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Chapter 8 Clearing House and Performance Bonds

GENERAL

800. CLEARING HOUSE

800.A. CME Clearing House

The Exchange shall utilize the services of the CME 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.

800.B. Dubai Mercantile Exchange Limited

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 the 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 general direction of the Clearing House shall be under the jurisdiction of the Clearing House Risk Committee. The Chief Executive Officer with the approval of the Board shall appoint a President of the Clearing House, who shall be responsible for the daily operation of the Clearing House and the implementation of the rules applicable to the Clearing House. The President of the Clearing House may also delegate authority for certain aspects of the daily operation of the Clearing House 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 and Other Participating Exchanges

1. Default by Clearing Member

If a Clearing Member of NYMEX, COMEX, CME or CBOT fails promptly to discharge any obligation to the CME Clearing House, it shall be in default. If a Clearing Member is in default, its security deposit (pursuant to Rule 816), its performance bonds on deposit with the Clearing House, the proceeds of the sale of any membership and Class A Shares assigned to it for clearing qualification, and any other assets held by, pledged to or otherwise available to the Clearing House, shall be applied by the Clearing House to discharge the obligation. For purposes of this rule, each default by an individual Clearing Member will be considered a separate default event.

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 Exchange to the extent provided in the Cross-Margining Agreement between the Exchange and such Cross-Margining Clearing Organization. A Clearing Member in default shall immediately make up any deficiencies in its security deposit resulting from such default prior to the close of business on the next banking day.

The 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 security deposit, performance bond, and other assets of a Clearing Member available to the Exchange 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, the Clearing House shall nonetheless pay all such claims, which shall be deemed a loss to it and which

shall be a liability of the defaulting Clearing Member to the Exchange, which the Exchange may collect from any other assets of such clearing member or by process of law.

2. Default by Other Participating Exchanges.

If a participating exchange fails to promptly discharge any obligation to the Clearing House arising out of its obligations to the Exchange, such Participating Exchange's letters of credit, performance bonds and other assets available to the Exchange shall be applied by the Clearing House to discharge the obligation.

802.B. Satisfaction of Clearing House Obligations

If the Clearing House is unable to immediately satisfy all claims against it including, but not limited to, costs associated with the liquidation, transfer and managing of positions, arising out of: 1) its substitution (pursuant to Rule 804) for a defaulting Clearing Member or 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., 8D., 8E. and 8F.; or 4) for any other cause, then such claim or obligation shall be met and made good promptly by the use and application of funds from the following sources in the order of priority hereafter listed. Each source of funds set forth below shall be completely exhausted, to the extent practicable, before the next following source is applied.

1. Surplus funds of the Exchange in excess of funds necessary for normal operations.
2. The amount of security deposit required under Rule 816 from all classes of clearing members shall be applied toward meeting said loss, in direct proportion to the total security deposit requirement of each clearing member. Notwithstanding the above, the initial draw under this section 2 of the rule shall be in an amount up to any applicable insurance policy deductible then in place with the Exchange;
3. Proceeds from any default insurance maintained by the Exchange to the extent that such proceeds are available in a timely manner to be applied towards the default.
4. In the event a shortfall continues to exist after the application of the insurance proceeds described in number 3 above, any remaining unused proceeds from the security deposit pool set forth in number 2 above shall then be applied:
5. The balance of the Clearing House loss remaining after application of the above funds shall be assessed against all Clearing Members (excluding any insolvent or defaulting clearing member). Each clearing member (excluding any insolvent or defaulting Clearing Member) shall be subject to an assessment up to an amount that does not exceed 275 percent of such Clearing Member's security deposit requirement.
6. All amounts assessed by the Exchange 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 the Fedwire on such day. 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. While such application of funds shall be mandatory, the detailed implementation of Rule 802.B shall be the responsibility of the Clearing House Committee with the approval of the Board.

Any Clearing Member that does not satisfy an assessment, made pursuant to paragraphs 5 or 6 above, shall be in default. Any Clearing House loss that remains as a result of such default shall be assessed pursuant to paragraph 5.

If a Clearing Member (i) makes payment of all amounts assessed against it pursuant to paragraph 5 or 6 above, (ii) replenishes any applicable deficiency in its security deposit in accordance with Rule 802.D., and (iii) satisfies all other conditions for withdrawal, it may, within five (5) business days of such payments, apply to withdraw from clearing membership. Immediately after the Exchange approves the Clearing Member's withdrawal, the withdrawing Clearing Member shall not be subject to any other assessment pursuant to this Rule. Further, upon the approval of the clearing member's request to withdraw, the security deposit that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearing House pursuant to this Rule and shall be released.

After payment of an assessment pursuant to this Rule, 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.

To the extent that, and irrespective of the fact that, the Exchange has default insurance coverage in effect at the time of an event of default, the Exchange may nevertheless continue to utilize the resources under the priority outlined in Rule 802.B.1, B.2, B.3 and B.5 for immediate liquidity while awaiting any insurance proceeds. Any insurance proceeds so recovered by the Exchange, to the extent not required by the Exchange to cure a default, will be applied to the credit of the non-defaulting

Clearing Members.

802.C. Rights of Exchange for Recovery of Loss

If a loss for which Clearing Members or their security deposit proceeds have been assessed is subsequently recovered by the Exchange in whole or in part, the net amount of such recovery shall be credited to such persons or firms (whether or not they are clearing members at the time of recovery) in proportion to the amount of the assessment.

802.D. Security Deposit to be Restored

In the event it shall become necessary to apply all or part of the security deposit or Guaranty Fund to meet obligations to the Clearing House pursuant to Rule 802, Clearing Members shall immediately make good any such deficiency in the security deposit prior to the close of business on the next banking day.

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 [6.21](#), [6.21A](#), [6.21B](#), [6.21C](#), ~~526~~, ~~538~~ and ~~6.21F~~, ~~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 Clearing House 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 Clearing House.

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 [6.21](#), [6.21A](#), [6.21B](#), [6.21C](#), ~~526~~, ~~538~~ and ~~6.21F~~~~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 [the applicable product chapters](#). ~~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 unless contrary instructions are provided pursuant to Rule 811. ~~Transactions can only be offset against one another by complying with Rule 811.~~

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 and sales 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.

[RESERVED] NYMEX CLEARPORT® CLEARING: PROCEDURES FOR TRADE SUBMISSION

(A) Scope of Rule. This rule governs transactions not competitively executed on the Exchange ("Transactions") that are submitted via the NYMEX ClearPort® Clearing Trade Portal ("CPC Trade Portal") for clearing in connection with a contract that is listed on the Exchange for clearing only ("DME Transactions") or listed for trading and clearing on the Exchange ("NYMEX Transactions"). In submitting either a NYMEX or DME transaction to the CPC Trade Portal or in allowing either a NYMEX or DME transaction to be submitted to the CPC Trade Portal, the two parties to the Transaction shall be deemed to have mutually agreed to initiate a process to substitute their transaction for a standardized futures contract listed for trading and clearing on the Exchange. For purposes of this rule, the two principals in either a NYMEX or DME Transaction shall be referenced as the "Parties to the Transaction."

Further, with respect to DME Transactions, any breach of procedures related to this Rule 808 shall be handled pursuant to DME rules and regulations.

(B) Transactions: Compliance with Regulatory Exemptions and Exclusions. Each of the Parties to the NYMEX Transaction shall be responsible for ensuring that the Transaction complies with CFTC regulatory requirements as applicable for such transaction, including as appropriate compliance with the terms of a statutory exemption or exclusion under the Commodity Exchange Act from other CFTC regulation relied upon by the Parties to the Transaction.

(C) Submission of NYMEX and DME Futures and Options. The process of submission of a NYMEX or DME futures or options Transaction 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 Exchange (or the DME as appropriate) as an exchange of futures for physicals ("EFP"), an exchange of futures for swaps ("EFS"), an exchange of OTC Option for exchange option ("EOO") or as a Block Trade, as applicable, pursuant to the respective provisions of NYMEX Rules 6.21, 6.21A, 6.21C, 6.21F, COMEX Rules 104.36, 104.36A, 104.36B, 104.36C, DME Rules 6.24 and 6.31, and the provisions of this rule.

(D) Trade Submission Procedures. All transactions submitted to the Exchange pursuant to this rule must be submitted in accordance with the procedures established by the Clearing House for this purpose, as amended from time to time. The Parties to the Transaction and any Party authorized under Section (E) of this Rule with brokering capability ("Broker" or "Brokers") authorized to submit executed transactions on their behalf to the Exchange and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Once submitted, all such transactions, subject to the rules for trade adjustments set forth in Section (G) of this Rule, shall be deemed final. Neither the Exchange nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for the Transactions.

(E) Registration of Eligible Participants, Eligible Accounts and Authorized Brokers. Each NYMEX and DME 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 (or the DME, as appropriate) 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 also must submit to the Exchange in the manner provided 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 and related activity.

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.

(F) Establishment of Authorized Commodities and Total Risk Value. For each account number that has been registered with the Exchange pursuant to Section (E) of this rule, a NYMEX and DME Clearing

Member also must input into the Exchange's Risk Allocation Value "E-RAV" system authorization indicating the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this rule and the risk value(s) assigned by the Clearing Member for Transactions for that account.

(G) Trade Deletion Procedures for Transactions Submitted via NYMEX ClearPort® Clearing Trade Entry Portal. 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 sixty (60) minutes of the time of the initial submission of the Transaction to the Exchange.

(H) Entry of Transactions. For a Transaction submitted to the Exchange pursuant to this rule, such transaction first will be routed to the Exchange's E-RAV Credit Check system. The time of entry of a Transaction into the Exchange's E-RAV system will be recorded by the system and will be used by the Exchange as the time that an E-RAV Credit Check was conducted pursuant to Section (I) below.

(I) Use of E-RAV Credit Check System. The Exchange will conduct an E-RAV Credit Check for each Transaction. The E-RAV 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 risk value(s) established by the Clearing Member.

At all times until both sides (Buy and Sell) of the Transaction have successfully cleared the E-RAV Credit Check, 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 ERAV Credit Check test, the Parties to the Transaction and their respective Clearing Members would be informed accordingly. Thereafter, any determination as to further action with respect to the Transaction would be resolved by the Parties to the Transaction.

(J) Trade Submission Deadlines. Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section (K) 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 NYMEX facilitation desk will generally be available to assist users 24 hours a day on all Exchange business days.

(K) Clearance by Both Sides of the Transactions of Credit Check. Upon clearance by both sides of the Transaction of the E-RAV 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 also shall 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 E-RAV 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 to the Clearing House trade data for the day's business not 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 Audit Department.

812. [RESERVED]

813. SETTLEMENT PRICE

(A) The daily settlement price for each contract traded on the Exchange shall be determined by the relevant Settlement Price Committee ("Committee") at the close of the RTH trading session, or as soon as practicable thereafter, using the procedures set forth in this rule. The Committee shall consist of such members and representatives of non-member firms as may be appointed by the Exchange.

(1) For each futures and options contracted traded on the Exchange Floor and on Globex, the Committee shall be divided into sub-committees. To the extent possible, each sub-committee shall consist of at least six (6) Members for the applicable Exchange Division, at least one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent trade interests (either personal, of his employer, or of a substantial customer base). Additionally, one Exchange employee may be a voting member of the Committee and the Exchange employee shall have final authority in all instances to veto and override price determinations made by the Committee.

(2) For all futures and options contracts traded solely on NYMEX Clearport® Trading or solely on Globex, the Committee shall consist of such Exchange employees, Members and non-Members and representatives of Members and non-Member firms as may be appointed by the Exchange.

(B) The Committee, or any subcommittee thereof, shall have the authority to request from any member representing that certain market information should be considered in the determination of a settlement

price, such documentation as it deems appropriate including, but not limited to, trading cards or records created using an Approved Handheld, and order tickets.

- (C) If The Committee or any subcommittee thereof believes that any settlement price arrived at through the application of the formulas specified in the Settlement Rules is inappropriate, it shall settle the futures or options contracts at a price it judges to be proper, in their best judgment at a level consistent with such other transactions or market information, including but not limited to, information from open outcry and electronic trading venues. For any price established by use of the Committee's discretion, the Committee shall prepare a written explanation of its reasons for deviating from the price which would have been established by application of Settlement Rules.

813.A. NYMEX Division

(A) Settlement Prices for Crude Oil, Heating Oil and New York Harbor Gasoline Blendstock (RBOB) Futures Contracts

(1) For crude oil, heating oil and New York Harbor Gasoline Blendstock (RBOB) futures contracts, the settlement price for each delivery month that:

(a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and

(b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation, volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range.

(c) Additionally, TAS volume, if applicable, shall not be included as closing range volume for the purpose of item (b) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(d) Notwithstanding the qualifications cited in items 1(a) –(c) above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items 1(a)-(c) above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with:

(a) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and

(b) lesser weight given to

(i) spreads traded on the trading floor by open outcry in lesser volumes.

(ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and

(iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry, provided that, in any circumstance where the Committee is considering bids and offers for spreads, it shall consider the mid-point of the best bid and best offer and not the individual best bid or best offer. In the event of a "price spike in the closing range" in any contract month where the settlement price is determined by weighted average according to the open interest and volume criteria set forth in paragraph (A), the Committee may disregard the settlement price for a spiked month in considering spread relationships pursuant to this paragraph. For the purpose of this rule, a "price spike in the closing range" shall have occurred if, in the sole discretion of the Committee, a significant change in the spread relationships between the "spiked month" and the contract months immediately preceding and following such month occurred during the closing range. Notwithstanding the foregoing, no

settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 100 contracts for outright or at least 200 contracts for spreads in crude oil futures contracts or for at least 50 contracts (outright or spreads) for heating oil or gasoline futures contracts or for at least 10 contracts for coal futures, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final fifteen (15) minutes of trading.

(3) If any settlement price, determined pursuant to paragraphs (A)(1) or (2), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Committee, (including, but not limited to, either floor trading or electronic trading, (i) bids or offers for outright transactions and spreads that were unfilled during the closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.

(4) In the event that the Committee: establishes a settlement price in accordance with sections (A)(1) or (2) of this Rule; determines that a "price spike in the closing range occurred", in accordance with subsection (A)(2)(iii) of this Rule; or fails to determine a settlement price by unanimous agreement of the six Members designated by the Exchange to establish settlement prices pursuant to Rule 6.51, the Committee shall prepare a written record of the basis upon which it established such settlement price.

(B) Settlement Prices for Natural Gas Futures Contracts

Settlement prices will be determined as follows:

(1) The settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. (c) Additionally, trading at settlement (TAS) volume, if applicable, shall not be included as closing range volume for the purpose of item (b) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(2) Notwithstanding the qualifications cited in items 1(a)-(c) above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items a-c above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(3) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (1), the settlement price, shall be determined in the best judgment of the Committee based upon trades or orders that are bid/offered and posted pursuant to prescribed procedures in the last 30 minutes of trading on the trading floor by open outcry: outright for a volume of 100 lots in any of the first 24 listed contract months, or outright for a volume of 100 lots beyond the 24th contract month that have reached a minimum open interest of 10,000 contracts based upon the open interest published at noon on a trading day; intracommodity spreads for a volume of 100 lots/month; and intracommodity strips for a volume of 30 lots/month for a yearly or 50 lots/month for a seasonal. Priority will be given first to outright, then spreads, then strips, that meet the criteria above. Provided further, that an order that met the original volume requirement and was partially filled with the balance still open, will be honored. Additionally, Floor Members posting any orders shall be held to filling them unless the order was cancelled during the posting period with appropriate notice to the market. Cancelled orders will not be honored for settlement purposes.

(4) For any contract months not otherwise addressed in Sections (1) and (2) of this rule, or if any settlement price, determined pursuant to paragraphs (1) or (2), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Committee, (including, but not limited to, either floor trading or electronic trading), the Committee shall be bound to consider all relevant available data but shall not be bound by

data from any one type of market information. Such other market information includes but is not limited to the following:

Executed trades, bids or offers for outrights, spreads and strips provided before the last 30 minutes of the trading day transactions including both floor trading and Electronic Trading, an Exchange settlement price model, and relevant OTC market data as further specified below;

The Exchange settlement price model will be calibrated so that it is generally mathematically consistent with market price information provided through Sections (1) and (2); and

OTC market quotes, if available, may be considered for outrights, spreads and strips supplied by OTC brokers who are registered with NYMEX for NYMEX ClearPort® Clearing.

The Committee shall prepare a written record for any settlement price determined pursuant to Section (3) of this rule.

(6) Notwithstanding the above, the settlement price for a delivery month in the Henry Hub Swap futures contract will be the settlement price for the corresponding delivery month in the Natural Gas futures contract, provided however that the final settlement for an expiring delivery month in the Henry Hub Swap futures contract will be determined in accordance with the terms of Chapter 508 (Henry Hub Swap).

(C) Settlement Prices for Propane Gas Products

(1) For each propane futures contract, the settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If there are no such transactions in the closing range, the settlement price shall be the last trade price, unless a bid higher or offer lower than the last trade price is made in the closing range. Such higher bid or lower offer shall be the settlement price.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (1), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with: (a) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded on the trading floor by open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and (iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry.

(D) Settlement Prices for PJM Electricity Monthly Futures Contract

(1) For each PJM Electricity Monthly futures contract, the settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 10% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month which occur in the closing range.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A)(1), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with: (a) greatest weight given to spreads or strips executed late in the trading day in large volumes, and (b) lesser weight given to (i) spreads or strips traded in lesser volumes, (ii) spread or strip bids and offers actively represented late in the trading day, and (iii) spread or strip transactions, bids and offers from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 20 contracts for outrights or 20 contracts for spreads, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final twenty (20) minutes of trading.

(E) Settlement Prices - e-miNY Contracts

(1) Crude Oil e-miNY: The settlement price for each contract month will be equal to the NYMEX Light, Sweet Crude Oil Futures contract settlement price for the corresponding contract month.

(2) Natural Gas e-miNY: The settlement price for each contract month will be equal to the NYMEX Natural Gas futures contract settlement price for the corresponding contract month.

(F) Settlement Price Procedures for Platinum and Palladium Contracts

(1)(a) The term "base month" shall mean, with respect to Platinum, the January, April, July or October delivery months and, with respect to Palladium, the March, June, September, or December delivery months. (b) The term "most active month" shall mean the nearest base month that has the largest daily trading volume, provided however, that if a base month other than the nearest base month has larger daily trading volume on any day, the most active month shall be such base month until the daily trading volume in such month is less than the next succeeding base month.

(2) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions that occur in the closing range including both trades executed on the trading floor by open outcry and trades executed electronically. If no outright transactions occur in the closing range, the settlement price shall be the last trade price, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(3) The settlement prices of all delivery months other than the most active month shall be the price relationships established by spread differentials between such most active month and such other month executed on the trading floor by open outcry. Spread differentials shall be determined by the last spread transaction. If no spread transaction occurred on such day such differential shall be the average of the last bid and offer for such spread. If no spread transactions have occurred on such day and there were no bids or offers for such spread on such day, the spread differential shall be the spread differential of the settlement prices for the previous business day.

(5) Daily Settlement Prices for NYMEX Asian Platinum and Palladium Futures Contracts. This Section (5) shall apply for determination of settlements prices for all trading days of a listed contract month in the applicable NYMEX Asian futures contract except for the final day of trading. Final settlement for each of these contracts will be determined as provided in the terms and conditions rule chapter for the applicable futures contract.

(a) The settlement price for each NYMEX Asian Platinum contract month that is also listed for floor trading will be equal to the Platinum futures contract settlement price for the corresponding contract month, except that it shall be converted into a dollar value that corresponds to the value of a contract quantity of 500 grams. The settlement price for each NYMEX Asian Palladium contract month that is also listed for floor trading will be equal to the Palladium futures contract settlement price for the corresponding contract month, except that it shall be converted into a dollar value that corresponds to the value of a contract quantity of 500 grams.

(b) The settlement price for any contract month of a NYMEX Asian futures contract where there is not a corresponding contract month listed for the regular size futures contract shall be determined by the President's designee. For purposes of this rule, the President's designee shall refer to Exchange staff from various Exchange departments assigned to this responsibility (hereafter "Staff"). Staff in its sole discretion and judgment shall determine settlement prices for such contract months by considering all relevant market information and data deemed to be appropriate, and such information may include, but is not limited to, consideration of spread relationships among contract months.

(G) NYMEX Options Settlement Premiums

The Settlement premiums for option series shall be determined upon the following procedures:

(1) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limited to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between a trade and the close of trading.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.

c. i) For Natural Gas and European Natural Gas Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the –Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

ii) For Crude Oil and European Crude Oil Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the –Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

iii) For Calendar Spread Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the Committee (the "Committee") according to the following priority: Outrights for at least 100 lots, then Straddles for at least 50 lots, then Spreads for at least 100 lots, then strips which have a cumulative total of at least 150 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

iv) For all other Options: Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Committee determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.

d. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months.

(2) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be the minimum tick size.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.

(3) If, using the procedures specified in Subsections (1) or (2) above, a settlement premium being considered for a particular option would not be consistent with (a) trades made during the closing range in other option series on the same underlying future, (b) the settlement price of the underlying future, or (c) market information (including but not limited to either open outcry trading or electronic trading) that is either known by Committee members or brought to their attention by Exchange officials, then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (3), the Committee shall prepare a written record setting forth the basis for such settlement premium.

(4) After settlements for all contract months for a particular contract are completed by the Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.

813.B. COMEX Division

(A) Settlement Prices for Gold and Silver Contracts

(1) Active Month. The settlement price of the most active futures contract month shall be the average (rounded off to the nearest price tick) of the highest and lowest prices of all outright transactions executed on the trading floor by open outcry for that delivery month during the closing period, except as otherwise provided in this Rule or in Rule 813.(E) ("Use of Discretion to Establish Settlement Price").

(2) In All Other Delivery Months. The settlement prices shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with: (a) greater weight given to spreads executed at open outcry later in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor later in the trading day, and (iii) spread transactions, bids and offers from the trading floor from earlier in the trading day.

(B) Daily Settlement Prices - COMEX miNY Futures Contracts and COMEX Asian Gold Futures Contract This rule shall apply for determination of settlements prices for all trading days of a listed contract month except for the final day of trading. Final settlement for each of these contracts will be determined as provided in the terms and conditions rule chapter for the applicable futures contract.

(1) COMEX miNY Gold Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Gold futures contract settlement price for the corresponding contract month.

(2) COMEX miNY Silver Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Silver futures contract settlement price for the corresponding contract month.

(3) COMEX miNY Copper Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Copper futures contract settlement price for the corresponding contract month.

(4) COMEX Asian Gold Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Gold futures contract settlement price for the corresponding contract month, except that it shall be converted into a dollar value that corresponds to the value of a contract quantity of 1,000 grams.

(5) For each of the above-listed COMEX futures contracts, the settlement price for any contract month of a miNY futures contract where there is not a corresponding contract month listed for the regular size futures contract shall be determined by the President's designee. For purposes of this rule, the President's designee shall refer to Exchange staff from various Exchange departments assigned to this responsibility (hereafter "Staff") Staff in its sole discretion and judgment shall determine settlement prices for such contract months by considering all relevant market information and data deemed to be appropriate, and such information may include, but is not limited to, consideration of spread relationships among contract months.

(C) Settlement Price Procedures for Copper Contracts

(1)(a) The term "base month" shall mean the March, May, July, September and December delivery months.-(ii)(b) The term "most active month" with respect to this Rule and the Rules in Chapters 111 and 117 shall mean the base month that is not the current delivery month, with the greatest reported open interest on the official COMEX daily open interest report.

(2) The settlement price for the current delivery month shall be comprised of the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range combined with the weighted average price of all spreads executed by open outcry between the current delivery month and the most active month during the final 30 minutes of trading. If no outright transactions occur in the closing range or no spreads are executed during the final 30 minutes of trading in the current delivery month, or, if in the opinion of the Committee, the settlement price determined is inconsistent with value indicated by other spread relationships established during the last thirty minutes of trading, the spread relationships occurring within the last thirty minutes, between and among contract months from the current delivery month to the most active month, shall be utilized by the Committee in their best judgment to establish a settlement price at a level consistent with such other transactions or market information, including but not limited to information from open outcry and electronic trading venues, with greater weight given to the weighted average of executed spread trades, and lesser weight given to the implied midpoint of spread bids and offers actively represented during the final 30 minute period of trading. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(3) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of the most active month, the settlement price shall be the last trade price from either the open outcry or the electronic venue, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(4) In all other delivery months, the settlement prices shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with: (a) greater weight given to spreads executed at open outcry later in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bids and offers actively represented at open outcry later in the trading day, and (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was for at least 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(5) Exception - Matched Order Price. The settlement price for the nearest copper futures delivery month (spot) shall be the matched order price established pursuant to Rule 104.42 ("Matched Orders"). If the only trades entered into during the closing period were effected through matching, the contract will be settled by the respective subcommittee of the Committee in accordance with this Rule.

(D) Settlement Price Procedures for Aluminum Contracts

(1) For aluminum futures contracts, the settlement price for the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of either the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month, the settlement price for the applicable month shall be the last trade price from either the open outcry or electronic venue, unless during the closing period a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(2) In all other delivery months for such futures contracts, the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be

determined in the judgment of the Committee with: (a) greater weight given to spreads executed at open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bid and offers actively represented at open outcry late in the trading day, (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was at least for 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(3) If any settlement price, determined pursuant to Paragraph (1) or (2), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract (including, but not limited to, either open outcry trading or electronic trading) or with other market information known to the Committee (including but not limited to either open outcry trading or electronic trading), the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(E) Option Settlement Premiums

The settlement premiums for option series shall be determined upon the following procedures:

(1) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limit to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between trade and the close of trading.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.

c. Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Committee ("Committee") determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.

d. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months using an appropriate options model.

(2) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be zero.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.

(3) If, using the procedures specified in Subsections (1) or (2) above, a settlement premium being considered for a particular option would not be consistent with (a) trades made during the closing range in other option series on the same underlying future, (b) the settlement price of the underlying future, or (c) market information that is either known by Committee members or brought to their attention by Exchange officials (including but not limited to either open outcry trading or electronic trading) then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (3), the Committee shall prepare a written record setting forth the basis for such settlement premium.

(4) After settlements for all contract months for a particular contract are completed by the Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.

813.C. NYMEX and COMEX Division Contracts Listed Only on Globex

(A) The terms of this rule shall generally govern the establishment of settlement prices for futures contracts that are listed for trading only on Globex®. For each NYMEX or COMEX financially-settled contract based upon a physically settled NYMEX contract or COMEX futures contract, such contract shall be settled pursuant to the provisions of the physically settled NYMEX or COMEX futures contract in that commodity. For financially-settled contracts, this rule shall govern only for trade dates other than the final day in an expiring contract month, and final settlement following termination in an expiring contract month in such contracts shall be determined in accordance with the chapter of rules for the applicable contract.

The settlement prices established pursuant to this rule shall be determined by the President's designee. The President's designee in his sole discretion and judgment shall determine settlement prices for purposes of clearing and settlement for that contract. Staff shall determine such prices by considering market information deemed to be appropriate, and such information may include, but is not limited to:

(1) trading activity on Globex;

(2) price data obtained from a cross-section of over-the-counter ("OTC") brokers collectively representing both buyers and sellers in OTC markets;

(3) price data obtained from OTC market participants, considering both buyers and sellers in such markets;

(4) price data from other sources deemed to be reliable and accurate; and

(5) other relevant data and information.

(B) The closing range for each NYMEX and each COMEX Product that is listed for trading only on GLOBEX for each day of trading, including the closing range on the final day of trading in such contract listed for trading only on such system, shall include all trades made within the last (10) ten minutes of the applicable trading session for such contract and all bids higher than as well as offers lower than any trade made within such periods.

813.D. Clearing House Right to Use Alternate Price

~~Unless otherwise specified by Exchange regulation or policy, the daily settlement price for each contract shall be determined by the relevant Pit Committee at the close of open auction trading hours. The settlement price shall be determined by the Pit Committee based on various factors including, but not limited to (a) the prices that traded during the close; (b) the volume traded at particular prices within the closing range; (c) bids and offers made during the close; (d) the prices at which spreads traded during the close; and (e) the settlement price(s) of related contracts. If the proposed settlement price differs from the midpoint of the closing range for a particular contract, the Pit Committee will document the basis for the deviation from the midpoint. Such documentation must be signed by two members of the Pit Committee.~~

Notwithstanding the above Sections 813.A.-813.C., in the case of inaccuracy or unavailability of a settlement price from the Exchange, another exchange, market or Marketplace, or if such settlement price would create 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. SETTLEMENT VARIATION

When a clearing member is long or short any amount of any futures contract at the end of the trading day, as indicated by its clearing memoranda, settlement shall be made with the Clearing House to the settlement price for that day, and such member shall be liable to pay to, or entitled to collect from, the Clearing House any loss or profit, as the case may be, represented by the difference between the price at which the commodity was bought or sold and the settlement price of the commodity at the end of the trading day. After making such settlement with the Clearing House, such member shall be deemed long or short (or long and short) such commodity, as the case may be, at the settlement price of the trading day. 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 trading day 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 deposit with the Clearing House by such time as specified by the Clearing House the amount of funds that it estimates will be needed to meet such settlements as 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 deposits and payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

Settlement variation, as figured to the market at such times as the Clearing House shall determine, must be paid in cash or any other form of collateral approved by the Clearing House Risk Committee.

815. [RESERVED]

816. SECURITY DEPOSIT

Each clearing member shall make a deposit with the Clearing House as security for its obligations to the Clearing House. The minimum security deposit of a clearing member, shall equal the greater of (a) an amount specified by the Clearing House Risk Committee or (b) the clearing member's proportionate share of the "Aggregate Security Deposit," which shall be an amount determined by the Clearing House Risk Committee. Each clearing member's proportionate share of the Aggregate Security Deposit shall consist of (i) a specified percentage of the Aggregate Security 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) of the average aggregate risk performance bond requirement (including the risk performance bond requirement in respect of positions in all cross-margin accounts) for the preceding three months; plus (ii) a specified percentage of the Aggregate Security 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. The percentages in (i) and (ii) 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, 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 security deposit will be given to the clearing member each quarter, or more frequently as Clearing House staff shall determine. If such report indicates that the clearing member's current security deposit with the Clearing House is smaller than the amount required, the clearing member shall increase its amount within five business days. If such report indicates that the clearing member's current security deposit with the Clearing House is larger than the amount required, the clearing member may withdraw the excess amount.

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

817. LIQUIDITY FACILITY

Assets deposited by a clearing member in satisfaction of security deposit and performance bond requirements may also be used to directly secure the [Clearing House's Exchange's](#) obligations to its lenders under any liquidity facility entered into by [CMEthe Exchange](#) for the purpose of providing liquidity to the [Clearing HouseExchange](#). By delivering assets to the [Clearing HouseExchange](#) in satisfaction of security deposit and performance bond requirements, each clearing member is hereby deemed: (i) to agree that its Assets may directly secure the [Clearing House'sExchange's](#) obligations to the [Clearing House'sExchange's](#) liquidity lenders and that its Assets may become subject to a lien in favor of the [Clearing Houses' Exchange's](#) liquidity lenders or otherwise guarantee the [Clearing House'sExchange's](#) obligations and; (ii) to authorize [CMEthe Exchange](#), and appoint [CMEthe 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 serving as security for the [Clearing House'sExchange's](#) obligations to the [Clearing House'sExchange's](#) liquidity lenders; and (iii) to acknowledge that the obligations of the [Clearing HouseExchange](#) to its liquidity lenders may be greater, and extend for periods of time longer, than the obligations, if any, of such clearing member to the [Clearing House Exchange](#). [CMEThe 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 to directly secure the [Clearing House's Exchange's](#) obligations to the [Clearing House'sExchange's](#) liquidity lenders. Any agreement entered into by [CMEthe 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 the clearing members pledged to secure such liquidity facility may be foreclosed upon by the Clearing House's Exchange's liquidity lenders and applied against the obligations of the Clearing HouseExchange under the related liquidity facility. The 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 CMEthe Exchange to further document the power of attorney set forth and established by these rules. (References to "Clearing House" in this rule may also include "CME" depending on the context as the Clearing House is a division of CME.)

818.-819. [RESERVED]

820. PERFORMANCE BONDS

It shall be incumbent upon each Clearing Member that its trades and trades of its customers be margined up to the time of the acceptance of such trades by the Clearing House.

(A) Original Margin

Original Margin shall be paid on Exchange commodity transactions in such form as determined by the Clearing House. Original margins may be changed at the discretion of the Clearing House.

(B) Variation Margins

The President of the Clearing House, at any time during the day, may call for variation margins to meet the variations in the market. Such margins shall be paid to the Exchange within the time limits prescribed by the President of the Clearing House.

(C) Straddle Margins

(1) Futures Straddles

A Clearing Member carrying an account which has both a long and a short futures position with the Clearing House in a particular commodity, in the same or different contracts but in no event for the same delivery month of the same contract, may treat such long and short positions to the extent they are equal in quantity as a futures straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(2) Options Straddles

A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(D) Clearing Members may meet original margin calls by depositing:

(1) Cash (U.S. Currency):

(2) Securities issued by the Department of Treasury of the United States of America maturing within ten (10) years from the date of the deposit and guaranteed as to principal and interest by the United States Government; such securities shall be valued at ninety five percent (95%) of the par value; or

(3) Subject to a maximum limit of 50% of the Clearing Member's total original margin obligations, Irrevocable Letters of Credit payable to the order of the Clearing House including such Letters of Credit that are deposited with the Clearing Member in accordance with Exchange procedures by a customer, in form acceptable to the Clearing House, issued by or confirmed by an original margin depository and having an expiration date of not less than three (3) or more than twenty four (24) months from the date of issuance; provided, however, that such Letter of Credit may not be used to meet original margin obligations during the fifteen calendar days prior to the expiration date thereof (if the fifteenth day prior to the expiration of the Letter of Credit is not a business day, the period during which such Letter of Credit may not be used to meet original margin obligations shall begin on the business day immediately preceding that day); and, provided further, that on the business day preceding the fifteenth calendar day prior to the expiration of the Letter of Credit, the Clearing House shall issue a call for original margin to be deposited in a form and manner acceptable to the Clearing House for positions held open as of the close of business on that day and margined by the Letter of Credit. The Clearing House shall have the unqualified right to call on any Letter of Credit at any time prior to expiration. Upon expiration of a letter of credit that has been posted with the Exchange for the maximum twenty four (24) months, a new letter of credit must be posted as no amendments will be accepted to extend the maturity date, or

(4) Shares in a money market mutual fund that complies with CFTC Regulation §1.25 and that has been approved by the Clearing House subject to the following conditions:

(i) for purposes of original margin, such shares will be valued at 98% of market value; (ii) a Clearing Member's participation in any approved fund shall be limited to no more than 5% of that fund; and (iii) no more than 10% of the total assets of an approved money market mutual fund may be used to meet original margin obligations at the Exchange.

(E) The Clearing House shall have the right, at all times, to prohibit or otherwise limit the use as original margin by any Clearing Member of letters of credit or of securities under this Rule.

(G) The Clearing House shall retain the original margin deposited with respect to any futures contract against which a delivery notice has been issued until the business day after the delivery date or such date as designated by the Clearing House.

(F) Customer Accounts with the Exchange

(1) Except as provided in subsection (2) below, all customer funds deposited with the Exchange shall be held in accordance with the Commodity Exchange Act and Commission Regulation 1.20 in an account identified as Customer Segregated. Customer funds shall be segregated by the Exchange and treated as belonging to the customers of the clearing member. Pursuant to this Rule, clearing members registered as Futures Commission Merchants shall not be required to obtain a segregated acknowledgment letter from the Exchange.

(2) Customer funds deposited with the Exchange for cleared transactions in over-the-counter pari-mutuel auctions may be deposited in either a member account or a customer non-regulated account. Neither account shall be treated as a customer segregated account.

820. PERFORMANCE BONDS [Note: It is anticipated that on or about Q1 09, the Clearing House Risk Committee will approve the Performance Bonds Rule below for NYMEX. At such time, an announcement will be made to the marketplace. However, until that announcement is made, Rule 820 above is the effective performance bond rule for all market participants.]

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

Subject to the terms and conditions as approved by Clearing House 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, and "readily marketable securities" as defined by Securities and Exchange Commission Rules, as applicable (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 Clearing House or to an approved depository for safekeeping in a Clearing House account and the Clearing House 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 Clearing House staff may deem necessary, until the trades for which such performance bond collateral has been deposited, have been offset, ~~cash~~financially settled, delivered or otherwise closed out as determined by Clearing House staff.

Each clearing member shall reimburse the Clearing House for all fees, expenses, charges and costs assessed by a depository against the Clearing House 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.-823. [RESERVED]

824. ADDITIONAL PERFORMANCE BOND

Whenever, in the opinion of the Clearing House Risk Committee, 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 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 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 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 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.-826. [RESERVED]

827. SECURITIES LENDING PROGRAM

United States Treasury Bills, Treasury Notes, Treasury Bonds, Treasury Bond Principal Strips, Agency Securities, and other financial instruments approved by Clearing House staff, (collectively, "Securities") that are deposited with the Clearing House by clearing members in satisfaction of Security Deposit requirements or as performance bond for their own (i.e., "house") trades may be loaned out by the Clearing House pursuant to the Securities Lending Program. Clearing members depositing Securities with the Clearing House in satisfaction of security deposit 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 Clearing House or its securities lending custodian.

828.-829. [RESERVED]

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 Clearing House.
4. Joint Cross-Margining Program: A cross-margining program in which the Clearing House 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 Clearing House 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 Clearing House 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 Clearing House, including a Cross-Margined Account Agreement and Security Agreement with the Clearing House, the Cross-Margining Clearing Organization, and, if applicable, the member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that the Clearing House 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 Clearing House 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 Clearing House, 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 Clearing House ("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 Clearing House is required to make a guaranty payment to such Cross-Margining Clearing Organization. In addition, the Agreement shall provide that the Clearing House 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 Clearing House. 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 Clearing House 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 or the Clearing House 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 Clearing House may then apply all such liquidated proceeds to satisfy the Participating Clearing Member's obligations to the Clearing House, all in accordance with the terms of the Cross-Margining Agreement.

831.-849. [RESERVED]

MISCELLANEOUS

850. EXCHANGE SERVICE FEES

(A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Risk Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.

(B) A minimum fee of \$200.00 per month shall be charged to Clearing Members.

(C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member.

(D) Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange and/or the Dubai Mercantile Exchange Limited and remit said fees to the Clearing House as billed.

~~— A. Members and member firms — Each Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), or Series B-5 (COM) member (hereinafter referred to as "members"), and member firm shall be obligated to pay, at such times and in such manner as the Exchange may prescribe, fees for transactions executed by open auction and on e-cbot, as described below and in accordance with the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.~~

~~1. Open auction fee caps — with respect to open auction trades for a Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member's own account, the maximum of fees paid by any such member shall be \$20,000 per year per person who executes the trades. With respect to open auction trades for the proprietary account of a CBOT Clearing Closely Held Corporate Member Firm or a CBOT Equity Closely Held Corporate~~

~~Member Firm, or an Affiliate of either such firm, as defined by the Exchange, which are initiated and executed by the same member, who is registered with the Exchange as a trader for the account pursuant to procedures established by the Exchange, the maximum of fees paid by any such member firm or Affiliate shall be \$20,000 per year per person who initiates and executes the trades.~~

~~2. Open auction floor broker fee—Open auction trades executed by a member as a floor broker for others shall incur a floor brokerage charge of 2 cents per contract/per side. Provided, however, that this charge shall not apply to trades which are both initiated and executed by the same member for the account of a member, or the proprietary account of a member firm. The maximum of fees paid by any Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member pursuant to this subsection shall be \$20,000 per year. When a member executes trades as a floor broker for others and also executes open auction trades for his or her own account, the maximum of fees paid by such member for all such open auction trades collectively shall be \$20,000 per year.~~

~~3. Firm-owned memberships—Notwithstanding sections A.1. and A.2. of this Rule, the fees applicable with respect to memberships which are owned by member firms shall be equivalent, in the following categories, to those which the Exchange prescribes for delegates:~~

~~i. Trades for such member's own account, in cases where the individual is not a principal of the member firm which owns his/her membership. For purposes of this paragraph, an individual shall be deemed a principal of a member firm if he/she holds a majority ownership interest in that firm and/or meets other such criteria as the Exchange may prescribe by regulation; and~~

~~ii. Trades executed by such member on behalf of any account other than the proprietary account or a customer account of the member firm owner of the membership, or its Affiliate, as defined by the Exchange.~~

~~B. Non-members—Each member firm handling the funds of non-member customers shall include, in the statements to such customers, fees for the open auction and e-cbot transactions executed for the accounts of such customers in accordance with the fee schedule adopted by the Exchange. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.~~

~~All such fees collected from non-member customers shall be remitted by the member or member firm at such times and in such manner as the Exchange may prescribe.~~

~~No member firm shall identify on its statements to nonmember customers any charge as an "Exchange Service Fee" unless the amount shown is actually due and payable to the Exchange under this Rule.~~

~~C. Surcharges—Exchange transaction fee surcharges, exchange fees for non-trade transactions, and clearing fees are set forth in the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference.~~

~~D. Revenue—The Exchange shall have the authority in its discretion to suspend any of the fees specified in this Rule at any time during a fiscal year.~~

~~E. Reports—Each member or member firm subject to the provisions of this Rule shall submit to the Exchange such reports as the Exchange may deem necessary for the administration of this Rule.~~

~~F. Special assessments—This Rule shall not abrogate the right of the Exchange to levy such additional dues, assessments, charges or fees upon the membership as it may deem necessary or advisable.~~

~~G. Definitions for the purpose of implementing this Rule—1. Member's Own Account—The term "member's own account" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of one or more members. For any account held by more than one member, all trades made for such account shall pay transaction fees equal to the highest fee required of any of the individual participants in the account, in accordance with section G.6. of this Rule. An account~~

owned by and held in the name of a non-member spouse or other relative of a member shall not be considered a member's account.

~~2. Member's Own Account in Trust—A commodity futures and/or commodity options trading account placed in trust shall be deemed a "member's own account" if the following conditions are satisfied:~~

- ~~i. the member is the sole settlor of the trust; and~~
- ~~ii. the member is one of the trustees of the trust and as such trustee, has sole control over the investment-making decisions of the trust; and~~
- ~~iii. the beneficiaries of the trust include only the member, the member's spouse and/or the member's descendants; and~~
- ~~iv. the trust declaration expressly incorporates the Rules of the Exchange, as may be amended; and~~
- ~~v. the interest in the trust that inures to the beneficiaries of the trust shall be subject to all Rules of the Exchange, as may be amended; and~~
- ~~vi. the non-member trustee, if any, expressly agrees in the trust declaration, to be subject to all Rules of the Exchange, as amended; and~~
- ~~vii. the member provides to the Exchange's Membership Services Department, a copy of the trust declaration creating the trust, as well as any amendments thereto, along with a letter from an attorney stating that in the attorney's opinion, the trust created is designed to achieve the estate planning objectives of the member.~~

~~Upon the member's death or if the member is adjudged incompetent, any commodity futures and/or commodity options trading account placed in trust pursuant to this section G.2. by such member will be treated as a non-member trading account for purposes of implementing this Rule.~~

~~3. Member Firm's Proprietary Account—The term "proprietary account of a member firm" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of the member firm. For an account to qualify as a member firm proprietary account, any individual who initiates and/or enters trades on behalf of the proprietary account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:~~

- ~~i. may not provide trading capital for the account; and~~
- ~~ii. may not have responsibility to provide capital based on trading losses; and~~
- ~~iii. for individuals that are not issued a W-2 (or comparable documentation in jurisdictions other than the United States) the firm must have a written agreement detailing the full terms of their compensation agreements; and~~
- ~~iv. may not contribute subordinated debt, unless the individual is a partner, member of a limited liability company, or shareholder of the member firm; and~~
- ~~v. gross trading profits and losses must be reported in the firm's income statement.~~

~~Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades and, therefore, must comply with section G.6. of this Rule.~~

~~4. Individual Member's Trading Account—For an account to qualify as an individual member's account or a joint account of individual members, where the trades are executed on e-cbot, any individual who initiates and/or enters trades on behalf of the account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:~~

- ~~i. may not provide trading capital for the account; and~~
- ~~ii. may not have responsibility to provide capital based on trading losses; and~~

- ~~iii. the individual member must have a written agreement detailing the full terms of the trader's compensation; and~~
- ~~iv. the trader may not make a loan to the individual member for the purposes of providing trading capital.~~

~~A member that is trading on the floor may designate up to a maximum of two clerks who may execute trades initiated by the member through e-cbot. Such trades will be eligible for fees at the individual member rate.~~

~~Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades, and, therefore, must comply with section G.6. of this Rule.~~

- ~~5. Firm Owner Trading a Proprietary Account—In cases where a non-member owner, non-member member of a limited liability company, or non-member partner of a member firm trades a member firm proprietary account, and where the non-member trader's compensation is tied to the profitability of the specific proprietary account(s), in order for the trades in such proprietary account to receive member fee treatment, the non-member trader must maintain at least \$200,000 in the trading account(s) and the \$200,000 must be available to support the trading activity on the Exchange. If the non-member trader does not maintain the requisite \$200,000, the account will be considered a joint account between the member firm and the non-member trader and therefore, the transaction fees will be determined in accordance with section G.6. of this Rule.~~
- ~~6. Joint Accounts—Any account where profits and/or losses are shared by more than one party (member or non-member), shall pay Exchange transaction fees based on the highest rate applicable to any of the account's participants. In addition, a trading account that is funded by a loan shall be deemed a joint account between the borrower and the lender unless it can be demonstrated that the terms of the loan represent a reasonable interest rate, not affected by the profits and/or losses generated in the account. Further, if the terms of the loan suggest that the loan need not be paid back in the event of losses, the trading account shall be deemed a joint account.~~
- ~~H. Fees for CBOT Family of Funds Equity Member Firms—CBOT Family of Funds Equity Member Firms, as defined by the Exchange, will be granted the same fee treatment that the proprietary accounts of Equity Member Firms that are CBOT Clearing or Equity FCMs or CBOT Clearing or Equity Corporate Member Firms, as defined by the Exchange, receive where the trade is executed by a non-member for those firms' accounts.~~
- ~~J. Exchange service fee adjustments—Exchange transaction fee adjustments resulting from the overpayment of such fees must be made through the Exchange Fee Billing System's ("EFB") on-line correction facility. The Exchange will only grant adjustments to member firms for the overpayment of exchange transaction fees for the prior two months from the month the adjustment is made to the EFB on-line correction facility.~~

~~The Exchange will only require member firms to make adjustments for the underpayment of exchange transaction fees for a period up to one year back from the end of the audit period selected by the Exchange. Exchange findings of underpayments may not be offset with an adjustment for any overpayments, except as provided above. Interest and/or costs may be assessed in accordance with policies established by the Exchange.~~

851. TRANSACTION FEE STATUS OF CBOE EXERCISERS

- ~~["e-cbot" references in this rule will be changed to "Globex" upon Globex integration.]~~
- ~~Pursuant to Rules 850 and 106.D.14.(a) through (d), as applicable, and in accordance with the August 7, 2001 Agreement between the Exchange and the Chicago Board Options Exchange ("CBOE"), as modified by the letter agreements, dated October 7, 2004, February 11, 2005 and February 14, 2005, between the Exchange, CBOE and CBOT Holdings, Series B-1 (Full) members and Series B-1 (Full) member delegates who utilize their rights in Series B-1 (Full) membership as a basis to exercise and become a member of the CBOE without purchasing a membership on such exchange (hereinafter referred to as "Exerciser Members") will be subject to the following:~~

~~A. Open Auction Trades—Exerciser Members will be obligated to pay non-member (customer) rates for trades executed on the CBOT Exchange Floor by or on behalf of such Exerciser Member at any time when such Exerciser Member is logged on to the CBOE's electronic trading platform;~~

~~B. e-cbot Trades—~~

~~1. If a Series B-1 (Full) member who is an Exerciser Member is physically present on the CBOE trading floor or is logged onto the CBOE's electronic trading platform at the time an order is entered or altered in e-cbot by or on behalf of such Exerciser Member, then such Exerciser Member will be obligated to pay non-member (customer) rates for trades resulting from the execution of such orders.~~

~~2. A series B-1 (Full) member delegate who is an Exerciser Member will be obligated to pay non-member (customer) rates for all trades executed on e-cbot by or on behalf of such Exerciser Member.~~

~~The foregoing obligations will not apply if such Exerciser Member possesses another membership that has not either been delegated or, in the case of another CBOT Series B-1 (Full) membership, used as a basis to exercise and become a member of the CBOE, and that entitles such member to trade in a particular product.~~

REQUIRED USE OF ATOM BY CLEARING MEMBERS AND FLOOR BROKERS

(A) Each Clearing Member of the Exchange and floor broker must enter into an agreement (the "ATOM Agreement") to participate in the ATOM[1] system. The ATOM Agreement shall be in the form specified by the Exchange and shall be filed with the Exchange.

(B) Each Clearing Member shall enter and maintain all applicable floor brokerage rates into the ATOM system, at rates agreed to between the Clearing Member and the applicable floor broker. A Clearing Member must provide thirty (30) days prior written notice to the floor broker before any modification to a floor brokerage rate entered in the ATOM system shall become effective.

(C) Each Clearing Member and floor broker shall agree on customer identification codes and each floor broker shall enter these codes when entering clearing data for such trades for these customers.

1 "ATOM" is a trademark of the Board of Trade Clearing Corporation and has been licensed for use by NYMEX.

852. FINES FOR ERRORS, DELAYS AND OMISSIONS

Exchange staff shall establish, and from time to time revise, schedules of fines to be imposed upon clearing members for errors, delays and omissions with respect to trade and position data and other required Clearing House memoranda. These fines are to be collected by the Clearing House and are in addition to any disciplinary sanctions that may be imposed by the BCC or CHRC for the violation of Exchange rules within their jurisdiction.

853. TRANSFERS OF TRADES

A. 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:

1. The transfer merely constitutes a change from one account to another account provided the underlying beneficial ownership in said accounts remains the same; or
2. An error has been made in the clearing of a trade and the error is discovered and the transfer is completed within ~~four~~^{two} business days after the trade date.

B. Subject to the limitations of Rule 854, Exchange staff 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 where one or more entities become the successor in interest to one or more other entities.

C. Exchange staff may, with the consent of the clearing member(s) involved, permit the transfer of existing trades if, in staff's opinion, the situation so requires and such transfer is in the best interests of the Exchange.

- D. Provided that the transfer is permitted pursuant to Sections A., B. or C. above, the transactions must be recorded and carried on the books of the receiving firm at the original trade dates. Futures transactions may be transferred using either the original trade price or the most recent settlement price; options transactions may be transferred using either the original trade price or a trade price of zero.
- E. 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.

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 that are held by the same owner during the current delivery month ~~and two business days prior to the delivery month~~ 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 transferred for offset if the trade date of the position being transferred is the same as the transfer date. Such positions may not be offset via netting, transfer, or position adjustment except to correct a bona fide clerical or operational error on the day the error is identified and provided that the quantity of the offset does not represent more than one percent of the reported open interest in the affected futures contract month. For the purposes of this rule, the current delivery month for energy futures contracts commences on the open of trading on the third business day prior to the termination of the respective futures contract, including the termination date. The current delivery month for metals futures commences two business days prior to the first business day of the delivery month.
- C. Clearing members which, pursuant to this rule, carry concurrent long and short positions, must report to the Clearing House both sides as open positions. When either side or both sides are reduced in accordance with Section B. of this rule, the open positions as reported to the Clearing House must be reduced accordingly.
- 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.

855. OFFSETTING MINI-SIZED AND FULL-SIZED FUTURES POSITIONS

- A. With the consent of the account controller, a clearing member may offset and liquidate long futures positions against short futures positions, or short futures positions against long futures positions, held in the same account in the following ratios:
(Crude Oil) WS to QM 2:1
(Natural Gas) HP to QG 4:1
(RBOB Gasoline) RT to QU 2:1
(Heating Oil) BH to QH 2:1
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.
The positions being offset shall be transferred to a Clearing House 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.
- ~~DJIASM Futures—With the consent of the account controller, a clearing member may offset and liquidate long futures positions against short futures positions, or short futures positions against long futures positions, held in the same account in the following ratios:~~

~~———— Mini sized Dow (\$5 Multiplier) to DJIA Index ————— 2:1~~

~~Mini-sized Dow (\$5 Multiplier) to DJIA Index (\$25 Multiplier) — 5:1~~

~~DJIA Index to DJIA Index (\$25 Multiplier) — 5:2~~

~~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.~~

~~— The positions being offset shall be transferred to a Clearing House 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.~~

~~B. Physically delivered futures contracts — With the consent of the account controller, a clearing member may request to offset and liquidate long mini-sized futures positions against short full-sized futures positions, or short mini-sized futures positions against long full-sized futures positions, held in the same account in the following ratios of mini-sized to full-sized futures contracts:~~

~~Mini-sized (1000 bu.) Corn to Full-sized (5000 bu.) Corn — 5:1~~

~~Mini-sized (1000 bu.) Soybean to Full-sized (5000 bu.) Soybean — 5:1~~

~~Mini-sized (1000 bu.) Wheat to Full-sized (5000 bu.) Wheat — 5:1~~

~~The clearing member shall notify the Clearing House of its request to offset positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. If accepted, the positions being offset shall be transferred to a holding account at the Clearing House. The Clearing House shall accept such request or fraction of such request upon receiving an opposite offset request from another clearing member. Such requests shall be processed in the order of oldest request date first.~~

~~No such offset request shall be accepted during the last two trading days.~~