



C.F.T.C.
OFFICE OF THE SECRETARIAT
2009 DEC 14 AM 9 43

December 11, 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 Rules 8B04, 8F01, 8F02, 8F04, 8F05, 8F06, 8F07, 8F14, 8F25
CME/CBOT/NYMEX Rules 802, 813, 816, 817, 818, 827, 913, 930
CME/CBOT/NYMEX Submission No. 09-310**

Dear Mr. Stawick:

Chicago Mercantile Exchange Inc. ("CME"), Chicago Board of Trade, Inc. ("CBOT") and New York Mercantile Exchange, Inc. ("NYMEX") (collectively, the "Exchanges") hereby notify the Commodity Futures Trading Commission of amendments to certain Rules that pertain to the clearing of OTC CDS products. Certain identical changes to such rules are made across CME, CBOT and NYMEX. The rule changes include, for example, modifications to the Clearing House default waterfall procedures as well as a revision in rule language from "security deposit" to "guaranty fund."

In addition, certain rule changes are also being made only to the CME Rules (i.e., 8B04, 8F01, 8F02, 8F04, 8F05, 8F06, 8F07, 8F14 and 8F25). These changes are related to OTC products and include modifications to Clearing Member capital amounts and loss mitigation.

The text of the rule amendments is attached with additions underscored and deletions lined-out. The rule amendments will be effective on Tuesday, December 15, 2009.

The Exchanges certify that these changes comply with the Commodity Exchange Act and regulations thereunder.

If you have any questions, please contact Tim Doar, Managing Director, Risk Management, at 312-930-3162 or me at 312.648.5422. Please reference CME/CBOT/NYMEX Submission No. 09-310 in any related correspondence.

Sincerely,

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

CME/CBOT/NYMEX RULE CHANGES

802. PROTECTION OF CLEARING HOUSE

802.A. Default by Clearing Member or Other Participating Exchanges

The Clearing House shall establish a single guaranty fund. Each clearing member shall contribute to the guaranty fund in accordance with the requirements of Rule 816. A clearing member's guaranty fund contribution may be applied by the Clearing House in accordance with this Rule 802 to mitigate a Loss (as defined below) to the Clearing House attributable to any cleared Product Class (as defined below) regardless of the Product Classes a clearing member clears. However, in order to accommodate differences in time frames and processes associated with the liquidation of certain Product Classes, Losses will be allocated among a set of guaranty fund tranches established to reflect the relative contributions of different product classes to the total guaranty fund. For example, to the extent that a loss to the Clearing House is attributable to CDS positions, the guaranty fund contributions related to CDS risks will be subject to application prior to guaranty fund contributions allocated to other tranches. Notwithstanding this prioritization of the Clearing House's recourse, ultimately the entire guaranty fund will be available if necessary to satisfy all losses regardless of Product Class.

1. Default by Clearing Member

If a clearing member of CME, CBOT, NYMEX, COMEX, or an OTC Clearing Member, fails promptly to discharge any obligation to the Clearing House, it shall be in default. For purposes of this Rule 802, each default by a clearing member will be considered a separate default event, provided that if a clearing member has been declared in default, subsequent failures to pay by such defaulting clearing member shall not be considered separate default events unless and until the original default has been fully resolved and such clearing member has been restored to good standing.

2. Defaulting Clearing Member's Collateral

If a clearing member defaults, its guaranty fund contribution (pursuant to Rule 816), its performance bonds on deposit with the Clearing House, the proceeds of the sale of any membership and Class A Shares assigned to it for clearing qualification, and any of its other assets held by, pledged to or otherwise available to the Clearing House, shall be applied by the Clearing House to discharge the clearing member's obligation to the Clearing House. The defaulting clearing member shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of the Clearing House to so apply such assets and proceeds.

If the guaranty fund contribution, performance bond and other assets of a clearing member available to the Clearing House are insufficient to satisfy all of its obligations to the Clearing House, including all claims against the Clearing House by reason of its substitution for that clearing member pursuant to Rule 804 or Rule 8F05, the Clearing House shall nonetheless pay all such claims, which payments by the Clearing House shall be deemed a loss to it (hereinafter "Loss") and which shall be a liability of the defaulting clearing member to the Clearing House, which the Clearing House may collect from any other assets of such clearing member or by process of law.

For purposes of this Rule, the positions in the cross-margin account of a Participating Clearing Member or its Cross-Margining Affiliate at a Cross-Margining Clearing Organization, and the performance bond thereon, shall be considered assets of the Participating Clearing Member available to the Clearing House to the extent provided in the Cross-Margining Agreement between the Clearing House and such Cross-Margining Clearing Organization. A clearing member in default shall immediately make up any deficiencies in its guaranty fund contribution resulting from such default and in any event no later than the close of business on the banking day following demand by the Clearing House.

3. Default by Other Participating Exchanges or Partner Clearinghouses

If a Participating Exchange or Partner Clearinghouse fails to promptly discharge any obligation to the Clearing House arising out of its obligations to the Exchange, such Participating Exchange's or Partner Clearinghouse's letters of credit, performance bonds and other assets available to the Clearing House shall be applied by the Clearing House to discharge the obligation, pursuant to the procedures set forth below in Rule 802.A.5 with respect to a defaulting clearing member. If such resources are insufficient to satisfy the Participating Exchange's or Partner Clearinghouse's obligations to the Clearing House, the deficiency shall be considered a Loss that is subject to satisfaction pursuant to Rule 802.B.

4. Allocation of Guaranty Fund into Tranches

The guaranty fund shall be composed of the required guaranty fund contributions of clearing members pursuant to Rule 816, or any comparable security deposit contributions from a Participating Exchange or Partner Clearinghouse. The Clearing House shall allocate the guaranty fund into tranches as follows:

- i. The Base Product Class. Product classes that are not associated with the CDS Tranche or an Alternate Tranche as described below shall comprise the Base Product Class. The first 80% of guaranty fund amounts contributed with respect to the Base Product Class shall be the "Base Tranche".
- ii. The CDS Product Class. CDS products described in Chapter 80000 shall comprise the CDS Product Class. The first 80% of guaranty fund amounts contributed with respect to the CDS Product Class shall be the "CDS Tranche".
- iii. Alternate Product Classes. Any other product class approved by the Clearing House Risk Committee to support a product-specific guaranty fund tranche hereunder shall comprise an Alternate Product Class. The first 80% of guaranty fund amounts contributed with respect to each such an Alternate Product Class shall be an "Alternate Tranche".
- iv. Commingled Tranche. The remaining 20% of guaranty fund amounts contributed with respect to all of the foregoing Product Classes shall be the "Commingled Tranche".

As set forth below in 802.B, if the collateral of the defaulting clearing member, as described in Rule 802.A.2, Participating Exchange or Partner Clearinghouse is insufficient to satisfy its obligation to the Clearing House, the Tranche associated with a particular Product Class will be the Tranche first applied to reimburse the Clearing House for Losses attributable to that Product Class, as determined in accordance with Rule 802.A.5. (i.e., the Base Tranche will first be applied to Losses attributed to the Base Product Class, and the CDS Tranche will first be applied to Losses attributed to the CDS Product Class). The guaranty fund requirements of clearing members for purposes of allocation of such amounts into the Tranches shall be the required amounts in effect for each clearing member at the time of the default.

5. Apportionment Among Product Classes; Application of Defaulting Clearing Member's Collateral

Upon a default, the Clearing House shall apply the defaulting clearing member's collateral to the deficiency in accordance with the following procedures:

- i. *Initial Allocation of Assets to Product Classes.* Subject to the provisions of 802.G, as of the cycle in which the default occurs, the Clearing House shall allocate assets of the defaulting clearing member to the different Product Classes in which the clearing member has open positions as follows: (a) the defaulting clearing member's guaranty fund requirement associated with each Product Class shall be attributed to such Class, (b) the defaulting clearing member's required performance bond amounts for each Product Class as of the prior clearing cycle shall be allocated to such Class, (c) any CME shares (whether common shares or class B shares) or any cash posted in lieu of such shares, and (d) any of the defaulting clearing member's other assets held by, pledged to or otherwise available to the Clearing House shall be divided among the Product Classes in proportion to the defaulting clearing member's guaranty fund requirement.
- ii. *Management of Obligations for Cycle of Default.* As of the cycle in which the default occurs, the Clearing House shall aggregate the following assets: any excess guaranty funds, any excess performance bond from the prior clearing cycle, any partial payment by the clearing member for the default cycle, and any other available assets of the clearing member that are not specific to a Product Class. Such unassigned assets shall be allocated first to any net settlement variation payment obligation of the defaulting clearing member to the Clearing House, pro rata across account classes relative to the net settlement variation payment obligation for each account class. If the unassigned funds so allocated are sufficient to satisfy the clearing member's immediate settlement variation payment obligations, any remaining unassigned funds shall be divided among the Product Classes, pro rata in proportion to the size of the performance bond requirements for each Product Class for the clearing cycle immediately prior to the default. If the unassigned funds are not sufficient to satisfy the clearing member's settlement variation payment obligations for the default cycle, then (i) the Clearing House shall apply the unassigned funds to such obligations, pro rata relative to the size of such obligations on a per-Product Class basis, and within each Product Class, pro rata across account classes, and (ii) the remaining settlement variation payment obligations for such clearing cycle shall be satisfied on a per-Product Class basis only from the assets allocated to the relevant Product Class pursuant to 802.A.5.i. If the Clearing House is unable

to satisfy a settlement variation payment obligation attributable to any Product Class from such assets, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures in Rule 802.B. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account.

- iii. *Payment Obligations as Losses are Finalized.* During any subsequent clearing cycles in which the Clearing House is managing and/or liquidating open positions in respect of the defaulting clearing member, the Clearing House shall satisfy any settlement variation payment obligations owed by the defaulting Clearing member to the Clearing House, or other realized losses of or expenses to the Clearing House with respect to the default, on a per-Product Class basis, only from the assets allocated to the relevant Product Class pursuant to 802.A.5.i. Any settlement variation gain to the defaulting clearing member in any Product Class during such subsequent clearing cycles shall be added to collateral allocated to such Product Class pursuant to 802.A.5.i. Any additional assets of the defaulting clearing member obtained by the Clearing House during subsequent clearing cycles shall be divided among the Product Classes pro rata in proportion to the size of the performance bond requirements for each Product Class for the clearing cycle immediately prior to the default. The Clearing House shall apply such collateral to such payment obligations for all account classes, giving priority to customer account classes (i.e., customer accounts and proprietary accounts). If the Clearing House is unable to satisfy a settlement variation payment obligation to the Clearing House, or other realized loss or expense to the Clearing House, from the defaulting clearing member's collateral as set forth in this paragraph, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures in Rule 802.B. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account.
- iv. *Final determination of gain or deficiency for each Product Class.* When the Clearing House determines the final net deficiency for a Product Class, it shall apply any remaining collateral of the defaulting clearing member with respect to such Product Class to satisfy the deficiency. If the Clearing House achieves a final gain, or if any excess collateral remains following satisfaction of a deficiency, the Clearing House shall allocate such excess funds to the defaulting clearing member's collateral for Product Classes within the same account class as to which a final gain or deficiency is yet to be determined, pro rata in proportion to the size of the performance bond requirements for such Product Classes for the clearing cycle immediately prior to the default. For the avoidance of doubt, as set forth in 802.G, the Clearing House shall not use performance bond amounts or other collateral in any customer account class of the defaulting clearing member to satisfy a payment obligation to the Clearing House in respect of the defaulting clearing member's proprietary account. Any gains or excess collateral within a segregated customer account class following final determination of the defaulting clearing member's losses shall remain segregated to the relevant customer account class, where it may be used to satisfy payment obligations arising from such account class in other Product Classes, but shall not be added to the clearing member's collateral generally.

Any remaining unsatisfied obligations of the defaulting clearing member shall become Losses to the Clearing House that shall be satisfied as set forth below.

802.B. Satisfaction of Clearing House Obligations

If the Clearing House is unable, using the defaulting clearing member's collateral as set forth in Rule 802.A, to satisfy all of the clearing member's obligations to the Clearing House then such obligations shall be met and made good promptly by the Clearing House pursuant to this Rule 802.B. Such obligations include, but shall not be limited to, costs associated with the liquidation, transfer and managing of positions, arising out of: 1) its substitution (pursuant to Rule 804 or Rule 8F05) for a defaulting clearing member a defaulting Participating Exchange, or a defaulting Partner Clearinghouse; 2) a shortfall in a cross-margining program; 3) the failure of a depository, exchange or market apart from the Exchange but whose transactions are cleared pursuant to the provisions of Chapters 8B, 8C, 8D, 8E or 8F; or 4) any other cause. All of the foregoing shall be deemed Losses to the Clearing House, which shall be apportioned by the Clearing House to Loss categories associated with the Product Class producing the Loss. Losses that cannot readily be attributed to a specific Product Class shall be apportioned by the Clearing House across all Product Classes in proportion to relative size of the Tranches (excluding the Commingled Tranche). Losses shall be satisfied by the Clearing House in the

order of priority hereafter listed. Non-defaulting clearing members shall take no actions, including but not limited to attempting to obtain a court order, that would interfere with the ability of the Clearing House to collect and apply assets and proceeds in accordance with this Rule 802.B. For purposes of this Rule 802.B, a default by a Participating Exchange or a Partner Clearinghouse shall be managed in the same manner as a default by a clearing member.

1. If Losses Are Limited to the Base Product Class:

- i. Surplus funds of the Exchange in excess of funds for normal operations.
- ii. The Base Tranche.
- iii. The Commingled Tranche.
- iv. The CDS Tranche and any Alternate Tranche, pro rata in accordance with the relative size of such Tranches.
- v. The balance of any Losses remaining after the application of the above funds shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members). Each clearing member (excluding any insolvent or defaulting clearing member) shall be subject to an assessment up to an amount that does not exceed a total of 275 per cent of such clearing member's guaranty fund requirements attributable to all Product Classes at the time of the default. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House's assessment authority with respect to each clearing member. If after satisfaction of any assessments up to foregoing maximum, a non-defaulting clearing member withdraws as set forth in 802.B.5, the clearing member shall not be subject to any further assessment in respect of Losses attributable to the default.

2. If Losses Are Limited to the CDS Product Class:

- i. Surplus funds of the Exchange in excess of funds for normal operations.
- ii. The CDS Tranche.
- iii. The Commingled Tranche.
- iv. The Base Tranche and any Alternate Tranche, pro rata in accordance with the relative size of such Tranches.
- v. The balance of any Losses remaining after the application of the above funds shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members). Each clearing member (excluding any insolvent or defaulting clearing member) shall be subject to an assessment up to an amount that does not exceed a total of 275 per cent of such clearing member's guaranty fund requirements attributable to all Product Classes at the time of the default. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House's assessment authority with respect to each clearing member. If after satisfaction of any assessments up to foregoing maximum, a non-defaulting clearing member withdraws as set forth in 802.B.5, the clearing member shall not be subject to any further assessment in respect of Losses attributable to the default.

3. If Losses Are Limited to an Alternate Product Class:

- i. Surplus funds of the Exchange in excess of funds for normal operations.
- ii. The Alternate Tranche.
- iii. The Commingled Tranche.
- iv. The Base Tranche, the CDS Tranche and any other Alternate Tranche, pro rata in accordance with the relative size of such Tranches.
- v. The balance of any Losses remaining after the application of the above funds shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members). Each clearing member (excluding any insolvent or defaulting clearing member) shall be subject to an assessment up to an amount that does not exceed a total of 275 per cent of such clearing member's guaranty fund requirements attributable to all Product Classes at the time of the default. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House's assessment authority with respect to each clearing member. If after satisfaction of any assessments up to foregoing maximum, a non-defaulting clearing member withdraws as set forth in 802.B.5, the clearing member shall not be subject to any further assessment in respect of Losses attributable to the default.

4. If Losses Are Apportioned Among Multiple Product Classes:

Because of differences in the timeframes and processes associated with the liquidation of certain product types, the Clearing House may finalize Loss amounts associated with different Product Classes at different points in time. Notwithstanding this, the Clearing House will act with all possible speed to satisfy the Losses as they are finalized, in the order of priority and per the schedule set forth below.

- i. Surplus funds of the Exchange in excess of funds for normal operations shall be applied. Surplus funds of the Exchange shall be divided by the Clearing House into separate segments in proportion to the size of each Tranche except for the Commingled Tranche. Each segment of surplus funds shall be applied first to Losses associated with the applicable Product Class for such segment, and only at such time as one or more Losses associated with such Tranche are finalized. Subject to paragraph 802.C if any surplus funds remain after such initial application, such surplus funds shall be reserved to be later applied to Losses associated with other Product Classes as set forth in paragraph 802.B.4.v.
- ii. The Base Tranche shall be applied to Losses associated with the Base Product Class, the CDS Tranche shall be applied to Losses associated with the CDS Product Class, and any Alternate Tranche shall be applied to Losses associated with the applicable Alternate Product Class, in each case when one or more Losses associated with such Tranche are finalized. Subject to paragraph 802.C, if the Tranche is not exhausted, any remaining funds shall be held in such Tranche and may later be applied to other Losses as set forth in paragraph 802.B.4.v.
- iii. The Commingled Tranche funds shall be applied to remaining Losses associated with any Product Class immediately as such Losses are finally determined by the Clearing House, in the order that the amounts of such Losses are finalized. Consequently, the application of Commingled Tranche funds to Losses associated with one Product Class may occur prior to the finalization of Losses associated with other Product Classes (i.e., prior to the completion of the processes set forth in paragraphs 802.B.4.i and 802.B.4.ii with respect to Losses associated with another Product Class.) If Losses associated with more than one Product Class are to be finalized pursuant to auction processes being conducted concurrently, then any remaining Commingled Tranche funds shall be divided and allocated to such auctions during the auction process, pro rata in proportion to the relative sizes of the mark-to-market losses for such Product Classes.
- iv. Any Losses remaining after the application of the processes set forth above shall be assessed against all clearing members (excluding any insolvent or defaulting clearing members) up to an amount that does not exceed a total of 275 per cent of the aggregate guaranty fund requirements across all clearing members (excluding any insolvent or defaulting clearing members) at the time of the default with respect to the Product Class with which the Loss is associated. Such assessments shall occur on a per-Product Class basis as Losses associated with each Product Class are finalized by the Clearing House. Consequently, the application of an assessment against clearing members with respect to Losses associated with one Product Class may occur prior to the finalization of Losses associated with other Product Classes. Assessed amounts shall be divided among clearing members pro rata in proportion to the size of the Clearing House's assessment authority with respect to each clearing member, without regard to the Product Classes cleared by such clearing member or the proportion to which such Product Classes contribute to such clearing member's maximum assessment exposure. (For example, a clearing member that clears only CDS products and that is subject to a maximum \$1 billion assessment because of that clearing activity will be subject to assessment of up to \$500 million for a Loss associated with the Base Product Class if 50% of the Clearing House's aggregate assessment powers are generated by guaranty fund requirements with respect to the Base Product Class). Any remaining unused assessment authority associated with Product Classes as to which Losses are fully satisfied shall be reserved and later may be applied to Losses associated with other Product Classes as set forth in paragraph 802.B.4.v below. For the avoidance of doubt, each clearing member (excluding any insolvent or defaulting clearing member) shall be subject to assessment up to a maximum amount of 275 per cent of such clearing member's aggregate guaranty fund requirements with respect to all Product Classes at the time of the default. If after satisfaction of any assessments up to foregoing maximum, a non-defaulting clearing member withdraws as set forth in 802.B.5, the clearing member shall not be subject to any further assessment in respect of Losses attributable to the default.
- v. Reserved (a) collateral of the defaulting clearing member, (b) surplus funds, (c) Base Tranche funds, CDS Tranche funds or Alternate Tranche funds, and (d) assessment powers shall be

applied to remaining Losses as they are finalized with respect to each Product Class and in such order, provided that if at the time of any such application, Losses associated with another Product Class remain to be finalized, the Clearing House shall continue to reserve a portion of such remaining funds or assessment powers, pro rata in proportion to the size of the Tranches originally supporting such Product Classes, until such remaining Losses are finalized. When all Losses have been finalized by the Clearing House, any remaining reserved funds and assessment powers of any kind may be applied to satisfy such Losses, pro rata relative to the size of the remaining losses for the Product Classes.

5. Fedwire and Satisfaction of Assessment

All amounts assessed by the Clearing House against a clearing member pursuant to this Rule, during the hours in which the Federal Reserve's wire transfer system (Fedwire) is in operation, shall be paid to the Exchange by such clearing member prior to the close of Fedwire on such day; provided, however, that all amounts assessed within one (1) hour prior to the close of Fedwire shall be paid to the Exchange within one (1) hour after Fedwire next opens.

Any clearing member that does not satisfy an assessment, made pursuant to this paragraph 802.B.5 or paragraphs 802.B.1.v, 802.B.2.v, 802.B.3.v, 802.B.4.iv or 802.B.4.v above, shall be in default. Any Loss that occurs as a result of such default shall itself be assessed by the Clearing House to non-defaulting clearing members pursuant to the applicable paragraph.

If a clearing member (i) has made payment of all amounts assessed against it pursuant to this Rule 802.B in connection with any single default and any related default by any other clearing member with respect to its own assessment, (ii) has replenished any deficiency in its guaranty fund contribution in accordance with Rule 802.D, and (iii) within five (5) business days after making such payments, has satisfied the other conditions for withdrawal set forth in Rule 913.A, it may provide written notice of its application to withdraw from clearing membership pursuant to Rule 913. Upon receipt of such notice, provided that the foregoing conditions have been satisfied, the withdrawing clearing member shall not be subject to any residual assessment to cover Losses on an open unresolved default, nor any other assessment pursuant to this Rule in respect of defaults occurring on or after the date upon which notice is received. Further, the guaranty fund contribution that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearing House pursuant to Rule 802.B that arises with respect to defaults occurring on or after the date upon which notice is received, and the withdrawing clearing member's guaranty fund contribution shall be released in accordance with Rule 913.

After payment of an assessment pursuant to Rule 802.B, a clearing member shall charge other clearing members for whom it clears contracts or carries positions on its books to recover their proportional share of the assessment. Such other clearing members shall promptly pay the charge.

6. Details of Implementation

While adherence to the provisions of this Rule 802.B shall be mandatory, the detailed implementation of the process of finalizing Losses with respect to a default, including the liquidation, auction or sale of positions or assets of the defaulting clearing member, shall be conducted by the Clearing House in consultation with the Clearing House Risk Committee, with the approval of the Board, and/or such other committee as the Board may designate. With respect to a default occurring in the CDS Product Class, the finalization of Losses with respect to the defaulting clearing member's CDS positions shall be conducted in consultation with the CDS Default Management Committee.

802.C. Application of Funds to Avoid Clearing House Insolvency

Notwithstanding any requirements to reserve funds set forth in Rule 802.A or Rule 802.B, if at any point following a default, the Clearing House will be unable to timely fulfill its obligations following application of the funds described above in the priority described above, such that the Clearing House is in imminent danger of defaulting on its obligations or being declared insolvent, then the Clearing House shall be entitled to apply to such obligation any available funds reserved from the defaulting clearing member's collateral, surplus funds or any Tranche (other than the Commingled Tranche, which shall have been exhausted pursuant to paragraph 802.B.4.iii), in the foregoing order of priority, if necessary to avoid a default by the Clearing House or a declaration of its insolvency. Such use of reserved funds may only be made (i) if the Clearing House reasonably concludes that there is a reasonable expectation that (A) the use of such funds will satisfy the immediate obligation and avoid a default or insolvency and (B) that the remaining funds in the overall financial safeguards package (including assessment powers) will be sufficient to satisfy the finalized Losses with respect to all Product Classes, and (ii) the Clearing House reaches such conclusion in consultation with the Clearing House's primary regulator as to the specific facts, circumstances and estimates of Losses supporting such conclusion. In such case, the

Clearing House shall restore the funds so employed to the reserved collateral segments, surplus funds segments or Tranches from which they were drawn promptly following receipt by the Clearing House of assessment payments or any other amounts that become available to it in respect of obligations arising out of the defaulted clearing member's default.

802.D. Restoration of Funds Following Final Determination of Losses

If after the default of a clearing member is finally resolved, the Clearing House determines that collateral of the defaulting clearing member, surplus funds, Tranche funds other than the Commingled Tranche, or assessment powers were employed in a manner different from what would have occurred had all assets been secured and liquidated immediately and all Losses finalized simultaneously, then the Clearing House shall make appropriate (i) distributions to the non-defaulting firms whose guaranty funds were applied or who were assessed and/or (ii) rebalancing allocations among guaranty fund tranches.

802.E. Rights of Exchange for Recovery of Loss

Losses caused by the default of a clearing member, Participating Exchange or Partner Clearinghouse are amounts due to the Clearing House from such clearing member, exchange or clearing house and shall remain legal obligations thereof notwithstanding the Clearing House's recourse to the loss-mutualization provisions of this Rule 802, which amounts the Clearing House shall take commercially reasonable steps to recover (including claims submitted in bankruptcy court). If a Loss for which clearing members or their guaranty fund contributions have been assessed is subsequently recovered by the Exchange in whole or in part, the net amount of such recovery shall be credited to such clearing members (whether or not they are still clearing members at the time of recovery) in proportion to the amount of the assessment.

802.F. Guaranty Fund Contributions to be Restored

In the event it shall become necessary to apply all or part of the guaranty fund contributions to meet obligations to the Clearing House pursuant to this Rule 802, clearing members shall restore their contribution to the guaranty fund to previously required level prior to the close of business on the next banking day.

802.G. Default Management Across Account Classes

The procedures set forth in 802.A and 802.B shall be conducted separately by the Clearing House with respect to open positions and associated performance bond contributions for different account classes. Upon a default, the Clearing House may act immediately to attempt to transfer to alternate clearing members all customer positions and associated collateral with respect to any customer account class in which there is no default on payment obligations or shortfall in required collateral, and in such cases the Clearing House shall not apply segregated customer collateral to any payment obligations or Losses arising from a default in any proprietary account or a different customer account class. If a default occurs in a customer account, the Clearing House has the right to liquidate and apply toward the default all open positions and customer performance bond deposits in the associated customer account class. Accordingly, positions and performance bonds deposited by customers not causing the default are at risk if there is a default in the applicable customer account class of their clearing member. If the Clearing House liquidates positions and/or collateral in a customer account class, any collateral remaining after application to Losses in respect of such account class shall be reserved to such customer account class in order to satisfy the claims of non-defaulting customers in accordance with applicable law.

Upon liquidating the defaulting clearing member's proprietary account, any remaining collateral may be applied by the Clearing House to Losses remaining in the defaulting clearing member's customer account classes, provided that such collateral shall be divided among the Product Classes as described above. If the defaulting clearing member has more than one customer account class that has been declared to have defaulted, proceeds from the defaulting clearing member's proprietary account for each relevant Product Class shall be divided by the Clearing House pro rata among such customer account classes, based on their applicable performance bond requirements for the clearing cycle immediately prior to the default.

SETTLEMENT PRICE

Settlement prices shall be determined each business day for each product pursuant to one or more of the procedures set forth below. The settlement price shall be a price consistent with the minimum tick increment for the product; if the calculated settlement price is not a standard tick increment, the calculated settlement price will be rounded either to the nearest tick or to the tick closer to the previous day's settlement price. The procedure used to determine the settlement price of a product will depend on the product group, level of activity and liquidity during the defined closing time period, and the trading venue(s) used to derive the settlement.

1. **Midpoint of the Closing Range:** In products that use this procedure, the first trade and all subsequent trades, higher bids and lower offers that are quoted during the established closing time period will be included in the closing range. The midpoint of the high and low quotes in the closing range will be the settlement price. If no trade occurs during the defined closing period, the last quote of the day (trade, higher bid, lower offer) will be the settlement price. In the event there are no valid quotes during the day, the settlement price will be the prior day's settlement price.
2. **Volume-Weighted Average Price (VWAP) of the Closing Range:** In products that use this procedure, all outright trades that occur during the defined closing time period are utilized to calculate the VWAP for specified contract months and the VWAP will be the settlement price. If the open outcry venue is used to determine the settlement price, the VWAP may be estimated. The calculated or estimated VWAP of relevant spread trades that occur during the closing time period may be used to determine the settlement price of deferred or less actively traded contract months in products that use this procedure.
3. **Bid/Ask Midpoint at the Close:** In products that use this procedure, the midpoint of the bidask at the defined closing time will be the settlement price.
4. **Option Settlements:** Option settlements are derived from available market information including, but not limited to, outright trades, bids or offers during the close, relevant spread trades, bids or offers during the close, the settlement price of the underlying future and relevant relationships based on option pricing theory using option pricing models employed by the exchange.
5. For all contract months not determined by one of the methods set forth above, relevant spread relationships between contract months will be used to derive the settlement.
6. For all products that are settled with the delivery of, or by reference to, the same underlying instrument but which are offered in alternative contract sizes (mini or micro), a single settlement price will be applicable to all such contracts, with necessary adjustments made to round to the nearest tradable price increment eligible in all such contracts.
7. For contracts cleared through ClearPort Clearing that are not otherwise settled by one of the methods set forth above, staff shall determine settlement prices for such contracts based upon a consideration of relevant market data, including, but not limited to, trading activity in such OTC products, pricing data obtained from OTC market participants, the settlement prices of related products and any other pricing data from sources deemed reliable by Staff. With respect to CDS products, in addition to the foregoing, the Exchange may use a price quality auction in which bids and offers submitted by Members may be "crossed" to effect trades and to establish settlement prices for particular contracts.
8. Notwithstanding the above, if a settlement price in any product, as derived by the normal methodology used for that product, is inconsistent with trades, bids or

offers in other months/ strikes during the closing range, or other relevant market information, or if there is no relevant market activity, an Exchange official may establish a settlement price that best reflects the true market valuation at the time of the close.

9. For products cleared by the Clearing House on behalf of another entity, the settlement price shall be determined according to the rules of such entity.

10. Notwithstanding the above, in the case of inaccuracy or unavailability of a settlement price, or if a settlement price creates risk management concerns for the Clearing House, the Clearing House reserves the right to calculate settlement variation using an alternate price determined by the Clearing House.

816.

SECURITY GUARANTY FUND DEPOSIT

Each clearing member shall make a Guaranty Fund deposit with the Exchange as security for its obligations to the Clearing House. The minimum ~~security-guaranty fund~~ deposit of a clearing member, shall equal the greater of (a) an amount specified by the Clearing House Risk Committee or (b) the clearing member's proportionate share of the "Aggregate Guaranty Fund Security Deposit," which shall be an amount determined by the Clearing House Risk Committee.

Each clearing member's proportionate share of the Aggregate Security-Guaranty Fund Deposit shall consist of:

(i) a specified percentage of the Aggregate SecurityGuaranty Fund Deposit multiplied by the clearing member's proportionate share (including the total risk performance bond requirement in respect of positions in its cross-margin accounts and any applicable short option value) of the average aggregate risk performance bond requirement (including the risk performance bond requirement in respect of positions in all cross-margin accounts and any applicable short option value) for the preceding three months; plus

(ii) (A) a specified percentage of the Aggregate SecurityGuaranty Fund Deposit multiplied by the clearing member's proportionate share of the total number of contracts executed on the Exchange and any applicable exchange or market during the preceding three months; or

(B) for CDS products, a specified percentage of the Aggregate Guaranty Fund Deposit multiplied by the clearing member's proportionate share of the gross notional amount of open interest cleared by the Clearing House during the preceding three months; plus

(iii) a specified percentage of the Aggregate SecurityGuaranty Fund Deposit multiplied by the clearing member's proportionate share of foreign currency settlements for the preceding three months.

The percentages in (i), ~~and (ii)~~ through (iii) above shall be determined and modified by the Clearing House Risk Committee as appropriate. Some contracts may be weighted more heavily than others in order to reflect the greater risk associated with those contracts. The average aggregate risk performance bond requirement, the total number of contracts executed, the gross notional amount of open interest cleared and each clearing member's proportionate share of each will be calculated by the Clearing House, and a report setting forth such information and the clearing member's required ~~securityGuaranty Fund~~ deposit will be given to the clearing member each quarter, and the Clearing House may provide such reports on an interim basis at any time during the quarter or more frequently as Exchange the Clearing House staff shall determine. On a quarterly basis, if such report indicates that the clearing member's current securityGuaranty Fund deposit with the Clearing House Exchange is smaller than the amount required, the clearing member shall increase its amount within five business days. If such report indicates that the clearing member's current securityGuaranty Fund deposit with the Exchange is larger than the amount required, the clearing member may withdraw the excess amount. If, prior to the issuance of the quarterly report, the Clearing House determines that an increase in the Guaranty Fund deposit is necessary to protect

the financial integrity of the Clearing House, the clearing member, upon demand of the Clearing House, shall increase its Guaranty Fund deposit amount within five business days.

A clearing member's security Guaranty Fund deposit may be in a form as set forth in the Manual. Such security Guaranty Fund deposit forms and amounts shall be subject to the terms and conditions as approved by Exchange staff.

817.

LIQUIDITY FACILITY

Assets deposited by a clearing member in satisfaction of security deposit guaranty fund deposit and performance bond requirements may also be used to directly secure the Exchange's obligations to its lenders under any liquidity facility entered into by the Exchange for the purpose of providing liquidity to the Exchange. By delivering assets to the Exchange in satisfaction of security deposit guaranty fund deposit and performance bond requirements, each clearing member is hereby deemed: (i) to agree that its Assets may directly secure the Exchange's obligations to the Exchange's liquidity lenders and that its Assets may become subject to a lien in favor of the Exchange's liquidity lenders or otherwise guarantee the Exchange's obligations and; (ii) to authorize the Exchange, and appoint the Exchange (such appointment being coupled with an interest) as such clearing member's attorney-in-fact, to enter into agreements on its behalf in connection with its Assets serving as security for the Exchange's obligations to the Exchange's liquidity lenders; and (iii) to acknowledge that the obligations of the Exchange to its liquidity lenders may be greater, and extend for periods of time longer, than the obligations, if any, of such clearing member to the Exchange. The Exchange, as each clearing member's attorney-in-fact, will have authority to enter into agreements on behalf of each clearing member and in each clearing member's name for the purpose of causing the clearing member's Assets to directly secure the Exchange's obligations to the Exchange's liquidity lenders. Any agreement entered into by the Exchange on behalf of clearing members pursuant to this Rule 817 shall bind each clearing member and will contain provisions, including representations, warranties and covenants, required by lenders under any liquidity facility. If there is a default under any such liquidity facility, the Assets of the clearing members pledged to secure such liquidity facility may be foreclosed upon by the Exchange's liquidity lenders and applied against the obligations of the Exchange under the related liquidity facility. The clearing members shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of such liquidity lenders to receive the benefit of their contractual remedies in connection with any such foreclosure or that would controvert or assert the invalidity of any provision of these rules. Each clearing member agrees to sign any document or agreement requested by the Exchange to further document the power of attorney set forth and established by these rules.

818.

CLOSE-OUT NETTING¹

818.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.

818.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.

818.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~~ **guaranty** 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~~ **guaranty** 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~~ **guaranty fund 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.

827. SECURITIES LENDING PROGRAM

United States Treasury Bills, Treasury Notes, Treasury Bonds, Treasury Bond Principal Strips, Agency Securities, and other financial instruments approved by Exchange staff, (collectively, "Securities") that are deposited with the Clearing House by clearing members in satisfaction of ~~Security Deposit~~ **Guaranty Fund** requirements or as performance bond for their own (i.e., "house") trades may be loaned out by the Exchange pursuant to the Securities Lending Program. Clearing members depositing Securities with the Exchange in satisfaction of ~~security deposit~~ **guaranty fund** requirements or as performance bond for house trades that are loaned out pursuant to the Securities Lending Program are deemed to agree that the lending of Securities under arrangements having safeguards consistent with generally accepted market practices will constitute reasonable care of the Securities in the possession of the Exchange or its securities lending custodian.

913. WITHDRAWAL FROM CLEARING MEMBERSHIP

913.A. Voluntary Withdrawal

A clearing member may withdraw from clearing membership upon approval of Clearing House staff, and ratification by the Clearing House Risk Committee. Clearing House staff shall approve such withdrawal after the clearing member liquidates or transfers to an appropriate clearing member all of its open customer and proprietary positions. ~~base its decision on all relevant factors, including, but not limited to, whether the withdrawal is consistent with the best interests of the Exchange, the Clearing House, the membership and the public.~~ The withdrawal shall be effective on the date that the withdrawal is posted.

913.B. Release of ~~Security Deposit~~ **Guaranty Fund Deposit**, Membership and Class B Share Proceeds and Assignments

When a clearing member withdraws from clearing membership (whether voluntarily or involuntarily), its ~~security deposit~~, **guaranty fund deposit** the proceeds from the sale of its memberships and its Class A Shares assigned for clearing qualification or any other deposits required by the Clearing House, and any remaining assets available to the Exchange including, but not limited to, memberships and Class A Shares will be released when Exchange staff determines that the following has occurred: (1) all contracts and obligations with the Exchange have been settled and paid, (2) all sums owing to the Exchange have been paid, (3) all obligations to other members and customers arising out of claims directly related to futures transactions cleared on the Exchange have been paid or otherwise provided for, and (4) all obligations to other members and customers arising out of other arbitration claims filed pursuant to Chapter 6 have been paid or otherwise provided for and (5) the requisite liquidity providers for the Exchange have released the security interest in such clearing member's "Assets" contemplated by Rule 817 in accordance with the terms of the liquidity facility contemplated thereby; provided, however, that in the event that Exchange staff determines that all of the foregoing other than (4) have occurred, the Clearing House Risk Committee may in its discretion authorize the release of such property.

Generally, no such property shall be released prior to the 60th day following the effective date of

the clearing member's withdrawal from membership in the Clearing House. Notwithstanding the above, Exchange staff may grant an exemption to the above restriction for good cause shown. Further, for purposes of the paragraph above, all obligations of the withdrawing clearing member to the Exchange, of whatever nature or kind, shall be accelerated and become due and payable upon the effective date provided for in the Clearing House Risk Committee decision to approve the withdrawal.

930.B. Performance Bond Rates

1. Non-Security Futures and OTC Derivatives

930.C. Acceptable Performance Bond Deposits

1. Non-Security Futures and OTC Derivatives

CME ONLY RULE CHANGES

8B04. PARTNER CLEARINGHOUSES

1. The Clearing House may agree with a Partner Clearinghouse to open one or more omnibus accounts for such Partner Clearinghouse for the purpose of facilitating trade in Security Futures Products. The terms of such an arrangement shall be set forth in a separate written agreement, which shall provide, *inter alia*, that the Partner Clearinghouse shall be a Clearing Member in respect of the omnibus account(s) for purposes of the Rules, except to the extent otherwise provided in such agreement, and shall be primarily liable for the obligations of its clearing members in respect of trades cleared through the omnibus account(s).
2. Neither the Clearing House nor Partner Clearinghouse, in respect of SFP transactions, shall be required to (a) post risk margin with the other; (b) make payment or post any deposit to the other party's ~~security deposit~~ quaranty fund or clearing fund; or (c) make up or contribute to the restoration of any loss suffered by the other party as a result of a default to such other party by such other party's clearing members.
3. The Clearing House shall assume all obligations, as specified in the Rules, to Clearing Members clearing SFP transactions through the Clearing House. Similarly, Partner Clearinghouse(s) shall be bound by their respective rules and by-laws to parties clearing SFP transactions through the facilities of the Partner Clearinghouse. However, the Clearing House shall not assume any direct obligations to parties clearing SFP transactions through the facilities of its Partner Clearinghouse(s). Similarly, Partner Clearinghouse(s) shall not assume any direct obligations to parties clearing SFP transactions through the facilities of the Clearing House.

8F01. SCOPE OF CHAPTER

This chapter sets forth the rules governing clearing and settlement of all products, instruments, and contracts in Over-The-Counter Derivatives, including, but not limited to, swaps and forward rate agreements, that the Clearing House has designated as eligible for clearing. OTC Clearing Members are also subject to all applicable Rules in the CME, CBOT and/or NYMEX Rulebooks that apply to CME, CBOT, NYMEX or COMEX Clearing Members as applicable, unless an exemption from such rule has been granted by staff or the Clearing House Risk Committee. In the event there is a conflict between a rule in this Chapter 8-F and another rule in the Rulebooks, the Chapter 8-F Rule shall supersede the conflicting rule with respect to OTC Derivatives transactions.

8F02.

DEFINITIONS

OTC CLEARING MEMBER

An OTC Clearing Member is an entity that has been approved by CME to clear OTC Derivatives. An OTC Clearing Member ~~that~~ who is not also a CME, CBOT, NYMEX or COMEX Clearing Member may not clear CME, CBOT, NYMEX or COMEX transactions, as applicable, other than OTC Derivatives.

~~Subject to approval by CME Clearing or the Clearing House Risk Committee, CME, CBOT, NYMEX and COMEX Clearing Members may be afforded full rights and privileges to trade and clear OTC Derivatives that are listed for clearing by CME, CBOT, NYMEX or COMEX, as applicable. Such CME, CBOT, NYMEX and COMEX Clearing Members shall then be considered "OTC Clearing Members," as applicable, for purposes of the Rules. This chapter shall be applicable to entities that are approved as CME, CBOT, NYMEX and COMEX Clearing Members and "OTC Clearing Members" and CME, CBOT, NYMEX and COMEX Clearing Members approved to clear OTC Derivatives, shall be deemed to include CME, CBOT, NYMEX and COMEX Clearing Members in respect to transactions in OTC Derivatives.~~

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 are set forth below.

~~A CME, CBOT, NYMEX and COMEX Clearing ~~Members~~ clearing OTC Derivatives must satisfy the requirements set forth below. ~~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 and ~~however~~ an OTC Clearing Member must maintain minimum capital of:
 - i. ~~\$50 million if it clears only commodity (i.e., agricultural, metals and energy) and/or foreign exchange OTC Derivatives products;~~
 - ii. ~~\$300 million if it clears only the OTC Derivatives products listed above in section 2.i. and other OTC Derivatives products not specifically listed in this rule, excluding credit default swaps and rate swaps; and~~
 - iii. ~~\$500 million if it clears credit default swaps and/or rate swaps and any other OTC Derivatives products.~~

~~The Clearing House may establish separate capital requirements for other OTC Derivatives products approved by the Clearing House Risk Committee.~~

~~\$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.~~

3. ~~An OTC Clearing Member with adjusted net capital less than \$5 billion must report its capital levels to the Audit Department on a daily basis unless its parent company provides CME a parent guarantee up to such \$5 billion level for all obligations (i.e., customer and house) arising out of OTC CDS transactions.~~
34. ~~An OTC Clearing Member that is also a hedge fund must maintain assets under management of at least \$5 billion while it is clearing OTC Derivatives.~~

54. An OTC Clearing Member clearing credit default swaps and/or rate swaps that has adjusted net capital that is less than \$1 billion must deposit into a CME account an amount of excess margin that is equal to its guaranty fund deposit requirement.
64. 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.
7. An OTC Clearing Member that is not also a CME, CBOT, NYMEX or COMEX 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.
8. 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.
9. The books and records of an OTC Clearing Member regarding OTC Derivatives cleared by the Clearing House shall be made promptly available for inspection upon request by CME and such books and records shall be subject to reasonable standards of confidentiality.
10. 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.

8F05.

SUBSTITUTION

An OTC Derivative that is both executed and submitted to the Clearing House on the current business date at prevailing market prices, and in accordance with the rules governing such transaction shall be guaranteed by the Clearing House once accepted at the Clearing House. An OTC Derivative that is submitted to the Clearing House on a business date after its initial execution date, or an OTC Derivative that is executed outside of prevailing market prices, and in accordance with the rules governing such transaction, shall be guaranteed by the Clearing House at the time payment of initial settlement of mark to market, performance bond and any other applicable initial OTC cash flows for such OTC Derivative, in accordance with the procedures set forth in Rule 814, is confirmed by the appropriate settlement bank for both OTC Clearing Members. The Clearing House shall substitute itself as the counterparty to each party to the original transaction at the time of guarantee. The OTC Clearing Member shall be deemed the principal to the transaction when executed by that Clearing Member for its own proprietary account, as a guarantor agent to the transaction when executed by that Clearing Member for the account of a proprietary affiliate, or the agent when executed by the clearing member for the account of an authorized customer of that Clearing Member. After that substitution, there shall be two equal and offsetting over-the-counter transactions as follows: one between the buyer and the Clearing House, as seller; and an equal and offsetting transaction between the Clearing House and the seller.

8F06.

CLEARING MEMBER DEFAULT

If an OTC Clearing Member fails promptly to discharge any obligation to the Clearing House, it shall be in default and the Clearing House may take all actions permitted by these Rules in the event of a default. All of the assets and collateral of an OTC Clearing Member that are available to CME including, but not limited to, its ~~security deposit~~ guaranty fund deposit and performance bond shall be applied by the Clearing House to discharge the obligation. The Clearing House may engage in any commercially reasonable transaction to eliminate or reduce the risk created by the default and all obligations, costs and expenses incurred thereby shall be an obligation of the

defaulting OTC Clearing Member to the Clearing House.

8F07. SECURITY DEPOSIT GUARANTY FUND DEPOSIT

An OTC Clearing Members' security deposits **guaranty fund deposit** may be used to cover losses incurred by the Clearing House if a defaulting OTC Clearing Member's assets, including amounts available pursuant to any guarantee from an affiliated Clearing Member, available to the Clearing House are insufficient to cover such loss, regardless of the cause of default.

The detailed security deposit **guaranty fund deposit** rules applicable to Clearing Members are set forth in Rule 816.

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.

In the event of a failure by an OTC Clearing Member to promptly discharge any obligations to the Clearing House related to CDS products, the Clearing House shall work cooperatively with the Default Management Committee to manage the process of the liquidation or transfer of such defaulting OTC Clearing Member's CDS portfolio. OTC Clearing Members shall also work cooperatively with the Clearing House and the Default Management Committee on liquidating or transferring a defaulting Clearing Member's OTC portfolio.

DEFINITIONS

Default Management Committee

The Default Management Committee shall be a committee having the powers set forth in Rule 8F25

Rule 8F25 **DEFAULT MANAGEMENT COMMITTEE**

In the event of a default with respect to CDS products, there shall be a Default Management Committee which shall be comprised of the President of the Clearing House, the Chairman of the Clearing House Risk Committee and such clearing members as may be appointed by the Board. The purpose of this Committee shall be to advise the Clearing House with respect to issues arising from the potential or actual default of a clearing member holding CDS positions and to manage the process of the liquidation or transfer of such clearing member's CDS portfolio. Such advice may include advice on hedging and execution of a defaulting clearing member's portfolio and administration of the default auction process.