

**CBOE CLEAR US, LLC**  
**RULEBOOK**

**(Last Updated December 14, 2025)**

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## 1 GENERAL

### 101 Definitions.

Unless the context clearly requires otherwise, the following terms shall have the following meanings when used in these Rules:

- (a) **“Access Methods”** means one or more user identifications, passwords, certificates or other access methods provided by Cboe Clear US for accessing the System.
- (b) **“Account”** means a Customer Account or a Member Property Account, as context requires, used in conjunction with the trading or delivery of commodity products.
- (c) **“Account Balance”** means total equity held with the Clearinghouse that is calculated as deposits minus withdrawals plus realized and unrealized profit and loss.
- (d) **“Applicable Law”** means any statute, law, regulation, rule or ordinance of any governmental authority, including but not limited to the CEA, CFTC Regulations, and the rules or regulations of any relevant self-regulatory organization.
- (e) **“Approved Depository Institution”** means a bank, trust company or other depository that has been approved by Cboe Clear US as an acceptable location for depositing Clearing Member Collateral, as applicable.
- (f) **“Assessment Amount”** means the total assessment amount levied by the Clearinghouse at a single time upon all the FCM Clearing Members in order for the Clearinghouse to maintain an adequate Guaranty Fund.
- (g) **“Authorized Representative”** means an individual(s) designated by a Clearing Member as having authority to act on behalf of the Clearing Member. Each Clearing Member designating an Authorized Representative shall notify the Clearinghouse of such designation in writing.
- (h) **“Board”** means the board of directors of Cboe Clear US, as set forth in the LLC Agreement.
- (i) **“Business Conduct Committee”** means the business conduct committee of the Clearinghouse constituted in accordance with, and with the authority and rights set forth or referred to in, Rule 203.
- (j) **“Business Day”** means any day on which the Clearinghouse is open for clearing.
- (k) **“Cboe Clear US”** means Cboe Clear U.S., LLC, a Delaware limited liability company. Cboe Clear US may also be referred to as “Clearinghouse”.
- (l) **“CEA”** means the Commodity Exchange Act, as it may be amended from time to time.
- (m) **“CFTC”** means the U.S. Commodity Futures Trading Commission.

- (n) **“CFTC Regulations”** means the rules, orders, regulations and interpretations promulgated by the CFTC pursuant to the CEA, as in effect from time to time.
- (o) **“Chief Compliance Officer”** means the individual appointed by the Board to serve as the chief compliance officer of the Clearinghouse.
- (p) **“Chief Regulatory Officer”** means the individual appointed by the Board as the Clearinghouse’s chief regulatory officer.
- (q) **“Chief Risk Officer”** means the individual appointed by the Board to serve as the chief risk officer of the Clearinghouse.
- (r) **“Clearinghouse”** means Cboe Clear US, LLC, a Delaware limited liability company. The Clearinghouse may also be referred to as “Cboe Clear U.S.”.
- (s) **“Clearing Member”** means an FCM Clearing Member or Direct Clearing Member that has completed a Clearing Member Application and has been granted clearing privileges by Cboe Clear US to clear contracts on the Clearinghouse. The term “Clearing Member” collectively refers to all Authorized Representatives and Related Parties of a Clearing Member.
- (t) **“Clearing Member Application”** means the applicable forms and agreements, in a form and manner prescribed by the Clearinghouse, required to be executed and delivered to the Clearinghouse before clearing privileges may be granted to a Person by Cboe Clear US.
- (u) **“Collateral”** means U.S. dollars, U.S. Treasuries, other assets, including Digital Assets, that are allowed by the CEA, CFTC Regulations and Cboe Clear US to be accepted for deposit into an Account or to meet Guaranty Fund Requirements.
- (v) **“Committee”** means a committee established by the Board or otherwise, pursuant to the Rules.
- (w) **“Contract”** means, as context requires, any futures contract, options contract, or swap contract, agreement, or transaction on a commodity (as such term is defined in the CEA or CFTC Regulations), which has been approved for clearing by Cboe Clear US.
- (x) **“Customer”** shall have the meaning set forth in CFTC Regulation 1.3.
- (y) **“Customer Account”** means an account established by an FCM Clearing Member with Cboe Clear US in which the FCM Clearing Member maintains trades, positions and Margin solely for Customers.
- (z) **“Customer Funds”** shall have the meaning set forth in CFTC Regulation 1.3.
- (aa) **“Daily Settlement Price”** means an intraday settlement price or the daily end-of-day settlement price for a Contract for which positions remain open, as determined, intra-day and at the close of regular trading hours, calculated by the Participating Exchange.
- (bb) **“Default”** shall have the meaning set forth in Rule 502(a).

- (cc) **“Default Financial Resource Requirement”** means the required amount of financial resource the Clearinghouse determines is needed to meet its obligations to Clearing Members not in Default notwithstanding the two FCM Clearing Members, including any affiliates, generating the largest financial exposures.
- (dd) **“Default Financial Resources”** means the financial resources held by the Clearinghouse to satisfy its Default Financial Resource Requirement.
- (ee) **“Default Loss”** means any loss to Cboe Clear US associated with the Default of a Clearing Member resulting in any deficit balance in the Clearing Member account; resulting from costs associated with the Clearing Member’s liquidation, transfer, offset, settlement, delivery; and any other costs related to managing the Default of a Clearing Member.
- (ff) **“Default Management Plan”** means the plan set forth by Cboe Clear US pursuant to CFTC Regulation 39.16(b) in connection with the Clearinghouse’s management of a Clearing Member Default. The Clearinghouse publishes its Default Management Plan on its website.
- (gg) **“Digital Asset”** means a type of digital unit or asset that is used as a medium of exchange or form of digitally stored value. Examples of Digital Assets include Bitcoin and Ether.
- (hh) **“Direct Clearing Member”** means a Person that is registered under the CEA or the Securities Exchange Act of 1934, is a covered financial institution under the Bank Secrecy Act, submits fully-funded trades for clearing at Cboe Clear US on behalf of its own account(s), has completed a Clearing Member Agreement and has been granted clearing privileges by the Clearinghouse excluding clearing trades on margin.
- (ii) **“Directors”** means members of the Board.
- (jj) **“Eligible Delivery Member”** or **“EDM”** means (a) an FCM Clearing Member that has an FCM proprietary spot account with Cboe Clear US that has been authorized in writing by Cboe Clear US to participate in the physical delivery process to make or take delivery of digital assets futures products; or (b) an FCM Customer with a proprietary spot account with Cboe Clear US that has been authorized in writing by the FCM Clearing Member and by Cboe Clear US to participate in the physical delivery process to make or take delivery of the underlying assets .
- (kk) **“Emergency”** shall have the meaning set forth in Rule 207.
- (ll) **“FCM Clearing Member”** means a Person that is registered with the CFTC as a Futures Commission Merchant, has completed a Clearing Member Application and has been granted clearing privileges by the Clearinghouse, including clearing contracts that are not fully collateralized or fully funded.
- (mm) **“FCM Customer”** means a Customer of an FCM.

- (nn) **Final Settlement Price**” means the marking price, rate, level, value, or measure of the underlying interest of a Contract on its expiration date that is used to calculate (a) the final variation payment in respect of cash-settled Contracts or (b) the purchase price of the underlying interest in respect of physically settled Contracts.
- (oo) **“Fully-Collateralized or Fully-Funded”** contract means a Contract cleared by Cboe Clear US that requires Cboe Clear US to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the Contract.
- (pp) **“Futures Commission Merchant”** or **“FCM”** shall have the meaning set forth in CFTC Regulation 1.3.
- (qq) **“Guaranty Fund”** refers to the funds contributed by FCM Clearing Members as required by Cboe Clear US in accordance with Rule 504 to meet any Default Loss.
- (rr) **“Guaranty Fund Deposit”** means Collateral deposited with Cboe Clear US by an FCM Clearing Member to satisfy its Guaranty Fund Requirement.
- (ss) **“Guaranty Fund Requirement”** means the contributions to the Guaranty Fund by each FCM Clearing Member required by the Clearinghouse based upon the exposure of the Clearinghouse to such FCM Clearing Member and subject to a minimum requirement as determined by the Clearinghouse.
- (tt) **“Government Agency”** means the CFTC and/or any other governmental agency or department regulating the activities of a Clearing Member.
- (uu) **“Initial Margin”** means the applicable amount of Collateral deposited by FCM Clearing Members to meet an Initial Margin Requirement.
- (vv) **“Initial Margin Requirement”** means the amount of Initial Margin required to be deposited with the Clearinghouse by an FCM Clearing Member to collateralize Contracts accepted for clearing by the Clearinghouse.
- (ww) **“Insolvent”** and **“Insolvency”** means the Clearing Member has become the subject of a bankruptcy petition, receivership proceeding, or an equivalent proceeding.
- (xx) **“LLC Agreement”** means the Limited Liability Company Agreement of Cboe Clear US, as amended or restated from time to time.
- (yy) **“Member Property Account”** means an account established by a Clearing Member with Cboe Clear US in which the Clearing Member maintains Contracts and Initial Margin solely on its own behalf, which is described as a house account in the CFTC Regulations.
- (zz) **“Non-Default Loss”** means a Clearing Member’s collateral losses due to the failure or insolvency of an Approved Depository Institution.
- (aaa) **“Obligations”** means all financial obligations, including but not limited to margin, delivery and any non-margin payment obligations (including but not limited to any cash



adjustment or option premium) of a Clearing Member arising under these Rules or applicable Contract specifications.

- (bbb) **“Officer”** has the meaning set forth in Rule 204.
- (ccc) **“Participating Exchange”** means an exchange or clearinghouse that has entered into a business relationship with the Clearinghouse for clearing, settlement, or any other business purpose, except as otherwise expressly provided in the Rules.
- (ddd) **“Person”** means an individual, sole proprietorship, partnership, limited liability company, association, firm, trust, corporation or other entity, as the context may require.
- (eee) **“Related Party”** means the directors, officers, employees or agents of a Clearing Member, including, without limitation, such Clearing Member’s Authorized Representative(s).
- (fff) **“Rule”** means any Cboe Clear US rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, in each case as adopted or amended from time to time by Cboe Clear US. A Rule may also be referred to as “Cboe Clear US Rule” or “Clearinghouse Rule”.
- (ggg) **“System”** means the Clearinghouse Clearing System owned and provided by Cboe Clear US, including all intellectual property associated therewith. The System provides Clearing Member with the ability to clear Contracts.
- (hhh) **“Swap”** has the meaning set forth in CFTC Regulation 1.3.
- (iii) **“Transfer Trade”** means trades and positions that are permitted to be transferred on the books of a Clearing Member or from one Clearing Member to another Clearing Member in accordance with Rule 408.
- (jjj) **“UCC”** means the Uniform Commercial Code as in effect in the State of Illinois.
- (kkk) **“Variation Margin”** means a payment made between the Clearinghouse and an FCM Clearing Member to cover the current exposure arising from changes in the market value of a Contract since the trade was executed or the previous time the position was marked to market.

## **102 Interpretation**

In these Rules, unless the context clearly requires otherwise, (a) words in the singular include the plural and words in the plural include the singular, (b) any gender includes each other gender, (c) references to statutory provisions include those provisions, and any rules or regulations promulgated thereunder, as amended, and (d) all uses of the word “including” should be construed to mean “including, but not limited to.” Headings included herein are for convenience purposes only and do not form a part of these Rules.

## **103 Date and Time References**

Unless otherwise specified, all times in the Rules are Central Time.

## **104 Conflicts**

In the event of a conflict between any Rules of general application and the Rules relating to particular types of transactions, the transaction-specific Rules will prevail.

## **2 GOVERNANCE**

### **201 Purpose, Powers and Authority**

- (a) Cboe Clear US is registered with the CFTC as a Derivatives Clearing Organization. Cboe Clear US operates to clear Contracts for its Clearing Members.
- (b) Cboe Clear US has the power and authority to operate and regulate its clearing and settlement facilities to ensure that such facilities are not used for any improper purpose and to establish and enforce Rules and procedures to reduce systemic risk and facilitate the orderly clearing of Contracts through Cboe Clear US by Clearing Members. These Rules are intended to support the stability of the broader financial system and relevant public interest considerations of clearing members, their customers, and other relevant stakeholders.
- (c) These Rules specify the process by which a Person may become a Clearing Member and the terms and conditions on which Cboe Clear US will clear Contracts. These Rules are binding on all Clearing Members.

### **202 Board**

- (a) The Board shall have control and management of the affairs and business of Cboe Clear US and shall have the powers and duties set forth in the LLC Agreement. Without limiting the generality of the foregoing, the Board shall have the power to: (a) adopt, amend, implement and repeal such Rules, as will in its judgment best promote and safeguard the interests of Cboe Clear US; and (b) render interpretations of the Rules, which shall be binding on all Persons having dealings with Cboe Clear US, including Direct Clearing Members, FCM Clearing Members, and Customers.
- (b) The Board shall review the Board's performance and the performance of individual Directors on at least an annual basis. Such review includes but is not limited to the suitability of individual Directors having appropriate skills and incentives.

### **203 Committees**

- (a) The Risk Management Committee is a Committee of the Board. The Risk Management Committee is an advisory committee to the Board with regard to any matters that could materially affect the risk profile of the Clearinghouse.
- (b) The Default Management Committee is a Committee established by the Risk Management Committee responsible for overseeing Cboe Clear US's default management process and its default management drills.
- (c) The Risk Advisory Working Group is a Committee established by the Risk Management Committee responsible for assisting the Risk Management Committee in providing risk-

based input regarding matters that could materially affect the risk profile of the Clearinghouse.

- (d) The functions and responsibilities of the Business Conduct Committee shall be assumed by the business conduct committee of Cboe Futures Exchange, Inc. ("Cboe Futures Exchange" or "CFE"), as appointed from time to time by CFE. The Business Conduct Committee shall not include any CFE or other Participating Exchange regulatory staff. The Business Conduct Committee shall have the authority and rights assigned to it in Chapter 6 which shall be exercised in each instance by a panel of the Business Conduct Committee (each such panel, a "BCC Panel"). Each BCC Panel shall consist of no fewer than three members of the Business Conduct Committee, each of whom shall be appointed by the chairman of the Business Conduct Committee. At least one member of the Business Conduct Committee and of each BCC Panel shall be an individual who would qualify as a Public Director as defined in CFE Rule 201(b)(ii). No group or class of industry participants shall dominate or exercise disproportionate influence on the Business Conduct Committee or any BCC Panel. No member of a BCC Panel that considers whether to accept a settlement or letter of consent in a disciplinary matter under Chapter 6 shall be a member of the BCC Panel that conducts a hearing or summary proceedings in that matter under Chapter 6. No BCC Panel shall include any member of the Business Conduct Committee that has a financial, personal or other direct interest in the matter under consideration.
- (e) The Board may establish additional Committee(s) as it may from time to time deem necessary or advisable and appoint Board members or other individuals to serve on such Committees and delegate powers to one or more Committees.
- (f) A Committee shall operate in accordance with its charter or powers as otherwise delegated to it by the Board and shall take such actions as may be required by the Rules.
- (g) All information and documents provided to a Committee and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as required by Applicable Law or as necessary to further the business and affairs of Cboe Clear US.

## **204 Officers**

The Board shall appoint Officers of Cboe Clear US, as it may deem necessary or appropriate from time to time, and delegate to such Officers, subject to its oversight, the power and authority to manage the business and affairs of Cboe Clear US and to establish and enforce rules and procedures for the conduct of business by Cboe Clear US. Any Officer may also be a director, officer, partner or employee of Cboe Clear US or any of its affiliates.

At all times, Cboe Clear US shall have a Chief Risk Officer, Chief Compliance Officer, and a designated senior officer of the company (whether CEO, President, COO, or other).

The Chief Risk Officer shall perform such duties as set forth in CFTC Regulation 39.13. The Board oversees the Chief Risk Officer. The Board shall receive reports directly from the Chief Risk Officer from time to time and the Chief Risk Officer shall be made directly available to the Board.

## 205 Eligibility

No Person may serve as an Officer or a member of the Board, including any committee of the Board, the Business Conduct Committee, any BCC Panel, or any other disciplinary panel or committee, arbitration panel or oversight panel if such Person:

- (a) Was found within the past three years by a final decision of a self-regulatory organization, an administrative law judge, a court of competent jurisdiction or the CFTC to have committed a substantive disciplinary offense;
- (b) Entered into a settlement agreement within the past three years in which any of the findings or, in absence of such findings, any of the acts charged included a disciplinary offense;
- (c) Is currently suspended from trading on any market subject to CEA regulation, is suspended or expelled from membership from any self-regulatory organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:
  - (i) A finding by a final decision of a self-regulatory organization, an administrative law judge, a court of competent jurisdiction or the CFTC that such Person committed a disciplinary offense; or
  - (ii) A settlement agreement in which any of the findings or, in absence of such findings, any of the acts charged included a disciplinary offense;
- (d) Is currently subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration with the CFTC or membership in any self-regulatory organization;
- (e) Is currently subject to or has had imposed on him or her within the past three years a CFTC registration revocation or suspension in any capacity for any reason, or has been convicted within the past three years of any of the felonies listed in section 8a(2)(D)(ii) through (iv) of the CEA;
- (f) Is currently subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934; or
- (g) Otherwise fails to fulfill reasonable fitness standards of the Clearinghouse, as may be determined and modified at the discretion of the Clearinghouse.

Any Officer or member of the Board, disciplinary committee, arbitration panel or oversight panel, or holder of 10% or more ownership interest in Cboe Clear US, and any individual nominated to serve in any such role, shall immediately notify the Chief Compliance Officer if such individual meets one or more of the criteria in Rule 205(a)-(g). For purposes of this Rule 205, the terms “self-regulatory organization,” “disciplinary committee,” “arbitration panel,” “oversight panel,” “final decision,” “disciplinary offense,” and “settlement agreement” have the meanings set forth in CFTC Regulation 1.63(a), as amended from time to time.

**206 Conflicts of Interest and Misuse of Material, Non-Public Information.**

- (a) No Officer, Director, or member of a Committee or “disciplinary committee” or “oversight panel” (each as defined in CFTC Regulation 1.69) shall knowingly participate in the relevant body’s deliberations or voting in any matter involving an inquiry, investigation, disciplinary proceeding, summary suspension, other summary action, or any other matter appropriately the subject of the Officer’s, Director’s or member’s authorization under Rules 202, 203 and 204, as applicable (each an “**Action**” and, collectively, “**Actions**”) or Emergency action taken pursuant to Rule 207 (each such Action or Emergency action, a “**Self-Regulatory Action**”) where such member has a “material conflict of interest” (each, an “**Interested Person**”), except as described in Rule 206(d).
- (b) For purposes of Rule 206(a), a “material conflict of interest” means an Officer, Director, or member of a Committee or disciplinary committee or oversight panel:
  - (i) having a direct and substantial financial interest in the result of the deliberations or vote based upon either exchange or non-exchange positions (as referenced in CFTC Regulation 1.69), other than a direct or indirect equity or other interest in Cboe Clear US, that could reasonably be expected to be affected by the Self-Regulatory Action, as determined pursuant to Rule 206(c)(i) below. A direct and substantial financial interest includes positions in Contracts in accounts of, controlled by, or affiliated with the Interested Person or in any other types of direct and substantial financial positions of the Interested Person that are reasonably expected to be affected by the deliberations or vote;
  - (ii) being named as a respondent or potential respondent in the Self-Regulatory Action;
  - (iii) being an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent in the Self-Regulatory Action;
  - (iv) having any significant, ongoing business relationship with a respondent or potential respondent in the Self-Regulatory Action, excluding relationships limited to executing Contracts opposite each other or to clearing Contracts through the same Clearing Member;
  - (v) having a family relationship with a respondent or potential respondent in a Self-Regulatory Action (including the individual’s spouse, co-habitator, former spouse, parent, step-parent, child, step-child, sibling, step-brother, step-sister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law); and/or
  - (vi) any other circumstance that gives rise to a conflict between the Officer’s, Director’s or member’s exercise of authority concerning any Self-Regulatory Action and his or her personal interests.
- (c) Disclosure and Determination of Conflicts. Prior to consideration of any Self-Regulatory Action, each member of the deliberating body who chooses to participate in any

deliberations or vote will disclose to the Chief Compliance Officer if such member has one of the relationships listed in Rule 206(b) above.

- (i) For any matter involving the relationship set forth in Rule 206(b)(i), each member of the deliberating body who chooses to participate in any deliberations or vote will disclose to the Chief Compliance Officer position information (including information regarding positions held by such member, positions held by individuals of such member's family and positions held by a firm with which such member is affiliated) that is known to such member with respect to any particular month or months that are under consideration, and any other positions which the deliberating body reasonably expects could be affected by the significant action, as follows:
  - 1) gross positions held at the Clearinghouse in such member's personal accounts or "controlled accounts," as defined in CFTC Regulation 1.3(j);
  - 2) gross positions held at the Clearinghouse in proprietary accounts, as defined in CFTC Regulation 1.17(b)(3), at such member's affiliated firm;
  - 3) gross positions held at the Clearinghouse in accounts in which such member is a principal, as defined in CFTC Regulation 3.1(a);
  - 4) net positions held at the Clearinghouse in Customer accounts, as defined in CFTC Regulation 1.17(b)(2), at such member's affiliated firm; and
  - 5) any other types of positions, whether maintained at the Clearinghouse or elsewhere, held in such member's personal accounts or the proprietary accounts of such member's affiliated firm, that the Clearinghouse reasonably expects could be affected by the significant action.
- (d) Procedure. The Chief Compliance Officer will determine whether any member of the relevant deliberating body who chooses to participate in any deliberations or vote in a Self-Regulatory Action is subject to a conflict restriction under Rule 206(a).
  - (i) For any matter involving the relationships listed in Rule 206(b) above, such determination will be based upon a review of the following information:
    - 1) information provided by such member pursuant to Rule 206(c); and
    - 2) any other source of information that is held by and reasonably available to the Clearinghouse.
  - (ii) In addition to the review of the information set forth in Rule 206(c)(i) above, for any matter involving the relationship set forth in Rule 206(b)(i), such determination will be based upon a review of the following information:
    - 1) Information provided to Cboe Clear US by a Participating Exchange, or information related to trading and clearing records from a Participating Exchange;

- 2) information provided pursuant to Rule 206(c)(i); and,
  - 3) any other source of information that is held by and reasonably available to Cboe Clear US taking into consideration the exigency of the significant action being contemplated.
- (e) Any Interested Person who would be required otherwise to abstain from deliberations and voting pursuant to Rule 206(a) as a result of having a direct and substantial financial interest in the result of the deliberations and vote may participate in deliberations, prior to a vote on the matter, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided however, that before reaching any such determination, the deliberating body will fully consider the position information specified in Rule 206(c)(i) above which is the basis of such member's substantial financial interest in the Self-Regulatory Action that is being contemplated. In making its determination, the deliberating body will consider:
- (i) whether such member's participation in the deliberations is necessary to achieve a quorum; and;
  - (ii) whether such member has unique or special expertise, knowledge or experience in the matter being considered.
- (f) The minutes of any meeting to which the conflicts determination procedures set forth in this Rule 206 apply will reflect the following information:
- (i) the names of all members of the relevant deliberating body who attended such meeting in person or who otherwise participated in such meeting
  - (ii) the name of any member of the relevant deliberating body who voluntarily recused himself or herself or was required to abstain from deliberations or voting on a matter and the reason for the recusal or abstention, if stated;
  - (iii) information on the information that was reviewed for each member of the relevant deliberating body; and
  - (iv) any determination made in accordance with Rule 206(d) and (e) above.
- (g) If a determination is made that all members of the relevant deliberating body are Interested Persons with respect to a matter subject to a vote by the Board, the Chief Compliance Officer will appoint a panel of individuals who are not Interested Persons with respect to such matter, which will have the same authority and powers over such matter that the Committee would have if the members were not Interested Persons with respect to such matter.
- (h) No Director, Officer or member of any committee or panel established by the Board shall use or disclose for any purpose other than the performance of his or her official duties and responsibilities as an Officer or committee or panel member any material, non-public information obtained as a result of the individual's duties and responsibilities as an Officer or committee or panel member. No Director, Officer or committee or panel

member shall, directly or indirectly, disclose or use at any time, either during his or her association with Cboe Clear US, or thereafter, any confidential information of which the Board member or committee or panel member becomes aware. Each Director, Officer or committee or panel member in possession of confidential information shall take all appropriate steps to safeguard the information and to protect it against disclosure, misuse, loss and theft.

- (i) Notwithstanding Rule 206(h), a Director, Officer or committee or panel member may disclose confidential information if required by law or a court order to be revealed to the United States Department of Justice or the CFTC.
- (j) For the purposes of Rule 206(h), the terms “material information” and “nonpublic information” shall each have the meaning set forth in CFTC Regulation 1.59(a).

## **207 Emergencies**

- (a) During an Emergency, the Board may implement temporary emergency procedures and rules (“**Emergency Rules**”), subject to applicable provisions of the CEA and CFTC Regulations. If an Officer of the Clearinghouse determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, then the Officer, in consultation and with the approval of the Chief Compliance Officer, shall have the authority, without Board action, to implement any Emergency Rules with respect to such Emergency that he or she deems necessary or appropriate to respond to such Emergency.
- (b) Pursuant to this Rule 207, Emergency Rules may require or authorize Cboe Clear US, the Board, any Committee, or the Officers of Cboe Clear US to take actions necessary or appropriate to respond to the Emergency, including, but not limited to, the following:
  - (i) Suspending or curtailing clearing or limiting clearing to liquidation only (in whole or in part);
  - (ii) Extending or shortening the expiration date and/or the last settlement date for Contracts;
  - (iii) Providing alternative settlement mechanisms;
  - (iv) Ordering the liquidation of Contracts, the fixing of a settlement price, or the reduction of positions;
  - (v) Extending, limiting or changing the hours of operation of Cboe Clear US;
  - (vi) Temporarily modifying or suspending any provision of the Rules;
  - (vii) Changing the amount of money to be paid in connection with a Contract, whether previously or thereafter delivered;
  - (viii) Requiring Clearing Members to meet special margin requirements and other Obligations; and/or



- (ix) Summarily suspend any Clearing Member.
- (c) For the purposes of this Rule 207, “**Emergency**” is defined as any occurrence or circumstances which, in the opinion of the Board, an Officer, or a Committee, requires immediate action, and that threatens, or may threaten, the fair and orderly settlement or integrity of any Contract, including, without limitation, the following:
  - (i) Any circumstance that may materially affect the performance of a Contract;
  - (ii) Any action taken by the United States government, a foreign government, Government Agency, self-regulatory organization, state or local governmental body, or market or exchange (foreign or domestic) that may have a material adverse effect on the clearing of Contracts through Cboe Clear US or the settlement, legality or enforceability of any Contract;
  - (iii) Any actual, attempted, or threatened corner, squeeze, congestion, manipulative activity or undue concentration of positions in a Contract;
  - (iv) Any circumstance that may have a severe, adverse effect upon the functions and facilities of Cboe Clear US, including, but not limited to, acts of God, pandemics, fire or other natural disasters, bomb threats, acts of terrorism or war, severely inclement weather, or failure or malfunction of all or a portion of the clearing systems of Cboe Clear US, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;
  - (v) The Insolvency of any Clearing Member or the imposition of any injunction or other restraint by any Government Agency, court or arbitrator upon a Clearing Member which may affect the ability of a Clearing Member to satisfy its Obligations;
  - (vi) Any circumstance in which it appears to the Board that a Clearing Member:
    - 1) Has failed to perform on a Contract;
    - 2) Is Insolvent;
    - 3) Is otherwise in Default;
    - 4) Is in such financial or operational condition or is conducting business such that the Clearing Member cannot be permitted to continue in business without jeopardizing the safety of funds of Cboe Clear US, Clearing Members or the funds of Customers; or
  - (vii) Any other unusual, unforeseeable or adverse circumstance as determined by the Board or the Officers of the Clearinghouse. When Cboe Clear US determines that the Emergency has been reduced sufficiently to allow Cboe Clear US to resume normal functioning, any such actions will be terminated.

- (d) Whenever Cboe Clear US takes action to respond to an Emergency (including, without limitation, the actions set forth in paragraph (b) above), it will, where possible, ensure that notice is timely given to Clearing Members and Participating Exchanges.
- (e) Cboe Clear US will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not possible or practicable, Cboe Clear US will notify the CFTC as soon as reasonably practicable, but in all circumstances within twenty-four hours of the implementation, modification or termination of such Emergency Rule. In all cases, Cboe Clear US will act in accordance with CFTC rules on Emergency rule certifications under CFTC Regulation 40.6.
- (f) Upon taking any action in response to an Emergency, Cboe Clear US will document the decisions and deliberations related to such action. Such documentation will be kept for at least five years following the date on which the Emergency ceases to exist or to affect Cboe Clear US, and all such documentation will be provided to the CFTC upon request.

## **208 Maintenance of Books and Records by the Clearinghouse**

- (a) Cboe Clear US shall keep, or cause to be kept, complete and accurate books and records of accounts of the Clearinghouse, including, without limitation, all books and records required to be maintained pursuant to the CEA, CFTC Regulations.
- (b) Cboe Clear US shall retain all such books and records for at least five (5) years, or such longer period as may be required under Applicable Law, and shall make such books and records readily accessible for inspection by the CFTC, the United States Department of Justice or such other governmental or regulatory authority, as required under Applicable Law.

## **3 CLEARING MEMBERS**

### **301 General Eligibility Requirements of Clearing Members**

Membership in the Clearinghouse is a privilege and license granted by the Clearinghouse and may be withdrawn by the Clearinghouse for cause at any time. The Board may grant exemptions to the eligibility requirements for Clearing Members set forth below for Clearing Members if the Board determines that such an exemption will not jeopardize the financial integrity of the Clearinghouse. Subject to such exemptions, each applicant for qualification as a Clearing Member must satisfy the following requirements:

- (a) The Clearinghouse imposes eligibility requirements for Clearing Members, and may modify these requirements in order to maintain an orderly clearing process and mitigate risk to the Clearinghouse and other Clearing Members.
- (b) All Clearing Members are subject to the Clearinghouse Rules.
- (c) All Clearing Members shall supervise persons associated with the Clearing Member to ensure compliance with Applicable Law.

- (d) Each applicant for qualification as a Clearing Member must satisfy the following requirements at the time of application, and at all times as a Clearing Member:
- (i) Applicant must not be subject to any economic or trade sanctions programs administered by OFAC or other relevant U.S. or non-U.S. authority and must not be listed on OFAC's List of Specially-Designated Nationals and Blocked Persons;
  - (ii) It shall submit a Clearing Member Application with Cboe Clear US, pursuant to which it shall agree, among other things, to abide by Cboe Clear US Rules and continue to meet all requirements applicable to Clearing Members, including all financial requirements provided by Cboe Clear US Rules;
  - (iii) It shall have received all necessary approvals and consents from all applicable regulatory authorities and Government Agencies to permit it to conduct the business of a Clearing Member;
  - (iv) It shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of a Clearing Member;
  - (v) Applicant must not be prohibited from using the services of a Participating Exchange for any reason whatsoever;
  - (vi) It shall continuously satisfy any minimum commercial, integrity, financial, credit, operational capability and competence standards, as may be established by Cboe Clear US from time to time;
  - (vii) Applicant must maintain adequate financial resources and credit as may be determined by the Clearinghouse from time to time and published by Cboe Clear US; and
  - (viii) Applicant must not have filed for bankruptcy, and not be subject to a current bankruptcy or insolvency proceeding.
- (e) In addition to the requirements set forth in paragraph (e), each applicant for qualification as an FCM Clearing Member must satisfy the following requirements at the time of application, and at all times as an FCM Clearing Member:
- (i) It shall be a corporation, limited liability company, partnership or other entity approved by Cboe Clear US, duly organized and in good standing in its state of organization;
  - (ii) It shall maintain back-office facilities staffed with experienced and competent personnel or have entered into a facilities management agreement in form and substance acceptable to Cboe Clear US;
  - (iii) It shall maintain minimum regulatory capital in excess of the greater of (1) \$5,000,000 and (2) any applicable capital requirements imposed on applicant by the CFTC, another Government Agency or Self-Regulatory Organization; and

- (iv) It shall disclose whether the FCM Clearing Member applicant: (i) is subject to a statutory disqualification under Section 8a(2) of the CEA; (ii) has an affiliate subject to a statutory disqualification under Section 8a(2) of the CEA; or (iii) has a principal, or an affiliate with a principal, subject to a statutory disqualification under Section 8a(2) of the CEA. The Clearinghouse shall not admit as an FCM Clearing Member any applicant that discloses a disqualification in (i)-(iii) of this subparagraph (f)(iv).
- (f) In addition to the requirements set forth in paragraph (e), each applicant for qualification as a Direct Clearing Member must satisfy the following requirements at the time of application, and at all times as a Direct Clearing Member:
  - (i) Have the ability to make and take delivery of any Contract in which it trades;
  - (ii) Have banking relationships sufficient to deposit U.S. dollars with the Clearinghouse settlement bank;
  - (iii) On a daily basis reconcile its records against those of the Clearinghouse;
  - (iv) Provide updated positions each business day by the time established by the Clearinghouse;
  - (v) Identify an Authorized Representative to be contacted in the event of any issues related to clearing.
- (g) The Board may, in its sole discretion, grant exemptions or guidance to the requirements set forth in this Rule 301 for Clearing Members if it determines that such an exemption will not jeopardize the financial integrity of Cboe Clear US. Additionally, the Board, with input from the Risk Management Committee, may require applicants meet additional requirements, provide additional information for evaluation, or refuse to admit any Person as a Clearing Member if, at their sole and absolute discretion, they determine that admission of such Person would undermine the financial integrity or reputation of the Clearinghouse.

### **302 Application and Approval of Clearing Member Status**

- (a) Applicants for Clearing Member status shall submit a Clearing Member Application in the form prescribed by Cboe Clear US, including all applicable documentation and agreements required to be entered into with Cboe Clear US.
- (b) Cboe Clear US may review the books and records of any applicant or Clearing Member and take such other action as it may deem appropriate to investigate an applicant's or Clearing Member's qualifications. FCM Clearing Members shall, at time of application and thereafter as required by Cboe Clear US, submit statements of its financial condition and other financial records as shall be prescribed from time to time.
- (c) Cboe Clear US shall have the sole discretion to determine whether any applicant, or any existing Clearing Member, meets the clearing privileges qualifications set forth in Rule 301. The Clearinghouse shall disapprove an application and deny the grant of Clearing

Member status where an applicant has failed to meet any requirements for such grant. The Clearinghouse shall have no liability to any applicant or Clearing Member who is denied or loses Clearing Member status. Any decision made by the Clearinghouse pursuant to this Rule 302 must be consistent with the Clearinghouse Rules and the provisions of the CEA.

- (d) Upon completion of the application process, the Clearinghouse shall determine whether to approve or disapprove the application and shall promptly give the applicant written notice thereof, unless there is a just cause for delay. One such just cause for delay is when an applicant is the subject of an inquiry, investigation, or proceeding conducted by a self-regulatory organization or governmental authority that involves the applicant's fitness to be a Clearing Member. In such instance, the Clearinghouse may defer taking action on the application until the matter has been resolved.
- (e) The applicant shall, following written notice of approval by the Clearinghouse, thereafter become a Clearing Member at such time as the applicant has filed with Cboe Clear US such agreements and documents, and performed such undertakings as Cboe Clear US may require, to the Clearinghouse's satisfaction; provided, however, that if such applicant has not complied with this paragraph (e) of Rule 302 within 90 days after the applicant was given written notice of approval of its application, the Clearinghouse may deem the application to have been withdrawn.
- (f) If, in accordance with paragraph (c) above, Cboe Clear US denies an application to become a Clearing Member, Cboe Clear US shall give the applicant notice of its decision, setting forth the grounds therefor, and such decision shall be the final action of Cboe Clear US. Any applicant to become a Clearing Member who has been denied clearing privileges pursuant to this Rule 302 shall not be eligible for re-application during the six months immediately following such denial.
- (g) By virtue of obtaining clearing privileges, a Clearing Member shall not obtain any equity or other interest in Cboe Clear US, including voting rights or rights to receive any dividends or other distributions, whether arising from a dissolution, merger, consolidation involving Cboe Clear US or otherwise. All such rights shall be owned exclusively by the members of Cboe Clear US, as specified in the LLC Agreement.

### **303 Consent to Clearinghouse Jurisdiction**

Any Person initiating or executing a transaction in Contracts to be cleared by the Clearinghouse, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Clearinghouse and agrees to be bound by and comply with the Clearinghouse Rules in relation to such transactions and Contracts to be cleared by the Clearinghouse, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes.

### **304 Duties and Responsibilities of Clearing Members**

- (a) Each Clearing Member shall:

- (i) Comply with and act in a manner consistent with, and cause its Authorized Representatives and employees to comply with an act in a manner consistent with, the Rules;
  - (ii) Guarantee and assume responsibility for all Contracts submitted by it or for which it authorizes another Person to submit in its name for clearing;
  - (iii) Keep the passwords assigned by Cboe Clear US confidential;
  - (iv) At all times maintain one or more Accounts approved by Cboe Clear US for purposes of depositing and withdrawing funds or Collateral at Cboe Clear US, and promptly inform Cboe Clear US of any changes to any of the foregoing Account(s);
  - (v) Promptly review and, if necessary, respond to all communications sent by Cboe Clear US;
  - (vi) Be responsible for violations of the Rules committed by it, its Authorized Representative or employees;
  - (vii) Provide information relating to the Clearinghouse in compliance with the Rules and Applicable Law and ensure that any information disclosed to the Clearinghouse is accurate and consistent;
  - (viii) No Clearing Member or Clearing Member applicant shall make any materially false statements, misrepresentations or omissions in any application, report or any other communication or documentation provided to the Clearinghouse;
  - (ix) Cooperate with Cboe Clear US and any Government Agency in any inquiry, investigation, audit, examination or proceeding;
  - (x) Observe high standards of integrity, market conduct, commercial honor, fair dealing, and just and equitable principles of trade in relation to any aspect of its business connected with or concerning Cboe Clear US.
- (b) In addition to the requirements in subparagraph (a), each FCM Clearing Member shall also:
- (i) Provide appropriate staff to be available during specified hours, on Business Days and otherwise, when such is deemed necessary by Cboe Clear US to ensure the integrity of its systems or as otherwise deemed necessary for the protection of the Cboe Clear US;
  - (ii) Have written risk management policies and procedures in place to ensure it is able to perform certain basic risk and operational functions at all times and to make information regarding its risk management policies, procedures and practices available to Cboe Clear US or the CFTC upon request. At a minimum, the following areas must be addressed in the Clearing Member's policies and procedures, taking into account the Clearing Member's business and products offered for clearing:

- 1) Monitoring the credit risks of accepting trades, including give-up trades, of its Customers;
  - 2) Monitoring the risks associated with proprietary trading;
  - 3) Limiting the impact of significant market moves through the use of tools such as stress testing or position limits;
  - 4) Maintaining the ability to monitor account activity on an intraday and overnight basis;
  - 5) Ensuring order entry systems, including third party systems connected to any exchange, include the ability to set automated credit controls or position limits or requiring a firm employee to enter orders; and
  - 6) Defining sources of liquidity for increased settlement obligations.
- (iii) Develop and implement a written anti-money laundering compliance program approved in writing by its senior management reasonably designed to achieve and monitor the Clearing Member's compliance with all applicable requirements of the Bank Secrecy Act (31 U.S.C. § 5311 et seq.), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq. ) ("IEEPA"), the Trading with the Enemy Act (50 U.S.C. App. § 1 et seq.) ("TWEA"), and the Executive Orders and regulations issued pursuant thereto, including the regulations issued by the U.S. Department of the Treasury and, as applicable, the Commodity Futures Trading Commission.
- (iv) File any information requested by the Clearinghouse within the time period specified in the request.
- (v) Maintain at all times the ability to provide to the Clearinghouse in an acceptable form a complete set of equity systems reports (including, at a minimum, the equity run, open position listing, day trade listing, cash adjustments listing and performance bond call and debit equity listing). Such reports shall be available to the Clearinghouse no later than 8:00 a.m. on the Business Day following the report date.
- (vi) Submit to the Clearinghouse on each Business Day, at or prior to the time and in the form and manner specified by the Clearinghouse, daily reports that include all information required by the Clearinghouse, including end-of-day gross positions by each house origin, by each customer origin and by each individual customer-level account within each customer origin. Each separate account of a separate account Customer (as such terms are defined in CFTC Regulation 1.44) shall be treated as an account of a separate individual customer. Daily reporting of individual customer-level account information pursuant to this paragraph does not oblige an FCM Clearing Member to look through an omnibus account that it clears for a carrying broker to the underlying customer account.

- (vii) Accurately report large trader positions and, where applicable, long positions eligible for delivery consistent with required submission deadlines.
  - (viii) Submit to the Clearinghouse, at or prior to the time and in the form and manner specified by the Clearinghouse, CFTC Form 102 identifying the owner, any controlling parties and any additional required information for each reportable account.
  - (ix) By the close of trading three Business Days prior to the last day of trading in any Contract that is physically delivered, assess the ability of any owner of an account on its books with open positions in the expiring Contract to make or take delivery. Absent evidence of receiving satisfactory information from the account owner or controller, the FCM Clearing Member is responsible for ensuring that the open positions are liquidated in an orderly manner prior to the expiration of trading.
  - (x) Report to the Clearinghouse each Business Day a complete and accurate inventory of all open positions carried by the FCM Clearing Member in a manner and time as determined by the Clearinghouse.
- (c) In addition to the requirements in subparagraph (a) and (b) above, an FCM Clearing Member carrying an account that is required to make or take delivery shall:
- (i) Guarantee and assume full responsibility for the performance of all delivery requirements set forth in the Rules, including the delivery obligations of any Customers authorized as EDMs (i.e., EDM Customers).
  - (ii) Ensure that its EDM Customers comply with all delivery obligations set forth in the Rules, including but not limited to, ensuring that at all times its EDM Customers that may ultimately make or take delivery in an expiring contract have the operational capability to fully satisfy their delivery obligations.
  - (iii) Satisfy all delivery requirements set forth in Rule 410.

### **305 Authorized Representative**

- (a) Each Clearing Member shall designate one or more Authorized Representatives to sign all instruments, correct errors, perform such other duties as may be required under the Rules and transact all business in connection with the operations of Cboe Clear US. Such designations are not final. They will be reviewed by Cboe Clear US and may be declined by the Clearinghouse. Each Clearing Member must provide Cboe Clear US with current contact and other requested information for each of its Authorized Representatives.
- (b) To designate an Authorized Representative, a Clearing Member must provide the information requested and conform to the procedures and requirements established by Cboe Clear US. By agreeing to become an Authorized Representative, an individual agrees to be bound by the duties and responsibilities of an Authorized Representative and to be subject to, and comply with, the Rules and Obligations to the extent applicable.



- (c) An Authorized Representative who is suspended remains subject to the Rules and Cboe Clear US's jurisdiction throughout the period of suspension.
- (d) To request the termination of the designation of an Authorized Representative, the Clearing Member or the Authorized Representative must notify Cboe Clear US providing the information and complying with the procedures and requirements established by Cboe Clear US.
- (e) An Authorized Representative remains subject to the Rules and the jurisdiction of Cboe Clear US for acts done and omissions made while registered as such, and a proceeding relating to an individual whose designation as an Authorized Representative has been terminated or suspended shall occur as if the Authorized Representative were still registered as such.

### **306 Adequate Assurances**

If Cboe Clear US has reason to believe that a Clearing Member may fail to comply with any of the Rules, it may require the Clearing Member to provide it, within such time frame, in such detail, and in such manner as Cboe Clear US shall determine, with adequate assurances that the Clearing Member shall not violate any of the Rules.

### **307 Notices Required of Clearing Members**

- (a) Each Clearing Member, if applicable, shall immediately notify Cboe Clear US of:
  - (i) Any Default of the Clearing Member or any failure or inability of the Clearing Member to meet its Obligations;
  - (ii) Any failure to maintain current books and records;
  - (iii) Any refusal of admission to, withdrawal of any application for membership in, any suspension, expulsion, bar, fine, censure, denial of membership, registration or license, withdrawal of any application for registration, cease and desist order, temporary or permanent injunction, denial of trading privileges or clearing privileges, or any other sanction or discipline through an adverse determination, voluntary settlement or otherwise, by the CFTC, the SEC, any commodity or securities exchange, clearing organization, any self-regulatory organization or other business or professional association;
  - (iv) The imposition of any restriction or limitation on the business conducted by the Clearing Member on or with any securities or futures clearing organization or exchange (including, without limitation, any contract market, swap execution facility or other trading facility), other than restrictions or limitations imposed generally on all Clearing Members of or Clearing Members of such clearing organization or exchange;
  - (v) Any failure by such Clearing Member, or any guarantor or commonly owned or controlled Clearing Member, to perform any of its material contracts, obligations or agreements;

- (vi) Any determination that it, or any guarantor or commonly owned or controlled Clearing Member, will be unable to perform any of its material contracts, obligations or agreements;
  - (vii) The insolvency, bankruptcy or receivership of such Clearing Member, or of any guarantor or commonly owned or controlled Clearing Member;
  - (viii) The institution of any proceeding by or against the Clearing Member, any affiliate of the Clearing Member, or any 5% direct owner of the Clearing Member, under any provision of the bankruptcy laws of the United States, or under the Securities Investor Protection Act of 1970, any other statute or equitable power of a court of like nature or purpose, in which such Clearing Member or Person is designated as the bankrupt, debtor or equivalent, or a receiver is appointed, or if a receiver, trustee or similar official is appointed for the Clearing Member, such Person, or its or their property;
  - (ix) The receipt by such Clearing Member, or the filing by such Clearing Member with a self-regulatory organization, of a notice of material inadequacy, including as provided in CFTC Regulation 1.16(d)(2) or SEC Rule 17a-5(g)(3), in each case as applicable to such Clearing Member;
  - (x) The receipt by such Clearing Member from its independent auditors of an audit opinion that is not unqualified;
  - (xi) The cessation by such Clearing Member of its clearing of trades for a Customer;
  - (xii) Any determination that such Clearing Member's market exposure will materially affect the Clearing Member's ability to continue to meet its Obligations to the Clearinghouse, including any material adverse change in the financial condition of the Clearing Member; or
  - (xiii) Any other event(s), transpired or imminent, that may or will lead to Default.
- (b) In addition to the requirements above, an FCM Clearing Member shall promptly provide written notice to Cboe Clear US of:
- (i) Any reduction in adjusted net capital of 20 percent or more as reported on its Form 1-FR or net capital as reported on its FOCUS Report from the most recent filing of such report;
  - (ii) Any failure of the Clearing Member to remain in compliance with the minimum capital or "early warning" requirements of any Government Agency or self-regulatory organization
  - (iii) If such Clearing Member knows or has reason to believe that its adjusted net capital has fallen below Cboe Clear US's minimum capital requirements;
  - (iv) Any damage to, or failure or inadequacy of, the systems, facilities or equipment of the Clearing Member used to perform the Clearing Member's obligations under or

in connection with Contracts or Customer Accounts that is not promptly remedied;

- (v) If such Clearing Member fails to comply with additional accounting, reporting, financial and/or operation requirements prescribed by Cboe Clear US;
  - (vi) Any failure to maintain funds in any Customer Account sufficient to comply with applicable CFTC Regulations;
  - (vii) Any planned material reduction in equity capital (and, in all cases, any planned reduction in equity capital that would cause a reduction in excess adjusted net capital, excess net capital or excess liquid capital of 30% or more), including the incurrence of a contingent liability which would materially affect the Clearing Member's capital or other representations contained in the latest financial statement submitted to Cboe Clear US should such liability become fixed; provided that no such notice shall be required in the case of a reduction in capital resulting from (1) the repayment or prepayment of subordinated liabilities for which notice has been given pursuant to applicable CFTC or SEC requirements, or (2) any futures or securities transaction in the ordinary course of business between a Clearing Member and any affiliate where the Clearing Member makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for such transaction within two Business Days from the date of the transaction;
  - (viii) Any change in the FCM Clearing Member's fiscal year or its public accountants;
  - (ix) If any Person directly or indirectly becomes a 5% direct owner of the FCM Clearing Member;
  - (x) Any changes in its name, business address, its primary contact number, electronic mail address, or any number or access code for any electronic communication device used by it to communicate with Cboe Clear US; or
  - (xi) Any external audit findings (including reviews by the Clearing Member's designated self-regulatory organization).
  - (xii) Any default by a Customer of the FCM Clearing Member.
- (c) An FCM Clearing Member shall, unless it is impractical to do so (in which case it shall provide written notice to Cboe Clear US as promptly as possible), provide at least 30 days prior written notice to Cboe Clear US, where applicable, of:
- (i) Any proposed change in the organizational or ownership structure or management of the FCM Clearing Member, including any merger, combination or consolidation between the FCM Clearing Member and another Person;
  - (ii) The assumption or guaranty by the FCM Clearing Member of all or substantially all of the liabilities of another Person in connection with a direct or indirect acquisition of all or substantially all of that Person's assets;

- (iii) The sale of all or a significant portion of the FCM Clearing Member's business or assets to another Person;
  - (iv) A change in the direct or indirect beneficial ownership of 20% or more of the FCM Clearing Member;
  - (v) Any change in the FCM Clearing Member's systems provider or facilities manager used by the FCM Clearing Member to process transactions in Contracts; or
  - (vi) Any planned changes to the FCM Clearing Member's risk management processes or systems.
- (d) Upon the receipt of a notice of the type set forth in paragraphs (a) - (c) above, Cboe Clear US shall review whether the Clearing Member continues to meet the Clearing Member eligibility requirements set forth in Rule 301. Where such notice constitutes notice of a Default, Cboe Clear US may take any or all of the actions as permitted by these Rules, including Rules 502 and 601.

### **308 Omnibus and Carrying Broker Accounts**

- (a) Each FCM Clearing Member shall maintain a complete list of all omnibus and carrying broker accounts maintained on its books. Such list shall be promptly provided to Cboe Clear US upon request. Information for each such account must include account name, number and address, and classification of the account as either Customer or house.
- (b) Each FCM Clearing Member carrying an omnibus account shall at all times reflect in its records the gross long and short positions held in such omnibus account.
- (c) Each FCM Clearing Member that maintains an omnibus account with another FCM Clearing Member shall also bear financial responsibility to Cboe Clear US for that omnibus account.

### **309 Financial Requirements of FCM Clearing Members**

- (a) FCM Clearing Members must at all times maintain minimum regulatory capital in excess of the greater of (i) \$5,000,000, and (ii) the capital requirements imposed by any Government Agency, self-regulatory organization or other examining authority or regulator to which it is subject by statute, regulation or agreement. Cboe Clear US may prescribe additional capital requirements with respect to any FCM Clearing Member.
- (b) FCM Clearing Members shall:
  - (i) Submit a monthly Form 1-FR-FCM or a FOCUS Report and supplementary information schedule, in the form prescribed by the CFTC, including an unaudited monthly Form 1-FR-FCM or FOCUS Report as of the FCM Clearing Member's fiscal year-end, within the time set forth in CFTC Regulation 1.10. An FCM Clearing Member must include with its Form 1-FR-FCM or FOCUS Report a Statement of Income (Loss) for the period between the date of the most recent 1-FR-FCM or FOCUS or, at the option of the FCM Clearing Member, the most

recent certified 1-FR- FCM or FOCUS filed with Cboe Clear US and the date for which the report is made;

- (ii) Submit a certified Form 1-FR-FCM or FOCUS Report as of the Clearing Member's fiscal year-end within the time requirements set forth in CFTC Regulation 1.10. An FCM Clearing Member must include with its certified Form 1-FR-FCM or FOCUS Report, a reconciliation from the certified Form 1-FR-FCM or FOCUS Report to the monthly Form 1-FR-FCM or FOCUS Report as of the same date or a statement that no material differences were noted.
- (c) Cboe Clear US may prescribe additional accounting, reporting, and other financial and/or operational requirements, and FCM Clearing Members must comply with such requirements.
- (d) Financial statement filing requirements under this Rule must be submitted to Cboe Clear US by means of electronic transmission approved by Cboe Clear US. FCM Clearing Members must provide to the Clearinghouse upon request any reports or information pertaining to their financial resources submitted to the CFTC.
- (e) Exceptions to the financial and reporting requirements of this Rule 308 may be granted by the Board, in consultation with the Chief Risk Officer, for good cause if it is determined that such exceptions will not jeopardize the financial integrity of Cboe Clear US.

### **310 Customer Accounts and Member Property Accounts**

- (a) All Customer Funds deposited by an FCM Clearing Member with Cboe Clear US on behalf of futures Customers are protected by CFTC Regulation 1.20 and shall be held in accordance with the CEA and CFTC Regulation 1.20 in an account identified as "Customer Segregated." Such Customer Funds shall be segregated from all other funds held by Cboe Clear US and treated as belonging to such Customers of the FCM Clearing Member. Pursuant to this Rule, a Clearing Member shall satisfy the segregation acknowledgment letter requirements of the CEA and CFTC Regulation 1.20 for Customer deposits held at Cboe Clear US.
- (b) Customer Funds deposited by FCM Clearing Member with Cboe Clear US on behalf of swaps Customers are protected by CFTC Regulation 22.2 and shall be held in accordance with the CEA and CFTC Regulation 22.3 in an account identified as "Cleared Swaps Customer Account." Such Customer Funds shall be segregated from all other funds held by Cboe Clear US and treated as belonging to such Customers of the FCM Clearing Member. Pursuant to this Rule, a Clearing Member shall satisfy the segregation acknowledgment letter requirements of the CEA and CFTC Regulation 22.5 for Customer deposits held at Cboe Clear US.
- (c) All funds deposited by a Clearing Member with Cboe Clear US on behalf of the Clearing Member's own account shall be held in a Member Property Account or with regard to funds deposited for purposes of trading in a Cleared Swaps Member Property Account. Such Clearing Member funds shall be segregated from all other funds held by Cboe Clear US and treated as belonging to Clearing Members.

- (d) Cboe Clear US will, upon request by a Customer, promptly transfer, from the Customer Account of one FCM Clearing Member to the Customer Account of another FCM Clearing Member, all or a portion of such Customer's Contracts, in accordance with Rule 408(a)(i).

### **311 General Recordkeeping and Reporting Requirements for Clearing Members**

- (a) Each Clearing Member shall prepare, maintain and keep current those books and records required by these Rules, the CEA, CFTC Regulations, and any Applicable Law. Such books and records shall be open to inspection and promptly provided to Cboe Clear US, the CFTC or other Government Agency upon request.
- (b) Without limiting the foregoing, each Clearing Member shall make and retain records with respect to each trade showing the Contract, quantity, date, price, delivery month, the name or account identifier of any Customer for whom the trade was made and such other information as may be required by Applicable Law or by Cboe Clear US. Such records shall be retained for at least five years, either in original form or in such other form as Cboe Clear US may from time to time authorize.
- (c) Each FCM Clearing Member shall maintain an adequate accounting system, internal accounting controls, and procedures for safeguarding Customer and firm assets, where applicable. This includes, but is not limited to, the following:
  - (i) Preparation and maintenance of complete and accurate reconciliations for all accounts; and
  - (ii) Resolution of reconciling items in a timely manner; and
  - (iii) Prevention of a material inadequacy as defined in CFTC Regulation 1.16(d)(2).
- (d) An FCM Clearing Member shall file any information requested by Cboe Clear US within the time period specified in the request and shall, at all times have the ability to provide to Cboe Clear US in an acceptable form a complete set of back-office system reports (including, at a minimum, the equity run, open position listing, day trade listing, cash adjustments listing and debit equity listing, if applicable). Such reports shall be available to Cboe Clear US no later than 8:00 a.m. on the Business Day following the report date.
- (e) Each FCM Clearing Member shall at all times have the ability to provide promptly to Cboe Clear US upon request a listing of each of its Customers' method of access to a Participating Exchange, including front end applications and network connections.

### **312 Disaster Recovery and Business Continuity FCM Clearing Members**

- (a) Each FCM Clearing Member shall have written disaster recovery and business continuity policies and procedures reasonably designed to ensure it is able to perform certain basic operational functions in the event of a significant internal or external interruption to its operations. At a minimum, the following areas must be considered in the FCM Clearing Member's policies and procedures:

- (i) The FCM Clearing Member must have procedures in place to allow it to continue to operate during periods of stress with minimal disruption to either Cboe Clear US or its Customers. The FCM Clearing Members must perform periodic testing, including testing with Cboe Clear US when so requested, of disaster recovery and business continuity plans, duplication of critical systems at back up sites and periodic backup of critical information; and
- (ii) The FCM Clearing Member must maintain and, at the request of Cboe Clear US, provide accurate and complete information for its key personnel. An FCM Clearing Member must inform Cboe Clear US in a timely manner whenever a change to its key personnel is made.
- (b) Cboe Clear US may prescribe additional and/or alternative requirements for FCM Clearing Members' compliance with this Rule.
- (c) FCM Clearing Members must participate in coordinated testing of their disaster recovery and business continuity policies and procedures at least annually. An FCM Clearing Member can fulfill this requirement by participating in an industry-wide testing event in which Cboe Clear US also participates.

### **313 Fees**

- (a) Cboe Clear US shall have the right to invoice Clearing Members and accept payment in a form and manner prescribed by the Clearinghouse, or to offset any fees, charges or other amounts (other than fines or penalties) due to Cboe Clear US or due to a Participating Exchange against a Clearing Member's Member Property Account balance, and shall have the right to instruct an Approved Depository Institution, if applicable, to debit the Account maintained by an Clearing Member to offset any amounts due the Clearinghouse.
- (b) Clearinghouse Fees. Clearing Members shall pay when and as due any fees and assessments that may be made against the Clearing Member pursuant to the Rules, including without limitation, to cover losses attributable to acts or omissions of other members of the Clearinghouse other than the Clearing Member (collectively, the "Clearinghouse Fees").
- (c) Taxes. Clearing Member shall be responsible for any and all taxes, levies, duties or similar charges, however designated, that may be assessed by any international, federal, state, municipal or other jurisdiction, however designated, arising out of Transactions made by or on behalf of Clearing Member or otherwise arising out of Clearing Member's use of the Services, other than any such taxes assessed or levied on the Clearinghouse in respect of income earned by the Clearinghouse.

### **314 Segregation of Customer Funds and Assets for FCM Clearing Members**

- (a) Each FCM Clearing Member must comply with the requirements of the CEA and CFTC Regulations regarding segregation of Customer Funds from the FCM Clearing Member's

own funds or assets, including, but not limited to, CFTC Regulations 1.20 through 1.30, 1.32, and 30.7.

- (b) Cboe Clear US shall comply with the applicable segregation requirements of Section 4d of the CEA and CFTC Regulations with respect to Customer Funds held by Cboe Clear US.

### **315 Access to Cboe Clear US**

- (a) System. Each Clearing Member, for as long as it is a Clearing Member in good standing, shall have a non-exclusive, non-transferable, revocable right to access the System, and to utilize any services, through such procedures as the Clearinghouse may designate from time to time to clear Products. Subject to the CEA and CFTC regulations, the Clearinghouse reserves the right, in its sole discretion, to modify or change the System or services at any time.
- (b) Access Methods. The Clearinghouse shall provide to Clearing Member Access Methods for use by users designated by the Clearing Member's Authorized Representatives. An Authorized Representative shall notify the Clearinghouse of any change of designated users of the Clearing Member's Access Methods. Clearing Member shall not divulge, and shall not permit any other Person to divulge, any Access Methods to any Person other than a user designated by an Authorized Representative. Clearing Member is and shall remain fully responsible for (i) maintaining the confidentiality of Clearing Member's Access Methods, (ii) controlling and monitoring any use of any such Access Methods, (iii) all Contracts submitted and other activities that occur through use of such Access Methods, and all charges resulting therefrom, whether or not such use is authorized by Clearing Member, except to the extent that such unauthorized use is proximately caused by the Clearinghouse's willful misconduct or gross negligence, and (iv) notifying the Clearinghouse immediately of any unauthorized use of Clearing Member's Access Methods or any other known or suspected breach of security relative to the System.
- (c) A Customer entering orders by electronic access must access Cboe Clear US through the systems owned or sponsored by such Customer's FCM Clearing Member.
- (d) Clearing Member shall be solely responsible for all costs and expenses associated with Clearing Member's access to and use of the System and services. Clearing Member shall access the Clearinghouse services in a form and manner prescribed by the Clearinghouse.
- (e) Authorization. Clearing Member acknowledges and agrees that all instructions issued by Clearing Member through its Access Methods, including instructions or Contracts submitted through the System as conveyed by Customers and Authorized Representatives, are duly authorized and binding, and the Clearinghouse shall have no duty to investigate the accuracy thereof or the authenticity of authority thereby authorized. Clearing Member further accepts full responsibility for: (i) any use of the System made by Clearing Member, its Authorized Representatives, or any user of an Access Method; and (ii) any Contract submitted in the name of Clearing Member or its Customer, notwithstanding that such Contract may have been entered into or submitted to



the Clearinghouse (x) as a result of a failure of security controls, risk controls, and/or credit controls; or (y) by an unknown or unauthorized Person employing an Access Method assigned to a user designated by an Authorized Representative, provided, however, that Clearing Member shall not be responsible for any Contract to the extent arising out of the Clearinghouse's gross negligence or willful misconduct.

- (f) Data Provided by Clearing Member. Clearing Member accepts sole responsibility (i) for the accuracy and adequacy of data entered into the System by Clearing Member or any other Person using Clearing Member's Access Methods, and for all results obtained from use of the System by Clearing Member or any other Person using Clearing Member's Access Methods; (ii) for implementing procedures external to the System for reconstruction of data for purposes of re-entry in the event of a System malfunction; and (iii) for implementation procedures external to the System to enable Clearing Member to comply with the audit trail applicable regulatory requirements. In the event Clearing Member becomes aware of an error in transaction data provided to the Clearinghouse or in any entry submitted through the System by or on behalf of Clearing Member or its Customer, Clearing Member shall promptly so notify the Clearinghouse; *provided, however*, that Clearing Member shall be responsible for any such erroneous data or entry unless the Clearinghouse notifies Clearing Member otherwise.

### **316 Digital Asset Collateral**

- (a) With respect to any Digital Asset approved as Collateral by the Clearinghouse, which is or may be credited to any Clearing Member's Member Property Account, the following terms and conditions shall apply:
- (i) For purposes of creating a "security entitlement" as such term is defined in Section 8-102(a)(17) of the UCC, the Clearinghouse and the Clearing Member agree that: (1) the digital asset Collateral shall be treated as a "financial asset" as such term is defined in Section 8-102(a)(9) of the UCC; and (2) each Clearing Member shall be treated as an "entitlement holder" as such term is defined in Section 8-102(a)(7) of the UCC.
  - (ii) Each Clearing Member acknowledges that the Clearinghouse is a "securities intermediary" as such term is defined in Section 8-102(a)(14) of the UCC.
  - (iii) Any digital asset Collateral which a Clearing Member desires be credited to such Clearing Member's Member Property Account shall be transferred to a digital asset wallet designated by the Clearinghouse and upon such transfer the Clearinghouse shall indicate by book entry that such digital asset Collateral, less applicable transfer costs and fees, has been credited to such Member Property Account.
- (b) With respect to any Digital Asset approved as Collateral by the Clearinghouse, which is or may be credited to any Customer Account, the following terms and conditions shall apply:

- (i) For purposes of creating a “security entitlement” as such term is defined in Section 8-102(a)(17) of the UCC, the Clearinghouse and the Customer and the relevant FCM Clearing Member all agree that: (1) the digital asset Collateral shall be treated as a “financial asset” as such term is defined in Section 8-102(a)(9) of the UCC; and (2) each FCM Clearing Member shall be treated as an “entitlement holder” as such term is defined in Section 8-102(a)(7) of the UCC.
- (ii) Each Customer and each FCM Clearing Member acknowledges that the Clearinghouse is a “securities intermediary” as such term is defined in Section 8-102(a)(14) of the UCC.
- (iii) Any Digital Asset Collateral which an FCM Clearing Member desires be credited to any of such FCM Clearing Member’s Customer Accounts shall be transferred to a digital asset wallet designated by the Clearinghouse and upon such transfer the Clearinghouse shall indicate by book entry that such Digital Asset Collateral, less applicable transfer costs and fees, has been credited to any of such Customer Accounts.
- (c) The Clearinghouse shall have only such duties and obligations with respect to each Member Property Account and Customer Account as are set forth in Article 8 of the UCC or otherwise mandated by Applicable Law. Each Clearing Member, including each FCM Clearing Member, and each Customer acknowledges and agrees that the Clearinghouse is not a fiduciary for any Clearing Member, including any FCM Clearing Member, or Customer.
- (d) The State of Illinois is the “securities intermediary’s jurisdiction” within the meaning of Section 8-110(e) of the UCC for all purposes of the UCC.

### **317 Swaps Collateral and Positions**

Each FCM Clearing Member shall maintain a separate Customer Account(s) for the funds, assets and positions of each of its Customers trading swaps. When depositing funds or assets with or withdrawing funds or assets from the Clearinghouse or submitting any order to a Participating Exchange, related to customer swaps activity, FCM Clearing Members must identify the Customer Account for which such deposit, withdrawal, or order is being made, as well as any other information required by Cboe Clear US.

### **318 Prohibited Practices**

- (a) Clearing Members are prohibited from engaging in practices that may cause degradation of the Clearing System or the Clearinghouse’s other services or facilities.
- (b) Clearing Members, Authorized Representatives and other Persons subject to the jurisdiction of the Clearinghouse are prohibited from engaging in acts or practices contrary to the purposes of the Clearinghouse, and from committing any act or engaging in any conduct that is likely to bring the Clearinghouse into disrepute. These prohibited practices include, but are not limited to:
  - (i) engaging in any activity that presents a risk of harm to the Clearinghouse, Clearing Members or the public and
  - (ii) engaging in conduct or practices that are detrimental to the best interests of

the Clearinghouse or that adversely affect the integrity of the Clearinghouse or the System.

### **319 Risk Control Mechanisms**

(a) The Clearinghouse shall have authority to develop and implement risk control policies for Customer Account and Member Property Account transactions and positions. Further, the Clearinghouse shall have authority to take such action, including but not limited to: (i) imposing enhanced capital requirements; (ii) imposing enhanced Initial Margin Requirements; (iii) prohibiting an increase or requiring a reduction in positions; and (iv) liquidating or transferring positions when, in the sole discretion of the Clearinghouse, such action is necessary to effectively manage risk posed to the Clearinghouse by a Clearing Member.

(b) Where any two or more Clearing Members are Affiliates, the Clearinghouse may impose risk limits on the aggregate positions that such Clearing Members may carry with the Clearinghouse.

### **320 Orders of Other Clearing Members**

No Clearing Member shall accept or submit any order in a Contract for or on behalf of another Clearing Member, without the prior written consent of such other Clearing Member. If such order results in a transaction, the Clearing Member accepting the order must send promptly a duplicate confirmation of the transaction to the Clearing Member from whom the prior written consent is required pursuant to this Rule.

### **321 Standards of Business Conduct**

Each Clearing Member shall act, and shall cause its Authorized Representatives to act, in accordance with the following standards of business conduct with regard to its activity at and in connection with the Clearinghouse:

(a) *Regulatory Compliance.* No Clearing Member (or any of its Authorized Representatives) shall engage in conduct that is a violation of these Rules and will conduct its business in accordance with Applicable Law and in good faith.

(b) *Fraud.* No Clearing Member (or any of its Authorized Representatives) shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick or mislead in connection with or related to any Contract or the business and affairs of the Clearinghouse.

(c) *Good Faith.* No Clearing Member (or any of its Authorized Representatives) shall knowingly use the Clearing System other than for its intended and legitimate business purpose in good faith.

## **4 CLEARING, SETTLEMENT, AND DELIVERY OF CONTRACTS**

### **401 Submission of Trades**

(a) The Clearinghouse, in coordination with a Participating Exchange, shall facilitate prompt, efficient, and accurate processing of all transactions submitted for clearing.

- (b) Upon matching of a trade effected on or pursuant to the rules of a Participating Exchange, the Participating Exchange shall promptly submit to Cboe Clear US a trade report generated by the electronic trading system of the Exchange. The report shall show for each trade (i) the identity of each Clearing Member, (ii) whether bought or sold, (iii) quantity, (iv) delivery month, (v) the price, (vi) whether for house, Customer, or non-Customer account, and (vii) such other information as may be required by Cboe Clear US.
- (c) If Cboe Clear US determines that any trade report submitted pursuant to this Rule 401 contains a material error, does not conform to the Contract specifications contained in the Participating Exchange's rulebook, or is otherwise not eligible for clearing by Cboe Clear US, Cboe Clear US may reject such trade and notify the Participating Exchange of such rejection, setting forth the basis of such objection.

## **402 Clearance and Substitution**

- (a) The submission of a Contract to Cboe Clear US by or on behalf of the Clearing Member parties to the Contract shall constitute a request, by the Clearing Member parties, for the clearing of such Contract by Cboe Clear US. Acceptance of the Contract for clearing by Cboe Clear US ordinarily shall be deemed to occur upon the receipt of matched trade data from the Participating Exchange. Upon acceptance of the Contract for clearing by Cboe Clear US:
  - (i) the Contract, if a futures Contract or option on a future Contract, shall be novated and Cboe Clear US shall be substituted as, and assume the position of, seller to the Clearing Member buying such Contract and buyer from the Clearing Member selling such Contract. Upon such substitution, such buying and selling Clearing Members shall be released from their obligations to each other, and Cboe Clear US shall be deemed to have succeeded to all the rights, and to have assumed all the Obligations, of the Clearing Members that were party to such Contract, in each case as provided in the Rules;
  - (ii) the Contract, if a swap, shall be extinguished, and replaced with equal and opposite swap between Cboe Clear US and each Clearing Member. Upon extinguishing and replacing the original Contract, the Clearing Members shall be released from their obligations to each other, and, along with Cboe Clear US, shall have all rights and Obligations under the Contract that replaced the extinguished Contract, in each case as provided in the Rules.
  - (iii) the Contract's terms, if a swap, must conform to product specifications, as established by the Clearinghouse, including any swap cleared by a Clearing Member on behalf of a customer as carried in the customer account on the books of the Clearing Member.
  - (iv) the Contract must satisfy the criteria of the Clearinghouse, including pre-trade risk configurations set by the Clearinghouse for FCM Clearing Members.

- (b) Settlement. Clearing Member understands and agrees that all Contracts submitted to the System are binding transactions between Clearing Member or its Customer and the counterparty that must be settled between Clearing Member or its Customer and the counterparty in accordance with the Rules.
- (c) Where an FCM Clearing Member acts to clear a Contract made for the account of a Customer, the FCM Clearing Member becomes obligated to Cboe Clear US, and Cboe Clear US becomes obligated to the FCM Clearing Member, with respect to such Contract in the same manner and to the same extent as if the Contract were for the account of the FCM Clearing Member.
- (d) Notwithstanding the provisions of paragraph (a), a trade shall not be accepted for clearing, and Cboe Clear US shall not be substituted for a given Contract, unless the Initial Margin for such Contract is made available to Cboe Clear US, by or for both Clearing Members, pursuant to Rule 403.
- (e) The Clearinghouse shall provide for non-discriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated swap execution facility or designated contract market.

#### **403 Margin**

- (a) Each FCM Clearing Member shall establish Initial Margin Requirements for its Customers at a level that is not less than 100 percent of the Clearinghouse's Initial Margin Requirements with respect to each product and portfolio and commensurate with the risk presented by each customer account and in such amount as is communicated by the Clearinghouse from time to time ("Customer Initial Margin Requirement").
- (b) Each FCM Clearing Member shall ensure that no Customer of such FCM Clearing Member withdraws funds from its Customer Account with such FCM Clearing Member unless the net liquidating value plus Initial Margin deposits remaining in such account after giving effect to the withdrawal are sufficient to meet the Customer Initial Margin Requirement with respect to all confirmed trades cleared for such account, except as provided for in CFTC Regulation 1.44.
- (c) Each FCM Clearing Member shall deposit Initial Margin in the quantity not less than the applicable Initial Margin Requirement as determined by the Clearinghouse at the times prescribed by the Clearinghouse and published on the Clearinghouse website or otherwise disseminated in a notice to Clearing Members.
- (d) Clearing Members shall be obligated to pay or entitled to receive Variation Margin and other Obligation payments, as applicable, on Contracts accepted for clearing by the Clearinghouse. All Variation Margin requirements and other Obligations to the Clearinghouse shall be made in immediately available funds. If an Approved Depository Institution fails to pay Variation Margin or other Obligations on behalf of a Clearing Member, such Clearing Member will remain obligated to pay such Variation Margin or other Obligations to the Clearinghouse notwithstanding such failure.

- (e) Collateral, including Initial Margin, Variation Margin and other Obligations, transfers made by a Clearing Member to the Clearinghouse or by the Clearinghouse to a Clearing Member are irrevocable and unconditional when effected. The Clearing Member shall be responsible for all fees associated with deposits, withdrawals or transfers of Collateral to or from the Clearinghouse.
- (f) The FCM Clearing Member shall transfer Initial Margin to the Clearinghouse or to an Approved Depository Institution for safekeeping in a Clearinghouse account and the Clearinghouse shall retain control over such Initial Margin. All Initial Margin shall be retained by the Clearinghouse in whole or in part, as the Clearinghouse may deem necessary, until the positions in Contracts for which such Initial Margin has been deposited, have been offset, settled, delivered or otherwise closed out as determined by the Clearinghouse.
- (g) Each FCM Clearing Member shall reimburse the Clearinghouse for all fees, expenses, charges and costs assessed by a depository against the Clearinghouse with respect to all Collateral maintained in its Accounts, and shall make deposits as may be required by the Clearinghouse by reason of any decrease in the market value of such Collateral.
- (h) If an FCM Clearing Member Defaults to the Clearinghouse, then with respect to Initial Margin in the Defaulting FCM Clearing Member's Account(s),
  - (i) the Collateral maintained in its account pursuant to this rule shall be taken over by the Clearinghouse and sold without notice,
  - (ii) the proceeds of the Initial Margin deposited for Customers' positions in Contracts shall be applied against any Variation Margin and other Obligation requirements for the Defaulting FCM Clearing Members' Customer Accounts, and
  - (iii) the proceeds of Initial Margin deposited for the Defaulting FCM Clearing Member's own (or "house") trades shall be applied against any Variation Margin and other Obligation requirements for the Defaulting FCM Clearing Member's Member Property Account (or "house" Account). The excess house funds and assets of a Defaulting FCM Clearing Member shall be applied to cover losses with respect to a Customer default, if the relevant Customer Funds and assets are insufficient to cover the shortfall,

This subparagraph (g) does not prohibit the Clearinghouse from taking any other or additional actions permitted by the Rules in connection with a Defaulting FCM Clearing Member's Account(s).

- (i) If the Clearinghouse determines that unstable conditions for one or more products exist or that market conditions and price fluctuations require additional Initial Margin to maintain an orderly market or preserve financial integrity, it may call for additional

Initial Margin from FCM Clearing Members, which may be greater than or equal to the original Initial Margin. The additional Initial Margin called for by the Clearinghouse may be for one or more Contract(s) from one or more FCM Clearing Member(s) and on long positions, short positions or both. FCM Clearing Members shall deposit such additional Initial Margin with the Clearinghouse during the next banking hour following the additional Initial Margin call by the Clearinghouse or at a time otherwise specified by the Clearinghouse. If the Clearinghouse determines that any FCM Clearing Member is carrying commitments or incurring risk in its house or Customer Accounts, that are greater than is justified by the financial condition of that FCM Clearing Member, then the Clearinghouse may call for additional Initial Margin of such FCM Clearing Member. The FCM Clearing Member shall deposit such additional Initial Margin with the Clearinghouse during the next banking hour following the additional Initial Margin call by the Clearinghouse, or at a time otherwise specified by the Clearinghouse. Alternatively, the Clearinghouse may require that a portion of the open positions in the FCM Clearing Member's house or Customer Accounts be reduced.

- (j) Subject to the terms and conditions of the Clearinghouse, FCM Clearing Members may deposit any form of Collateral which has been approved by the Clearinghouse and communicated through Clearinghouse notices. The Clearinghouse will value Initial Margin Collateral, other than U. S. dollars, as the liquidation value of the Collateral after taking into consideration haircuts, if applicable.
- (k) Collateral must be and remain unencumbered. Except as otherwise provided herein, each FCM Clearing Member posting Collateral hereby grants to the Clearinghouse a first priority security interest in and unencumbered lien against any Collateral, positions and other funds and property deposited with the Clearinghouse by the FCM Clearing Member, including without limitation such FCM Clearing Member's Member Property Accounts and Customer Accounts, and all securities entitlements held therein. FCM Clearing Members shall execute any documents required by Cboe Clear US to create, perfect and enforce such lien. Each FCM Clearing Member hereby agrees that with respect to any funds or Collateral which is or may be credited to the FCM Clearing Member's Member Property Account or Customer Account, as applicable, the Clearinghouse shall have control pursuant to Section 9-106(a) and 8-106(e) of the UCC and a perfected security interest pursuant to Section 9-314(a) of the UCC.
- (l) Cboe Clear US may assign, pledge, repledge or otherwise create a lien on or security interest in, and enter into repurchase agreements involving, Collateral, Contracts, positions and other funds and property deposited with the Clearinghouse by an FCM Clearing Member, as permitted by CFTC Regulations and applicable state Regulations, held in or for such FCM Clearing Member's Member Property Accounts or Customer Accounts to secure the repayment of funds that may be borrowed by Cboe Clear US.
- (m) FCM Clearing Members must transfer the Collateral to the Clearinghouse which will hold Collateral on behalf of the FCM Clearing Member. Cboe Clear US will credit to the FCM Clearing Member the Collateral that such FCM Clearing Member deposits.

Collateral shall be held by the Clearinghouse until an FCM Clearing Member submits a withdrawal notification, unless otherwise provided by the Rules.

- (n) Cboe Clear US will not be responsible for any diminution in value of Collateral that an FCM Clearing Member deposits with the Clearinghouse, except, in the case of U.S. dollars, the diminution of value is as a direct result of investment activity of the Clearinghouse, such activity having been conducted in full compliance with CFTC Regulations. Any fluctuation in markets is the risk of each FCM Clearing Member. Any interest earned on FCM Clearing Member Collateral may be retained by the Clearinghouse.
- (o) If an FCM Clearing Member is in Default, Cboe Clear US may foreclose on and sell any of the Collateral deposited by such FCM Clearing Member without notice in accordance with the Cboe Clear US Default Management Plan.
- (p) Cboe Clear US may invest and reinvest all or part of the Collateral deposited with the Clearinghouse by an FCM Clearing Member. Such investments shall be for the account and risk of Cboe Clear US, and any income and gains on such investments and interest on such deposits shall belong to Cboe Clear US and may be withdrawn from the account holding the Initial Margin and deposited with the general funds of Cboe Clear US.

#### **404 Offset and Settlement**

- (a) Where, as the result of novation of a Contract or if the Contract has been extinguished and replaced under Rule 402, a Clearing Member has bought and sold a Contract on or subject to the Rules of a Participating Exchange with the same expiration, or otherwise deemed economically equivalent by the Clearinghouse, the purchase and sale will be offset by Cboe Clear US through the timely submission of instructions by the Clearing Member containing such information as prescribed by Cboe Clear US. All swaps with the same terms and conditions, as defined by product specifications established by the Clearinghouse, submitted to the Clearinghouse for clearing are economically equivalent within the Clearinghouse and may be offset with each other within the Clearinghouse.
- (b) Contracts made and designated by the Clearing Member as for the Clearing Member's Customer Account shall not be offset under this Rule against Contracts designated by the Clearing Member as for the Clearing Member's own Member Property Account.
- (c) A Clearing Member shall be required to pay a loss or entitled to collect a profit, as the case may be, upon the offsetting of transactions pursuant to this Rule 404, and shall have no further rights or be under any further obligation with respect thereto. For purposes of this Rule 404, the first Contracts made shall be deemed the first Contracts offset.
- (d) The Clearinghouse will conduct final settlement following expiration of a Contract (i) using the previous settlement cycle price and the final settlement price for a Contract calculated by the relevant Participating Exchange; and (ii) applying any other outstanding Obligations that may be applicable pursuant to the specifications of the Contract and calculated by the relevant Participating Exchange.



#### **405 Approved Depository Institutions**

(a) Each Clearing Member shall establish and maintain account(s), including any customer-segregated accounts, at an Approved Depository Institution for the payment of Initial Margin, Variation Margin, and any other Obligations due to the Clearinghouse pursuant to the Rules.

(b) Accounts. Clearing Members shall from time to time designate in writing to the Clearinghouse its account(s) to be debited in connection with amounts due to the Clearinghouse by a Clearing Member and its Customers pursuant to these Rules. The Clearinghouse shall give instructions to the Approved Depository Institution of a Clearing Member corresponding to the accounts to debit the accounts of a Clearing Member in such amounts as the Clearinghouse may specify for the deposit with, or payment to, the Clearinghouse of Initial Margin, Variation Margin, option premiums or the purchase price of any commodity, or any other Obligations as prescribed from time to time by the Clearinghouse or coming due in accordance with the Rules and to transfer such amounts so debited to such account to Accounts of the Clearinghouse as the Clearinghouse may specify.

(c) Effectuate Authority. Clearing Members shall execute and deliver such instruments and documents, and take such further action, as each Approved Depository Institution may reasonably request to confirm or better effectuate the authority granted to the Clearinghouse pursuant to this Rule 405.

(d) Authorization. The authorization granted to the Clearinghouse and each Approved Depository Institution pursuant to this Rule 405 shall remain in full force and effect unless and until expressly revoked or modified by written notice received and accepted by the Clearinghouse and each Approved Depository Institution at least five (5) Business Days prior to the day any proposed revocation or modification is to become effective. In the event such authorization should be revoked or terminated by operation of law without notification to the Clearinghouse and each Approved Depository Institution, the obligation of each Clearing Member to indemnify and hold harmless the Clearinghouse and each Approved Depository Institution pursuant to this Rule 405 shall nevertheless continue in full force and effect with respect to any act or omission made in compliance with this Rulebook until such written notice has been so received.

(e) A bank, trust company or other depository that meets such financial and other requirements of Cboe Clear US may be designated by Cboe Clear US as an Approved Depository Institution. For purposes of holding funds deposited for swaps, no depository shall be designated by Cboe Clear US as an Approved Depository Institution unless it meets the requirements set forth in CFTC Regulation 22.4.

#### **406 Statement of Trades and Contracts**

Cboe Clear US shall in the manner and at the time that it determines from time to time make available to a Clearing Member an accounting of trades and Contracts for each Business Day on which such Clearing Member has trades to be cleared or Contracts open with Cboe Clear US.

Any amounts the Clearing Member has posted to Cboe Clear US pursuant to Rule 403 shall be indicated on this statement.

(b) The Clearinghouse will provide each Clearing Member carrying a cleared swap with a definitive written record of the terms of the transaction, which will legally supersede any previous agreement and serve as a confirmation of the swap. The confirmation of all terms of the transaction will take place at the same time as the Clearinghouse accepts the swap for clearing.

#### **407 Confirmation to Customers**

An FCM Clearing Member carrying Customer Accounts shall confirm to the Customer every transaction made for the Customer no later than the following Business Day. Such confirmation shall be in electronic or written form and shall show the Contract bought or sold, the quantity, the price, and delivery month.

#### **408 Transfer Trades**

- (a) Trades and positions may be transferred on the books of a Clearing Member or from one Clearing Member to another Clearing Member provided that:
- (i) the transfer constitutes a change from one account to another account where the underlying beneficial ownership in such accounts remains the same;
  - (ii) an error has occurred in the clearing of a trade and a transfer to correct such error is undertaken and is completed within two Business Days after the trade date;
  - (iii) 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; or
  - (iv) if, in the judgment of Cboe Clear US, the situation so requires and such transfer is in the best interest of Cboe Clear US or other Clearing Members, including Rule 601(d)(ii) transfers.
- (b) Notwithstanding subparagraph (a) above, a Clearing Member that carries a position in a physically-settled Contract that has expired may transfer the position pursuant to Rule 410.
- (c) Unless otherwise permitted by Cboe Clear US, a transfer that is permitted pursuant to this Rule 408 shall be recorded and carried on the books of the receiving Clearing Member at the daily settlement price on the trade date the transfer occurs. This Rule 408 does not prohibit cash adjustments between Clearing Member parties to a transfer.

#### **409 Settlement Prices**

(a) Daily Settlement Prices. In the case of inaccuracy or unavailability of a Daily Settlement Price, or if a Daily Settlement Price creates risk management concerns for the Clearinghouse, the Clearinghouse reserves the right to calculate Initial and Variation Margin using an alternate price

determined by the Clearinghouse. The Clearinghouse shall in such circumstances promptly notify Clearing Members of the alternate Initial or Variation Margin amounts.

(b) Final Settlement Prices. If a final settlement price is unable to be determined or if the applicable procedures of a Participating Exchange result in a clearly aberrant final settlement price inconsistent with market value, then the Clearinghouse, using its best efforts to consult with the Participating Exchange, may establish a final settlement price that reflects the true market value at the time of final settlement. A payment in settlement of a delivery obligation (physical or cash settled) shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

(c) Other Payment Obligations. If a cash adjustment, applicable to a Contract pursuant to the Contract specifications, is unable to be determined, creates risk management concerns for the Clearinghouse, or if the applicable procedures of a Participating Exchange result in a clearly aberrant cash adjustment inconsistent with market value, then the Clearinghouse, using its best efforts to consult with the Participating Exchange, may establish a cash adjustment that reflects the true market value at the time of the adjustment. A payment in connection with a cash adjustment shall not be adjusted after ten business days for any reason, including, without limitation, a calculation error or erroneous and/or incomplete input.

#### **410 Delivery**

(a) For a Contract that is physically settled, delivery shall occur through an EDM subject to the requirements and pursuant to the processes set forth in this subparagraph (a) and as may be determined by the Clearinghouse. The Clearinghouse will publish a timeline of the physical delivery process set forth in this Rule 410, including times that may be determined by the Clearinghouse pursuant to this Rule 410.

(i) At least 10 Business Days prior to the Contract expiry in which an FCM Clearing Member or FCM Customer wishes to participate as an EDM, such FCM Clearing Member or FCM Customer must: a) have a Spot Membership application approved by a Participating Exchange; b) deposit requisite funds into a proprietary spot account that has been duly authorized by Cboe Clear US to participate in the physical delivery process; and c) receive final EDM status authorization.

(ii) Only accounts associated with an EDM shall be allowed to maintain open positions to make or take delivery in an expiring physically-settled Contract during the three Business Days prior to the last day of trading. Trading an expiring physically-settled Contract in an account not associated with an EDM is prohibited beginning the three Business Days prior to the last trading day through expiration.

- (iii) An FCM Clearing Member carrying open positions in an account not associated with an EDM must liquidate open positions by the close of trading three Business Days prior to the last trading day.
- (iv) An FCM Clearing Member must report to the Clearinghouse all positions that will be carried to expiry two Business Days prior to the last day of trading at a time determined by the Clearinghouse. If any updates are made to positions that will be carried to expiry following this reporting period and prior to the last day of trading, an FCM Clearing Member must report to the Clearinghouse any such updates on the Business Day prior to the last day of trading at a time determined by the Clearinghouse. Any updates made on the last day of trading must be reported pursuant to subparagraph (vi) below.
- (v) An EDM must deposit all underlying assets required to make delivery immediately upon expiration. An EDM must deposit all funds required to take delivery no later than one hour following expiration.
- (vi) An FCM Clearing Member must submit to the Clearinghouse, at a time following expiration and in the form and manner specified by the Clearinghouse, reports for all expiring contracts that include all information required by the Clearinghouse pursuant to Rule 303(b)(vi).
- (vii) If, due to an error, omission or outtrade in connection with a position carried by an FCM Clearing Member discovered upon or after the last day of trading, an FCM Clearing Member may, with the consent of the Account owner or the persons authorized to control trading in the account, transfer the position to an Account with different beneficial ownership. Notice of delivery obligation transfers must be made to the Clearinghouse the same Business Day, in a form and manner prescribed by the Clearinghouse. Such transfers require that the Clearinghouse receive acceptance from an account(s) with different beneficial ownership and confirmation of the agreed upon transfer by the initiating party. Such confirmation must be submitted in writing on the form specified by the Clearinghouse. In the event a delivery obligation transfer notification does not result in a trade transfer, delivery will take place as required by the Clearinghouse.
- (viii) Final delivery is performed by the Clearinghouse on the books and records of the Clearinghouse at a time determined by the Clearinghouse.

- (b) In the event an FCM Clearing Member or its EDM Customer(s) fail to fulfill any and all delivery obligations, the Clearinghouse may deem such failure to be a delivery failure of the FCM Clearing Member and may deem such failure as a default pursuant to the Rules.
- (c) Where an EDM (buyer) has failed to make full payment due in order to take delivery, the Clearinghouse shall debit the account of the FCM Clearing Member an amount sufficient to fulfill the delivery obligation.
- (d) Where an EDM (seller) has failed to meet its delivery obligations, the Clearinghouse shall make every attempt to remediate the failure by implementing the following Alternative Delivery Process (ADP) measures:
- (i) The Clearinghouse, on behalf of the EDM (seller) that has failed to deliver, shall communicate with an approved set of non-failing EDMs to obtain a price at which the failed delivery position may be liquidated or transferred to a non-failing EDM.
- (A) In the case a position is liquidated then the Clearinghouse shall register a trade between the failing EDM (seller) and the EDM to take delivery (buyer) at the price obtained pursuant to subparagraph (d)(i) above, such that the short position of the failing EDM (seller) and the long position of the EDM (buyer) are offset.
- (B) In the case a position is transferred then the Clearinghouse shall register a trade between the failing EDM (seller) and a non-failing EDM (seller) at the price obtained pursuant to subparagraph (d)(i) above, such that the short position of the failing EDM (seller) is transferred to the non-failing EDM (seller). The new non-failing EDM (seller) must deposit the required underlying assets within one hour of the transfer.
- (ii) The Clearinghouse will include, in the settlement cycle following the final delivery process, any gain or loss resulting from a registered ADP trade in the accounts of the non-failing EDM (buyer or seller, as applicable) or failing EDM (seller), respectively.
- (iv) In the event ADP is unsuccessful, financial performance will be granted to any affected EDMs intended to take delivery and whose actions or omissions did not cause or contribute to the delivery failure. Upon determination by the Clearinghouse that ADP cannot satisfy either the liquidation or transfer of the

position held by the failing EDM (seller), the Clearinghouse shall debit the account of the FCM Clearing Member that is financially liable for a delivery failure the amount of financial performance required to fulfill the delivery obligation. The Clearinghouse shall then distribute through the final delivery process the financial performance proceeds on a pro-rata basis to the affected EDMs based upon the delivery failure position relevant to the total short position at the time of delivery. For the purposes of this subparagraph (d)(iv), “financial performance” means payment of commercially reasonable costs in U.S. dollars to replace the failed delivery, but does not include physical performance or legal fees. Commercially reasonable cost will be determined using the settlement price of the underlying asset market on expiration day.

- (v) FCM Clearing Members are financially liable for delivery failures of their accounts, including Customer accounts, and must pay financial performance upon delivery failure. FCM Clearing Members are prohibited from paying any financial performance in connection with delivery failure of their accounts, including Customer accounts, with funds from non-failing Customer accounts.

- (e) Should the Clearinghouse suffer a Default Loss as a result of a delivery failure, such Default Loss shall be handled in accordance with the procedures set forth in the Default Management Plan.

## **411 Reporting**

Clearing Members shall make such reports in respect of trades, Contracts, settlements and deliveries as may be as prescribed by Cboe Clear US.

## **5 OBLIGATIONS OF CBOE CLEAR US**

### **501 Limitation of Liability; Indemnity**

- (a) THE LIABILITY OF CBOE CLEAR US RELATING TO OR ARISING OUT OF CONTRACTS SHALL BE LIMITED TO LOSSES RESULTING FROM THE NOVATION OF THE CONTRACTS IN ACCORDANCE WITH THE RULES. SUBJECT TO THE FOREGOING, NEITHER THE CLEARINGHOUSE, NOR ANY AFFILIATE OF THE CLEARINGHOUSE, NOR ANY OF THEIR RESPECTIVE MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, EQUITY HOLDERS, AGENTS, CONSULTANTS OR SERVICE PROVIDERS (INCLUDING, WITHOUT LIMITATION, ANY REGULATORY SERVICES PROVIDER), NOR ANY MEMBER OF ANY COMMITTEE OR OTHER GOVERNING BODY OF ANY AFFILIATE OF THE CLEARINGHOUSE (EACH OF THE FOREGOING, AS APPLICABLE, THE “DISCLAIMING PARTY” AND, COLLECTIVELY, “DISCLAIMING PARTIES”) SHALL BE RESPONSIBLE FOR ANY ACTION TAKEN, OR ANY DELAY OR FAILURE TO TAKE ANY ACTION, HEREUNDER OR OTHERWISE TO FULFILL

A DISCLAIMING PARTY'S OBLIGATIONS TO CLEARING MEMBERS, OTHER THAN FOR LOSSES CAUSED DIRECTLY BY A DISCLAIMING PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND SHALL NOT BE LIABLE FOR ANY OTHER OBLIGATIONS, INCLUDING BUT NOT LIMITED TO OBLIGATIONS OF A CLEARING MEMBER, OBLIGATIONS OF A CLEARING MEMBER TO A CUSTOMER OR OTHER NON-CLEARING MEMBER OR OBLIGATIONS OF A CLEARING MEMBER TO ANOTHER CLEARING MEMBER THAT IS ACTING FOR IT AS BROKER; NOR SHALL A DISCLAIMING PARTY BECOME LIABLE TO MAKE DELIVERIES TO OR ACCEPT DELIVERIES FROM CLEARING MEMBERS OR CUSTOMERS. UNDER NO CIRCUMSTANCES WILL A DISCLAIMING PARTY BE LIABLE FOR (1) THE ACTS, DELAYS, OMISSIONS, BANKRUPTCY, OR INSOLVENCY, OF ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY DEPOSITORY, CUSTODIAN, SUBCUSTODIAN, CLEARING OR SETTLEMENT SYSTEM UNLESS THE DISCLAIMING PARTY WAS GROSSLY NEGLIGENT OR ENGAGED IN WILLFUL MISCONDUCT OR (2) THE PERFORMANCE OR OPERATION (OR NON-PERFORMANCE OR NON-OPERATION) OF ANY DIGITAL ASSET OR RELATED DISTRIBUTED LEDGER ("ANCILLARY DL") ATTRIBUTABLE DIRECTLY OR INDIRECTLY TO THE DESIGN OF THE DIGITAL ASSET OR ANCILLARY DL. UNDER NO CIRCUMSTANCES WILL A DISCLAIMING PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY LOSS OR DAMAGE (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, LOSS OF PROFITS, TRADING LOSSES, LOSS OF OPPORTUNITY AND LOSS OF USE) HOWSOEVER SUFFERED OR INCURRED, REGARDLESS OF WHETHER THE DISCLAIMING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WHETHER SUCH DAMAGES OTHERWISE COULD HAVE BEEN FORESEEN OR PREVENTED. THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY REGARDLESS OF WHETHER A CLAIM IS BASED ON BREACH OF CONTRACT, TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE (OTHER THAN GROSS NEGLIGENCE), STRICT LIABILITY, NEGLIGENT MISREPRESENTATION, RESTITUTION, BREACH OF STATUTORY DUTY, BREACH OF WARRANTY OR OTHERWISE, AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD-PARTY CLAIM.

- (b) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS PROVIDED BY THE CLEARINGHOUSE OR ANY OTHER DISCLAIMING PARTY RELATING TO ANY SYSTEMS OR SERVICES OF THE CLEARINGHOUSE OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, AND THE CLEARINGHOUSE HEREBY SPECIFICALLY DISCLAIMS, OVERRIDES AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, CONDITIONS, OTHER CONTRACTUAL TERMS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE

CLEARINGHOUSE OR ANY OTHER DISCLAIMING PARTY OR OTHERWISE (INCLUDING BUT NOT LIMITED TO, AS TO TITLE, SATISFACTORY QUALITY, ACCURACY, COMPLETENESS, UNINTERRUPTED USE, NON-INFRINGEMENT, TIMELINESS, TRUTHFULNESS, SEQUENCE AND ANY IMPLIED WARRANTIES, CONDITIONS AND OTHER CONTRACTUAL TERMS ARISING FROM TRANSACTION USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE) RELATING TO ANY SYSTEMS OR SERVICES OF THE CLEARINGHOUSE OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES.

- (c) CBOE CLEAR US MAY ACCEPT AND RELY UPON ANY INFORMATION OR INSTRUCTION GIVEN TO CBOE CLEAR US BY A CLEARING MEMBER OR ITS OFFICERS OR AUTHORIZED REPRESENTATIVES, WHICH REASONABLY IS UNDERSTOOD BY CBOE CLEAR US TO HAVE BEEN DELIVERED TO CBOE CLEAR US BY THE CLEARING MEMBER AND SUCH CLEARING MEMBER SHALL INDEMNIFY THE DISCLAIMING PARTIES AND CLEARING MEMBERS AGAINST ANY LOSS, LIABILITY OR EXPENSE AS A RESULT OF ANY ACT DONE IN RELIANCE UPON THE AUTHENTICITY OF ANY INFORMATION OR INSTRUCTION RECEIVED BY CBOE CLEAR US, THE INACCURACY OF THE INFORMATION CONTAINED THEREIN OR EFFECTING TRANSACTIONS IN RELIANCE UPON SUCH INFORMATION OR INSTRUCTION.
- (d) A CLEARING MEMBER SHALL REIMBURSE CBOE CLEAR US FOR ALL FEES, EXPENSES, CHARGES AND COSTS ASSESSED BY A DEPOSITORY AGAINST CBOE CLEAR US WITH RESPECT TO MARGIN MAINTAINED IN SUCH CLEARING MEMBER'S ACCOUNT, AND CBOE CLEAR US SHALL NOT HAVE ANY OBLIGATION OR RESPONSIBILITY TO PRESERVE, PROTECT, COLLECT OR REALIZE UPON, AND EXCEPT AS PROVIDED IN RULE 403(D), CBOE CLEAR US SHALL NOT BE LIABLE FOR, ANY LOSS OR DIMINUTION IN VALUE OR DEPRECIATION IN MARGIN DEPOSITED BY CLEARING MEMBERS. CLEARING MEMBERS THAT DEPOSIT MARGIN WITH AN APPROVED DEPOSITORY INSTITUTION PURSUANT TO THE RULES SHALL HOLD CBOE CLEAR US HARMLESS FROM ALL LIABILITY, LOSSES AND DAMAGES WHICH MAY RESULT FROM OR ARISE WITH RESPECT TO THE CARE AND SALE OF SUCH MARGIN.
- (e) ANY OBLIGATION OF CBOE CLEAR US TO A CLEARING MEMBER ARISING FROM A CONTRACT OR FROM ANY PROVISION OF THE RULES SHALL BE SUBJECT TO ALL THE TERMS OF THE RULES, INCLUDING THE SETOFF AND OTHER RIGHTS SET FORTH HEREIN.
- (f) EXCEPT IN ANY CASE WHERE A DISCLAIMING PARTY HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN FRAUD OR WILLFUL OR WANTON MISCONDUCT, IN NO EVENT SHALL THE DISCLAIMING PARTIES' TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS, OTHER THAN THOSE ARISING UNDER RULE 501(F), EXCEED \$100,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES ON A SINGLE CALENDAR DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH;



AND \$1,000,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR YEAR. IF THE NUMBER OF ALLOWED CLAIMS ARISING OUT OF ANY FAILURES OR MALFUNCTIONS ON A SINGLE DAY, SINGLE MONTH OR SINGLE YEAR CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD.

- (g) THE RIGHTS OF CBOE CLEAR US SET FORTH HEREIN SHALL BE IN ADDITION TO OTHER RIGHTS THAT CBOE CLEAR US MAY HAVE UNDER APPLICABLE LAW AND GOVERNMENTAL REGULATIONS, OTHER PROVISIONS OF THE RULES, ADDITIONAL AGREEMENTS WITH THE CLEARING MEMBER OR ANY OTHER SOURCE.
- (h) CLEARING MEMBER SHALL DEFEND, INDEMNIFY AND HOLD DISCLAIMING PARTIES HARMLESS FROM AND AGAINST ALL COSTS, CLAIMS, DEMANDS, LOSSES, EXPENSES AND LIABILITIES OF ANY NATURE WHATSOEVER (INCLUDING REASONABLE ATTORNEY'S FEES) ("LOSSES") INCURRED OR SUFFERED BY SUCH DISCLAIMING PARTIES ARISING DIRECTLY OR INDIRECTLY OUT OF, OR IN CONNECTION WITH, ANY CLAIM, DEMAND, OR CAUSE OF ACTION (EACH, A "CLAIM") BASED UPON OR ARISING OUT OF (I) USE OF ANY SYSTEMS OR SERVICES OF THE CLEARINGHOUSE OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, OR ANY OTHER INFORMATION OR MATERIALS PROVIDED BY THE CLEARINGHOUSE OR ACCESSIBLE THROUGH ANY SYSTEMS OR SERVICES OF THE CLEARINGHOUSE OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, BY CLEARING MEMBER OR ANY OTHER PERSON USING ANY OF CLEARING MEMBER'S ACCESS METHODS, WHETHER OR NOT AUTHORIZED, EXCEPT TO THE EXTENT SUCH LOSSES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CLEARINGHOUSE; (II) ANY ACT OR OMISSION OF ANY OF CLEARING MEMBER'S CUSTOMERS IN CONNECTION WITH THE USE OF ANY SYSTEMS OR SERVICES OF THE CLEARINGHOUSE OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES; (III) BREACH OF ANY OF CLEARING MEMBER'S OBLIGATIONS, REPRESENTATIONS, WARRANTIES OR COVENANTS UNDER THESE RULES; OR (IV) CLEARING MEMBER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NOTWITHSTANDING THE FOREGOING, (A) THE DISCLAIMING PARTIES SHALL HAVE THE RIGHT TO ENGAGE SEPARATE COUNSEL, AT THEIR OWN EXPENSE, TO PARTICIPATE IN THE DEFENSE OF OR ANY NEGOTIATIONS RELATIVE TO THE CLAIM, AND (B) CLEARING MEMBER MAY NOT SETTLE OR OTHERWISE COMPROMISE ANY CLAIM WITHOUT THE CLEARINGHOUSE'S WRITTEN APPROVAL OF ANY SUCH SETTLEMENT OR OTHER COMPROMISE, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD. THE INDEMNIFICATION PROVIDED BY THIS SECTION 501(H) WILL NOT BE DEEMED EXCLUSIVE OF ANY OTHER RIGHTS TO WHICH A DISCLAIMING PARTY MAY BE ENTITLED UNDER ANY AGREEMENT OR OTHERWISE, AND

WILL INURE TO THE BENEFIT OF THE SUCCESSORS, ASSIGNS, HEIRS, EXECUTORS AND ADMINISTRATORS OF SUCH DISCLAIMING PARTY.

**502 FCM Clearing Member Default**

- (a) If an FCM Clearing Member (i) fails to satisfy any of its Obligations, (ii) fails to deliver funds within the time established by Cboe Clear US, (iii) is expelled or suspended from the Cboe Clear US, a Participating Exchange, or any Self-Regulatory Organization, (iv) fails to meet the minimum capital and other financial requirements of Cboe Clear US, (v) violates any CFTC Regulations regarding minimum financial requirements or the treatment of customer monies, securities, property and collateral, or (vi) becomes insolvent, including becoming subject of a bankruptcy petition, receivership proceeding or the equivalent, the Clearinghouse may declare such Clearing Member to be in Default. The Clearinghouse will notify the Participant Exchange(s) of which the defaulting FCM Clearing Member is a member of the Default.
- (b) The Clearinghouse may take any appropriate action, in its discretion, with respect to a Defaulting FCM Clearing Member's Member Property or Customer Accounts, including but not limited to the liquidation or transfer of positions, suspension, or revocation of clearing membership, in accordance with the Rules, including the Default Management Plan.
- (c) If an FCM Clearing Member is in Default, Collateral held with respect to such Clearing Member's Member Property Accounts, and any other of such Clearing Member's assets held by, pledged to or otherwise available to Cboe Clear US, may be applied by Cboe Clear US to discharge the Obligations of such Clearing Member to Cboe Clear US (including any costs and expenses associated with the liquidation, transfer or management of Contracts held in or for the Member Property Accounts of such Clearing Member, and any fees, assessments or fines imposed by Cboe Clear US on such Clearing Member).
- (d) Cboe Clear US may cause all Contracts of such Clearing Member (whether or not carried in a Customer Account) to be closed or offset, transferred to any other Clearing Member, or otherwise resolved as provided in the Rules, including but not limited to the Default Management Plan and Rule 506.
- (e) If the Initial Margin held with respect to such FCM Clearing Member's Member Property Accounts, and other of such Clearing Member's assets held by, pledged to or otherwise available to Cboe Clear US, including any guarantee issued pursuant to these Rules, are insufficient to satisfy the defaulting Clearing Member's Obligations to Cboe Clear US after giving effect to the application of such amounts pursuant to paragraph (b), the defaulting FCM Clearing Member shall continue to be liable therefor.
- (f) In closing, offsetting, transferring or otherwise resolving the Contracts of a Clearing Member as provided herein and in Rule 601, Cboe Clear US shall have the right:
  - (i) With respect to Contracts in a Customer Account of such FCM Clearing Member, to set off (x) any proceeds received by Cboe Clear US from the disposition of

such Contracts and any property or proceeds thereof deposited with or held by Cboe Clear US as Initial Margin for such account against (y) any amounts paid by Cboe Clear US in the disposition of such Contracts, including any commissions or other losses or expenses incurred in connection therewith or in connection with the liquidation of Initial Margin deposits in such Customer Account and any other amounts owed to Cboe Clear US as a result of transactions in the Customer Account or otherwise lawfully chargeable against such Customer Account;

- (ii) With respect to the Contracts in any Member Property Accounts of such Clearing Member, to set off (x) any proceeds received by Cboe Clear US from the disposition of such Contracts, any property or proceeds thereof deposited with or held by Cboe Clear US as Initial Margin for such Member Property Accounts and any other property of the Clearing Member within the possession or control of Cboe Clear US other than property that has been identified by such Clearing Member as required to be segregated pursuant to the CEA and CFTC Regulations, against (y) any amounts paid by Cboe Clear US in the disposition of such Contracts, including any commissions or other losses or expenses incurred in connection therewith or in connection with the liquidation of Initial Margin deposits in such Member Property Accounts, and any other Obligations of the Clearing Member to Cboe Clear US, including Obligations of the Clearing Member to Cboe Clear US remaining after the setoffs referred to in subparagraph (f)(i) above, and any Obligations arising from any other Member Property Accounts maintained by the Clearing Member with Cboe Clear US; and
  - (iii) To defer closing or otherwise settling such trades and Contracts if, in its discretion, it determines that the closing out of some or all of the suspended Clearing Member's trades or Contracts would not be in the best interests of Cboe Clear US or other Clearing Members, taking into account the size and nature of the positions in question, market conditions prevailing at the time, the potential market effects of such liquidating transactions as might be directed by Cboe Clear US, and such other circumstances as it deems relevant; or
  - (iv) take any action the Clearinghouse deems proper or in the best interest of the Clearinghouse or its Clearing Members.
- (g) For purposes of this Rule, each Default by a Clearing Member will be considered a separate Default.
  - (h) A Clearing Member shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of Cboe Clear US to exercise its rights under the Rules and its agreements with such Clearing Member.

### **503 Investment of Customer Funds**

Customer Funds that are invested by Cboe Clear US shall be held in instruments that comply with CFTC Regulations 1.25 and 39.15(e), and in accordance with any applicable State Regulations. Funds and assets belonging to Clearing Members that are invested by Cboe Clear US shall be held in instruments that comply with CFTC Regulation 39.15(e).

## **504 Scope of Guaranty Fund**

- (a) The Clearinghouse shall establish and maintain a Guaranty Fund to collateralize financial exposures that exceed the capital contributed by the Clearinghouse as Default Financial Resources in the amounts payable to the Clearinghouse by an FCM Clearing Member. FCM Clearing Members will not have a Guaranty Fund Requirement until the Clearinghouse has met its stated corporate contribution commitment to the Default Financial Resources.
- (b) The Guaranty Fund is comprised of Guaranty Fund Deposits by FCM Clearing Members to satisfy any Guaranty Fund Requirements. Each FCM Clearing Member shall be required to contribute to the Guaranty Fund in accordance with the procedures as determined by Cboe Clear US.
- (c) The form and amount of such Guaranty Fund Deposits will be determined by Cboe Clear US and will be reviewed periodically and communicated to FCM Clearing Members. Guaranty Fund Deposits from a Defaulting FCM Clearing Member will be applied to mitigate the Default Loss prior to applying Clearinghouse capital contributed as Default Financial Resources.
- (d) All contributions made by an FCM Clearing Member to the Guaranty Fund remain the property of the FCM Clearing Member making such contribution unless and until such time as the funds are applied to mitigate a Default Loss.
- (e) If all Collateral from an FCM Clearing Member in Default, applied pursuant to the Default Management Plan, is insufficient to cover Default Losses caused by that FCM Clearing Member, then Clearinghouse capital contributed as Default Financial Resources will be used in its entirety before using any Guaranty Fund Deposits from non-Defaulting FCM Clearing Members.
- (f) The Clearinghouse may use Default Financial Resources to fund Non-Default Losses. Non-Default Losses will be funded proportionately by the Clearinghouse's current corporation contribution and the Clearing Member Guaranty Fund Deposits, pursuant to the Default Management Plan.

## **505 Guaranty Fund Contributions**

- (a) All FCM Clearing Members must deposit and maintain with the Clearinghouse the Guaranty Fund Deposit requirement as prescribed by the Clearinghouse in accordance with Rules 504 through 507 and the Cboe Clear US Default Management Plan.
- (b) Any shortfall in Collateral to satisfy Guaranty Fund Requirements resulting from the Clearinghouse's periodic sizing of its Guaranty Fund will require additional Guaranty Fund Deposits.

(c) Guaranty Fund Deposits to the Guaranty Fund must be made in the form of cash (USD) and are subject to the limitations and minimum cash deposits, if any, adopted by the Clearinghouse, published by the Clearinghouse on its website from time to time.

(d) Guaranty Fund Deposits shall be held in a settlement bank approved for the purpose by the Clearinghouse. Upon a Default, the Clearinghouse shall have the sole right to withdraw cash from such account(s) subject to the rights of any assignee, pledge or holder of a security interest in the Guaranty Fund or any cash therein.

(e) So long as any Person is an FCM Clearing Member and thereafter for the period until the Clearinghouse returns such Person's Guaranty Fund Deposit, the Guaranty Fund Deposit of such Person may be applied by the Clearinghouse in accordance with the Cboe Clear US Default Management Plan.

(f) Upon a Default, the Clearinghouse may assign, transfer, pledge, repledge or otherwise create a lien on or security interest in the cash and other property that may be acceptable to the Clearinghouse held in the Guaranty Fund.

## **506 Default Auctions**

(a) In connection with a Default, the Clearinghouse may determine to conduct one or more private auctions amongst qualified market participants invited by the Clearinghouse to submit confidential bids to facilitate the liquidation of a Defaulting Clearing Member's portfolio ("Default Auction"). The Clearinghouse may conduct a single auction of a Defaulting Clearing Member's portfolio or divide the portfolio of a Defaulting Clearing Member into discrete auctions. (b) Mandatory participants in a Default Auction include:

(1) All non-Defaulting FCM Clearing Members with house accounts that regularly carry positions in the products subject to a Default Auction are required to participate in a Default Auction; and

(2) All participants in a default auction liquidity provider incentive program administered by the Clearinghouse are required to participate in a Default Auction. A customer of an FCM Clearing Member may participate in such a default auction liquidity provider incentive program administered by the Clearinghouse.

(c) Non-FCM Clearing Members, including customers, may voluntarily participate in a Default Auction, subject to requirements prescribed by the Clearinghouse.

(d) The Clearinghouse shall provide mandatory participants with a minimum participation level in each Default Auction determined by the participant's proportionate share of total Initial Margin requirement for the applicable product classes in a Defaulting FCM Clearing Member's portfolio.

(e) The Clearinghouse will provide notice of a Default Auction, including the time and date of the auction.

(f) The Clearinghouse will provide to auction participants, in a form and manner prescribed by the Clearinghouse, information regarding the portfolio to be auctioned, timing for the bidding process, and participation criteria.

## **507 Assessments**

(a) Payment of Assessment Amounts that replenish the Guaranty Fund shall be made by FCM Clearing Members on the basis of the same proportionality at the time of the Default that resulted in the assessment. The Clearinghouse may require greater amounts than indicated of the original proportional share of the Assessment Amount due to the failure, or the announced intention of failure, by one or more FCM Clearing Members to pay its assessment.

(b) Assessments are payable to the Clearinghouse according to the normal settlement procedures on the Business Day on which the notice of assessment is delivered to FCM Clearing Members.

(c) Any FCM Clearing Member that does not satisfy an assessment shall be in Default, and shall be responsible for any Default Loss that occurs.

(d) Assessments on FCM Clearing Members shall not exceed the thresholds set forth in the Default Management Plan.

## **6 SUSPENSION; DISCIPLINARY PROCEEDINGS; SUMMARY FINES**

### **601 Suspension**

(a) General. The Board, Chief Risk Officer, or other designated Officer may summarily suspend any Clearing Member:

- (i) if the Clearing Member is in Default;
- (ii) if any of the conditions or events enumerated in Rule 502(a) occur, notwithstanding a declaration of Default;

- (iii) if the Clearing Member is subject to any statutory disqualification (unless an appropriate exemption has been obtained thereto);
- (iv) if the Clearing Member fails to meet the Clearing Member eligibility requirements set forth in Rule 301;
- (v) upon the discovery of a materially false or misleading representation or warranty made by the Clearing Member to Cboe Clear US under or in connection with any agreement, including the Clearing Member Application, between Cboe Clear US and the Clearing Member;
- (vi) if a breach by the Clearing Member of the Rules or any of the terms or provisions of any agreement, including the Clearing Member Application, between Cboe Clear US and the Clearing Member is not remedied promptly after notice from Cboe Clear US;
- (vii) in the event of a material violation of the Rules of the Clearinghouse or the rules of a Participating Exchange; or
- (viii) (v) if the Board, Chief Risk Officer, or other designated Officer determines that suspension is necessary for the protection of Cboe Clear US, other Clearing Members, or the general public (whether or not such Clearing Member continues to meet the required minimum financial requirements pursuant to the Rules).

Pursuant to Rule 207, Emergency Rules may require or authorize Cboe Clear US, the Board, any Committee, or the Officers of Cboe Clear US to summarily suspend a Clearing Member.

- (b) Notice of Suspension to Clearing Members. Upon the suspension of an FCM Clearing Member, based on the Rule 601 (a), Cboe Clear US shall as soon as possible notify all Clearing Members of the suspension. Such notice shall state to the extent practicable in general terms how pending transactions, open positions and other pending matters will be affected and what steps are to be taken in connection therewith.
- (c) Pending Transactions. Notwithstanding any other provision of the Rules, Cboe Clear US shall have no obligation to accept any transaction of a suspended Clearing Member that was effected after the time at which the Clearing Member was suspended. In the event a transaction of a suspended Clearing Member is rejected by Cboe Clear US, Cboe Clear US shall provide notice of such rejection to the other party thereto and such transaction shall be closed by the other party thereto in accordance with the rules of a Participating Exchange.
- (d) Open Positions. Cboe Clear US shall have the right to cause open positions in Contracts in any of the accounts of a suspended Clearing Member:
  - (i) To be closed in such manner as deemed practicable by Cboe Clear US, in its sole discretion;

- (ii) To be transferred to the account of one or more other Clearing Members;
  - (iii) To be offset against each other and, to the extent of any remaining imbalance, against the Contracts of other Clearing Members; or
  - (iv) To be settled at the Settlement Price for such Contracts, or at such other price or prices as Cboe Clear US may deem fair and reasonable under the circumstances, in which event Cboe Clear US may cause Contracts in the accounts of other Clearing Members to be settled at such price or prices; or
  - (v) Take any other action with respect to open positions it deems in the best interest of the Clearinghouse or Clearing Members.
  - (vi) In connection with any action undertaken by Cboe Clear US pursuant to subparagraphs (i) through (v) above, Cboe Clear US shall have the right to apply the margin of the applicable Clearing Member and any other assets of such Clearing Member held by, pledged to or otherwise available to Cboe Clear US, including any guarantee issued pursuant to these Rules, to discharge the Obligations of such Clearing Member to Cboe Clear US (including any costs and expenses associated with the liquidation, transfer or management of Contracts held in or for the accounts of such Clearing Member, and any fees, assessments or fines imposed by Cboe Clear US on such Clearing Member).
- (e) Cboe Clear US may determine the nature and timing of transactions of the type described in subparagraph (d). If Cboe Clear US shall determine, taking into account the size and nature of a suspended Clearing Member's positions, market conditions prevailing at the time, the potential market effects of liquidating transactions that might be directed by Cboe Clear US, and such other circumstances as Cboe Clear US deems relevant, that the closing out of some or all of the suspended Clearing Member's positions would not be in the best interests of Cboe Clear US, other Clearing Members, or the general public, such positions need not be closed out.
- (f) **Protective Action.** If Cboe Clear US (i) is unable, for any reason, to close out in a prompt and orderly manner any positions or to convert to cash any margin deposits of a suspended Clearing Member, or (ii) elects pursuant to paragraph (d) of this Rule not to close out any such positions, Cboe Clear US may authorize the execution of hedging transactions from time to time for the account of Cboe Clear US, solely for the purpose of reducing the risk to Cboe Clear US resulting from the continued maintenance of such positions or the continued holding of such margin deposits. Cboe Clear US may determine the nature and timing of such hedging transactions.
- (g) The Clearinghouse may take any action pursuant to Rule 606 with respect to any Clearing Member summarily suspended pursuant to this Rule 601.
- (h) **Reimbursement of Costs and Expenses.** Any costs or expenses, including losses, sustained by Cboe Clear US in connection with transactions effected for its account pursuant to this Rule shall be charged to the suspended Clearing Member, and any gains realized on such transactions shall be credited to such Clearing Member; provided, however, that costs, expenses, and gains allocable to the hedging of positions in a



Customer Account shall be charged or credited, as the case may be, to the Customer Account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Clearing Member. Reasonable allocations of costs, expenses, and gains among accounts made by Cboe Clear US for the purpose of implementing the proviso to the preceding sentence shall be binding on the Clearing Member and any persons claiming through the Clearing Member and their respective successors and assigns.

## **602 Right of Suspension Hearing**

- (a) A Clearing Member suspended pursuant to Rule 601 shall be entitled, upon request within five Business Days after the date of its receipt of a written statement of the grounds for its suspension, and shall have the right to notify the Clearinghouse that the Clearing Member desires a hearing upon the suspension. Failure to so notify the Clearinghouse within such five-day period shall constitute summary suspension, including all actions taken by the Clearinghouse in connection with the suspension, and a waiver of all rights of review with respect to the suspension.
- (b) The notice of request for a hearing pursuant to this Rule shall not impair the validity or stay the effect of the suspension upon which the request for hearing is made. The reversal or modification of a suspension shall not invalidate any acts of Cboe Clear US taken pursuant to such suspension prior to such reversal or modification, and the rights of any person which may arise out of any such acts shall not be affected by such reversal or modification.

## **603 Sanctions from Disciplinary Proceedings**

- (a) Except as provided in Rule 604, Cboe Clear US shall refer to the Market Regulation Department of Cboe Futures Exchange, LLC for appropriate action in accordance with Chapter 7 of the rules of Cboe Futures Exchange, LLC, the following: (i) a violation by a Clearing Member of the CEA and CFTC Regulations or Cboe Clear US, (ii) any neglect or refusal by a Clearing Member to comply with any applicable order or direction of Cboe Clear US, (iii) any error, delay or other conduct by a Clearing Member that materially and adversely affects the operations of Cboe Clear US, or (iv) a failure of a Clearing Member to provide adequate personnel or facilities, including the supervision thereof, where applicable, for its transactions cleared with Cboe Clear US.
- (b) The provisions of this Rule shall be inapplicable to any summary suspension of a Clearing Member pursuant to Rule 601. For the avoidance of doubt, the provisions of this Rule will apply to any hearing upon a suspension requested pursuant to Rule 602.
- (c) Cboe Clear US shall provide prompt notice to the CFTC of any action taken in accordance with this Rule 603.

## **604 Summary Fines**

- (a) Cboe Clear US may publish a schedule of fines for Clearing Members that fail to make timely and accurate submissions to the Clearinghouse of notices, reports, or other

information required under the Rules of the Clearinghouse and other minor violations of the Rules.

- (b) Cboe Clear US may summarily impose a fine against a Clearing Member as provided in this Rule. In such event, Cboe Clear US will give notice of any fine to such Clearing Member that specifies: (1) the date of the Rule violation(s); (2) the amount of the fine; and (3) the provision(s) of the relevant Rule(s).
- (c) The maximum fine imposed pursuant to this Rule shall not exceed \$5,000 for each violation.
- (d) Within 20 days of the Clearinghouse serving the notice of fine, the Clearing Member must pay the fine. The imposition of a fine pursuant to this Rule shall be the final action of the Clearinghouse.

#### **605 Discipline by Other Self-Regulatory Organizations**

Nothing in this Chapter 6 shall affect the right of any self-regulatory organization to discipline its members pursuant to the provisions of its rules for a violation of the Rules of Cboe Clear US.

#### **606 Restriction on or Termination of Clearing Privileges**

- (a) If, with respect to any Clearing Member, (1) any of the conditions or events enumerated in Rule 502(a) occur, notwithstanding a declaration of Default, (2) any of the conditions or events enumerated in Rule 601(a) occur (which includes a declaration of Default), notwithstanding a Suspension, (3) a Rule 601 Suspension occurs, or (4) Cboe Clear US determines that the financial or operational condition of a Clearing Member or one of its affiliates is such that to allow the Clearing Member to continue its operation as a Clearing Member could adversely affect Cboe Clear US or cleared markets (whether or not such Clearing Member continues to meet the required minimum financial requirements, if applicable), Cboe Clear US may take one or more of the following actions:
  - (i) Allow such Clearing Member (in the case of an FCM Clearing Member handling Customer Accounts) to submit Contracts for clearing solely for its Member Property Account;
  - (ii) Limit or restrict the type of Contracts that may be cleared by such Clearing Member in any of its Accounts with Cboe Clear US;
  - (iii) Limit or restrict the number of Contracts that are permitted to be maintained by such Clearing Member in any of its Accounts with Cboe Clear US;
  - (iv) Decline to accept new trades or positions in Contracts for the Accounts of the Clearing Member;

- (v) Increase such Clearing Member's Initial Margin Requirements and/or require such Clearing Member to deposit the same in cash or Eligible Securities in proportions different than those that are applicable to Clearing Members generally;
  - (vi) Allow such Clearing Member to submit Contracts for liquidation only;
  - (vii) Prohibit such Clearing Member from withdrawing excess margin;
  - (viii) Cause open Contracts in the Member Property Account or Customer Account of the Clearing Member to be transferred to another Clearing Member;
  - (ix) Cause open Contracts to be settled in cash or liquidated;
  - (x) Impose such additional capital, margin, financial reporting or other requirements as Cboe Clear US shall deem appropriate for the protection of Cboe Clear US and its Clearing Members;
  - (xi) Terminate the Clearing Member's membership in Cboe Clear US; or
  - (xii) Take any other actions it deems proper or in the best interest of the Clearinghouse or its Clearing Members.
- (b) Cboe Clear US has no obligation to clear trades made on a Participating Exchange or any other trading facility where such Clearing Member does not have trading privileges or is not approved for the clearing privileges by the relevant Participating Exchange or facility.
- (c) A Clearing Member may voluntarily withdraw from Clearing Member status and terminate its clearing privileges upon the approval of Cboe Clear US, which approval shall be granted not later than 30 days following (i) the liquidation or, with the approval of Cboe Clear US, transfer to another Clearing Member of all open positions in the Clearing Member's Accounts at Cboe Clear US, and (ii) the satisfaction of all Obligations of the withdrawing Clearing Member; provided, however that the withdrawing Clearing Member shall remain subject to, and responsible for any violation of, the Rules, interpretations and policies of Cboe Clear US committed by such Person while a Clearing Member, notwithstanding any termination of clearing privileges and Clearing Member status.
- (d) When a Clearing Member voluntarily withdraws from membership or its membership is terminated, all Obligations of the Clearing Member to Cboe Clear US, of whatever nature or kind, shall be accelerated and become due and payable upon the effective date of such withdrawal or termination. The Clearing Member's funds, Collateral and other deposits will not be released until Cboe Clear US determines that all such Clearing Member's Obligations have been settled and all sums owing to Cboe Clear US have been paid. In addition, when a Clearing Member voluntarily withdraws from membership or its membership is terminated, Clearing Member shall:
- (i) cease immediately all uses of the Clearinghouse services, the system and any Access Methods provided to Clearing Member,

(ii) upon request by the Clearinghouse, destroy or return to the Clearinghouse all tangible materials (and all copies thereof) provided by the Clearinghouse (or its third-party service providers), and, in the case of electronic records, destroy all such records to the extent reasonably feasible, and

(iii) upon request by the Clearinghouse, certify in writing to the Clearinghouse that such materials have been destroyed or returned and no portion thereof remain in Clearing Member's possession or control.

- (e) Notwithstanding the foregoing, (a) in the event retention of the materials and records described in subparagraph (d)(ii) above is required by Applicable Law or regulation or by a self-regulatory body with competent jurisdiction over Clearing Member, Clearing Member agrees to continue to hold such materials and records as Confidential Information pursuant to Rule 703 and to destroy or return such materials and records to the Clearinghouse in compliance with this Rule 606 once retention is no longer required, and (b) with respect to any electronic records of Clearing Member not reasonably feasible to destroy, as described in clause (ii) above, Clearing Member shall continue to hold such records as Confidential Information pursuant to Rule 703 hereof. Any disputes which arise while a Clearing Member which relate to or arise out of any transaction with Cboe Clear US or status of a Clearing Member in Cboe Clear US shall be resolved in accordance with the Rules.

**607 Just and Equitable Principles of Trade; Acts Detrimental to the Clearinghouse**

- (a) Cboe Clear US shall have the authority to take any actions it deems in the best interest of the Clearinghouse or the Clearing Members.
- (b) Cboe Clear US shall have the power to suspend or revoke clearing privileges or authorize the assessment of fines or charges against Clearing Members for engaging in conduct inconsistent with just and equitable principles of trade.
- (c) Cboe Clear US shall have the power to suspend or revoke clearing privileges or authorize the assessment of fines or charges against Clearing Members for engaging in acts detrimental to the interest or welfare of Cboe Clear US.

**608 Authority of the Chief Compliance Officer, the Compliance Department, the Chief Regulatory Officer and the Regulatory Division**

- (a) The Chief Compliance Officer shall be responsible for enforcing the Rules and shall have available to them all the resources of the CCUS Compliance Department. Notwithstanding the foregoing, the Chief Compliance Officer and the Compliance Department shall be assisted by the Chief Regulatory Officer and the Regulatory Division, in particular with respect to the disciplinary proceedings of the Clearinghouse as set forth in this Chapter. Under the direction of the Chief Regulatory Officer, the Regulation Division will determine the nature and scope of its inquiries and investigations and will perform its regulatory functions, including conducting disciplinary proceedings, independently of any commercial interests of the Clearinghouse. The Regulatory Division shall have the authority to:

- (i) initiate inquiries;
- (ii) request that participants appear for an interview, which may be conducted under oath;
- (iii) request documents and/or other tangible evidence;
- (iv) review other transaction activity;
- (v) gather any additional information the Compliance Department, in its discretion, deems necessary;
- (vi) prepare investigative reports, make determinations as to whether reasonable cause exists to believe that a rule violation has been committed, and make recommendations as to what charges should be brought;
- (vii) recommend the commencement of a disciplinary proceeding pursuant to this Chapter 6;
- (viii) prosecute alleged violations of Cboe Clear US Rules within the Clearinghouse's disciplinary jurisdiction;
- (ix) represent the Regulatory Division before the Business Conduct Committee during the phases of the disciplinary process consisting of settlement offers and hearings;
- (x) issue and serve statements of charges on Clearing Members;
- (xi) review denials of access to the Clearinghouse for disciplinary reasons; and
- (xii) issue appearance and document requests as provided in the Clearinghouse Rules.

## **609 Prohibited Use of Data Collected for Regulatory Purposes**

The Clearinghouse shall not use for business or marketing purposes any proprietary data or personal information it collects or receives, from or on behalf of any person, for the purpose of fulfilling its regulatory obligations. Notwithstanding the foregoing, the Clearinghouse may use such data or information for business or marketing purposes if the Person from whom it collects or receives such data or information clearly consents in writing to the Clearinghouse's use of such data or information in such manner. The Clearinghouse shall not condition access to the Clearinghouse or clearing services upon a Person's consent to the Clearinghouse's use of proprietary data or personal information for business or marketing purposes. Where necessary for regulatory purposes, the Clearinghouse may share such data or information with Participating Exchanges and with other markets or clearing organizations with which the Clearinghouse has entered into an information sharing agreement pursuant to Rule 704.

## **7 MISCELLANEOUS**

### **701 Force Majeure**

Notwithstanding any other provision of these Rules, Cboe Clear US shall not be obligated to perform its obligations under these Rules or any agreement with a Clearing Member relating to Contracts, or to compensate any Person for losses occasioned by any delay or failure of performance, to the extent such delay or failure is the result of acts of God, lightning, earthquake, fire, epidemic, landslide, drought, storm, explosion, flood, nuclear radiation, act of a public enemy, terrorist activity, act of state or blockade, insurrection, riot or civil disturbance, strike or labor disturbance, power or communications failure, performance or operation (or non-performance or non-operation) of any digital asset or Ancillary DL in a manner adverse to the Clearinghouse or more than one Clearing Member attributable directly or indirectly to the design of the digital asset or Ancillary DL (as determined by Cboe Clear US) or any other cause beyond Cboe Clear US's reasonable control (whether or not similar to any of the foregoing) or the reasonable control of any delegate. Cboe Clear US shall use commercially reasonable efforts to minimize the effect of such event. As applicable, Cboe Clear US complies with CFTC rules requiring systems and procedures be in place to meet a recovery time objective of no later than the next business day following a disruption.

### **702 Suspension of Rules**

The time frames fixed by these Rules, interpretations or policies of Cboe Clear US for the doing of any act or acts may be extended, or the doing of any act or acts required by these Rules or any interpretations or policies of Cboe Clear US may be waived, and any provision of these Rules or any interpretations or policies of Cboe Clear US may be suspended by Cboe Clear US whenever, in the judgment of the Board or the Officers, such extension, waiver or suspension is necessary or in the best interest of Cboe Clear US. Any such extension or waiver may continue in effect after the event or events giving rise thereto but shall not continue in effect for more than thirty calendar days after the date thereof unless it shall be approved by the Board within such period of 30 calendar days. A written report of any such extension or waiver, stating the pertinent facts and the reason such extension or waiver was deemed necessary or in the best interest of Cboe Clear US shall be presented to the Board at its next regular meeting.

### **703 Confidentiality**

#### **(a) Confidential Information.**

- (i)** Confidential Information shall include any and all non-public information, in any form, received by Cboe Clear US concerning positions carried by Cboe Clear US or any other clearing organization for a Clearing Member or deliveries made by or to a Clearing Member, and any other information provided by a Clearing Member to Cboe Clear US, including, without limitation, financial statements filed with Cboe Clear US by a Clearing Member.
- (ii)** Confidential Information shall also specifically include all source code of the Cboe Clear US system, and all trade secrets, processes, computer

software and other proprietary data, research, information or documentation related thereto.

- (iii) For purposes of this rule, Cboe Clear US and Clearing Members are also referred to as “Party” or “Parties.”
- (b) Exclusions. Notwithstanding the foregoing, Confidential Information will not include any information that: (i) is in or becomes part of the public domain (other than by disclosure by the receiving Party or its directors, officers, employees, agents or contractors (“**Representatives**”) in violation of Rule 703); (ii) was previously known to the receiving Party free of restriction; (iii) is independently developed by the receiving Party, without reference to the Confidential Information of the disclosing Party; or (iv) is lawfully obtained by the receiving Party from a third Party having the right to furnish such information.
- (c) Nondisclosure. Each Party shall hold in strict confidence the Confidential Information of the other Party, shall use the same degree of care in protecting the confidentiality of the Confidential Information as it uses in protecting its own information of a similar type, and shall not disclose Confidential Information of the other Party to any third Party or use Confidential Information of the other Party for any purpose not expressly permitted under the Rules; *except that* a Party may disclose Confidential Information of the other Party solely to those of its Representatives who have a need to know such Confidential Information in connection with the provision of the systems or services of the Clearinghouse to Clearing Member. The receiving Party will inform its Representatives of the confidential nature of the Confidential Information, will be responsible for enforcing the terms of Rule 703 as to its Representatives, and will take such action, legal or otherwise, as may be reasonably necessary to cause them to comply with the terms and conditions of Rule 703. Cboe Clear US may disclose Confidential Information in the following circumstances;
  - (i) Where consent has been provided by the Clearing Member;
  - (ii) To a Government Agency or the regulatory authority of any foreign jurisdiction, if Cboe Clear US is requested or legally required to do so by such Government Agency;
  - (iii) Pursuant to legal process, including with respect to a subpoena or order of a court or legislative or regulatory body of a competent jurisdiction;
  - (iv) To a Self-Regulatory Organization of which such Clearing Member is a member;
  - (v) To any Person providing services to Cboe Clear US, subject to appropriate confidentiality requirements;
  - (vi) To the Board, any Committee, Cboe Clear US or the Exchange’s Officers, employees, attorneys and auditors, and to agents and independent contractors that have been engaged by Cboe Clear US or the Exchange

who require such information in connection with the discharge of their duties to Cboe Clear US; and

(vii) As otherwise permitted under the Rules.

(d) Notifications. In the cases of permissible disclosures of Confidential Information under Rule 703(c)(ii) – (iii), the disclosing Party shall, to the fullest extent permitted by law, immediately notify the other Party of such disclosure and cooperate with such Party to obtain appropriate confidential treatment of any Confidential Information to be so disclosed. Clearing Member hereby releases Cboe Clear US from any and all liability by reason of disclosing such information.

#### **704 Information-Sharing Agreements**

(a) Cboe Clear US may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with a Participating Exchange and with other markets or clearing organizations on which Contracts or financial instruments related to Contracts trade or are cleared. As part of any information sharing agreements or other arrangements or procedures adopted pursuant to this Rule, Cboe Clear US may, among other things:

- (i) provide market surveillance reports to other markets and clearing organizations;
- (ii) share information and documents concerning current and former Clearing Members with other markets and clearing organizations;
- (iii) share information and documents, including but not limited to positions, concerning ongoing and completed investigations with other markets and clearing organizations; and/or
- (iv) require its Clearing Members to provide information and documents to Cboe Clear US at the request of other markets or clearing organizations with which Cboe Clear US has an information-sharing agreement or other arrangements or procedures.

(b) Cboe Clear US may enter into an information-sharing arrangement with any Person or body (including, without limitation, any Government Authority or any self-regulatory organization) if Cboe Clear US (i) believes that such Person or body exercises a legal or regulatory function under any law or regulation, or a function comprising or associated with the enforcement of a legal or regulatory function, or (ii) considers such arrangement to be in furtherance of Cboe Clear US's purpose or duties under applicable law. Cboe Clear US may disclose to any Person or body information concerning or associated with a Clearing Member or other Person that Cboe Clear US believes is necessary and appropriate in exercising a legal or regulatory function (including, without limitation, information concerning any aspect of the business of Cboe Clear US) whether or not a formal arrangement governing the disclosure exists or a request for information was made.



## **705 Trading by Officers and Employees Prohibited**

- (a) No Officer or employee of Cboe Clear US shall trade or participate directly or indirectly in any transaction in any futures, option, or swap traded on any U.S. designated contract market, that are closely related to the Contracts cleared by the Clearinghouse, except to the extent necessary to carry out the provisions of the Rules or as otherwise permitted pursuant to an exemption granted in accordance with this Rule; or
- (b) No Officer, Director, or employee of Cboe Clear US shall disclose any material, non-public information obtained as a result of such Person's employment with Cboe Clear US where the Officer or employee has or should have a reasonable expectation that the information disclosed may assist another Person in trading any commodity interest; provided, that an employee is not prohibited from making disclosures in the course of the employee's duties, or to another Self-Regulatory Organization, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity.
- (c) Cboe Clear US may adopt certain exemptions from the trading prohibition contained in paragraph (a)(i), provided that any such exemptions shall be consistent with CFTC Regulations.
- (d) All terms used in this Rule shall be construed consistently with the definitions appearing in CFTC Regulation 1.59.

## **706 Forms; Facsimile Signatures**

- (a) Cboe Clear US shall prescribe the form, method and time of delivery of any application, list, notice or other document required pursuant to these Rules or the policies or practices of Cboe Clear US.
- (b) A Clearing Member or its Authorized Representative may execute any document to be delivered to Cboe Clear US or to any other Clearing Member pursuant to these Rules or any policy or practice of Cboe Clear US by means of a mechanically or electronically reproduced facsimile signature if it otherwise satisfies any requirements of Cboe Clear US for use of such facsimile signatures.

## **707 Governing Law**

- (a) These Rules, the Clearing Member Application and all rights and obligations under the foregoing (including the creation of security interests in margin, other Obligations, and Guaranty Fund Deposits), shall be governed by and construed in accordance with the internal laws of the State of Illinois, without giving effect to the conflict of law provisions thereof. Any controversy or claim arising out of or in connection with the Rules or the performance or breach hereof, shall be subject to Rule 708.

## **708 Dispute Resolution**

- (a) Mandatory Arbitration of Disputes Among Clearing Members.

(1) It is contrary to the objectives and policy of the Clearinghouse for Clearing Members to litigate Clearinghouse-related disputes. Clearing Members must arbitrate all disputes that relate to or arise out of any transaction on or subject to the Clearinghouse Rules and based upon facts and circumstances that occurred at a time when the parties were Clearing Members through the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules. In the event of a conflict between the Clearinghouse Rules and the AAA’s Commercial Arbitration Rules, the terms of the Clearinghouse Rules shall control.

(2) Notwithstanding the foregoing, this Rule 708 does not require an employee of a Clearing Member to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, sexual harassment, wage payment or benefits laws.

(b) Claims Against the Clearinghouse.

(1) Any dispute between the Clearinghouse and a Clearing Member or an affiliate of a Clearing Member arising from or in connection with the Cboe Clear US Rules must be brought to arbitration through the AAA arbitration program or another arbitration program permitted by Exchange Rule 1006 within two (2) years from the occurrence of the event giving rise to the dispute. This Rule shall in no way create a cause of action nor authorize an action that would otherwise be prohibited by the Cboe Clear US Rules.

(2) Any dispute between the Clearinghouse and a Clearing Member or an affiliate of a Clearing Member arising from or in connection with the Cboe Clear US Rules will be settled by arbitration administered through the AAA arbitration program or another arbitration program permitted by CFTC Regulations. Each party to the dispute will bear its own costs and expenses in connection with any arbitration hereunder, as well as an equal share of the administrative fees and the fees of the arbitrator; provided, however, that the arbitrator will be entitled to include in any award a full reimbursement for the prevailing party’s costs and expenses, such party’s share of the administrative fees and the fees of the arbitrator, or any combination of any or all of the above. In the event that this Rule 708(b)(2) is held to be unenforceable in connection with any dispute or in such case that breach of the Rules may threaten the non-breaching Party with imminent irreparable harm requiring immediate equitable relief, (i) exclusive jurisdiction for any such dispute will reside in any state or federal court sitting in Cook County, Illinois, (ii) the Clearinghouse and the Clearing Member or Clearing Member affiliate involved in the dispute will be presumed to have submitted to the personal jurisdiction of any such court, and (iii) an action to enforce any judgment or decision of such court may be brought in the same court or in any other court with jurisdiction or venue. Finally, all Clearing Members and Clearing Member affiliates unconditionally and irrevocably waive any and all right to trial by jury in connection with any such dispute.

(c) Permissive Arbitrations. The following may be submitted for arbitration through the AAA and, in the event such a claim is submitted against a Clearing Member, that Clearing Member is required to arbitrate the dispute under these Rules, unless otherwise provided:

(1) claims of a Customer that is not a Clearing Member against a Clearing Member that relate to or arise out of any transaction on or subject to the Clearinghouse Rules;

(2) claims of a Customer that is not a Clearing Member against a Clearing Member responsible for the performance of a Contract and/or against a Clearing Member in connection with such a transaction; and

(3) at the discretion of the Chief Regulatory Officer, any claim involving the interests of the Clearinghouse, its Clearing Members, their business relations or commodity futures trading and clearing in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

(d) Waiver of Any Objection to Jurisdiction. Any Person who is not a Clearing Member who submits a claim or grievance to arbitration or any Person who appeals any arbitration decision, or who takes any steps therein, shall be conclusively presumed to have voluntarily recognized and agreed to the jurisdiction of the AAA to hear and determine the claim or appeal.

(e) Referral to the American Arbitration Association. In the event that a complaint is received by the Clearinghouse from a Customer, it shall be referred to the Participating Exchanges' Market Regulation Department, which shall inform the Customer of the AAA's arbitration program.

(f) The Clearinghouse is adopting the AAA Commercial Arbitration Rules as set forth in this Rule 708. Any violation of the AAA Commercial Arbitration Rules shall be a violation of this Rule 708.

## **709 Contracts**

Cboe Clear US may approve as eligible for clearing contracts with terms and conditions matching the terms and conditions in the relevant Participating Exchange rulebook for such contracts and to the extent permissible under Applicable Law. The terms and conditions of each contract eligible for clearing shall be posted on Cboe Clear US's website and certified with or otherwise approved by the CFTC in accordance with CFTC Regulations, as necessary.

## **710 Proprietary Rights**

As between the Clearinghouse and Clearing Member, the Clearinghouse shall own and retain ownership of all rights, title and interest in and to (i) all information, data and content, including all transaction data submitted to the Clearinghouse, displayed or distributed through the System or submitted to the Clearinghouse related to Contracts or other Clearinghouse services; (ii) the System, and all underlying technology and all materials provided by the Clearinghouse (or its third-party service providers) in connection therewith; (iii) all updates, modifications, enhancements and new versions to or of the foregoing, and all derivative works based thereon; and (iv) all copyrights, patents, trade secrets, database rights and other intellectual property associated with the foregoing (collectively, the "**Clearinghouse Property**"). Clearing Member hereby waives any and all challenges to, or claims or defenses regarding, (a) the Clearinghouse's rights in the Clearinghouse Property, and (b) the Clearinghouse's right to revoke the rights of access granted to Clearing Member by the Clearinghouse.