

Memorandum

FINANCIAL AND REGULATORY BULLETIN

TO: Chief Executive Officers #24-02
Chief Compliance Officers
Chief Financial Officers
Legal Counsel

DATE: October 15, 2024

SUBJECT: Rule 930.K. - Liquidation of Accounts

This Financial and Regulatory Bulletin serves as a reminder of a clearing member's responsibility to comply with CME Rule 930.K.1. and CBOT/NYMEX/COMEX Rule 930.K. (collectively "Rule 930.K.") with regard to maintaining full discretion to determine when and under what circumstances positions in any account shall be liquidated.

Rule 930.K. is a long-established rule clear in its application, rights, and responsibilities. It is critical from a risk management and customer protection perspective that a clearing member has and maintains the right, as it determines based on current circumstances, to take action including the liquidation of positions in an account, as required under Rule 930.K.

Rule 930.K.

930.K. Liquidation of Accounts

If an account holder fails to comply with a performance bond call within a reasonable time (the clearing member may deem one hour to be a reasonable time), the clearing member may close out the account holder's trades or sufficient contracts thereof to restore the account holder's account to required performance bond status. Clearing members shall maintain full discretion to determine when and under what circumstances positions in any account shall be liquidated.

Rule 930.K. Recent Disciplinary Actions

Recent disciplinary actions highlight that clearing members may need to review their account agreements/templates and communicate with internal staff responsible for the negotiation of account agreements to ensure current and future compliance with Rule 930.K. Disciplinary actions may be found at <https://www.cmegroup.com/notices.html>.¹

¹ As part of the "Harmonization of Clearing and Market Regulation Disciplinary Process" (refer to Financial and Regulatory Bulletin #24-01, dated September 19, 2024) when searching for disciplinary actions taken before October 3, 2024 filter by "Clearing" followed by "Clearing House Risk Committee" and for disciplinary

By way of example, regarding Rule 930.K., the Clearing House Risk Committee previously held that:

... the Clearing House Risk Committee (“CHRC”) found that [Clearing Firm] contractually agreed to a period of time during which the firm’s full discretion to determine when and under what circumstances positions could be liquidated was restricted. The CHRC thereby concluded that [Clearing Firm] violated Rule 930.K.

Rule 930.K. Recent Disciplinary Actions Applicability

For the avoidance of doubt, where a disciplinary committee has found one clearing member’s conduct to be a violation of exchange rules, the public posting of the disciplinary action provides notice to all clearing members and market participants that such conduct is a rule violation.

Clearing members must not enter into agreements where the contractual terms provide for a period of time² during which the firm’s full discretion to determine when and under what circumstances positions could be liquidated is restricted. Clearing members who suspect these non-compliant contractual terms might be in existing customer agreements should consider performing a review of their agreements. Any existing agreements discovered to be in violation of the rule should be remediated and brought into compliance.

Rule 930.K. Illustration

Rule 930.K. requires clearing members to maintain the right, but not the obligation, to liquidate an account based on facts and circumstances. For example, if a customer fails to deposit or maintain performance bond, under Rule 930.K. a clearing member must have at all times the right to take action, including liquidation of positions, to be in compliance with the Rule. For clarity, and to extend the example, contractual language providing a period of time² (commonly referred to as a cure or grace period) after a missed performance bond call before the clearing member could take action, including liquidation of positions, would be in violation of Rule 930.K.

Summary

Rule 930.K. requires clearing members to maintain full discretion to determine when and under what circumstances positions in any account shall be liquidated. This is essential for effective risk management to ensure the soundness of the clearing member itself and the protection of other customers.

If you have any questions, please contact the Financial and Regulatory Surveillance Department at 312-930-3230.

actions taken on October 3, 2024 and after filter by “Market Regulation” followed by “Business Conduct Committee”.

² Aside from reasonable, one-day administrative or operational exceptions. For instance, the failure by a customer to meet a performance bond call that is a result of an administrative or operational error where the funds are available to make such payment and such payment is made within one business day following the performance bond payment failure day.