

 **CME Group** | Advisory Notice

TO: Clearing Member Firms

FROM: CME Clearing

DATE: September 25, 2012

ADVISORY #: 12-411

SUBJECT: **CFTC Regulation 39.13(g)(8)(ii) – Customer Initial Margin**

This CME Clearing Advisory Notice provides important clarification and guidance regarding the implementation of Commodity Futures Trading Commission (“CFTC”) Regulation 39.13(g)(8)(ii), Customer Initial Margin Requirements.

CME Clearing has received an interpretation from CFTC concerning Regulation 39.13(g)(8)(ii). CME Clearing requested that the CFTC clarify four key items that have a material impact in the implementation of Regulation 39.13(g)(8)(ii).

1. CME Clearing requested clarification on the meaning of the term "non-hedge positions" used in Reg. 39.13(g)(8)(ii) (the "Customer Initial Margin Requirement"), particularly with regard to treatment of Exchange member-customers.

The CFTC Division of Clearing and Risk interprets the Customer Initial Margin Requirement to preserve historic practices for certain hedge or member accounts. The Customer Initial Margin Requirement is not intended to change the existing practice at certain designated contract markets whereby the accounts of exchange members, market makers, market professionals and/or certain other categories of customers are designated as "hedge" or "member" and are thus subject to the lower, CME Clearing initial margin requirement, even though there may be speculative positions in the accounts.

2. CME Clearing requested clarification regarding the treatment of non-clearing FCM customer omnibus accounts at clearing member FCMs with regard to the higher customer initial margin requirement in the Customer Initial Margin Requirement.

The CFTC Division of Clearing and Risk also interprets the Customer Initial Margin Requirement to preserve the historic practice with respect to applying CME Clearing initial margin requirements to customer omnibus accounts. Therefore, clearing member FCMs are not required to apply the higher customer initial margin requirement of the Customer Initial Requirement to customer omnibus accounts.

3. CME Clearing requested confirmation that CME Clearing may continue to apply higher customer initial margin requirements to all positions in the house origin (including positions of non-public customers and affiliates of clearing members).

The CFTC Division of Clearing and Risk confirmed that the Customer Initial Margin Requirement does not impact CME Clearing's authority to set higher initial margin requirements for certain positions within a house account.

4. CME Clearing requested guidance regarding the standard that CME Clearing should apply in requiring its clearing members to collect customer initial margin from customers at a level "greater than 100%" of the derivatives clearing organization's ("DCO") initial margin requirement, as required by the Customer Initial Margin Regulation.

The CFTC Division of Clearing and Risk expects each DCO to set meaningful customer initial margin requirements that are commensurate with the risks presented by each type of customer account, and that meet the requirements of DCO Core Principle D, Risk Management, and CFTC Regulation 39.13(g). The Division will review the levels set by DCOs with respect to the Customer Initial Margin Requirement.

Please also note: consistent with the guidance in item four above, CME Clearing believes that this requirement concerns the level at which CME clearing members must collect initial margin from their customers.

The CFTC's September 14, 2012 Interpretation of Regulation 39.13(g)(8)(ii) may be found here – <http://www.cftc.gov/ucm/groups/public/@llettergeneral/documents/letter/12-08.pdf>

For more information please contact CME at 312-648-3888.