



Special Executive Report

S-7229

November 3, 2014

Deletion of NYMEX Rules 990 and 992

Effective November 17, 2014, and pending all relevant CFTC regulatory review periods, New York Mercantile Exchange, Inc. ("NYMEX") will delete Rules 990 ("Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members") and 992 ("Participation by NYMEX Floor Members in Special Program for Over-the-Counter Trading with FCM Guarantee") from the NYMEX Rulebook.

Given that transitory EFRPs have been prohibited pursuant to Rule 538 ("Exchange for Related Positions") since August 4, 2014, there is no mechanism for NYMEX floor brokers and floor traders to comply with the requirement in Rule 992 requiring that the OTC transaction be cleared by NYMEX. As such, Rule 992 has been rendered obsolete. Additionally, Rule 990 is also obsolete as it is directly linked to Rule 992.

The revisions to the NYMEX Rulebook are set forth below, with additions underscored and deletions overstruck.

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986.- 992. [RESERVED]

~~990. SPECIAL CAPITAL PROVISIONS FOR CLEARING MEMBERS GUARANTEEING AND CLEARING OTC CONTRACTS EXECUTED BY NYMEX FLOOR MEMBERS~~

~~(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 992 must have and maintain at all times minimum capital of at least \$20 million.~~

~~(B) If, during the 18-month period, a Clearing Member does not maintain capital of at least \$20 million, it must further reduce its capital in compliance with this program by 100 percent of the NYMEX margin requirements for the OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. A Clearing Member must compute its capital in accordance with Exchange rules and generally accepted accounting principles consistently applied.~~

~~(C) A Clearing Member that is subject to the provisions of paragraph (B), above shall be required to compute, on a daily basis, the total margin requirement for OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. Such computations must be documented and maintained by the Clearing Member in accordance with CFTC Regulation 1.31 and be made available for inspection by Exchange representatives. Computations prepared as of financial statement filing dates must be included as part of such filing with the Exchange.~~

~~(D) A decline in a Clearing Member's capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 970.~~

~~Clearing Rules Specifically Governing Clearing Member Obligations Regarding Clearing of Options and Forwards Executed in Exchange Designated Pari-mutuel Auctions~~

~~Note: The following subsection is intended to group together several rules that apply specifically to obligations associated with the clearing of this category of product. Clearing Members are advised that, in addition to other Chapter 9 rules that govern their duties more generally, they may wish to also consult the following Chapter 9 rules: Rules 971 and 973.~~

~~(E) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 6.21G must have and maintain at all times minimum capital of at least \$20 million.~~

~~991. [RESERVED]~~

~~992. PARTICIPATION BY NYMEX FLOOR MEMBERS IN SPECIAL PROGRAM FOR OVER-THE-COUNTER TRADING WITH FCM GUARANTEE~~

~~(A) The over-the-counter (OTC) contracts, agreements or transactions must be executed pursuant to Section 2(h)(1) of the Commodity Exchange Act (Act), which in effect provides among other things that such transactions shall be subject to CFTC anti-fraud and anti-manipulation authority and also may not be entered into on a trading facility. This program generally allows a NYMEX Floor Member to enter into trading in certain OTC contracts on the basis of a FCM guarantee without needing to satisfy the total assets requirements otherwise necessary under the Act for such trading. In order to maintain eligibility for this program, a NYMEX Floor Member must continue to satisfy all of the conditions contained in this rule.~~

~~(B) This program is available only to NYMEX Floor Members in good standing who are properly registered with the CFTC as a floor trader and/or as a floor broker. With respect to floor brokers, this program is available only for trading executed by the floor broker for his proprietary account. In addition, each NYMEX Floor Member must notify the Exchange Market Regulation Department prior to any participation in this program.~~

~~(C) Clearing. The NYMEX Floor Member must have obtained and at all times maintain a financial guarantee in writing as provided by the Exchange for the contracts, agreements or transactions from a NYMEX Clearing Member that:~~

~~(1) is registered with the Commission as an FCM; and,~~

~~(2) clears the OTC contracts, agreements or transactions thus guaranteed for such NYMEX Floor Member.~~

~~(D) Permissible OTC contracts, agreements or transactions shall be limited to trading in a commodity that either:~~

~~(1) is listed only for clearing at NYMEX or~~

~~(2) is listed for trading and clearing at NYMEX and NYMEX's rules provide for exchanges of futures for swaps in that contract, and~~

~~(3) each OTC contract, agreement or transaction executed pursuant to this NYMEX program must be cleared at NYMEX.~~

~~(E) The NYMEX Floor Member may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for any contract that is listed for trading on the Exchange. However, a NYMEX Floor Member may enter into OTC contracts, agreements or transactions for such products with the Exchange in connection with options or forwards entered into through a pari-mutuel auction or, in connection with other OTC contracts, agreements or transactions, with an individual or entity that qualifies as an "eligible contract participant" pursuant to the Act.~~

~~(F) All contracts transacted in connection with this rule must be submitted and accepted for clearing on the Exchange. This rule neither authorizes nor allows a NYMEX Floor Member to maintain an uncleared OTC position and such activity would constitute a violation of this rule.~~