

## Advisory Notice

Clearing House

08-378

TO: Clearing Member Firms  
Back Office Managers

FROM: CME Clearing

SUBJECT: **NYMEX/COMEX and CME/CBOT Rule Harmonization**

DATE: Wednesday, December 3, 2008

Over the past several months, NYMEX/COMEX clearing rules have been harmonized to the extent possible with CME/CBOT Rules. In some circumstances, however, harmonization was not possible due to the unique characteristics of NYMEX policies or procedures. This Advisory describes the material differences between existing CME Chapters 8 and 9 and new NYMEX/COMEX Chapters 8 and 9. **The new NYMEX/COMEX rules will become effective on December 4.**

Set forth immediately below is a brief description of the new NYMEX/COMEX Clearing Rules that are materially different than the CME/CBOT Clearing Rules set forth in Chapters 8 and 9. At the end of this Advisory are marked rules that show the differences between new NYMEX/COMEX Clearing Rules and CME/CBOT Clearing Rules.

If you have any questions regarding these rule changes, please contact CME Clearing at (312) 930-3170.

### Chapter 8 ("Clearing House and Performance Bonds")

#### **Rule 800.B ("Dubai Mercantile Exchange Limited")**

NYMEX's rule includes a reference to the Dubai Mercantile Exchange ("DME") and states that the clearing rules set forth in the rules apply equally to DME unless otherwise stated.

#### **Rule 806 ("Offset Process")**

CME's rule provides that when a member buys and sells the same commodity for the same delivery month, the purchases and sales are not automatically offset one against the other unless position change data is provided to the Clearing House. Under the NYMEX rule, such purchases and sales are automatically offset one against the other unless contrary instructions are provided.

#### **Rule 807 ("Open Positions During Delivery Month")**

CME's rule provides that a clearing member shall submit to Clearing a complete and accurate record of the dates of all open purchases for use in making deliveries. The NYMEX rule applies to both purchases and sales but does not require the submission of the "date" of all open purchases and sales.

#### **Rule 808 ("NYMEX ClearPort Clearing; Procedures for Trade Submission")**

NYMEX's rule contains separate procedures for trade submissions that must be made for ClearPort Clearing. Specifically, the rule covers the processing of transactions that are not competitively executed on the Exchange and are submitted to the ClearPort Clearing Trade Portal for clearing.

#### **Rule 809 ("Trade Data Processing System")**

NYMEX Rule 809 is a redacted version of CME and CBOT Rule 809 which adopts only Section C. from the CME and CBOT rule. Clearing firms are not responsible for keypunching trade data for pit-traded NYMEX and COMEX transactions; rather NYMEX staff enters the sell side transactions and the buy side is automatically generated based on the information submitted via the sell-side record.

#### **Rule 813 ("Settlement Price")**

CME's rule provides that daily settlement prices will be determined by the Pit Committee based on several general factors including, but not limited to, trades during the close, volume traded at a price in the closing range and bids and offers made during the close. CME's rule is one paragraph long. The NYMEX/COMEX rules provide that the Settlement Price Committee will determine daily settlement prices. The NYMEX/COMEX settlement rules are very complex for the various energy contracts offered at the Exchange and they are set forth in detail in the ten plus pages of settlement rules.

#### **Rule 820 ("Performance Bonds")**

NYMEX and CME Clearing are working through a number of operational issues associated with allowing NYMEX to receive and process the performance bond types and the calculations that are currently allowed and processed under the CME rule. It is anticipated that this process will be completed in the first quarter of 2009. At that time, the Clearing House Risk Committee will be asked to approve CME's performance bond rule for NYMEX. Until that time, NYMEX will maintain its existing performance bond rule.

#### **Rule 850 ("Exchange Service Fees")**

As a longer term project, the Exchange fee system of NYMEX will be reviewed in great detail in an effort to harmonize the fee structure of NYMEX with CME/CBOT. However, since that change will not be completed this year, NYMEX's Exchange Service Fee rule will be maintained by NYMEX.

#### **Rule 851 ("Required Use of ATOM by Clearing Members and Floor Brokers")**

NYMEX will convert to the Brokerage Payment System in the first quarter of 2009 as a means of paying floor brokers for their brokerage activity. Until that time, NYMEX requires that its floor brokers and clearing members utilize the ATOM System and that requirement is set forth in this rule.

### Chapter 9 ("Clearing Members")

#### **Rule 902 ("Clearing Membership Assignment Requirements")**

The NYMEX assignment rule is being maintained and requires that a clearing member own or have conferred upon it two memberships in each division in which it desires clearing member privileges. In addition, the rule maintains the concept that 8,000 CME shares must be owned or pledged if the firm is a clearing member only at NYMEX, 12,000 CME shares if the firm is a clearing member at NYMEX and either CME or CBOT and 16,000 CME shares if the firm is a clearing member at all three exchanges.

#### **Rule 931 ("Customer Margins for Security Futures Positions Held in Futures Accounts") and Rule 932 ("Acceptable Margin for Security Futures and Treatment of undermargined Accounts")**

CME Rule 931 and 932 which deal with security futures products are not maintained in the NYMEX rules as NYMEX does not currently list security futures products for trading.

#### **Rule 972 ("Reductions in Capital")**

The NYMEX rule requires that whenever the working capital of a non-FCM clearing member drops below the minimum required working capital, such clearing member shall provide immediate written notice to the Audit Department of the Exchange.

#### **Rule 984 ("Give-up Trades—Trades Executed by Open Outcry")**

NYMEX has a rule that sets forth the rights and obligations of the parties to a give-up transaction. The rule is designed to apply and assist in the interpretation of various give-up scenarios where the parties to the give-up transaction do not have an executed agreement between them.

#### **Rule 990 ("Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Brokers")**

The NYMEX rule states that clearing members that guarantee and clear OTC contracts must have working capital of at least \$20 million. The rule also provides procedures that must be followed in the event that such a clearing member does not maintain the required working capital.

**Rule 991 ("Clearing Requirements for Clearing of OTC Option Transactions in Exchange-Designated Pari-Mutuel Auctions")**

The NYMEX rule sets forth the procedures that must be followed in the event that a clearing member plans to clear OTC options in Exchange-Designated pari-mutuel auctions. CME/CBOT do not have pari-mutual auctions and therefore do not have an equivalent rule.

**Rule 992 ("Participation by NYMEX Floor Members in Special Program for Over-the-Counter Trading with FCM Guarantee")**

The NYMEX rule establishes a program which allows NYMEX floor members to enter into certain OTC transactions on the basis of an FCM guarantee without needing to satisfy the total assets requirement otherwise necessary under the Commodity Exchange Act for such trading.

**Rule 993 ("Customer Substitution in the Event of Clearing Member Insolvency")**

The NYMEX rule restates a provision from Part 190 of the CFTC regulations regarding the substitution of a customer for a defaulting clearing member for delivery purposes.