

# SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional): 14-097R Date: March 17, 2014

**IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.**

## ORGANIZATION

Chicago Mercantile Exchange Inc.

## FILING AS A:

DCM

SEF

DCO

SDR

ECM/SPDC

## TYPE OF FILING

### • Rules and Rule Amendments

- Certification under § 40.6 (a) or § 41.24 (a)
- "Non-Material Agricultural Rule Change" under § 40.4 (b)(5)
- Notification under § 40.6 (d)
- Request for Approval under § 40.4 (a) or § 40.5 (a)
- Advance Notice of SIDCO Rule Change under § 40.10 (a)

### • Products

- Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)
- Swap Class Certification under § 40.2 (d)
- Request for Approval under § 40.3 (a)
- Novel Derivative Product Notification under § 40.12 (a)

## RULE NUMBERS

CME/CBOT/NYMEX Rule 802.A.2 and 802.D; CME Rules 8G802.D and 8H802.D

## DESCRIPTION

Application of excess defaulting clearing member assets in crossover default scenarios; Harmonization of Defaulted Base Clearing Member Collateral definitions.

March 17, 2014

**VIA E-MAIL**

Ms. Melissa Jurgens  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: CFTC Regulation 40.6(a) Certification. Application of Excess Defaulting Clearing Member Assets in Crossover Default Scenarios; Harmonization of Defaulted Base Clearing Member Collateral Definitions. CME/CBOT/NYMEX Submission No. 14-097R**

Dear Ms. Jurgens:

Pursuant to Commodity Futures Trading Commission (“CFTC” or “Commission”) Regulation 40.6(a), Chicago Mercantile Exchange Inc. (“CME”), the Board of Trade of the City of Chicago, Inc. (“CBOT”), and New York Mercantile Exchange, Inc. (“NYMEX”) (collectively, the “Exchanges”) hereby notify the Commission of rule changes relating to the application of excess defaulting clearing member assets in crossover default scenarios and the harmonization of Defaulted Base Clearing Member Collateral definitions. The proposed changes will be effective on March 31, 2014 pending other regulatory approvals.

The Exchanges are proposing amendments to CME/CBOT/NYMEX Rule 802.D and CME Rules 8G802.D and 8H802.D to specify the allocation of excess collateral of a defaulted clearing member for a particular financial safeguard package to losses relating to product classes subject to other financial safeguards at CME. CME employs three financial safeguard packages (i.e. waterfalls) for each of the following product classes: interest rate swap products (“IRS”), credit default swap products (“CDS”) and Base products (which are all products other than IRS and CDS). The default rules for each respective waterfall contain the ability, once the loss of the clearing member for that waterfall is entirely satisfied, to use excess house assets of the clearing member towards satisfying uncovered losses of such clearing member for products in other waterfalls. For example, if a member was clearing IRS and Base products and excess Base collateral remained after completely satisfying all losses for Base Products, the rules provide that such excess may be used towards any uncovered losses of that clearing member for IRS products. The rules are currently silent on the allocation mechanism of such excess funds to unresolved losses in other product classes where losses remain in both of the other product classes. The proposed new CME/CBOT/NYMEX Rule 802.D.1, 8G802.D.1 and 8H802.D.1 would specify that any such excess is allocated to the other safeguard packages pro rata based on the remaining loss in each of such product classes.

The Exchanges are additionally proposing to amend CME/CBOT/NYMEX Rule 802.A.2 to harmonize the clearing member house collateral definition across the default rules.

The Exchanges reviewed the derivatives clearing organization core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA”). During the review, the Exchanges identified the following Core Principle as potentially impacted:

**Default Rules and Procedures:** The proposed changes for the allocation of excess funds comport with CFTC Regulation 39.16(c)(2)(iv)<sup>1</sup> by clearly specifying the sequence in which excess house funds of the defaulting clearing member for a product class will be used to satisfy uncovered losses for other product classes. The harmonization of the defaulted clearing member definition similarly clarifies the defaulted members assets held by the clearing house that may be used to satisfy losses due to the clearing member's default.

The text of the proposed changes is reflected on the attached Exhibit, with additions underlined and deletions ~~stricken through~~.

The Exchanges certify that the above rules and rule amendments comply with the Commodity Exchange Act and the regulations thereunder. There were no substantive opposing views.

Notice of this submission has been concurrently posted on CME Group's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please contact Tim Doar at 312-930-3162 or via e-mail at [Tim.Doar@cmegroup.com](mailto:Tim.Doar@cmegroup.com), or contact me at 212-299-2228 or [Jason.Silverstein@cmegroup.com](mailto:Jason.Silverstein@cmegroup.com) . Please reference our CME Submission No. 14-097R in any related correspondence.

Sincerely,

/s/ Jason Silverstein  
Executive Director & Associate General Counsel

Attachment: Exhibit 1

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<sup>1</sup> CFTC Regulation 39.16(c)(2)(iv) states that "[a] derivatives clearing organization shall adopt rules that set forth its default procedures, including:...(iv) The sequence in which the funds and assets of the defaulting clearing member and its customers and the financial resources maintained by the derivatives clearing organization would be applied in the event of a default;

# EXHIBIT 1

## CME/CBOT/NYMEX RULE 802. PROTECTION OF CLEARING HOUSE

### REVISED CME/CBOT/NYMEX RULE 802.A.2. Defaulting Clearing Member's Collateral

Upon the default of ~~if~~ a clearing member ~~defaults~~, all assets of such defaulting clearing member that are available to the Clearing House, including without limitation its Base Guaranty Fund contribution (pursuant to Rule 816) including any excess amounts, its performance bonds on deposit with the Clearing House relating to the Base Guaranty Fund Product Classes, any partial payment amounts or settlement variation gains in respect of Base Guaranty Fund Product Classes, the proceeds of the sale of any membership assigned to it for clearing qualification, excess performance bond or guaranty fund deposits of the clearing member for non- Base Guaranty Fund Product Classes and any of its other assets held by, pledged to or otherwise available to the Clearing House (collectively, the "Base Collateral"), shall be applied by the Clearing House to discharge the clearing member's obligation to the Clearing House. The defaulting clearing member shall take no action, including but not limited to, attempting to obtain a court order that would interfere with the ability of the Clearing House to so apply such assets and proceeds.

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

For purposes of this Rule, the positions in the cross-margin account of a Participating Clearing Member or its Cross-Margining Affiliate at a Cross-Margining Clearing Organization, and the performance bond thereon, shall be considered assets of the Participating Clearing Member available to the Clearing House to the extent provided in the Cross-Margining Agreement between the Clearing House and such Cross-Margining Clearing Organization. A clearing member in default shall immediately make up any deficiencies in its 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.

### **CME/CBOT/NYMEX RULE 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 and CDS 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.

**CME RULE 8G802.D. Utilization of Remaining IRS Collateral of defaulted IRS Clearing Member;  
Restoration of Funds Following Final Determination of Losses**

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

2. If, after the default of an IRS Clearing Member is finally resolved, the Clearing House determines that collateral of the defaulted IRS Clearing Member, surplus funds, IRS Guaranty Funds, IRS Assessments, other guaranty fund contributions, or assessment powers were employed in a manner different from what would have occurred had all assets been secured and liquidated immediately and the IRS Loss finalized simultaneously, then the Clearing House shall make distributions or rebalancing allocations to non-defaulted IRS Clearing Members and/or the guaranty funds, as appropriate.

**CME RULE 8H802.D. Utilization of Remaining CDS Collateral of defaulted CDS Clearing Member;  
Restoration of Funds Following Final Determination of Losses**

1. After the default of a CDS Clearing Member is finally resolved, excess CDS Collateral of the CDS Clearing Member may be used by the Clearing House for losses to the Clearing House of such CDS Clearing Member for Base Products and 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 an IRS Clearing Member is finally resolved, the Clearing House determines that collateral of the defaulted IRS Clearing Member, surplus funds, IRS Guaranty Funds, IRS Assessments, other guaranty fund contributions, or assessment powers were employed in a manner different from what would have occurred had all assets been secured and liquidated immediately and the IRS Loss finalized simultaneously, then the Clearing House shall make distributions or rebalancing allocations to non-defaulted IRS Clearing Members and/or the guaranty funds, as appropriate.