

Chapter 8-F

Over-the-Counter Derivative Clearing

8F01. SCOPE OF CHAPTER

This chapter sets forth the rules governing clearing and settlement of over-the-counter Derivative transactions, including, but not limited to, Swaps and forward rate agreements, that the Clearing House has designated as eligible for clearing.

8F02. DEFINITIONS

OTC CLEARING MEMBER

An entity that has been approved by CME to clear transactions in OTC Derivative products for its own account and on behalf of customers. OTC Clearing Members shall not be entitled to clear products other than OTC Derivatives.

CME Clearing Members shall be afforded full rights and privileges to trade and clear for their own accounts, and on behalf of their customers, transactions in OTC Derivative products as an extension of their clearing member privileges. These rules shall be applicable to CME Clearing Members and "OTC Clearing Member" shall be deemed to include CME Clearing Members in respect to transactions in OTC Derivative Products.

An OTC Clearing Member that is affiliated with a CME Clearing Member must have a cross guarantee with the CME Clearing Member for its activity involving OTC Derivative products unless an exemption is provided by Exchange staff.

OVER-THE-COUNTER ("OTC") DERIVATIVE

An agreement, contract or transaction in a commodity if the agreement, contract or transaction is not executed on a designated contract market, a derivatives execution transaction facility or an equivalently regulated foreign board of trade and the agreement, contract or transaction is exempted or excluded from certain provisions of the Commodity Exchange Act by Sections 2(c), (d), (e), (f), (g), (h) or 5d thereof. OTC Derivatives approved for clearing by the Clearing House may include, but are not limited to, swaps and forward rate agreements. OTC Derivatives shall not include FXMS Products.

8F03. CLASSIFICATION OF POSITIONS

All OTC Derivative transactions accepted for clearing by the Clearing House shall be deemed to be positions of the submitting OTC Clearing Member. Each position 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. Customers of OTC Clearing Members shall have no rights to positions, collateral or cash in the proprietary accounts of an OTC Clearing Member.

8F04. OTC CLEARING MEMBER OBLIGATIONS AND QUALIFICATIONS

OTC Clearing Members are subject to all relevant CME 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 to become an OTC Clearing Member are set forth below. The specific qualifications in this rule are not applicable to CME Clearing Members.

1. An OTC Clearing Member must be in "good standing" under each regulatory regime to which it is subject to 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 regulatory capital requirements applicable to it, however, an OTC Clearing Member must maintain a minimum of \$50 million in capital if it only clears agricultural OTC Derivatives and \$300 million in capital if it

clears financial (i.e., equity, interest rate, etc.) OTC Derivatives. Staff may provide an exemption to the minimum capital requirement for an OTC Clearing Member that is affiliated with a CME Clearing Member.

3. 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 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 payment of claims arising out of any OTC Derivative transaction cleared by the Clearing House.
5. An OTC Clearing Member 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 their regulator. All financial statements shall be in the English language.
6. The books and records of an OTC Clearing Member regarding OTC Derivative transaction cleared by the Clearing House and any CME activities in connection therewith shall be made promptly available for inspection upon request by CME for the purpose of complying with any reporting or other requirement under applicable law or regulation and subject to reasonable standards of confidentiality.

8F05. SUBSTITUTION

A transaction in an OTC Derivative product that is executed and submitted to the Clearing House in accordance with the rules governing such transaction shall be accepted by the Clearing House. The Clearing House shall substitute itself as the counterparty to each OTC Clearing Member party to the original transaction. The OTC Clearing Member shall be deemed the party to the transaction whether executed by that Clearing Member or by 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. Without limitation, all of the assets and collateral of an OTC Clearing Member that are available to CME including, but not limited to, its security deposit and performance bond shall be applied by the Clearing House to discharge the obligation. The Clearing House shall act reasonably under the circumstances to minimize losses of a defaulting OTC Clearing Member.

8F07. SECURITY DEPOSIT

CME Clearing Members' and OTC Clearing Members' security deposits may be used to cover losses incurred by the Clearing House if a defaulting Clearing Member's assets available to the Clearing House are insufficient to cover such loss, regardless of the cause of default.

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

8F08. LIEN ON COLLATERAL

Each OTC Clearing Member hereby grants to CME a first priority and unencumbered lien against any cash, securities or other collateral deposited with the Clearing House by the OTC Clearing Member. OTC Clearing Members shall execute any documents required by CME to create and enforce such lien.

8F09. CUSTOMER REGISTRATION

All OTC Derivative transactions including, but not limited to, give-ups or transfers, that are cleared at CME shall be identified with an account number which identifies the originator of

that transaction, specifying whether the transaction was executed as a proprietary transaction of the OTC Clearing Member or arises from a transaction by a customer. OTC Clearing Members shall register, on CME approved forms, all of the “ultimate” (or end) customer authorized to execute OTC Derivative transactions.

8F10. RISK MANAGEMENT

OTC Clearing Members will be subject to risk management and monitoring practices by CME relating to transactions submitted to the Clearing House. OTC Clearing Members shall promptly provide information to Clearing House staff respecting risk, settlement, liquidity, and operational issues. OTC Clearing Members shall permit on-site risk reviews in accordance with CME Rules and subject to reasonable standards of confidentiality. OTC Clearing Members will also be subject to on-going oversight by the Clearing House Risk Committee regarding their activities related to CME Clearing House. All such inquiries shall be conducted in a manner consistent with oversight of CME Clearing Members and in accordance with reasonable standards of confidentiality.

8F11. FINANCIAL REQUIREMENTS

- A. Subject to exceptions granted by CME staff regarding CME imposed financial requirements, OTC Clearing Members must comply with the following:
 - 1. Maintenance of minimum capital requirements;
 - 2. Notification requirements to the Audit Department when a clearing member:
 - (i) Fails to maintain minimum capital requirements;
 - (ii) Fails to maintain current books and records; or
 - (iii) Changes its fiscal year.
- B. CME staff may prescribe additional accounting, reporting, and other financial and/or operational requirements and OTC Clearing Members must comply with such requirements. All OTC Clearing Members must provide immediate notice to the Audit Department of a failure to comply with the additional accounting, reporting, financial, and/or operational requirements.
- C. CME staff may grant exceptions to the financial requirements of Rule 970. for good cause if it is determined that such exceptions will not jeopardize the financial integrity of CME.

8F12. SETTLEMENT

An OTC Clearing Member must possess the operational capabilities and infrastructure necessary to meet all of the delivery requirements applicable to the OTC Derivatives traded by such OTC Clearing Member.

8F13. INSOLVENCY

In the event of a bankruptcy or insolvency of an OTC Clearing Member, the default Rules and risk management procedures of CME shall apply, including, but not limited to, the provisions in Rule 975. In addition, if a bankruptcy or insolvency of an OTC Clearing Member or a CME Clearing Member involves OTC Derivative products, the Clearing House shall have the widest latitude allowed by applicable U.S. laws to net, close-out and/or liquidate all OTC Derivative products that have been cleared by or for the account of the insolvent OTC Clearing Member.

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 an OTC Derivative product, all OTC Clearing Members shall work cooperatively with their counterparties and CME to mitigate any losses that may occur as a result of such fail.