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## Chapter 8 Clearing House and Performance Bonds

### GENERAL

#### 800. CLEARING HOUSE

The Exchange shall maintain and operate a Clearing House in order to protect market participants and to maintain the integrity of the contracts traded on or processed through the Exchange. Membership in the Clearing House shall be a right and privilege granted by the Board of Directors which may, from time to time, establish such classes of membership in the Clearing House, together with the duties, rights and privileges thereof, as it deems necessary. Whenever these rules create a right in favor of the Clearing House, or impose a liability on the Clearing House, it shall be construed as the right or liability of the Exchange, and shall be enforced by or against the Exchange.

For purposes of these Chapter 8 rules and except as otherwise noted within a particular rule, all references to requirements, conditions or procedures of the Clearing House, shall be deemed to apply to Dubai Mercantile Exchange Limited ("DME") contracts. The Clearing House, in relation to providing clearing services to DME for transactions effected on or subject to the rules of the DME, will provide reports and such other information to the DME as may be required for the business operation and regulatory requirements applicable to the DME.

#### 801. MANAGEMENT

The Board has governance and oversight responsibility of the safety and efficiency of the Clearing House. With respect to the governance and oversight of the Clearing House, the responsibilities of the Board include approving the appointments of the President and Chief Risk Officer of the Clearing House. The Board also has created the Clearing House Oversight Committee, which also has governance and oversight responsibility relating to the Clearing House as set forth in its written Charter. The President of the Clearing House shall be responsible for the daily operation of the Clearing House and the implementation of the rules applicable to the Clearing House. The Chief Risk Officer shall be responsible for implementing the risk management framework and its procedures, policies and controls and for making appropriate recommendations to the Board, the Clearing House Oversight Committee or relevant risk committees, as applicable, regarding the Clearing House's risk management functions. The President and the Chief Risk Officer of the Clearing House may also delegate authority for certain aspects of their responsibilities to staff of the Clearing House. Clearing House staff shall adopt, establish, publish and amend from time to time a Clearing House Manual of Operations ("Manual"). This Manual shall contain, among other things, information and directions for preparing trade data, completing prescribed memoranda and meeting other Clearing House requirements. The Manual and amendments thereto shall constitute part of the rules of the Exchange.

#### 802. PROTECTION OF CLEARING HOUSE

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

The Clearing House shall establish a guaranty fund (the "Base Guaranty Fund") for products other than IRS Products and any positions commingled with IRS Contracts pursuant to Rule 8G831 (such products, the "Base Guaranty Fund Products" and each product, a "Base Guaranty Fund Product Class"). Each clearing member shall contribute to the Base Guaranty Fund in accordance with the requirements of Rule 816. A clearing member's Base 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 Base Guaranty Fund Product Class (as defined below) regardless of the Base Guaranty Fund Product Classes a clearing member clears. However, in order to accommodate differences in time frames and processes associated with the liquidation of certain Base Guaranty Fund Product Classes, Losses will be allocated among a set of Base Guaranty Fund tranches established to reflect the relative contributions of different product classes to the total Base Guaranty Fund. Notwithstanding this prioritization of the Clearing House's recourse, ultimately the entire Base Guaranty Fund will be available if necessary to satisfy all losses regardless of Base Guaranty Fund Product Class.

#### 1. Default by Clearing Member

If a clearing member of CME, CBOT, NYMEX, COMEX, or an OTC Clearing Member (i) fails promptly to discharge any obligation to the Clearing House or (ii) becomes subject to any bankruptcy, reorganization, arrangement, insolvency, moratorium, or liquidation proceedings, or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law, the Clearing House may declare such clearing member to 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

Upon the default of a Base Clearing Member, Base Collateral shall be applied by the Clearing House to discharge any loss to the Clearing House associated with such default (a "Loss"). A Loss shall include, but shall not be limited to, costs associated with the liquidation, transfer and managing of Base Contracts of the defaulted clearing member, hedging costs and other costs incurred by the Clearing House related to managing the risk surrounding the default of the clearing member. 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 Base Guaranty Fund contribution, performance bond relating to Base Guaranty Fund Products and other assets of a defaulted 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.

A Loss arising in the defaulted Base Clearing Member's proprietary account class shall be satisfied from the Base Collateral. A Loss resulting from any cleared swaps customer's cleared swap position in a Base Product shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held for the respective cleared swaps customer consistent with Part 22 of the CFTC's regulations (collectively, "Base Swap Customer Collateral"). A Loss resulting from any customer's futures position or swap position in a Base Product that is commingled with futures positions shall be satisfied by application of performance bond, excess performance bond, other collateral and settlement variation gains held in the Base Clearing Member's customer account in a manner consistent with section 4d(a) of the Commodity Exchange Act (collectively, "Base Futures Customer Collateral").

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 Base 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 Base Guaranty Fund into Tranches

The Base Guaranty Fund shall be composed of the required Base 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 Base Guaranty Fund into tranches as follows:

- i. Base Tranche. Base Guaranty Fund Product Classes that are not associated with an Alternate Tranche as described below shall comprise the Base Product Class. The first 80% of Base Guaranty Fund amounts contributed with respect to the Base Product Class shall be the “Base Tranche”.
- ii. [Reserved]
- iii. Alternate Product Class Tranches. Any other product class approved by the Clearing House Risk Committee to support a product-specific Base Guaranty Fund tranche hereunder shall comprise an Alternate Product Class. The first 80% of Base 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 Base 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 Base Guaranty Fund Product Class will be the Tranche first applied to reimburse the Clearing House for Losses attributable to that Base Guaranty Fund 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 Alternate Tranche will first be applied to Losses attributed to an Alternate Product Class). The Base 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 Base Guaranty Fund 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 Base Guaranty Fund 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 Base Guaranty Fund Product Classes in which the clearing member has open positions as follows: (a) the defaulting clearing member’s Base Guaranty Fund requirement associated with each Base Guaranty Fund Product Class shall be attributed to such Class, (b) the defaulting clearing member’s required performance bond amounts for each Base Guaranty Fund 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 Base Guaranty Fund Product Classes in proportion to the defaulting clearing member’s Base 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 Base Guaranty Funds, any excess performance bond from the prior clearing cycle for Base Guaranty Fund Product Classes, 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 Base Guaranty Fund 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 relating to Base Guaranty Fund Product Classes, 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 for Base Guaranty Fund Product Classes, any remaining unassigned funds shall be divided among the Base Guaranty Fund Product Classes, pro rata in proportion to the size of the performance bond requirements for each Base Guaranty Fund 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 Base Guaranty Fund Product Classes 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-Base Guaranty Fund Product Class basis, and within each Base Guaranty Fund 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-Base Guaranty Fund Product Class basis only from the assets allocated to the relevant Base Guaranty Fund Product Class pursuant to 802.A.5.i. If the Clearing House is unable to satisfy a settlement variation payment obligation attributable to any Base Guaranty Fund 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-Base Guaranty Fund Product Class basis, only from the assets allocated to the relevant Base Guaranty Fund Product Class pursuant to 802.A.5.i. Any settlement variation gain to the defaulting clearing member in any Base Guaranty Fund 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 (including amounts from IRS Products made available to Base Guaranty Fund Product Classes) shall be divided among the Base Guaranty Fund Product Classes pro rata in proportion to the size of the performance bond requirements for each Base Guaranty Fund 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 Base Guaranty Fund Product Class, it shall apply any remaining collateral of the defaulting clearing member with respect to such Base Guaranty Fund 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 Base Guaranty Fund 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 Base Guaranty Fund 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 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 Base Guaranty Fund Product Class producing the Loss. Losses that cannot readily be attributed to a specific Base Guaranty Fund Product Class shall be apportioned by the Clearing House across all Base Guaranty Fund 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. The corporate contribution of CME, which shall equal \$100,000,000 (the "CME Contribution").
- ii. The Base Tranche.
- iii. The Commingled Tranche.
- iv. The Alternate Tranche.
- 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) a total of 275 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to all defaulted clearing members during a Base Cooling Off Period. 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.

2. [Reserved]

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

- i. The CME Contribution.
- ii. The Alternate Tranche.
- iii. The Commingled Tranche.
- iv. The Base 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) a total of 275 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 per cent of such clearing member's Base Guaranty Fund requirements attributable to all Base Guaranty Fund Product Classes at the time of the default with respect to Losses attributed to all defaulted clearing members during a Base Cooling Off Period. 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.

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 Base Guaranty Fund 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. The CME Contribution shall be applied. The CME Contribution 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 the CME Contribution shall be applied first to Losses associated with the applicable Base Guaranty Fund 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 of the CME Contribution remains after such initial application, such 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 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 Base Guaranty Fund 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 Base Guaranty Fund Product Class may occur prior to the finalization of Losses associated with other Base Guaranty Fund 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 Base Guaranty Fund Product Class). If Losses associated with more than one Base Guaranty Fund 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 Base Guaranty Fund 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) 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 Base Guaranty Fund Product Class with which the Loss is associated with respect to Losses attributed to a single defaulted clearing member and (B) a total of 550 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 Base Guaranty Fund Product Class with which the Loss is associated and all defaulted clearing members during a Base Cooling Off Period. Such assessments shall occur on a per- Base Guaranty Fund Product Class basis as Losses associated with each Base Guaranty Fund Product Class are finalized by the Clearing House. Consequently, the application of an assessment against clearing members with respect to Losses associated with one Base Guaranty Fund Product Class may occur prior to the finalization of Losses associated with other Base Guaranty Fund 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 Base Guaranty Fund Product Classes cleared by such clearing member or the proportion to which such Base Guaranty Fund Product Classes contribute to such clearing member's maximum assessment exposure. (For example, a clearing member that clears only Alternate Tranche 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 Base Guaranty Fund requirements with respect to the Base Product Class.) Any remaining unused assessment authority associated with Base Guaranty Fund 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.



v. (a) Collateral of the defaulting clearing member, (b) the CME Contribution, (c) Base Tranche funds or Alternate Tranche funds, and (d) assessment powers shall be applied to remaining Losses as they are finalized with respect to each Base Guaranty Fund Product Class and in such order, provided that if at the time of any such application, Losses associated with another Base Guaranty Fund 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 Base Guaranty Fund 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 Base Guaranty Fund 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 Base 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 for defaults occurring after the related Base Cooling Off Period. Further, the Base 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 after the related Base Cooling Off Period, and the withdrawing clearing member's Base 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.

In order to ensure that the process for liquidating open commodity contracts results in competitive pricing, to the extent feasible under market conditions at the time of liquidation, liquidation of open commodity contracts held for a house account or customer account of a defaulting clearing member may occur by one or more of the following methods: (a) book entry that offsets open commodity contracts on the books of the defaulting clearing member; (b) liquidation in the open market; and/or (c) one or more private auctions amongst qualified market participants invited by the Clearing House to submit confidential bids. The Clearing House shall have discretion to select the best bid submitted for any portfolio in an auction, based on the totality of the circumstances.

In the event that identical customer commodity contracts are liquidated in the open market on the same date but cannot be liquidated at the same price, unless the Clearing House determines that it would be inappropriate, a weighted average of the liquidation prices for such contracts shall be used in determining the value of the liquidated commodity contracts for each

such customer. In the event that open commodity contracts of multiple customers are liquidated in a bulk auction, the net proceeds of such auction shall be allocated on a pro rata basis amongst the affected customers based upon their applicable performance bond requirements for the clearing cycle immediately prior to the default.

#### 7. Modifications of Clearing House's Obligations for Base Contracts

(a) If at any time following a default of a Base Clearing Member, the assets available to cover the default under the preceding sections of Rule 802 are insufficient to satisfy the Loss and obligations of the Clearing House to Base Clearing Members as a result of such default, then the Clearing House shall, in a manner that is consistent with the requirements of the Commodity Exchange Act and the regulations adopted thereunder, conduct its next settlement cycle as described in Rule 802.B.7(b).

(b) The Clearing House shall issue a Clearing Advisory Notice and conduct a settlement cycle to determine settlement prices for all Base Contracts and the net portfolio gain or loss for each Base Clearing Member and its customers, in accordance with the following:

(i) The net portfolio gain of a Base Clearing Member (a "collect"), or the net portfolio loss of a Base Clearing Member to the Clearing House (a "pay") shall be determined separately for:

(A) the Base Clearing Member's proprietary positions in Base Contracts (the net portfolio gain or net portfolio loss for such positions, "Proprietary Base Collects" or "Proprietary Base Pays"),

(B) (i) the non-swap positions of the Base Clearing Member's customers in Base Contracts and (ii) any swap positions of such customers that are commingled with such non-swap positions in an account consistent with section 4d(a) of the Commodity Exchange Act (the net portfolio gain or net portfolio loss for such non-swap positions and swap positions described in (i) and (ii) collectively, "Customer Futures Collects" or "Customer Futures Pays"), and

(C) (i) the swap positions in Base Contracts of each customer of the Base Clearing Member held in an account consistent with Part 22 of the CFTC's regulations and (ii) any Commingled Futures Positions (as such term is defined in Rule 8G831) for each customer (the net portfolio gain or net portfolio loss for such swap positions and Commingled Futures Positions described in (i) and (ii) collectively, "Individual Customer Swap Collects" or "Individual Customer Swap Pays").

(ii) The Clearing House Oversight Committee (after considering any recommendation of the Emergency Financial Committee) may determine a maximum amount of position liquidation payments that may be included in the Aggregate Base Collects, based upon then existing facts and circumstances, that it deems appropriate to mitigate further disruptions to the markets.

(iii) The Clearing House shall notify each Base Clearing Member of the amount of its remaining Base Assessments, Proprietary Base Pays, Customer Futures Pays and Individual Customer Swap Pays and each Base Clearing Member shall pay all such amounts no later than the time required for the relevant settlement cycle. If a Base Clearing Member does not pay all such amounts to the Clearing House, the Clearing House shall determine such Base Clearing Member to be in default and may take any of the actions specified in Rule 802.A. with respect to such Base Clearing Member and its customers.

(iv) If the amount of Aggregate Base Available Funds received by the Clearing House exceeds the Aggregate Base Collects, the Clearing House shall calculate reimbursements of, and distribute, the excess funds, in reverse order of the utilization of Base Priority of Payments.

(v) If the amount of the Aggregate Base Collects exceeds the amount of Aggregate Base Available Funds received:

(A) the Clearing House shall notify Base Clearing Members and provide an opportunity for Base Clearing Members and their customers to make voluntary contributions to the Clearing House.

(B) If the amount of the Aggregate Base Collects continues to exceed the amount of Aggregate Base Available Funds after the Clearing House adds any voluntary contributions from Rule 802.B.7(b)(v)(A) to the Aggregate Base Available Funds, then the Clearing House shall apply Base Gains Haircuts (as defined below) to the Proprietary Base Collects, Customer Futures Collects and Individual Customer Swap Collects for the current settlement cycle and each successor settlement cycle on the current Business Day and, unless a Bankruptcy Event has occurred, each of the next two Business Days, in accordance with the following:

Proprietary Base Collects, Customer Futures Collects and Individual Customer Swap Collects each shall be reduced on a pro rata basis according to the amount of such collects, to equal

the amount of Aggregate Base Available Funds received relative to Proprietary Base Collects, Customer Futures Collects, and Individual Customer Swap Collects (such process, a “Base Gains Haircut”).

Customer Futures Collects shall be haircut by the Clearing House at the customer account class level of each Base Clearing Member. Each Base Clearing Member shall allocate the haircut of its Customer Futures Collects pro rata among its customer with net portfolio gains for the relevant settlement cycle;

(C) The Clearing House Oversight Committee may instruct the Clearing House to extend or reduce the number of days during which Base Gains Haircuts are applied by one or two Business Days, provided that in no circumstance may the Clearing House conduct settlement cycles in which Base Gains Haircuts are applied for longer than five Business Days. Before providing such instruction, the Clearing House Oversight Committee must consider any recommendation of the Emergency Financial Committee. Any recommendation of the Emergency Financial Committee and the decision of the Clearing House Oversight Committee, each regarding adjusting the duration of settlement cycles with Base Gains Haircuts, must be based upon then existing facts and circumstances, be in furtherance of the integrity of the Clearing House and the stability of the financial system, and take into consideration the legitimate interests of clearing members and market participants;

(D) For each settlement cycle conducted in accordance with this subparagraph (v), absent a Bankruptcy Event, the Clearing House shall pay the haircut Proprietary Base Collects, Customer Futures Collects, and Individual Customer Swap Collects to Base Clearing Members as soon as practicable after receipt of the Aggregate Base Available Funds. Subject to applicable law, the Clearing House will make arrangements to pay the customers of a defaulted Base Clearing Member; and

(E) If a Bankruptcy Event occurs following a default of a Base Clearing Member on a day during which Base Gains Haircuts are applied to settlement cycles, on the day of the Bankruptcy Event, the Clearing House shall conduct a final settlement cycle which shall be subject to a Base Gains Haircut. The price determined in accordance with such settlement cycle shall be used as the price for a Base Contract when netting and closing out pursuant to Rule 818.

#### 8. Base Partial Tear-Ups and Base Full Tear-Ups

(a) The Clearing House may, at any time following a default of a Base Clearing Member, notify Base Clearing Members and provide an opportunity for Base Clearing Members to voluntarily agree to have their proprietary positions or, with a customer’s consent, to agree to have each such customer’s positions, extinguished by the Clearing House.

(b) If proprietary or customer positions in Base Contracts of a defaulted Base Clearing Member remain open (the “Remaining Open Base Positions”) following the last settlement cycle conducted pursuant to Rule 802.B.7(b)(v), the Clearing House shall extinguish the Remaining Open Base Positions through a partial tear-up process (“Base Partial Tear-Up”) or a full tear-up process (“Base Full Tear-Up”) of proprietary and customer positions of non-defaulted Base Clearing Members and non-defaulted customers of the defaulted Base Clearing Member in accordance with the following:

(i) The Clearing House Oversight Committee shall determine the appropriate scope of each Base Partial Tear-Up or shall determine that a Base Full Tear-Up is appropriate. Before making such determination, the Clearing House Oversight Committee must consider any recommendation of the Emergency Financial Committee. Any recommendation of the Emergency Financial Committee and each determination of the Clearing House Oversight Committee made for purposes of this Rule 802.B.8 must:

(A) be based upon then existing facts and circumstances;

(B) be in furtherance of the integrity of the Clearing House and the stability of the financial system;

(C) take into consideration the legitimate interests of clearing members and market participants; and

(D) aim to extinguish Remaining Open Base Positions and any additional positions in Base Contracts deemed necessary to mitigate further disruptions to the markets affected by the Remaining Open Base Positions.

(ii) A Base Partial Tear-Up may include, but need not be limited to, the following methods:

(A) Line-by-Line Tear-Up Against the Remaining Open Base Positions.

Proportionately extinguish Base Contracts held by non-defaulted Base Clearing Members, their non-defaulted customers and the non-defaulted customers of the defaulted Base Clearing Member that are opposite to the Remaining Open Base Positions and relative to the size of the Remaining Open Base Positions; and

(B) Tear-Up of All Positions in Base Contracts within a Product or Combination of Products. Extinguish all open positions in Base Contracts for a product or combination of products.

(iii) A Base Full Tear-Up would involve the extinguishment of all open positions in Base Contracts.

(c) In connection with any settlement cycle with Base Gains Haircuts, the Clearing House Oversight Committee may instruct the Clearing House to extinguish a portion of the Remaining Open Base Positions through a Base Partial Tear-Up of proprietary and customer positions of non-defaulted Base Clearing Members and non-defaulted customers of the defaulted Base Clearing Member. The Clearing House Oversight Committee would determine the appropriate scope of each such Base Partial Tear-Up in accordance with the procedures set forth in Rule 802.B.8(b)(i) and (ii), except that each reference to "Remaining Open Base Positions" shall mean the relevant portion of Remaining Open Base Positions.

9. Limited Recourse for Base Guaranty Fund Products

If a default occurs, Base Collateral, Base Customer Collateral and the Base Priority of Payments shall be the sole source of payments to cover the Loss until the default is fully and finally resolved, as applicable. In the event the Base Collateral, Base Customer Collateral and the Base Priority of Payments are insufficient to cover the Loss, regardless of whether the CME is able to require a Base Clearing Member to cure a deficiency in the Base Guaranty Fund because of the occurrence of a Bankruptcy Event (as such term is defined in Rule 818.A.), Base Clearing Members and the holders of Base Contracts shall have no recourse to any other funds or any other entity, including without limitation the guaranty funds that support clearing of other products, CME, CME Group Inc. or any of its affiliates, other than any amounts recovered as described in Rule 802.E.

10. No Claims Against the Exchange or Clearing House

(a) Base Clearing Members, their affiliates and their customers shall have no claim against the Exchange, CME Group Inc. or any affiliates of the Exchange or CME Group Inc., or any directors, officers or employees of any of the foregoing, including but not limited to claims against any other guaranty fund established by the Exchange, CME Group Inc. or any of its affiliates with respect to losses suffered as a result of the application of any provision in this Rule 802.B. No beneficial holder of a Base Contract shall have any claim against its non-defaulted Base Clearing Member as a result of the application of this Rule 802.B. other than any amounts recovered as described in Rule 802.E.

(b) Notwithstanding anything in subparagraph (a), Base Clearing Members, for both their proprietary positions in Base Contracts and their customers' positions in Base Contracts, and non-defaulted customers of defaulted Base Clearing Members will have a claim on any recovery from the defaulted Base Clearing Member or the estate of the defaulted Base Clearing Member in the amount of the Base Gains Haircuts, in the aggregate, applied to such positions (such amount with respect to all non-defaulted Base Clearing Members and their customers and the non-defaulted customers of the defaulted Base Clearing Member, "Aggregate Base Gains Haircuts"), as set forth more fully in Rule 802.E. If the recovery from the defaulted Base Clearing Member is less than the Aggregate Base Gains Haircuts, non-defaulted Base Clearing Members and their customers and the non-defaulted customers of defaulted Base Clearing Members will share pro rate in the recovery.

11. Non-Petition

No Clearing Member and no customer of a Clearing Member shall institute against, or join any other person in instituting against, the Exchange any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or examinership proceedings, or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law arising out of any claimed default by the Clearing House on a Base Contract as a result of the extinguishment of such Base Contract and related payments in accordance with these Rules.

**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, the CME Contribution 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 Base Guaranty Fund 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, the CME Contribution 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. Utilization of Remaining Base Collateral of Defaulted Clearing Member; Restoration of Funds Following Final Determination of Losses**

1. After the default of a Base Clearing Member is finally resolved, excess Base Collateral of the clearing member may be used by the Clearing house for losses to the Clearing House of such clearing member for IRS Products on a pro rata basis based on the amount of any unresolved losses for such product classes.

2. If after the default of a clearing member is finally resolved, the Clearing House determines that collateral of the defaulting clearing member, the CME Contribution, 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 Base Guaranty Funds were applied or who were assessed and/or (ii) rebalancing allocations among Base Guaranty Fund tranches.

**802.E. Rights of Exchange for Recovery of Loss**

Losses caused by the default of a Base Clearing Member, Participating Exchange or Partner Clearinghouse are amounts due to the Clearing House from such Base Clearing Member, Participating Exchange or Partner Clearinghouse and shall remain legal obligations thereof notwithstanding the Clearing House's recourse to the loss-mutualization provisions of this Rule 802, and the Clearing House shall take commercially reasonable steps to recover (including claims submitted in an insolvency or resolution proceeding) such amounts. If any portion of these amounts is subsequently recovered by the Exchange, the net amount of such recovery shall be credited to non-defaulted Base Clearing Members (whether or not they are still clearing members at the time of recovery) in the following order on a pro rata basis based on (1) the amount of their (and their customers', if applicable) voluntary contributions with respect to such default, (2) the amount of their (and their customers', if applicable) Aggregate Base Gains Haircuts with respect to such default, (3) the amount of their Base Assessments utilized by the Clearing House with respect to such default, and (4) the amount of their guaranty fund contribution utilized by the Clearing House with respect to such default, each in the order listed, and then to the Exchange for the amount of the CME Contribution utilized by the Clearing House with respect to such default.

**802.F. Guaranty Fund Contributions to be Restored**

In the event it shall become necessary to apply all or part of the Base Guaranty Fund contributions to meet obligations to the Clearing House pursuant to this Rule 802, clearing members shall restore their contribution to the Base 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, in accordance with applicable law, act immediately to attempt to transfer to alternate clearing members part or 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.

1. If a default occurs in a customer futures account, the Clearing House has the right to liquidate and apply toward the default all open positions and customer performance bond deposits in the futures account class of the defaulting clearing member. Accordingly, positions and performance bonds deposited by customers not causing the default are at risk if there is a default in the futures account class of their clearing member. If the Clearing House liquidates positions and/or collateral in the futures account class, any collateral remaining after application to Losses in respect of such account class shall be reserved to the futures account class in order to satisfy the claims of non-defaulting customers in accordance with applicable law.

2. In order to minimize disruptions and loss to its public customers if a clearing member defaults, each clearing member shall cause its cleared swaps customers to establish arrangements to directly make all required performance bond and settlement variation payments directly to the Clearing House and to keep current and on file with the Clearing House any direction to transfer its open positions and collateral to another clearing member.

3. The Clearing House shall treat positions and collateral of the cleared swaps customers of a clearing member, which has been declared to be in default, in accordance with Part 22 of the CFTC's regulations. Immediately after the default of a clearing Member, the Clearing House shall cease netting settlement variation among the cleared swaps customers of the defaulted clearing member.

4. If the Clearing House ceases to net settlement variation margin of the customers of a defaulted clearing member, the Clearing House will calculate the settlement variation margin obligation owed to each cleared swaps customer ("collects"), and also calculate the settlement variation margin obligation owed to the Clearing House by each cleared swaps customer ("pays"). The Clearing House will establish a holding account for settlement variation margin collects owed to each cleared swaps customer or, subject to necessary approvals, pay such settlement variation margin collects directly to each cleared swaps customer. The Clearing House will collect cleared swaps customer settlement variation margin pays from the following sources:

(i) Directly from the obligated cleared swaps customer in accordance with the arrangements established pursuant to 802.G.2 or by attaching any excess collateral attributable to that customer;

(ii) By means of liquidating the collateral supporting the cleared swaps customer's position attributed to a cleared swaps customer that fails to make a required settlement variation payment when due. The proceeds of such liquidation shall be used to meet the cleared swaps customer's settlement variation pay obligation to the clearing house. (If the collateral is liquidated, the positions supported by the collateral shall be promptly liquidated.);

Any unmet cleared swaps customer obligation to the Clearing House will be a "Loss," per 802.A.2, and will be cured in accordance with the provisions of 802.B.

5. The Clearing House shall rely on its own books and records to identify the portfolio of rights and obligations arising from the positions of each cleared swaps customer. To the extent the Clearing House's books and records are not available or the Clearing House determines that its books and records are not accurate, the Clearing House shall rely on the information provided by the defaulted clearing member to identify the portfolio of rights and obligations arising from the positions for each of its cleared swaps customers.

6. 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.

#### **802.H. Base Cooling Off Period and Multiple Defaults**

The provisions set forth in Rule 802.A and 802.B shall apply with respect to each default by a clearing member. If more than one clearing member default occurs at a time or in close sequence, including a default that occurs by reason of a clearing member's failure to satisfy an assessment demand, the Clearing House shall manage the defaults separately. Upon any default, non-defaulted clearing members shall be subject to a maximum obligation during the relevant Base Cooling Off Period to contribute to the Base Guaranty Fund and to fund assessments as set forth in Rule 802.B. This maximum shall apply from the date of the original default until the later of (i) the 5th Business Day thereafter and (ii) if another clearing member defaults during the 5 Business Days following the initial or any subsequent default, the 5th Business Day following the last such default (such period, the "Base Cooling Off Period"), regardless of the number of defaults that occur during such Base Cooling Off Period.

The aggregate maximum contribution for the Base Cooling Off Period shall be based upon each clearing member's Base Guaranty Fund requirement and assessment exposure in effect at the commencement of the Base Cooling Off Period. The maximum does not limit clearing members' obligations to restore their Guaranty Fund contributions as set forth in Rule 802.F, except that if the clearing member's required Guaranty Fund contribution would exceed such maximum, the clearing member's Base Guaranty Fund requirement shall be reduced accordingly for the remainder of the Base Cooling Off Period. Following a Base Cooling Off Period, the Clearing House shall notify each clearing member of its Base Guaranty Fund deposit obligation and its assessment exposure.

The CME Contribution to the Base Guaranty Fund shall be limited to an aggregate maximum of \$100,000,000 during the Base Cooling Off Period. The Board may, at its discretion, authorize additional funds be added to the CME Contribution during the Base Cooling Off Period.

### **803. LIMITATION OF LIABILITY**

The liability of the Clearing House shall be limited to losses resulting from the substitution of the Clearing House upon contracts between clearing members and to losses in connection with substitution of another Participating Exchange for clearing members (i.e., the Mutual Offset System), and to losses in connection with amounts due and owing from a Partner Clearing House. The Clearing House shall not be liable for any other obligations, including but not limited to, obligations of a non-clearing member, obligations of a clearing member to a non-member, obligations of a clearing member to another member of the Clearing House who is acting for him as broker, or obligations to a customer by a clearing member; nor shall the Clearing House become liable to make deliveries to or accept deliveries from a customer of its clearing members.

### **804. SUBSTITUTION**

Except with respect to trades made pursuant to Rules 526, 538 and 853, the Clearing House shall, through the process of novation, be substituted as, and assume the position of, seller to the buyer and buyer to the seller of the relevant number of Exchange or Marketplace contracts upon the successful matching of trade data submitted to the Exchange by the clearing members on the long and short sides of a trade. With respect to contracts that are traded on and matched by another exchange or market, the Clearing House shall be substituted as, and assume the position of, seller to buyer and buyer to seller of the relevant number of such contracts upon matching of trade data submitted to and accepted by the Exchange.

Upon such substitution, each clearing member shall be deemed to have bought the contracts from or sold the contracts to the Clearing House, as the case may be, and the Clearing House shall have all the rights and be subject to all the liabilities of such member with respect to such transaction. Such substitution shall be effective in law for all purposes.

With regard to trades made pursuant to Rules 526, 538 and 853, the Clearing House shall be substituted at the time payment of the first settlement variation and performance bond due for such trades pursuant to Rule 814 is confirmed by the appropriate settlement bank for both members.

**805. OPEN POSITIONS**

All contracts for the purchase or sale of any product for future delivery shall remain open and in force, and shall continue to be binding upon the original parties until liquidated by offset as provided in Rule 806 or by delivery or failure to perform as provided in Chapter 7.

**806. OFFSET PROCESS**

When a member buys and sells the same commodity for the same delivery month or a put or call option with the same strike price and expiration month and such contracts are cleared through the Clearing House, the purchases and sales are not automatically offset one against the other. Transactions can only be offset against one another by complying with Rule 811, and, once offset (closed-out), may not subsequently be re-opened at the Exchange.

**807. OPEN LONG POSITIONS DURING DELIVERY MONTH**

At such times and in such manner as shall be prescribed by the Manual, clearing members shall submit a complete and accurate record of dates of all open purchases for use in making deliveries. Clearing members shall be fully responsible for inventories submitted to the Clearing House.

This rule shall not apply to trading in options contracts.

**808. PROCEDURES FOR TRADE SUBMISSION ON CME CLEARPORT****808.A. Scope of Rule**

This Rule governs transactions not competitively executed on the Exchange ("Transactions") that are submitted via CME ClearPort for clearing in connection with a contract that is listed on the Exchange for clearing only or listed for trading and clearing on the Exchange. For purposes of this Rule, the two parties to the Transaction shall be referenced as the "Parties to the Transaction."

**808.B. Compliance with Regulatory Exemptions and Exclusions**

Each of the Parties to the Transaction shall be responsible for ensuring that, where applicable, the Transaction complies with CFTC regulatory requirements.

**808.C. Block Trades or Exchange for Related Position Transactions**

The process of submission of a block trade or an exchange for related position Transaction ("EFRP") executed pursuant to Rules 526 or 538, as applicable, shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Clearing House as a block trade or an Exchange of Futures for Physical ("EFP"), an Exchange of Futures for Risk ("EFR") or an Exchange of Options for Options ("EOO"), as applicable, pursuant to the provisions of this Rule and the requirements of Rule 804.

**808.D. OTC Derivatives Transactions Submitted for Clearing**

CME ClearPort allows for the submission of off-Exchange OTC derivatives Transactions that the Exchange has designated as eligible for clearing only. Such Transactions are subject to the Rules of the Exchange applicable to such cleared-only products.

**808.E. Trade Submission Procedures**

All Transactions submitted to the Exchange pursuant to this Rule must be submitted in accordance with the procedures established by the Exchange and the Clearing House for this purpose, as amended from time to time. The Parties to the Transaction and any Party authorized under Section F. of this Rule with brokering capability ("Broker" or "Brokers") to submit executed transactions on behalf of Parties to the Transaction to the Exchange shall be responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Additionally, Brokers submitting Transactions on behalf of Parties to the Transaction remain responsible for ensuring that such Transactions are accurately and timely submitted in accordance with the requirements of applicable Exchange Rules and requirements of the Clearing House. Once submitted, such transactions may not be modified except in accordance with Section H. of this Rule. The Exchange has no responsibility with respect to the confirmation of trade terms for the Transactions, and the Clearing Members carrying the account of the Parties to the Transaction shall only be responsible for the confirmation required pursuant to Rule 957.



**808.F. CME ClearPort Registration Requirements**

Each Clearing Member must register with the Exchange in the manner required for any customer authorized by the Clearing Member to submit transactions to the Exchange pursuant to this Rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account must also submit to the Exchange the name of any Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed Transactions to the Exchange. For any such Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the Broker. Moreover, submission of Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized Brokers, and the Clearing Member will have no responsibility for any such Brokers selected by the customer and no duty or obligation to supervise the activities of any such Brokers.

**808.G. Establishment of Authorized Commodities and Account Risk Limit(s)**

With the exception of Interest Rate Swap ("IRS") Transactions, for each account number that has been registered with the Exchange pursuant to Section F. of this Rule, a Clearing Member must also input into the CME Account Manager system an authorization identifying the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this Rule and the account risk limit(s) assigned by the Clearing Member for Transactions for that account.

**808.H. Trade Deletion Procedures for Transactions Submitted via CME ClearPort**

Following submission of the trade details by Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within three Business Days of the time of the initial submission of the Transaction to the Exchange. Notwithstanding the provisions of this Section, the Parties to the Transaction and any Broker authorized by the Parties to the Transaction pursuant to Section E. of this Rule may be subject to sanctions pursuant to Rule 512 for the inaccurate, incomplete or untimely submission of the Transactions to the Clearing House.

**808.I. Entry of Transactions**

For a Transaction submitted to the Exchange pursuant to this rule, such Transaction will first be routed to the Exchange's credit check system. The time of entry of a Transaction into the Exchange's system will be recorded by the system and will be used by the Exchange as the time that a credit check was conducted pursuant to Section J. below.

**808.J. Use of Credit Check System**

The Exchange will conduct a credit check for each Transaction. The credit check will confirm whether the Clearing Member carrying that account has authorized that account for Transactions submitted pursuant to this Rule in the commodity involved in the Transaction, and confirm whether the entry of the Transaction into clearing would fall within the account risk limit(s) established by the Clearing Member. At all times until both sides (Buy and Sell) of the Transaction have successfully cleared the credit check and the Clearing House has been substituted as the counterparty to the Transaction pursuant to Rule 804, a Transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared Transaction. In the event that either side of the Transaction is rejected as a result of the credit check test, the Parties to the Transaction and their respective Clearing Members will be informed accordingly.

Thereafter, any determination as to further action with respect to the Transaction will be the sole responsibility of the Parties to the Transaction.

**808.K. Trade Submission Deadlines**

With the exception of IRS and FX Spot, Forward and Swaps Transactions, all other Transactions that are submitted, confirmed and accepted for clearing, as further provided by

Section L. of this rule, prior to 5:15 p.m. New York time on an Exchange Business Day will be included by the Exchange for clearing for that Business Day. The Exchange reserves the right to modify these business hours without notice at any time. The CME ClearPort Facilitation Desk will generally be available to assist users 24 hours a day on all Exchange Business Days.

**808.L. Clearance by Both Sides of the Transactions of Credit Check**

Upon clearance by both sides of the Transaction of the credit check, the Transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system. Notwithstanding the above, a Clearing Member shall also be responsible for accepting and clearing a position for a Transaction entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's credit check functionality for the applicable account carried by the Clearing Member.

**809. TRADE DATA PROCESSING SYSTEM**

**809.A. Trade Data**

Every clearing member must submit accurate trade data for the day's business to the Clearing House no later than the time specified by the Clearing House.

**809.B. Matched and Unmatched Trades**

The Clearing House shall process all trade data submitted by clearing members but shall accept only those trade records (transactions) which are in agreement with the corresponding trade records submitted by the opposite clearing members.

Trade records will be matched, to the extent the opposite trade information is consistent, through the tiered matching process.

Resubmitted trade data will be processed by the Clearing House. Trades with unmatched trade information remaining after the tiered matching process will be rejected and outrade notices will be issued to clearing members.

Trades unreconciled after the final reconciliation must be submitted on the following business day as "as-of-trades."

**809.C. Trade Register and Clearing Reports**

From the trade data cleared during each day's reconciliation, the Clearing House will produce a trade register for each clearing member which will itemize by commodity and contract: the opening long and short position, the contracts bought and/or sold during the day, the prices at which executed, and the settlement amounts.

The Clearing House will also produce a recap ledger for each clearing member that will itemize various position and financial information that includes but is not limited to, commodity positions, settlement amounts and performance bond information.

**809.D. Reconciliation of Outtrades**

It shall be the primary responsibility of the clearing member to see that all trades are cleared prior to the opening of the following day's open outcry market.

Each member, if applicable, and clearing member firm shall designate a person or persons who will be available and responsible for reconciling the member or clearing member firm's outtrades. The person or persons shall be qualified to resolve outtrades as the member or clearing member firm's designated outrade representative. Failure to have a qualified representative available, with all materials necessary to reconcile outtrades, at the time specified above shall constitute negligence in the determination of responsibility for any outtrades. If one firm cannot locate another firm's broker or representative for clearing purposes during these time periods, it shall report such fact to the President of the Clearing House. If the President of the Clearing House or his designee cannot find the broker or representative of the firm, fines will be assessed in the amounts of \$1,000, \$2,000 or \$3,000 sequentially, for violations occurring within a 30-day period.

**810. FALSE ENTRIES ON CLEARING MEMORANDA**

No member shall place any false or inaccurate entries on any clearing memoranda, including, with respect to a Participating Clearing Member, the clearing memoranda of a Cross-Margining Clearing Organization.

**811. POSITION CHANGE DATA**

Position change data must be submitted to the Clearing House each trading day not later than the time specified by the Clearing House. Position change data will be in such form and contain such information as prescribed by the Clearing House. When requested, the identification of accounts will be made available to the Financial and Regulatory Surveillance Department.

**812. FINAL SETTLEMENT PRICE**

Certain products, as described in the applicable product chapters, have procedures for establishing a final settlement price that are distinct from the procedures for establishing the daily settlement price for the product on the last day of trading. For such products, if a final settlement price is unable to be determined or if the applicable procedures result in a clearly aberrant final settlement price inconsistent with market value and alternative settlement procedures are not otherwise specified in the relevant product chapter, then the Chief Executive Officer, President, or Chief Operating Officer, or their delegate, may establish a final settlement price that reflects the true market value at the time of final settlement.

A payment in settlement of a delivery obligation (physical or cash settled) shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

**813. DAILY SETTLEMENT PRICE**

Daily 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 settlement period, and the trading venue(s) used to derive the settlement. To the extent that any members participate in the creation of settlement prices, they agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyright in the settlement prices.

1. [Reserved]
2. Volume-Weighted Average Price (VWAP) of the Settlement Period: In products that use this procedure, all outright trades that occur during the defined settlement 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 settlement 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 Settlement or during the Settlement Period: In products that use this procedure, the midpoint of the bid/ask at the defined settlement time or during the defined settlement period 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 settlement period, relevant spread trades, bids or offers during the settlement period, 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 or pursuant to Section 6 below, relevant spread relationships between contract months will be used to derive the settlement.
6. In the event the Exchange determines that the settlement price derived by one of the methods set forth above is not an accurate representation of the relevant market, the Exchange may determine the settlement price based on other market prices, including settlement prices for similar contracts trading on other exchanges.
7. 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.

8. 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 relevant 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.

9. 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 settlement period, 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 settlement time or during the defined settlement period.

10. 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.

11. 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.

#### **814. SETTLEMENTS, SETTLEMENT VARIATION PAYMENTS, AND OPTION VALUE**

When a clearing member or its customer is long or short any amount of any Commodity for a settlement cycle, as indicated by Clearing House records, settlement for any outstanding exposure shall be made with the Clearing House. A settlement cycle shall be conducted at least once each Business Day at such times as the Clearing House shall determine. For purposes of this Rule 814, "outstanding exposure" shall mean the obligations to pay, as applicable, any settlement variation payment and any other payments due in respect of a Commodity (including price alignment amount, coupon payments, option premiums and upfront fees and, for the avoidance of doubt, excluding any posting of performance bond).

Each clearing member for its proprietary and customer positions shall pay to, or collect from, the Clearing House any loss or profit for non-option Commodities as a settlement variation payment, as the case may be, represented by the difference between (x) the settlement price of the Commodity for such settlement cycle and (y) the settlement price of the Commodity for the prior settlement cycle (or, for the first settlement cycle after the purchase/sale of such Commodity, the price at which the Commodity was purchased or sold).

Except as otherwise specifically provided for in the contract chapters, for Commodities that are options, the Clearing House will determine option value for each option and the net option value of each portfolio. For a settlement cycle, (i) if the net option value of the portfolio is positive, such amount may be used to satisfy performance bond requirements for the portfolio, (ii) if the net option value of a portfolio is negative, such amount will increase the performance bond requirements for the portfolio.

All payments in satisfaction of outstanding exposures must be paid in cash or any other form of payment approved by the Clearing House Risk Committee; shall be settlement (within the meaning of CFTC Rule 39.14); and shall be final, irrevocable and unconditional no later than when the correct Clearing House bank account at the relevant settlement bank is debited or credited with the payment. Payments in satisfaction of outstanding exposures shall not constitute "property, cash, securities or collateral deposited with the Clearing House" for purposes of Rules 819 and 8F008 but, where such payments are retained by the Clearing House at the instruction of the Clearing Member, such payments shall be deemed to be property held by the Clearing House within the meaning of Section 761(10) of the US Bankruptcy Code.

For each of the Clearing House's classes of clearing (i.e., Base Guaranty Fund Products and IRS Products), once all payments in satisfaction of outstanding exposure between a clearing member and the Clearing House for a settlement cycle are final for any of the clearing member's house account, its customer segregated account or its cleared swaps customer account, the outstanding exposure between the clearing member and the Clearing House for all Commodities in such class of clearing in the respective account subject to that settlement cycle shall be settled, and the fair value of each such Commodity shall then be reset to zero.

Notwithstanding the foregoing, the Clearing House shall not be required to pay any profit to a Participating Clearing Member in the event that such member or its Cross-Margining Affiliate fails to make any required settlement for that settlement cycle with a Cross-Margining Clearing Organization.

If the market conditions or price fluctuations are such that the Clearing House deems it necessary, it may call upon the clearing members, which in its opinion are affected, to pay funds to the Clearing House by such time and in such amount as specified by the Clearing House to meet such settlements as the Clearing House estimates may be necessary. The Clearing House may pay out funds to those clearing members that, in the opinion of the Clearing House, will have credit balances as a result of those same market conditions or price fluctuations; except that in no instance may the Clearing House pay out funds to a clearing member, other than at the regular settlement, in excess of the total original performance bond deposits it holds for such clearing member. All payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

## **815. THIRD PARTY EXECUTION PLATFORMS FOR SWAPS**

### **815.A. Exclusivity of Clearing House Rules**

The Clearing House Rules shall exclusively apply, and prevail to the extent there is any conflict with any third party rules, to all swap trades, and resulting positions, from the time that a swap trade, including a swap trade executed on a swap execution facility (“SEF”) or other third party execution platform for swaps (collectively, “Third Party Execution Platforms”), is submitted for clearing. Notwithstanding the foregoing, if the Clearing House rejects a swap trade for clearing, the Clearing House Rules shall cease to apply to that swap trade until such swap trade is resubmitted for clearing.

### **815.B. Clearing House Authority**

The Clearing House will have the sole authority to:

1. determine whether any trade submitted for clearing will be accepted or rejected. For the avoidance of doubt, Third Party Execution Platforms may not make a determination on clearing acceptance or rejection and may only communicate the Clearing House’s determination of whether a trade has been accepted or rejected for clearing.
2. block or cancel any trades submitted for clearing by, or on behalf of, any Third Party Execution Platforms if it determines that such trades were executed or submitted to the Clearing House in error.
3. deny or terminate the connection of Third Party Execution Platforms to the Clearing House due to technical, operational or risk management issues at the Third Party Execution Platforms.
4. determine whether it will accept any trade transaction counterparty risk.
5. determine whether contracts cleared by the Clearing House are economically equivalent and should be offset within the Clearing House pursuant to the Act.

### **815.C. Voids and Price Adjustments**

A void or price adjustment for any swap trade that has been accepted for clearing is not valid without the consent of the Clearing House.

### **815.D. Submission to Clearing House Rules and Access to Execution Platforms**

All Third Party Execution Platforms that submit, or have submitted on their behalf, swap trades for clearing to the Clearing House shall be bound by Clearing House Rules, including, but not necessarily limited to, the disciplinary Rules and the emergency Rules contained in Chapters 2, 4, 8, and 8G and shall, at all times, provide the Clearing House with access to its execution platform for risk management purposes.

### **815.E. Compliance with Regulatory Standards**

No Third Party Execution Platform may submit swap trades for clearing to the Clearing House unless it has complied with all applicable CFTC regulations, standards and requirements including, but not limited to, technological, operational and risk management standards.

### **815.F. Transfer of Swap Positions**

No swap positions may be transferred, including those resulting from an execution on Third Party Execution Platforms, unless such transfer is made in accordance with the Clearing House Rules.

**815.G. Applicability to Security-Based Swaps**

Rule 815 does not apply to security-based swaps.

**816. GUARANTY FUND DEPOSIT**

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

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

(i) a specified percentage of the Aggregate Guaranty 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 specified percentage of the Aggregate Guaranty 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; plus

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

The percentages in (i) 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 Base Guaranty Fund deposit will be given to the clearing member each month, and the Clearing House may provide such reports on an interim basis at any time during the month as the Clearing House staff shall determine. If at any time, such report indicates that the clearing member's current Base Guaranty Fund deposit with the Clearing House is smaller than the amount required, the clearing member shall increase its amount within two business days. If such report indicates that the clearing member's current Base Guaranty 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 monthly report, the Clearing House determines that an increase in the Base 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 Base Guaranty Fund deposit amount within two business days. In the event that an interim report is issued within five business days prior to the regularly scheduled monthly report, the Clearing House may opt to forego the issuance of an additional month-end report, provided that the amount of resources required has not changed substantially during this period.

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

**817. LIQUIDITY FACILITY**

The Exchange may enter into liquidity facilities (each a "Liquidity Facility") to convert collateral to cash in any case where the Clearing House can use the collateral, pursuant to Chapters 8, 8F, 8G, and 9 of the Rules of the Exchange, and use the cash proceeds to meet an obligation to the Clearing House.

If a clearing member of CME, CBOT, NYMEX, COMEX or OTC Clearing Member (a) is unable to promptly discharge any obligation to the Clearing House or (b) is suspended or becomes subject to any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law, collateral deposited by the clearing member in satisfaction of its performance bond and guaranty fund requirements may be used to obtain liquidity to satisfy the clearing member's obligations to the Clearing House as follows: (1) performance bond collateral relating to a clearing member's proprietary account may be used to obtain liquidity to meet obligations relating to the clearing member's proprietary account, customer segregated account or cleared swaps customer account; (2) performance bond collateral relating to a clearing member's customer segregated account may only be used to obtain liquidity with respect to obligations of such account; (3) performance bond deposits relating to a clearing member's cleared swaps customer account may only be used to obtain liquidity with respect to such account; and (4) guaranty fund collateral may be used in the order prescribed by Rules 802.B, and 8G802.B.

In any case where the Rules of the Exchange permit the Clearing House to use guaranty fund collateral deposited by clearing members who have not failed to meet an obligation to the Clearing House, the Clearing House may convert collateral held in that Guaranty Fund to cash by means of a Liquidity Facility.

By delivering assets to the Exchange in satisfaction of guaranty fund deposit and performance bond requirements, each clearing member is hereby deemed: (i) to agree that its assets (or its customers' assets, as provided above) may be transferred by the Exchange to obtain liquidity from 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 (or its customers' assets, as provided above) being transferred to the Exchange's liquidity lenders; and (iii) to acknowledge that the obligations of the Exchange to the Exchange's 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 (or its customers' assets, as provided above) to be transferred 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 clearing members transferred to the Exchange's liquidity lenders may be foreclosed upon by such lenders and applied against the obligations of the Exchange under the related liquidity facility. 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.

The foregoing provisions shall apply without regard to whether a clearing member has been declared to be in default under the Rules.

## **818. CLOSE-OUT NETTING**

### **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 five Business 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 customers and cleared swaps customers) positions at the Clearing House shall, at the election of that Clearing Member, be closed promptly. For the avoidance of doubt, any modification to any Base Contract under Rule 802.B.7. or any IRS Contract under 8G802.B.3. shall not be considered a failure by the Exchange to comply with an obligation to pay money or deliver property.

#### **818.C. Netting and Offset**

1. At such time as a Clearing Member's positions are closed:

(i) the obligations of the Clearing House to such Clearing Member in respect of the Clearing Member's proprietary positions, accounts, collateral and guaranty fund deposits shall be netted against the obligations of such Clearing Member to the Clearing House and to the Exchange in respect of its proprietary positions, accounts, collateral, guarantees of the performance of its customers and any obligations to guarantee funds without respect to product category ("Proprietary Netting");

(ii) the obligations of the Clearing House to the Clearing Member in respect of such Clearing Member's customers' futures positions, futures accounts, and futures collateral shall be netted against the obligations of the Clearing Member to the Clearing House in respect of the futures positions, futures accounts and futures collateral of such customers ("Futures Customer Netting"); and

(iii) the obligations of the Clearing House to the Clearing Member in respect of such Clearing Member's individual customers' swap positions, swap accounts, and swap collateral shall be netted against the obligations of the Clearing Member to the Clearing House in respect of the swap positions, swap accounts and swap collateral of each individual customer, on an individual customer by customer basis ("Swap Customer Netting").

Notwithstanding the foregoing, the amount of any proprietary or customer claim extinguished as a result of the application of the terminating and netting procedures set forth in either Rule 802.B. (with respect to Base Products) or Rule 8G802.B (with respect to IRS Products), shall not be available for netting in Proprietary Netting, Futures Customer Netting or Swap Customer Netting, as applicable. Proprietary Netting, Futures Customer Netting and Swap Customer Netting shall be performed in accordance with the Bankruptcy Code, the Commodity Exchange Act and the regulations promulgated thereunder. Rule 818 shall be deemed to be (i) a master netting agreement for Proprietary Netting; (ii) a master netting agreement for Futures Customer Netting and (iii) a master netting agreement for Swap Customer Netting.

2. After 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 guaranty fund deposit arising after the Bankruptcy Event, shall terminate.

3. All positions open immediately before being closed in accordance with this Rule shall be valued in accordance with the procedures of Paragraph D of this Rule.

#### **818.D. Valuation**

As promptly as reasonably practicable, but in any event within thirty days of the: (i) Bankruptcy Event, or (ii) if a Clearing Member elects to have its open positions closed in a default as described in Paragraph B of this Rule, the date of the election, the Exchange shall, in a manner that is consistent with the requirements of the Commodity Exchange Act and the regulations adopted thereunder (including, without limitation) Part 190 of the Regulations, fix a U.S. dollar amount (the "Close-out Value") to be paid to or received from the Exchange by each Clearing Member, after taking into account all applicable netting and offsetting pursuant to paragraph C of this Rule.

The Exchange shall value open positions subject to close-out by using the market prices for the relevant market (including without limitation, any over the counter markets) at the moment



that the positions were closed-out, assuming the relevant markets were operating normally at such moment. If the relevant markets were not operating normally at such moment, the Exchange shall exercise its discretion, acting in good faith and in a commercially reasonable manner, in adopting methods of valuation to produce reasonably accurate substitutes for the values that would have been obtained from the relevant market if it had been operating normally at the moment that the positions were closed-out.

If a default of a Base Clearing Member or IRS Clearing Member has also occurred, if a settlement cycle was conducted pursuant to Rules 802.B. and 8G802.B. as applicable, and the Clearing House has not fully liquidated (or ported) all of the clearing member's proprietary and customer positions, the Exchange shall value open positions subject to close-out by using the prices that were determined pursuant to the final settlement cycle that was conducted pursuant to Rules 802.B. and 8G802.B., as appropriate.

In determining a Close-out Value, the Exchange may consider any information that it deems relevant. Amounts stated in a currency other than U.S. Dollars shall be converted to U.S. Dollars at the current rate of exchange, as determined by the Exchange. If a Clearing Member has a negative Close-out Value it shall promptly pay that amount to the Exchange.

#### **818.E. Interpretation in Relation to FDICIA**

The Exchange intends that certain provisions of this Section be interpreted in relation to certain terms (identified by quotation marks) that are defined in the Federal Deposit Insurance Exchange Improvement Act of 1991 ("FDICIA"), as amended, as follows:

1. The Exchange is a "clearing organization."
2. An obligation of a Clearing Member to make a payment to the Exchange, or of the Exchange to make a payment to a Clearing Member, subject to a netting agreement, is a "covered clearing obligation" and a "covered contractual payment obligation."
3. An entitlement of a Clearing Member to receive a payment from the Exchange, or of the Exchange to receive a payment from a Clearing Member, subject to a netting contract, is a "covered contractual payment entitlement."
4. The Exchange is a "member," and each Clearing Member is a "member."
5. The amount by which the covered contractual payment entitlements of a Clearing Member or the Exchange exceed the covered contractual payment obligations of such Clearing Member or the Exchange after netting under a netting contract is its "net entitlement."
6. The amount by which the covered contractual payment obligations of a Clearing Member or the Exchange exceed the covered contractual payment entitlements of such Clearing Member or the Exchange after netting under a netting contract is its "net obligation."

The By-Laws and Rules of the Exchange, including this Section, are a "netting contract."

#### **819. LIEN ON COLLATERAL**

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

#### **820. PERFORMANCE BONDS**

Performance bond requirements will be as determined by Exchange staff from time to time.

Subject to the terms and conditions as approved by Exchange staff, the Clearing House will accept as performance bond, cash, equity securities, shares of mutual funds, United States Treasury and agency Securities, Letters of Credit, units in CME's Interest Earning Facility Program, shares in CME's Interest Earning Facility 2 Program, permitted investments allowable under CFTC Regulation 1.25, "readily marketable securities" as defined by Securities and Exchange Commission Rules, as applicable, and "London Good Delivery" gold, as defined by the London Bullion Market Association (as used in this Rule 820, such assets and any proceeds thereof are collectively referred to as "Assets"), all of which must be and remain unencumbered. The Clearing House may include other forms of collateral within the definition of "Assets" upon the approval of the Clearing House Risk Committee and notice to clearing members.

All performance bond collateral, as herein described, shall be placed to the credit of the member paying the same for its customers' trades or its own (so-called "house") trades as designated by the clearing member. The Clearing House shall value performance bond collateral as it deems appropriate. The clearing member shall transfer the performance bond collateral to the Exchange or to an approved depository for safekeeping in an Exchange account and the Exchange shall retain control over such performance bond collateral. Neither the Exchange nor the Clearing House shall have any obligation or responsibility to preserve, protect, collect or realize upon, and under no circumstances shall the Exchange or Clearing House be liable for, any loss or diminution in value or depreciation in the performance bond collateral maintained pursuant to this rule. A clearing member who maintains performance bond collateral for its benefit pursuant to this rule shall hold the Exchange and Clearing House harmless from all liability, losses and damages which may result from or arise with respect to the care and sale of such performance bond collateral. All initial and additional performance bonds shall be retained by the Clearing House in whole or in part, as Exchange staff may deem necessary, until the trades for which such performance bond collateral has been deposited, have been offset, cash settled, delivered or otherwise closed out as determined by Exchange staff.

Each clearing member shall reimburse the Clearing House for all fees, expenses, charges and costs assessed by a depository against the Exchange with respect to all performance bond collateral maintained in its account, and shall make deposits as may be required by the Clearing House by reason of any depreciation in the market value of such performance bond collateral. If a clearing member defaults to the Clearing House with respect to performance bonds, the performance bond collateral maintained in its account pursuant to this rule shall be taken over by the Clearing House and sold without notice and the proceeds of the performance bond collateral deposited for customers' trades shall be applied against the performance bond requirements for the clearing members' customers' accounts, and the proceeds of performance bond collateral deposited for the house trades shall be applied against the requirements for the clearing member's own (so-called "house") account.

## **821. EXCESS PERFORMANCE BOND OF CLEARED SWAPS CUSTOMERS**

Pursuant to CFTC Regulation 22.13(c), the Clearing House will permit a Clearing Member to transmit performance bond of its cleared swaps customers in excess of the amount required by the Clearing House for such cleared swaps customers positions. Each Clearing Member transmitting such excess shall identify each Business Day, for each cleared swaps customer, the value of performance bond posted in excess of the amount required for such cleared swaps customer.

## **822. LIQUIDITY RISK MANAGEMENT**

In order to satisfy CFTC Regulations and prudential liquidity standards, the Clearing House is establishing the following rules:

### **822.A. Liquidity Rules**

In the event the Clearing House needs liquidity for non-cash collateral of a clearing member or its customers for same day settlement, the Clearing House will first attempt to obtain liquidity for such collateral through asset sale, any uncommitted funding arrangements, its committed lines of credit and any committed repurchase agreements. In the event the Clearing House is unable to obtain same day settlement through such means, the Clearing House may declare the occurrence of a Liquidity Event and in its sole discretion may take the following actions in the following order to secure same day liquidity for such assets as follows:

#### **1. Substitution of Guaranty Fund Cash**

a. The Clearing House may substitute any cash deposited by clearing members in a guaranty fund with U.S. Treasuries deposited as performance bond or guaranty fund by a clearing member that is the subject of such Liquidity Event. The amount of cash substituted hereunder shall be equal to the haircutted market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party pricing source) of the U.S. Treasuries that are substituted for such cash. Any assets transferred by this rule shall be applied as guaranty fund deposit(s) of any such clearing member whose cash was substituted and will be allocated pro rata among any clearing members with cash deposits. The substitution of U.S. Treasuries for the clearing member's guaranty fund deposit(s) will be

limited to the size of the clearing member's guaranty fund deposit(s) at the time of the Liquidity Event. For any substitution of U.S. Treasuries for cash in a guaranty fund, the impacted clearing member may, within 24 hours of substitution, request that the Clearing House replace the cash for the substituted U.S. Treasuries, to the extent still on deposit, within 29 days of the date of substitution. Any clearing member requesting cash replacement will receive the exact value in cash received by the Clearing House upon liquidation the U.S. Treasuries.

b. The Clearing House may direct any clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate to substitute its non-cash guaranty fund assets with cash within 60 minutes from the time of notification. Such directions will be made during the hours in which the Federal Reserve's securities wire transfer system is in operation, provided, however that is such directions are given within 60 minutes prior to the close of the Federal Reserve's securities wire, the substitution required hereunder shall be made within 60 minutes after the Federal Reserve's securities wire next opens. To the extent that a clearing member(s) fails to provide cash within the deadlines specified above, the Clearing House may debit cash from that clearing member's settlement bank account in the amount of the clearing member's non-cash guaranty fund assets.

## **2. U.S. Treasury Sale to Meet Clearing House Settlement Variation Obligations**

The Clearing House may offset its US dollar settlement variation obligations to any clearing member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate, up to the amount of that clearing member's guaranty fund contribution(s), by selling U.S. Treasuries valued based on the prior day's closing prices with prevailing CME haircuts applied in exchange for US dollar cash from the clearing member. The US dollar cash received by CME from the clearing member shall be in the form of the variation margin obligation owed by CME and CME shall deliver the purchased U.S. Treasury securities to the U.S. Government Securities Broker-Dealer.

### **822.B. Transfer or Disbursement of Collateral as Compensation for Portfolio Auction, Sale or Transfer with Notice in Advance**

To the extent permitted by the terms of any auction, sale or transfer of a defaulted or suspended clearing member's or customer portfolio for which a payment is owed by the Clearing House to an auction winner, purchaser or transferee, in lieu of satisfying such payment with cash, the Clearing House may satisfy any payment owed to such persons by transferring Federal Reserve discount window eligible securities with a market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party pricing source) equal to the amount of such obligation.

### **823. [RESERVED]**

### **824. ADDITIONAL PERFORMANCE BOND**

Whenever, in the opinion of the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, shall be of the

opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, the President of Global Operations, Technology & Risk or the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

#### **825. SEGREGATION OF PERFORMANCE BOND**

The performance bond assets resulting from any rehypothecation, investment, pledge or disposition of the original performance bond assets deposited by a clearing member that is not a defaulting or suspended clearing member, to the extent the Exchange is not required to transfer or pay out to third parties such resulting performance bond assets to meet the Exchange's obligations with respect to the clearing member pursuant to the Rules, shall be held by the Exchange in the same manner in which the Exchange holds performance bond assets of the same form as the resulting performance bond assets.

#### **826. PROPRIETARY ACCOUNT MINIMUM LIQUIDATION PERIOD**

(a) With respect to clearing member proprietary positions, the Clearing House shall ensure performance bond requirements are calculated and collected using a liquidation period of not less than two (2) days calculated on a net basis.

(b) Paragraph (a) of this Rule does not apply to positions in (i) agricultural commodity derivatives contracts that meet the exclusion criteria established in Article 2 of the European Commission's equivalence determination dated February 24, 2016; or (ii) cleared-only OTC products accepted for clearing by the Clearing House.

#### **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 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 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.

#### **828. BASE FINANCIAL RESOURCES**

The Clearing House shall maintain funded financial resources sufficient to enable the Clearing House to meet its financial obligations to CME, CBOT, NYMEX and COMEX clearing members notwithstanding a default by the two clearing members creating the largest combined loss to the Clearing House in extreme but plausible market conditions. If a clearing member controls another clearing member or is under common control with another clearing member, the affiliated clearing members shall be deemed to be a single clearing member for financial resources calculations under this rule.

#### **829. MEASURES TO MITIGATE PROCYCLICALITY**

(a) With respect to exchange traded derivatives contracts it clears, the Clearing House shall establish performance bond requirements designed to limit the likelihood of procyclical changes in performance bond requirements and mitigate costly and disruptive adjustments to performance bond requirements in periods of high market volatility. The Clearing House shall maintain specific risk management procedures ensuring that performance bond is calculated and collected on a basis that includes measures designed to limit procyclicality that are equivalent to at least one of the options listed in Article 28 (Procyclicality) of Delegated Regulation (EU) No. 153/2013. Such anti-procyclicality measures shall include tools such as extended lookback periods, seasonal volatility metrics, volatility floors, stress volatility metrics and implied volatility.

The Clearing House shall regularly review the measures it utilizes to address procyclicality to ensure they are appropriate in light of market conditions.

Further, the Clearing House's anti-procyclicality measures shall be designed to ensure that its policy for setting performance bond requirements delivers forward looking, stable, conservative, and prudent performance bond requirements that limit procyclicality to the extent that the soundness and financial security of the CCP is not negatively affected.

(b) Paragraph (a) does not apply to positions in agricultural commodity derivatives contracts that meet the exclusion criteria established in the Article 2 of the European Commission's equivalence determination dated February 24, 2016.

## **830. CROSS-MARGINING**

### **830.A. Definitions**

1. **Cross-Margining Affiliate:** An affiliate of a Participating Clearing Member with which such clearing member is cross-margining its positions at the Clearing House and a Cross-Margining Clearing Organization.
2. **Participating Clearing Member:** A clearing member that is cross-margining its positions at the Clearing House with its own or a Cross-Margining Affiliate's positions at a Cross-Margining Clearing Organization.
3. **Cross-Margining Clearing Organization:** A clearing organization that has entered into a Cross-Margining Agreement with the Exchange.
4. **Joint Cross-Margining Program:** A cross-margining program in which the Exchange and one or more Cross-Margining Clearing Organizations each hold a joint security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliates.
5. **Guaranteed Cross-Margining Program:** A cross-margining program in which a guaranty is provided by and between the Exchange and one or more Cross-Margining Clearing Organizations and each entity holds an individual security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliate.

### **830.B. Cross-Margining Programs**

1. The Exchange may establish cross-margining programs as approved by the Clearing House Risk Committee and the Board. A clearing member may become a Participating Clearing Member to participate in a Joint Cross-Margining Program by establishing with the Clearing House one or more cross-margin accounts for cross-margining positions with either its own positions or those of a cross-margining affiliate at a Cross-Margining Clearing Organization. In order to establish a cross-margin account, a clearing member shall enter into the agreements required by the Exchange, including a Cross-Margined Account Agreement and Security Agreement with the Exchange, the Cross-Margining Clearing Organization, and, if applicable, the member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that the Exchange and the Cross-Margining Clearing Organization shall jointly have a first lien on and security interest in all positions held in the cross-margin account, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Exchange and the Cross-Margining Clearing Organization. Failure to comply with the terms of such Agreements may constitute an act detrimental to the interest or welfare of the Exchange.
2. A clearing member may become a Participating Clearing Member in a Guaranteed Cross-Margining Program by entering into a Cross-Margining Participant Agreement with the Exchange, the Cross-Margining Clearing Organization, and, if applicable, the clearing member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that a Participating Clearing Member shall immediately be obligated to reimburse the Exchange ("Reimbursement Obligation") in the event the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to a Cross-Margining Clearing Organization and the Exchange is required to make a guaranty payment to such Cross-Margining Clearing Organization. In addition, the Agreement shall provide that the Exchange shall have a first lien and security interest in all positions held, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Exchange. Failure to comply with the terms of

such Agreement may constitute an act detrimental to the interest or welfare of the Exchange.

The provisions of this Rule 830 and the corresponding sections of the Clearing House Manual shall apply to all CME–cleared positions held pursuant to a cross–margining program and shall supersede all other provisions of the Rules to the extent inconsistent therewith. In addition, the Exchange shall determine what positions will be eligible for cross-margining.

**830.C. [Reserved]**

**830.D. Performance Bonds for Cross–Margining Program**

Performance bond requirements for a Joint and Guaranteed Cross–Margining Program shall be determined as set forth in the Cross-Margining Agreement, and that Agreement shall also govern what forms of performance bond will be permitted and how such performance bond will be held.

**830.E. Close–Out of Cross–Margin Positions**

A Participating Clearing Member may be suspended if it or its Cross-Margining Affiliate, if any, is in default in payment of any obligation, including a Reimbursement Obligation, with respect to a Joint or Guaranteed Cross–Margining Program.

The cross-margin account of a clearing member participating in a Joint Cross–Margining Program may be liquidated by the Clearing House at the request of a Cross-Margining Clearing Organization whether or not the Exchange suspends, or is permitted under the Rules to suspend, such clearing member. Upon the suspension of a Participating Clearing Member, or upon receiving notice from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House shall have the right to liquidate the positions in the cross-margin account, convert to cash the performance bond therefor, and dispose of the proceeds thereof, all in accordance with the terms of the Cross-Margining Agreement.

The positions of a clearing member participating in a Guaranteed Cross-Margining Program may be liquidated by the Clearing House in the event that the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to the Clearing House or a Cross-Margining Clearing Organization. Upon the suspension of a Participating Clearing Member, or upon receiving notice from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House may liquidate: the positions of the Participating Clearing Member; all related performance bond; and all proceeds of the foregoing. The Exchange may then apply all such liquidated proceeds to satisfy the Participating Clearing Member's obligations to the Exchange, all in accordance with the terms of the Cross-Margining Agreement.

**831. COMMINGLING OF ELIGIBLE BASE FUTURES AND SWAPS POSITIONS**

The Clearing House may identify non-swap Base Guaranty Fund Products that may be commingled with positions in swap Base Guaranty Fund Products in order to provide risk offsets for customer positions if and only if the price risks with respect to such products are significantly and reliably correlated (such products, “Base Eligible Products”). The price risks of different positions will only be considered to be significantly and reliably correlated if there is a theoretical basis for the correlation in addition to an exhibited statistical correlation. Upon such identification, Base Clearing Members may elect that a customer's positions in Base Eligible Products be commingled in a cleared swaps account. If the Clearing House determines at any time that any Base Eligible Products are non-risk reducing when commingled, the Clearing House may either restrict the commingling of additional Base Eligible Product positions or require moving or liquidating such positions.

List of eligible products:

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

**832.-849. [RESERVED]**

**MISCELLANEOUS****850. FEES**

Exchange fees and/or any transaction surcharges shall be assessed against a clearing member for each side of a transaction traded on, cleared by or processed through the Exchange or the Clearing House as the Board or Exchange staff, as appropriate, may from time to time prescribe. Detailed information concerning these fees is set forth in the Exchange Fee Schedule and applicable Fee Policy Bulletins available on the CME Group website.

**851. [RESERVED]****852. SURCHARGES FOR ERRORS, DELAYS AND OMISSIONS**

Exchange staff may establish, and from time to time revise, schedules of surcharges to be imposed upon clearing members for errors, delays and omissions with respect to trade data and certain other information required to be provided to the Clearing House. These surcharges are to be collected by the Clearing House and are in addition to any disciplinary sanctions that may be imposed by Market Regulation, the BCC or CHRC for the violation of Exchange rules.

**853. TRANSFERS OF TRADES AND CUSTOMER ACCOUNTS****853.A. Transfers of Trades**

1. Subject to the limitations of Rule 854, existing trades may be transferred either on the books of a clearing member or from one clearing member to another clearing member provided:

- i. The transfer results in the transfer of a trade(s) from one account to another account with identical beneficial ownership; or
- ii. An error has been made in the clearing of a trade(s) and the error is corrected via transfer within three Business Days after the date on which the error occurred; or
- iii. The transfer trade is made to reconcile an error, omission or outrade in accordance with the requirements of Rule 770.

Notwithstanding the foregoing, a transfer may be approved by the President of the Clearing House or the Chief Compliance Officer of the Clearing House, or their respective designees, in circumstances where it is determined that a transfer trade is the most appropriate means to remedy an error that results from the good faith acts or omissions of any party and the clearing member(s) consent to such transfer, provided that such approval does not result in an impermissible transfer for offset pursuant to the provisions of Rule 854.B. Any request for approval pursuant to this paragraph requires the clearing member(s) to fully document the circumstances of the error and provide that documentation to the Clearing House.

2. Subject to the limitations of Rule 854, the Chief Regulatory Officer or his designee may, (and, with respect to cleared-only products, the President of the Clearing House or his designee also may), upon request by the clearing member(s), approve a transfer of existing trades either on the books of the same clearing member, or from the books of one clearing member to the books of another clearing member if the transfer is in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring transaction between two or more entities.

3. Subject to the limitations of Rule 854, the Chief Regulatory Officer or his designee may, (and, with respect to cleared-only products, the President of the Clearing House or his designee also may), upon request by the clearing member(s), approve a transfer of existing trades either on the books of a clearing member or from one clearing member to another member if the transfer involves a partnership, investment fund or commodity pool and the purpose of the transfer is to facilitate a restructuring or consolidation of such partnership, fund or pool, provided that i) the managing partner or pool operator remains the same; ii) the transfer does not result in the liquidation of open positions; and iii) the pro rata allocation of positions to the new account does not result in more than a de minimis change in the value of the interest of any party.

4. Notwithstanding the foregoing, the Chief Regulatory Officer or his designee may, (and, with respect to cleared-only products, the President of the Clearing House or his designee also

may), with the consent of the clearing member(s) involved, permit the transfer and/or offset of existing trades if, in his designee's opinion, the situation so requires and such transfer is in the best interests of the Exchange, which may include, but is not limited to, the remedying of an error resulting from the good faith acts or omissions by a party as a means of avoiding a market disruption. The foregoing does not relieve a clearing member of its responsibility under the Rules for circumstances leading to such transfer and/or offset, and the clearing member may be responsible for demonstrated claims of realized losses incurred by other parties as a result of such errors or omissions in accordance with the provisions of Chapter 6. Additionally, notwithstanding permission for the transfer being granted by the Chief Regulatory Officer or his designee, parties involved in the transfer remain responsible for any violation of Exchange rules resulting from the transfer and may either be summarily sanctioned in accordance with the provisions of Rule 512 or the matter may be referred to the Probable Cause Committee for the consideration of charges.

5. Provided that the transfer is permitted pursuant to Sections 1., 2., 3. or 4. above:
  - i. Transactions in all physically delivered futures contracts except for FX futures contracts must be recorded and carried on the books of the receiving firm at the original trade dates, with either the original trade price, the current Business Day's settlement price or the prior Business Day's settlement price.
  - ii. All other futures and futures-style option transactions may be recorded and carried at:
    - (1) the original trade date or the date the transfer is submitted to the Clearing House, with either the original trade price, the current Business Day's settlement price or the prior Business Day's settlement price; or
    - (2) the Business Day prior to the date the transfer is submitted to the Clearing House, with either the original trade price or the prior Business Day's settlement price.
  - iii. Premium-style options transactions may be recorded and carried at the original trade date, the date the transfer is submitted to the Clearing House, or the Business Day prior to the date the transfer is submitted to the Clearing House, with either the original trade price, the current Business Day's settlement price, the prior Business Day's settlement price or a trade price of zero.

Trades that have been confirmed at an average price pursuant to the provisions of Rule 553 may alternatively be transferred at the average price.

6. All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The clearing members involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

7. Any authority granted to the President of the Clearing House or the Chief Compliance Officer of the Clearing House, or their respective designees, set forth in Section A. will not extend to security-based swap products cleared by the Clearing House.

#### **853.B. Transfers of Customer Accounts**

Subject to the limitations of Rule 853.A, after receipt of a signed instruction from a Clearing Member (the "Carrying Clearing Member") to transfer all or a portion of a customer account to another Clearing Member (the "Receiving Clearing Member"), and provided that such instruction contains the customer's name and account number (and, if the transfer is not of the entire account, a description of which portion is to be transferred), and provided that the Receiving Clearing Member agrees to accept the account, the Exchange shall promptly transfer the account (or the relevant portion thereof), without requiring any close-out or rebooking of positions in connection with the transfer, provided that:

1. The transferred positions will satisfy Exchange performance bond requirements at the Receiving Clearing Member; and
2. Any remaining positions in the customer account at the Carrying Clearing Member will satisfy Exchange performance bond requirements.



#### 854. CONCURRENT LONG AND SHORT POSITIONS

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

A. Concurrent long and short positions in the same commodity and month may be held by a clearing member at the direction of a customer or on behalf of an omnibus account; however it shall be the duty of the clearing member to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the Clearing House.

B. Concurrent long and short positions in physically delivered contracts subject to spot month position limits that are held by the same owner during the time that spot month position limits are in effect must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be offset via netting, transfer or position adjustment to correct a bona fide clerical or operational error on the day the error is identified and the quantity of the offset does not represent more than two percent of the reported open interest in the affected futures contract month.

##### Permissible Exceptions

Notwithstanding the foregoing:

1. Trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date;
2. An account that becomes concurrently long and short as a result of a futures position that results from an option assignment will be allowed one business day to net such positions; or,
3. Where the Chief Regulatory Officer or his designee determines, in their respective sole discretion, that permitting an offset via netting, transfer or position adjustment in excess of two percent of the reported open interest will not adversely impact either the affected market or any persons holding open positions in the affected market.

C. Clearing members which, pursuant to this rule, carry concurrent long and short positions, must report to the Exchange both sides as open positions. When either side or both sides are reduced, the open positions as reported to the Exchange must be reduced accordingly, and, pursuant to Rule 806, may not subsequently be re-opened at the Exchange.

D. The Exchange takes no position regarding the internal bookkeeping procedures of its clearing members which, for the convenience of a customer, may "hold open" a position only on their books. However, the clearing member must accurately report to the Exchange and the Clearing House, as appropriate, large trader positions, long positions eligible for delivery and open interest.

E. Violations of this Rule may result in summary sanctions in accordance with the provisions of Rule 512 or the matter may be referred to the Probable Cause Committee for the consideration of charges.

#### 855. OFFSETTING DIFFERENT SIZED FUTURES POSITIONS AND OPTIONS<sup>1</sup>

With the consent of the account controller, a clearing member may offset and liquidate long E-Mini or E-Micro futures positions against short regular futures positions, or short E-Mini or E-Micro futures positions against long regular futures positions, held in the same account in the following ratios of E-Mini or E-Micro to regular futures contracts:

E-Mini S&P 500 to regular S&P 500:	5:1
E-Mini Currency to regular Currency:	2:1
E-Mini Nikkei 225 (Yen) to regular Nikkei 225 (Yen):	5:1
E-Micro GBP/USD, EUR/USD, AUD/USD, CAD/USD, JPY/USD, CHF/USD, USD/RMB or CNY, USD/Offshore RMB or CNH to regular Currency	10:1
E-Micro INR/USD to regular INR/USD	5:1

With the consent of the account controller, a clearing member may offset and liquidate long positions in options on E-Mini or E-Micro futures contracts ("E-Mini or E-Micro options") against short positions in options on regular futures contracts ("regular options"), or short positions in

<sup>1</sup> Revised September 2008; March 2009; September 2010; December 2010; January 2013; December 2016.

E-Mini or E-Micro options against long positions in regular options, held in the same account, provided that (a) any such offsetting and liquidating combination of E-Mini or E-Micro options and regular options corresponds to one of the offsetting and liquidating combinations of E-Mini or E-Micro futures and regular futures specified in this Rule, and provided that the options to be netted have (b) European exercise, (c) the same expiration date, and (d) the same exercise price. If all of the foregoing requirements are met, then the offsets will be in the following ratios of options on E-Mini or E-Micro futures contracts to options on regular futures contracts:

Options on E-Mini S&P 500 futures to Options on S&P 500 futures: 5:1

The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price for futures and at a price of zero for options.

The positions being offset shall be transferred to a CME holding account. Long and short positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.

#### 856. **NORMALIZATION OF OTC FX SPOT, FORWARD, SWAP AND OPTIONS TRANSACTIONS FOR CLEARING<sup>1</sup>**

For over-the-counter (OTC) foreign exchange (FX) transactions submitted for clearing and any non-standard specification of the transaction as defined by the price format shall be normalized by CME Group Clearing to standard or normal specifications by the following "normalization process."

Instrument: Currency 1/Currency 2 (CCY1/CCY2)

##### **Generically, for spot and forward OTC FX transactions...**

*Standard or Normal:* Buy (B)/Sell (S) CCY1 notional amount at CCY2 per CCY1 rate.

*Non-standard or Non-normal:* B/S CCY2 notional amount at CCY2 per CCY1 rate.

To normalize:

1. Convert B to S, or S to B
2. Convert CCY2 notional to CCY1: CCY2 amount divided by CCY2 per CCY1 rate to obtain CCY1 amount.

For example, for Instrument: EUR/USD ...

*Standard:* EUR/USD- Quote USD per EUR; notional amount in EUR

Trade comes in as SELL €15 million at 1.350000 USD per EUR →BUY \$20,250,000 (€15 million x 1.350000 USD/EUR)

*Non-standard:* EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Trade comes in as buy \$20 million at 1.350000 USD per EUR →SELL €14,814,814.81 (\$20 million / 1.350000 USD/EUR).

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

3. Convert Buy to Sell, or Sell to Buy
4. Convert USD notional to EUR: USD amount divided by USD per EUR rate.

Example: The trade "BUY \$20 million at 1.350000 ⇒SELL €14,814,814.81 (\$20/1.350000) at 1.350000 USD per EUR" shall be normalized and held in CME Clearing as:

The trade "SELL €14,814,814.81 (\$20/1.350000) at 1.350000 USD per EUR⇒BUY \$20 million at 1.350000."

##### **For swap OTC FX transactions, ...**

*Standard or Normal:* Leg 1 B/S CCY1 notional amount at CCY2<sub>t</sub> per CCY1 rate.

Leg 2 S/B CCY1 notional amount at CCY2<sub>t+n</sub> per CCY1 rate.

*Non-standard or Non-normal:*

Leg 1 B/S CCY2 notional amount at CCY2<sub>t</sub> per CCY1 rate.

<sup>1</sup> Adopted April 2011.

Leg 2 S/B CCY2 notional amount at  $CCY2_{t+n}$  per CCY1 rate.

To normalize:

1. Convert B to S, or S to B
2. Convert CCY2 notional to CCY1: CCY2 amount divided by CCY2 per CCY1 rate to obtain CCY1 amount.

For example, for instrument: EUR/USD...

*Standard:* Leg 1 EUR/USD- Quote USD per EUR; notional amount in EUR

Leg 2 EUR/USD- Quote USD per EUR; notional amount in EUR

Trade comes in as "Leg 1 BUY €20 million at 1.305000 ⇒ SELL \$26,100,000 (\$20 million x 1.305000) at 1.305000 USD per EUR; Leg 2 SELL €20 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)"

*Non-Standard:* Leg 1 EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Leg 2 EUR/USD- Notional amount in USD, but quote still in USD per EUR.

Trade comes in as "Leg 1 SELL \$26.1 million at 1.305000 ⇒ BUY €20 million (\$26.1 million / 1.305000) at 1.305000 USD per EUR; Leg 2 BUY \$26.3 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)."

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

3. Convert Buy to Sell, or Sell to Buy
4. Convert USD notional to EUR: USD amount divided by USD per EUR rate.

Example: The trade "Leg 1 SELL \$26.1 million at 1.305000 ⇒ BUY €20 million (\$26.1 million / 1.305000) at 1.305000 USD per EUR; Leg 2 BUY \$26.3 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)" shall be normalized and held in CME Clearing as:

The trade "Leg 1 BUY €20 million at 1.305000 ⇒ SELL \$26,100,000 (\$20 million x 1.305000) at 1.305000 USD per EUR; Leg 2 SELL €20 million at 1.315000 USD per EUR (1.3050 + 0.0100 swap points)"

#### For option OTC FX transactions, ...

*Standard or Normal:* B/S CCY1/CCY2 CALL (PUT) at STRIKE PRICE in units of CCY2 per CCY1 for a notional amount of CCY1 for a premium in CCY2 (CCY1 amount x premium price in CCY2 per CCY1, that is, CCY2 pips) or % of CCY1 (CCY1 premium / CCY1 notional amount).

*Non-standard or Non-normal:* B/S CCY1/CCY2 CALL (PUT) at STRIKE PRICE in units of CCY2 per CCY1 for a notional amount of CCY2 for a premium in CCY1 (CCY2 amount / premium price in CCY2 per CCY1, that is, CCY1 pips) or % of CCY2 (CCY2 premium / CCY2 notional amount).

To normalize:

1. Retain B/S direction
2. Convert CCY2 Put to CCY1 Call, CCY2 Call to CCY1 Put
3. Convert CCY2 notional to CCY1: CCY2 amount divided by Strike Price expressed in CCY2 per CCY1.
4. Process original premium amount and currency.
5. Take premium amount and divide by CCY1 notional to express price in CCY1 terms for reference purposes.

For example, for Instrument: EUR/USD ...

*Standard:* EUR/USD- Quote USD per EUR; notional amount in EUR, premium in either % of EUR notional (EUR premium) or USD pips (USD premium).

Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of €20 million with premium of \$100,000 (€20 million x option price of

0.0050 USD per EUR, that is, USD pips) or 1.0% of €20 million (€200,000 premium / €20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of €20 million with premium of \$100,000 (€20 million x option price of 0.0050 USD per EUR, that is, USD pips) or 1.0% of €20 million (€200,000 premium / €20 million).

*Non-standard:* EUR/USD- Notional amount in USD, but quote still in USD per EUR, premium in either % of USD notional (USD premium) or EUR pips (EUR premium).

Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 USD per EUR, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million).

To normalize the non-standard EUR/USD transaction, CME Clearing shall:

6. Retain B/S direction
7. Convert USD Put to EUR Call, USD Call to EUR Put
8. Convert USD notional to EUR: USD amount divided by Strike Price expressed in USD per EUR.
9. Process original premium amount and currency.
  - a. Take premium amount and divide by EUR notional to express price in EUR terms for reference purposes.

*Example:* Trade comes in as BUY EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) → SELL EUR/USD PUT at 1.350000 USD per EUR for a notional amount of \$20 million with premium of €170,100 (\$20 million x option price of 0.008505 USD per EUR, that is, EUR pips) or 1.0% of \$20 million (\$200,000 premium / \$20 million) shall be normalized and held in CME Clearing as:

BUY EUR/USD CALL at 1.350000 USD per EUR for a notional amount of €14,814,814.81 (\$20 million/1.350000 USD per EUR) with a premium of €170,100 (\$20 million x option price of 0.008505 EUR per USD, that is, EUR pips) or 1.148% of €14,814,814.81 (€170,100 / €14,814,814.81).

(End Chapter 8)