject to the other rules in this chapter.

B. Each Transaction must be submitted in accordance with the procedures established by the Clearing House for this purpose, as amended from time to time. The parties to a Transaction and any Brokers authorized to submit Transactions on such a party's behalf to the Clearing House and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Clearing House. Once submitted, all Transactions, ~~subject to the~~

~~rules for trade adjustments set forth in Section E of this rule~~, shall be deemed final. Neither the Clearing House nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for Transactions.

C. Each Clearing Member must register with the Clearing House staff in the manner required for any customer authorized by the Clearing Member to submit transactions to the Clearing House pursuant to this rule, and must also register with the Clearing House staff the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account also must submit to Clearing House staff in the manner provided the name of any Broker who has registered with Clearing House staff for services provided under this rule, and who is authorized by the customer to act on its behalf in the submission of Transactions pursuant to this rule and related activity. For any such Brokers authorized by the customer and submitted to Clearing House staff by the Clearing Member, such submission to Clearing House staff of the Broker's information by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the Broker. Moreover, submission of a Broker authorized by a customer will not mean that the Clearing Member is in privity with, has a relationship with 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.

D. For each account number that has been registered with the Clearing House staff pursuant to Section C of this rule, a credit check or explicit clearing member acceptance or rejection of a transaction must occur depending on the transaction type.