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## Chapter 7 Delivery Facilities and Procedures

### GENERAL

#### 700. SCOPE OF CHAPTER

Deliveries and delivery facilities shall be governed by this chapter and, where applicable, the chapter which includes the contract specifications for the commodities being delivered and such other requirements as the Exchange may prescribe.

For purposes of these Rules, unless otherwise specified, times referred to herein shall refer to and indicate Chicago time.

#### 701. DECLARATIONS OF FORCE MAJEURE

If a determination is made by the Chief Executive Officer, Chairman, President, Chief Operating Officer, or Chief Regulatory Officer, or their delegate, that delivery or final settlement of any contract cannot be completed as a result of Force Majeure, he shall take such action as he deems necessary under the circumstances, and his decision shall be binding upon all parties to the contract. The Exchange shall notify the CFTC of the implementation, modification or termination of any action taken pursuant to this Rule as soon as possible after taking the action.

It shall be the duty of clearing members, members and regular facilities to notify the Exchange of any circumstances that may give rise to a declaration of Force Majeure.

Nothing in this Rule shall in any way limit the authority of the Board of Directors to act in a Force Majeure situation pursuant to Rule 230.k.

#### 702. CLEARING MEMBER DUTIES TO THE CLEARING HOUSE

Every clearing member carrying open long or short positions shall present to the Clearing House each business day an accurate inventory of such open positions. The inventory of open long and short positions shall be reported to the Clearing House in such manner and at such times as the Clearing House may prescribe.

A clearing member, carrying an account that is required to make or accept delivery, agrees to guarantee and assume complete responsibility for the performance of all delivery requirements set forth in the rules.

In the event a clearing member fails to perform its delivery obligations to the Clearing House, such failure may be deemed a default pursuant to Rule 802. In a delivery failure, the Clearing House shall ensure the financial performance to the clearing member whose actions or omissions did not cause or contribute to the delivery failure (the "Affected Clearing Member"). In this regard, the Clearing House powers will include, but will not be limited to, the right to sell or liquidate the commodity subject to delivery and to distribute the proceeds as appropriate. "Financial performance" means payment of the commercially reasonable costs of the Affected Clearing Member related to replacement of the failed delivery and includes any related fines, penalties and fees incurred by the Affected Clearing Member and does not include physical performance or legal fees.

An Affected Clearing Member seeking financial performance from the Clearing House shall provide prompt notice to the Clearing House of the delivery failure and a good faith estimate of any financial performance being sought no later than 1 hour after the delivery deadline for the respective product, which may be extended upon request by the Affected Clearing Member by the President of the Clearing House or the President's designee due to extenuating circumstances. As soon as reasonably practicable thereafter, the Affected Clearing Member seeking financial performance shall provide to the Clearing House a detailed statement, with supporting documentation, of all amounts sought.

### DELIVERY FACILITIES AND PROCEDURES FOR AGRICULTURAL COMMODITIES

#### 703. APPROVED LIVESTOCK YARDS AND SLAUGHTER PLANTS FOR LIVE CATTLE

##### 703.A. Conditions for Approval

Deliveries on Exchange contracts of live beef cattle can be made only at slaughter plants or public livestock yards designated and approved for delivery by the Exchange.

Livestock yards and slaughter plants (hereafter “facilities”) may be declared regular for delivery with the approval of the Exchange. Persons operating facilities who desire to have such facilities made regular for delivery under the Rules of the Exchange shall make application for initial Declaration of Regularity on a form prescribed by the Exchange prior to January 1 for a one-year term beginning February 1, and at any time during a current term for the balance of that term.

Applications for renewal of regularity shall be made prior to January 1 for the respective year beginning February 1, and shall be on the same form as prescribed by the Exchange.

The Exchange, in its sole discretion, may determine and publish maximum daily live delivery limits (maximum grading capacity) for futures contracts at approved livestock yards (see Interpretations & Special Notices Relating to Chapter 7 for the current limits). These limits are subject to change based on changes such as livestock yard infrastructure (e.g., scales, holding pens, etc.) and availability of USDA grading personnel.

Regular facilities that desire to increase their regular daily limits during a current term shall make application for the desired amount of total regular daily limit on the same form as prescribed by the Exchange.

Initial regularity and increases in regularity for delivery against a listed futures contract shall be effective either thirty days after the Exchange posts a notice that a bona fide application has been received or the day after the application is approved by the Exchange, whichever is later.

Regular facilities that wish to have their regular daily limit decreased shall file with the Exchange a written request for such decrease and such decrease shall become effective once a notice has been posted by the Exchange.

The Exchange may establish such requirements and conditions for approval of regularity as it deems necessary. The application for regularity prescribed by the Exchange shall set forth conditions of regularity as well as other agreements with which the operator of the regular facility shall comply. In addition to any conditions and agreements contained in such application or in the relevant product chapter, the following shall constitute conditions for regularity and requirements with which the operator of a regular facility shall comply:

- (1) The facility making application shall be subject to inspection by the Exchange, the United States Department of Agriculture, or other government agency, as applicable.
- (2) A public livestock yard shall be a stockyard within the definition of the Packers and Stockyards Act, 1921 as amended, and shall have received notice to that effect from the Secretary of Agriculture.
- (3) The slaughter plant shall slaughter primarily fed cattle in the normal course of business, have a fed cattle slaughter capacity of at least 500 head per day, and have proper facilities for weighing and grading.
- (4) The facility must be registered and bonded with the Grain Inspection, Packers & Stockyards Administration (“GIPSA”) of the U.S. Department of Agriculture.
- (5) The facility shall be provided with modern improvements and appliances for the convenient and expeditious receiving, handling and shipping of product.
- (6) The operator of the facility shall promptly notify the Registrar of any damage to the facility that prevents the facility from performing its delivery obligations under Exchange Rules.
- (7) The operator of the facility shall permit the Exchange, at any time, to examine the books and records of the facility in connection with deliveries against the contract.
- (8) The operator of the facility shall be required to keep such records, make such reports and be subject to inspection and regulation by the Secretary of Agriculture, as provided in said Packers and Stockyards Act.
- (9) The operator of the facility shall make such reports, keep such records and permit such facility visitation as the Exchange, the Commodity Futures Trading Commission or any other applicable government agency may require.
- (10) The facility must have scale(s) installed, maintained and operated in accordance with GIPSA

requirements.

- (11) The operator of the facility shall not engage in unethical or inequitable practices, and shall comply with all applicable governmental laws, federal or state statutes, rules or regulations.
- (12) The facility shall immediately notify the Exchange of any changes in ownership or management of the facility.
- (13) The facility has secure holding pens with access to feed and water.
- (14) The facility must have the ability to segregate into secure holding areas cattle without access to feed or water.
- (15) The operator of the facility must provide the Exchange, on an annual basis, with its black-out dates, routine shutdown dates and must immediately notify the Exchange with any changes to those dates or any other unscheduled blackout or shutdown dates or events that will prevent the facility from performing its delivery obligations under Exchange Rules.
- (16) Persons operating regular facilities shall be subject to the Rules of the Exchange, the disciplinary procedures set forth in Chapter 4, and the arbitration procedures set forth in Chapter 6, and shall abide by and comply with the terms of any disciplinary decision imposed or any arbitration award issued against it pursuant to the Rules of the Exchange.
- (17) Persons operating regular facilities shall consent to the disciplinary jurisdiction of the Exchange for five years after such regularity lapses, for conduct which occurred while the facility was regular.

The Exchange, in its sole discretion, may determine not to approve facilities for regularity, or for increases in regular daily limits of existing regular facilities, regardless of whether such facilities meet the preceding requirements and conditions. Some factors that the Exchange may, but is not required to, consider in exercising its discretion include, among others, whether deliveries at such facilities, if tendered in satisfaction of futures contracts, might be expected to adversely affect the price discovery function of futures contracts or impair the efficacy of futures trading in the relevant market, or whether the currently approved regular daily limits provide for an adequate deliverable supply.

#### **703.B. Delivery Location**

Livestock yards must be located in any of the following territories:

- (1) Colorado;
- (2) Iowa, Minnesota, South Dakota;
- (3) Kansas;
- (4) Nebraska;
- (5) Texas, Oklahoma, New Mexico.

Slaughter plants must be located within a 225-road mile radius of one or more approved livestock yards.

### **704. REVOCATION, EXPIRATION OR WITHDRAWAL OF REGULARITY**

The Business Conduct Committee may revoke a declaration of regularity whenever a regular facility fails to comply with the conditions specified in this Chapter, any other conditions to which it has agreed in its application for regularity, or any other Rules of the Exchange.

Unless a shorter notification period is otherwise authorized by the Exchange, a facility shall give six (6) months prior written notice to the Exchange prior to withdrawing from regularity.

If the designation of a facility as regular is withdrawn or revoked, a notice shall be posted announcing such withdrawal or revocation and the period of time, if any, during which deliveries can be made through such facility in satisfaction of futures contracts under the Rules of the Exchange.

### **705. [RESERVED]**

### **706. APPLICATION FOR GRADING**

Application for live beef cattle gradings to be used for delivery on Exchange transactions must be filed by clearing members with the Clearing House. Requests for gradings will be forwarded to the appropriate government office in the order in which applications are received.

### **707.-709. [RESERVED]**

**710. LIABILITY FOR NEGLIGENCE OF GRADERS**

The Exchange shall not be liable for any error or negligence of any grader. In all delivery matters, the determination of the USDA grader, for live-graded deliveries, or the USDA Meat Grader, for carcass-graded deliveries, shall be final and binding on all parties.

**711. FINALITY OF USDA OR OTHER REQUIRED GRADING CERTIFICATE**

The Exchange assumes no responsibility and disclaims all liability on account of the grade, quantity or specifications of any commodity delivered on the basis of a USDA or other required grading certificate.

**712. [RESERVED]****713. DELIVERY PROCEDURES****713.A. Notice of Intent to Deliver**

Where delivery requires a Notice of Intent to Deliver, the buyer and seller shall comply with the requirements of the relevant Rules and such requirements as are prescribed by the Exchange and the Clearing House.

**713.B. Delivery Notice**

Upon determining the buyers obligated to accept deliveries tendered by issuers of delivery notices, the Clearing House shall promptly furnish to each issuer the names of the buyers obligated to accept delivery for each commodity for which a notice was tendered and shall also inform the issuer of the number of contracts for which each buyer is obligated.

**713.C. Possession of Product and Relevant Documents**

The seller shall by such time as is prescribed in the relevant contract specification chapter on the day of tender have possession of the product and all relevant documents.

**713.D. Notice to Buyers**

The Clearing House promptly shall pass the Delivery Notices in the order in which they are received to the clearing members obligated by the oldest open long contracts to take delivery of the same amounts of the same commodities for the same delivery month. When a member of the Clearing House who has open purchases is suspended from the Clearing House for default or insolvency, he shall be deemed out of line for delivery and tender shall be made to the clearing member obligated upon the next oldest long contract. Also, if tender is made to a clearing member who is thereafter suspended for default or insolvency before delivery is accepted, then, subject to the provisions of Rule 718, the Delivery Notice shall be withdrawn and another immediately served upon the clearing member obligated upon the next oldest long contract.

**713.E. Payment**

Unless otherwise specifically provided in the relevant contract specification chapter, a buyer receiving a Delivery Notice from the Clearing House shall make payment in same day funds, for the net invoicing price. The buyer shall then be entitled to all required documents in proper form and with such endorsements as may be necessary to convey title and possession and as are necessary to expedite shipment. The buyer shall also be entitled to all other documents as are otherwise required by the provisions of the relevant contract specification chapter.

**714. FAILURE TO DELIVER**

In the event a clearing member fails to fulfill its specific delivery obligations pursuant to Exchange rules, the sole obligation of the Clearing House is to pay reasonable damages proximately caused by such delivery obligation failure, in an amount which shall not exceed the difference between the delivery price of the specific commodity and the reasonable market price of such commodity at the time delivery is required according to the rules of the Exchange. The Clearing House shall not be obligated to: (1) make or accept delivery of the actual commodity; or (2) pay any damages relating to the accuracy, genuineness, completeness, or acceptableness of certificates, instruments, warehouse receipts, shipping certificates, or other similar documents; or (3) pay any damages relating to the failure or insolvency of banks, depositories, warehouses, shipping stations, or similar organizations or entities that may be involved with a delivery.

Notwithstanding any provision of the rules, the Clearing House has no obligation or liability to any clearing member or any other person relating to a failure to fulfill a delivery obligation unless it is notified by the clearing member that did perform, or was in a position to perform its delivery obligations, that a



failure occurred, as soon as possible, but in no event later than 1 hour after the delivery deadline for the respective product, which may be extended by the President of the Clearing House or the President's designee pursuant to the provisions of Rule 702.

If a clearing member does not fulfill its delivery obligations to another clearing member, it shall be responsible to the Clearing House for any damages incurred by the Clearing House as a result of such delivery obligation failure.

A failure by a clearing member carrying a short futures position to tender a Delivery Notice on or before the time specified by the Clearing House on the last day on which such notice is permitted shall be deemed a violation of this rule, except that the President of the Clearing House may, for good cause, extend the time to present such notice.

Unexcused failure to make delivery shall be deemed an act detrimental to the interest or welfare of the Exchange. In addition to any penalties imposed as provided in Chapter 4, the Clearing House Risk Committee shall determine and assess the damages incurred by the buyer.

#### **715. FAILURE TO ACCEPT DELIVERY OR REMIT FULL PAYMENT**

Where a buyer to whom a delivery has been assigned by the Clearing House fails to take such delivery and make payment when payment is due, the seller tendering such delivery shall immediately notify the Clearing House. If a clearing member obligated to receive delivery fails to make full payment to the seller, the Clearing House shall debit the account of said clearing member an amount sufficient to complete the delivery.

Failure to accept delivery or to remit full payment shall be deemed an act detrimental to the interest or welfare of the Exchange.

#### **716. DUTIES OF CLEARING MEMBERS**

Prior to the last day of trading in a physically delivered contract, each clearing member shall be responsible for assessing the account owner's ability to make or take delivery for each account on its books with open positions in the expiring contract. Absent satisfactory information from the account owner, the clearing member is responsible for ensuring that the open positions are liquidated in an orderly manner prior to the expiration of trading.

#### **717. [RESERVED]**

#### **718. CUSTOMER SUBSTITUTION IN THE EVENT OF CLEARING MEMBER BANKRUPTCY**

In the event that an "order for relief" as defined at CFTC Reg. 190.01(ee) has been entered in respect to a clearing member whose customer holds a futures contract or options contract that may only be liquidated by physical delivery and, as to such contract:

- (i) trading has ceased on the date of the entry of the "order for relief;"
- (ii) notice of delivery has been tendered on or before the date of the entry of the "order for relief;" or
- (iii) trading ceases before the trustee can liquidate the contract;

then, notwithstanding Rule 713.D., the Clearing House shall allow the customer (if his identity can be readily ascertained and verified) to be directly substituted for the debtor clearing member to the extent necessary to complete delivery. None of the requirements for delivery, including notices, instructions, payment, etc., shall be waived hereby. Moreover, substitution shall in no way relieve the debtor clearing member of its obligations to the Clearing House and the opposite clearing member in regard to any claims arising out of that delivery.

#### **719. INITIAL REGULARITY FOR DELIVERY AGAINST A NEW FUTURES CONTRACT**

Initial regularity for delivery against a new futures contract concurrent with the listing of such new futures contract shall be effective either fifteen days after the Exchange posts a notice that a bona fide application has been received or the day after the application is approved by the Exchange, whichever is later.

#### **720. - 729. [RESERVED]**

### **CLS CURRENCY DELIVERIES**

#### **730. DELIVERY THROUGH CLS BANK**



Consistent with procedures prescribed by the CME Clearing House, CME deliverable currency contracts are required to be physically delivered through the CLS (Continuous Linked Settlement) Bank System where both the trading unit currency and the price increment (minimum fluctuation) currency are supported by CLS delivery procedures. Notwithstanding the foregoing, a clearing firm shall not be required to make physical delivery through the CLS Bank System (i) for any currency contract where the delivery exposure of the clearing firm is reasonably expected not to exceed \$25 million for any one currency contract or (ii) for any currency contract delivery obligations below \$50 million, measured across all the clearing member's CLS-eligible currency contracts in the aggregate, where more than one currency is required to be delivered. Clearing firms delivering CME currency contracts must use an approved CLS agent bank for deliveries through CLS Bank, which may be any approved CLS agent bank. If practicable, in those situations where clearing firms delivering CME currency contracts use the same CLS Agent Bank for delivery, then physical delivery may occur by book entry at the same CLS Agent Bank and not be settled through the CLS Bank.

When buyers and sellers elect to do currency deliveries through the CLS System, they agree to abide by the deadlines and compensation conventions established by the CLS agent bank it uses and the CLS Bank. The CME Clearing House's obligation to the delivery transaction ends when payment is made through the CLS System. The CME Clearing House's sole obligation with respect to the delivery transaction shall be its obligation to ensure financial performance pursuant to Rule 702.

### **731. FOREIGN CURRENCY BUYER'S DUTIES FOR CLS DELIVERIES**

A clearing member that intends to accept delivery of a foreign currency through the CLS System to liquidate a net long position in that foreign currency shall, no later than 11:00 a.m. Chicago time on the last day of trading, present to the Clearing House a Buyer's CLS Delivery Commitment, which identifies the CLS agent bank used by the buyer and the number of contracts and the component delivery values. Also, the clearing member/customer shall arrange with its CLS agent bank to input the relevant instructions into the CLS System no later than 1:00 p.m. Chicago time on the business day preceding the delivery day.

A match of delivery information must occur in order for a delivery transaction to be finalized. In the event that clearing member/customer instructions are not entered into the CLS System by 1:00 p.m. Chicago time on the business day preceding the delivery day, then the unmatched transaction may not be completed and paid on the delivery date through the CLS System. In such event, delivery instructions may be resubmitted to the CLS agent bank for delivery on the subsequent business day. Also in such event, the Clearing House may assess fines for the delayed delivery. Further, if the delivery instructions remain unmatched by 1:00 p.m. Chicago time on the business day preceding the delivery day, the Clearing House may require the buyer of the foreign currency to post an Order to Pay to the appropriate Agent Bank by no later than the close of business that day, in addition to complying with other procedures as outlined in the Clearing House Manual.

If the Buyer's CLS Delivery Commitment is received later than 11:00 a.m. Chicago time on the last day of trading, but not later than 8:00 a.m. Chicago time on the following day, the buyer's clearing member shall be assessed a fine on a per contract basis, the amount to be determined by Exchange staff. Any deliveries memoranda or instructions received subsequent to 8:00 a.m. Chicago time on the day following the last day of trading shall be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B. The buyer shall have made all provisions necessary to receive delivery within the country of issuance.

### **732. FOREIGN CURRENCY SELLER'S DUTIES FOR CLS DELIVERIES**

A clearing member representing a customer delivering foreign currency through the CLS System to liquidate a net short position in that foreign currency shall, no later than 11:00 a.m. Chicago time on the last day of trading, present to the Clearing House a Seller's CLS Delivery Commitment, which identifies the CLS agent bank used by the seller and the number of contracts and the component delivery values. Also, the clearing member/customer shall arrange with its CLS agent bank to input the relevant instructions into the CLS System no later than 1:00 p.m. Chicago time on the business day preceding the delivery day.

A match of delivery information must occur in order for a delivery transaction to be finalized. In the event that clearing member/customer instructions are not entered into the CLS System by 1:00 p.m. Chicago time on the business day preceding the delivery day, then the unmatched transaction may not be completed and paid on the delivery date through the CLS System. In such event, delivery instructions may be resubmitted to the CLS agent bank for delivery on the subsequent business day.

Also, in such event, the Clearing House may assess fines for the delayed delivery. Further, if the delivery instructions remain unmatched by 1:00 p.m. Chicago time on the business day preceding the delivery day, the Clearing House may require the seller of the foreign currency to comply with other procedures as outlined in the Clearing House Manual.

If the Seller's CLS Delivery Commitment is received later than 11:00 a.m. Chicago time on the last day of trading, but not later than 8:00 a.m. Chicago time on the following day, the seller's clearing member shall be assessed a fine on a per contract basis, the amount to be determined by Exchange staff. Any deliveries memoranda or instructions received subsequent to 8:00 a.m. Chicago time on the day following the last day of trading shall be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

### **733. DELIVERY DATE**

Delivery shall be completed in accordance with the specifications of the separate contracts.

### **734.-735. [RESERVED]**

### **736. REGISTERED BANKS AND OTHER FACILITIES**

Exchange staff shall establish such requirements and preconditions for registration as a facility for the delivery of currencies as it deems necessary.

### **NON-CLS (LEGACY) CURRENCY DELIVERIES**

### **737. FOREIGN CURRENCY BUYER'S DUTIES**

#### **737.A. Currency Contracts**

A clearing member representing a customer that intends to accept delivery of a foreign currency in liquidation of his net long position in that foreign currency shall, no later than 11:00 a.m. on the last day of trading, except for Turkish Lira/ U.S. Dollar present to the Clearing House a Buyer's Non-CLS Delivery Commitment. Turkish Lira/ U.S. Dollar commitments shall be submitted to the Clearing House within one hour following termination of trading on the last day of trading. In addition, the clearing member shall either deposit, or present a bank Order to Pay, an amount equal to the net U.S. dollar value of such customer's positions. Values for positions in contracts with minimum fluctuations denominated in U.S. dollars shall be the contract value based on the settlement price on the last day of trading. Values for positions in contracts with minimum fluctuations in foreign currency shall be the contract size. If the buyer elects to pay by deposit, the deposit shall be made by 1:00 p.m. on the first day preceding the delivery day that is a business day common to the Exchange, Chicago banks and New York City banks for all other currencies. Such deposit shall be in the form of a wire transfer of same-day funds to an account at a bank designated by the Clearing House. If the buyer elects to pay by bank Order to Pay, an Order to Pay from an Exchange-approved bank shall be presented to a bank designated by the Clearing House by 1:00 p.m. on the first day preceding the delivery day that is a business day common to the Exchange, Chicago banks and New York City banks for all other currencies. The Bank Order to Pay shall be in a form approved by the Clearing House and shall promise to pay same-day funds on the delivery day.

#### **737.B. Physical Delivery Currency Cross-Rate and Israeli Shekel Contracts**

A clearing member representing a customer that intends to accept delivery of a Physical Delivery Currency Cross-Rate or Israeli Shekel Contract in liquidation of his position shall, no later than 11:00 a.m. on the last day of trading, present to the Clearing House a Buyer's Non-CLS Delivery Commitment. In addition by 1:00 p.m. on the first day preceding the delivery day that is a business day common to the Exchange, Chicago banks and New York City banks, the clearing member shall either deposit, or present a Bank Order to Pay, an amount in the minimum-fluctuation currency equal to the contract value based on the settlement price on the last day of trading. Such deposit shall be in the form of same-day funds to an account at a bank designated by the Clearing House. The bank Order to Pay shall be in a form approved by the Clearing House, and shall promise to pay same-day funds on the delivery day.

#### **737.C. Physical Delivery Euro versus Polish Zloty, Hungarian Forint and Czech Koruna Cross-Rate Contracts**

A clearing member representing a customer that intends to accept delivery of Polish zloty, Hungarian forint or Czech koruna in liquidation of his net long position in that foreign currency shall, no later than 11:00 a.m. on the last day of trading, present to the Clearing House a Buyer's Non-CLS Delivery

Commitment. In addition, the clearing member shall either deposit, or present a bank Order to Pay, an amount equal to the net Euro value of such customer's positions. Values for positions in contracts with minimum fluctuations denominated in Euros shall be the contract value based on the settlement price on the last day of trading multiplied by the trading unit. If the buyer elects to pay by deposit, the deposit shall be made by 9:00 a.m. on the first business day preceding the delivery day that is a business day common to the Exchange, Chicago banks, New York City banks and banks for the Euro ("Target system banks"). Such deposit shall be in the form of a wire transfer of same-day funds to an account at a bank designated by the Clearing House. If the buyer elects to pay by bank Order to Pay, an Order to Pay from an Exchange-approved bank shall be presented to a bank designated by the Clearing House by 1:00 p.m. on the first business day preceding the delivery day that is a business day common to the Exchange, Chicago banks, New York City banks and banks for the Euro ("Target system banks"). The Bank Order to Pay shall be in a form approved by the Clearing House, and shall promise to pay same-day funds on the delivery day.

Subject to the preceding three paragraphs, if the Buyer's Non-CLS Delivery Commitment is received later than 11:00 a.m. on the last day of trading, but not later than 8:00 a.m. on the following day, the buyer's clearing member shall be assessed a fine on a per contract basis, the amount to be determined by Exchange staff. Any deliveries memoranda or instructions received subsequent to 8:00 a.m. on the day following the last day of trading shall be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B. The buyer shall have made all provisions necessary to receive delivery within the country of issuance.

**737.D. Reserved**

**737.E. Reserved**

**737.F. Restrictions**

From time to time, and frequently without warning, countries change the requirements and the restrictions on non-resident bank accounts. These take various forms including, but not limited to, non-interest-bearing deposit requirements, negative interest rates, prohibitions against investment in the country, ceilings on the amount of deposit and restrictions on the period of time such deposits may be maintained. It is the buyer's responsibility to be familiar with and in conformance with all regulations pertaining to the holding of non-resident bank accounts in the country in which he desired to accept delivery.

## **738. FOREIGN CURRENCY SELLER'S DUTIES**

**738.A. U.S. Dollar-Based Currency Contracts, Euro versus Polish Zloty, Hungarian Forint, Czech Koruna Cross-Rate Contracts**

The clearing member representing a customer delivering foreign currency in liquidation of his net short position shall, no later than 11:00 a.m. on the last day of trading, present to the Clearing House a Seller's Non-CLS Delivery Commitment except Turkish Lira/ U.S. Dollar. Turkish Lira/ U.S. Dollar commitments shall be submitted to the Clearing House within one hour following termination of trading on the last day of trading.

**738.B. Physical Delivery Currency Cross-Rate**

The clearing member representing a customer making delivery of a Physical Delivery Currency Cross-Rate Contract, except for cross-rate contracts referenced in Rule 738.A., in liquidation of his position shall, no later than 11:00 a.m. on the last day of trading, present to the Clearing House a Seller's Non-CLS Delivery Commitment. In addition, by 1:00 p.m. on the first day preceding the delivery day that is a business day common to the Exchange, Chicago banks and New York City banks, the clearing member shall either deposit, or present a Bank Order to Pay, an amount equal to the trading unit. Such deposit shall be in the form of same-day funds to an account at a bank designated by the Clearing House. The Bank Order to Pay shall be in a form approved by the Clearing House, and shall promise to pay same-day funds on the delivery day. The Seller shall have made all provisions necessary to receive delivery of the minimum-fluctuation currency within the country of issuance. The Seller's clearing member shall be responsible for delivering the foreign currency on the delivery date to a bank designated by the Clearing House. The Exchange reserves the right to eliminate the requirement for sellers to post a Bank Order to Pay in the event that a given country's payments systems, which previously required a prior Bank Order to Pay posting, implements same-day finality of payment.

Subject to the preceding two paragraphs, if the Seller's Non-CLS Delivery Commitment is received later than 11:00 a.m. on the last day of trading, but not later than 8:00 a.m. on the day following the last day of trading, the seller's clearing member shall be assessed a fine on a per-contract basis, the amount to

be determined by Exchange staff. Any deliveries memoranda or instructions received subsequent to 8:00 a.m. on the day following the last day of trading, shall be deemed a delivery obligation failure and acted upon in accordance with Rule 743.B.

**738.C. Reserved**

**738.D. Reserved**

**738.E. Restrictions**

From time to time, and frequently without warning, countries change the requirements and the restrictions on non-resident bank accounts. These take various forms including, but not limited to, non-interest-bearing deposit requirements, negative interest rates, prohibitions against investment in the country, ceilings on the amount of deposit and restrictions on the period of time such deposits may be maintained. It is the seller's responsibility to be familiar with and in conformance with all regulations pertaining to the holding of non-resident bank accounts in the country in which he desired to make delivery.

### **739. DELIVERY DATE**

Delivery shall be completed in accordance with the specifications of the separate contracts.

### **740. PAYMENTS**

The Clearing House shall designate a bank in each foreign country into which foreign currency shall be delivered. These banks shall notify the Clearing House when foreign currency funds have been received. In the case of Currency Contracts, the foreign currency delivery for each customer shall equal the net short value of positions in that foreign currency. Values for positions in contracts with minimum fluctuations denominated in U.S. dollars shall be the contract size. Values for positions in contracts with minimum fluctuations in foreign currency shall be the contract value based on the settlement price on the last day of trading. In the case of Currency Contracts, the Clearing House shall, promptly after receipt of notification that foreign currency funds have been received, transfer the U.S. dollar funds previously deposited by the foreign currency buyer's clearing member to the account of the foreign currency seller's clearing member.

### **741. COSTS OF DELIVERY**

The deliverer of a foreign currency shall bear the costs of transferring the foreign currency into a bank designated by the Clearing House. The receiver of a foreign currency shall bear the costs of transferring the foreign currency out of the bank designated by the Clearing House. Such costs may include, but are not limited to, wire transfer charges, negative interest charges and transaction fees.

### **742. DELIVERY NETTING**

#### **742.A. CLS Delivered Currency Futures Contracts**

Exchange currency futures contracts delivered through the CLS Bank shall be netted according to procedures specified by the Clearing House from time to time.

#### **742.B. Non-CLS Delivered Currency Futures Contracts**

To facilitate spread trading between currency products where positions held to termination create offsetting currency payment obligations, the Clearing House may net to the extent possible physical delivery payment obligations by clearing member customer by currency, in accordance with the procedures outlined in the Clearing House Manual of Operations. Clearing members desiring netting of obligations may only net payment obligations that arise from positions belonging to the same beneficial account owner, and shall be required to submit a Delivery Netting Request form, which identifies the final positions and net currency payments of a customer requesting delivery netting, to the Clearing House by 11:00 a.m. on the last day of trading. For U.S. Dollar/ Canadian Dollar or E-micro U.S. Dollar/Canadian Dollar Contracts only, such Delivery Netting Request form shall be submitted to the Clearing House by 10:00 a.m. on the last day of trading. For Turkish Lira / U.S. Dollar Contracts such Delivery Netting Request form shall be submitted to the Clearing House no later than one hour following the termination of trading on the last day of trading.

Clearing members may also net delivery obligations within a given currency following the last day of trading in such eligible currency product, except for U.S. Dollar/ Canadian Dollar, E-micro U.S. Dollar/ Canadian Dollar or Turkish Lira / U.S. Dollar Contracts. Clearing members may net delivery obligations across all accounts belonging to the same beneficial account owner.

Clearing members are prohibited from netting open positions across customer accounts while a currency contract remains eligible for trading on the Exchange.

Clearing members shall be required to submit a Delivery Netting Request, which identifies the final positions and net currency delivery obligations to the Clearing House by 11:00 a.m. (10:00 a.m. for U.S. Dollar/ Canadian Dollar or E-micro U.S. Dollar/ Canadian Dollar Contracts and no later than one hour following the termination of trading for the Turkish Lira / U.S. Dollar Contracts), on the last day of trading, in accordance with the procedures outlined in the Clearing House Manual of Operations.

## **743. DELIVERY INFRACTIONS**

### **743.A. Late or Inaccurate Delivery**

1. If a clearing member with a Delivery Commitment to pay funds pursuant to Rules 731, 732, 737 or 738 fails to deposit such funds in order to make timely payment on the date required in those rules, the Clearing House may impose a fine upon the clearing member pursuant to the schedule of fines maintained by the Clearing House or any other compensation due to the late or inaccurate delivery.

If by 9:30 a.m. Chicago time on the day following the date required in Rules 731, 732, 737 and 738, such deposit is not made, the failure shall be deemed a delivery obligation failure of the clearing member and the matter shall be acted upon pursuant to Section B of this Rule.

Funds deposited pursuant to Rules 731, 732, 737 and 738 earlier than the required date of deposit shall not earn interest for the early time period.

2. If the information contained in either the Buyer's CLS on Non-CLS Delivery Commitment or the Seller's CLS or Non-CLS Delivery Commitment is inaccurate so that delivery cannot be accomplished in a timely manner, fines or damages may be assessed as in Section B below.

### **743.B. Delivery Obligation Failure**

A clearing member with a CLS or Non-CLS Delivery Commitment who fails to perform all acts required by this chapter, or whose actions or inactions have been deemed a delivery obligation failure shall be liable for any loss sustained, which loss shall be computed, without duplication, as follows:

1. The President of the Clearing House or his designee shall determine the change, if any, from the final settlement price on the last day of trading to the spot rate on the first day on which the transaction could be consummated on the spot market at the earliest time it is determined that such a transaction could be completed.
2. The related charges suffered by the other party at any of its designated banks, the related charges suffered by the Clearing House and any financial performance paid by the Clearing House pursuant to Rule 702.
3. A sum not to exceed 1% of the U.S. dollar value of the contract. Such amount shall be set by the President of the Clearing House or his designee, acting in his sole discretion, and shall be binding upon both parties to the contract, except no such sum shall be assessed where a delivery obligation failure is occasioned by the circumstances delineated in Rule 701.

### **743.C. Final Settlement in Delivery Obligation Failure**

Upon notification to the Clearing House of a paired foreign currency delivery obligation failure in accordance with Rule 702, in order to better ensure settlement finality, automatically and without any further action the following shall occur simultaneously with respect to each such failure:

1. The defaulting clearing member and Affected Clearing member shall be released from their original paired currency delivery obligations to each other;
2. The Clearing House shall be deemed to have entered into a contract with the Affected Clearing Member on terms consistent with the failed contract the Affected Clearing Member had with the defaulting clearing member ("Temporary Contract");
3. The Clearing House and Affected Clearing Member shall be deemed to have entered into a contract with obligations that are opposite to those of the Temporary Contract ("Termination Swap"); and
4. The Clearing House's and Affected Clearing Member's obligations under the Temporary Contract and the Termination Swap will completely offset and net such that the parties shall have no obligation to deliver currencies to each other.

Notwithstanding the provisions above, a clearing member that fails to fully perform its paired foreign currency delivery obligation remains liable for losses and damages as provided in Rules 714 and 743.B.



**744.-759. [RESERVED]**

### **OTHER COMMODITIES**

#### **760. DELIVERY PROCEDURES IN OTHER COMMODITIES**

All other commodities which do not have delivery provisions specified in this chapter shall be governed by the requirements of the relevant contract specification chapter.

**761.-769. [RESERVED]**

### **ALTERNATIVE DELIVERY PROCEDURES**

#### **770. DELIVERY OBLIGATION TRANSFER PROCEDURES**

A clearing member that carries a futures position in a physically delivered contract that has expired as the result of any party's error, omission or outtrade discovered on or after the last day of trading may, with the consent of the account owner(s) or controller(s), transfer such position to an account with different beneficial ownership; provided, however, that the parties to an error or outtrade must exercise the utmost diligence to resolve the error or outtrade.

Notice of delivery obligation transfers must be made to the Clearing House. Such transfers require that the Clearing House receive acceptance from an account(s) with different beneficial ownership and confirmation of the agreed upon transfer by the initiating party. Such confirmation must be submitted in writing on the form specified by the Clearing House. All positions transferred pursuant to this Rule shall take place at the final settlement price of the contract; however this requirement does not prohibit cash adjustments between the parties to the transfer.

Clearing member firms representing accounts that have transferred a trade pursuant to this Rule must correctly report the change in open interest to the Clearing House pursuant to the schedule established by the Exchange.

In the event a delivery obligation transfer notification does not result in a trade transfer, delivery shall take place as required under Exchange rules.

Nothing in this Rule relieves a clearing member of its responsibilities with respect to open positions in an expiring contract month in a physically delivered contract as set forth in Rule 716.

#### **771. ALTERNATIVE NOTICE OF INTENTION TO DELIVER**

A seller and buyer matched by the Exchange may agree to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Chapter, and the applicable chapter which contains the contract specifications for the products being delivered, and such other requirements as the Exchange may prescribe.

In such instances, matched clearing members shall execute an Alternative Notice of Intention to Deliver ("ANID") in the form and manner prescribed by the Exchange and shall deliver a completed and executed copy of such notice to the Exchange. The delivery of an executed ANID to the Exchange shall release the clearing members and the Exchange from their respective obligations under the rules of this Chapter and any other Exchange rules and requirements regarding physical delivery.

In executing such notice, clearing members shall indemnify the Exchange against any liability, cost, or expense the Exchange may incur, for any reason, as a result of the execution, delivery or performance of such contract or such agreement, or any breach thereof or default thereunder. Upon receipt of an executed ANID, the Exchange will return to the clearing members all margin monies held for the account of each with respect to the contracts involved.

**772.-779. [RESERVED]**

### **SECURITY FUTURES PRODUCTS**

#### **780. SECURITY FUTURES PRODUCTS**

Deliveries of Security Futures Products effected on a Marketplace apart from the Chicago Mercantile Exchange and cleared by the Clearing House per the provisions of Chapter 8-B shall be governed as set forth herein.

**781. DELIVERY OF UNDERLYING SECURITIES**

At maturity of a physically-settled stock future, in addition to the final variation payment (if any), the Clearing Member that is, or that represents, the seller shall be obligated to deliver, and the Clearing Member that is, or that represents, the buyer shall be obligated to receive and pay for, a quantity of the underlying security equal to the unit of trading at the aggregate purchase price.

**782. DESIGNATION OF DELIVERY FACILITIES**

Clearing Members shall be required to designate a clearing member of the Options Clearing Corporation (OCC) who is also a member of the Depository Trust Clearing Corporation (DTCC) to facilitate deliveries of physically-settled stock futures. Such designations shall be made through the execution of such agreements and per such procedures as the Clearing House may designate from time to time. Settlement of the obligations to deliver and pay for such underlying securities shall be effected in accordance with the provisions of the OCC and DTCC. The parties to such delivery shall bear the costs associated with such delivery per the provisions of the OCC and DTCC.

**783. [RESERVED]****784. FAILURE TO PERFORM**

A failure by a clearing member with a delivery commitment to perform all acts required herein and all acts per the provisions of the OCC and DTCC shall be deemed a delivery obligation failure and may be deemed an act detrimental to the interest or welfare of the Exchange. The Board shall determine and assess losses sustained, taking into account the settlement price, interest earnings foregone, and such other factors as it deems appropriate. The Board may also assess such penalties as deemed appropriate in addition to damages. Further, such clearing member shall be subject to such penalties and remedies as may be prescribed by the provisions of the OCC and DTCC.

**INTERPRETATIONS & SPECIAL NOTICES RELATING TO CHAPTER 7****FACILITIES RELATED TO CME PRODUCTS**

[View table here \(XLS\)](#)