

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-65959; File No. SR-CME-2011-17)

December 15, 2011

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Revise Rules Relating to its Cleared Only OTC FX Swap Offering

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 2, 2011, the Chicago Mercantile Exchange Inc. (“CME”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which items have been prepared primarily by CME. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization’s Statement of Terms of Substance of the Proposed Rule Change

CME proposes to amend rules related to existing cleared-only foreign exchange (“FX”) currency derivatives products. The proposed rule changes make certain clarifying revisions and other amendments to rules that were the subject of a recent filing, SR-CME-2011-12.<sup>3</sup>

The text of the proposed rule change is available at the CME’s Web site at <http://www.cmegroup.com>, at the principal office of CME, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Commission staff notes that SR-CME-2011-12 was previously approved pursuant to delegated authority on October 26, 2011. See Securities Exchange Act Release No. 65637, 76 FR 67512 (Nov. 1, 2011).

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In late September, 2011, CME submitted proposed rule changes in filing SR-CME-2011-12 to establish rules to expand its cleared-only, foreign currency ("FX") swaps offering to support the introduction of (1) twenty-six new foreign FX currency derivatives for over-the-counter ("OTC") cash settlement; and (2) eleven new FX non-deliverable forward transaction currency pairs for traditional, OTC cash settlement. CME initially planned to make the rules that are the subject of this filing operational on January 3, 2012. CME has adopted a phased roll-out approach and intends to launch the products that are covered by this filing on December 19, 2011. The proposed changes associated with this filing have been identified to prepare for this roll-out. More specifically, the proposed rule changes that are the subject of this filing include: changes to CME Rule 5.C. (Position Limit and Reportable Level table); changes to CME Chapter 300 (CME WM/Reuters OTC Spot, Forward and Swap Contracts); changes to CME Chapter 277H (Cleared OTC U.S. Dollar/Peruvian Nuevo Sol (USD/PEN) Spot, Forwards and Swaps); changes to CME Chapter 257H (Cleared OTC U.S. Dollar/Brazilian Real (USD/BRL) Spot, Forwards and Swaps); CME Chapter 260H (Cleared OTC U.S. Dollar/Russian Ruble (USD/RUB) Spot, Forwards and Swaps); CME Chapter 270H (Cleared OTC U.S.

Dollar/Chinese Renminbi (USD/RMB) Spot, Forwards and Swaps); and CME Chapter 271H (Cleared OTC U.S. Dollar/Korean Won Sol (USD/KRW) Spot, Forwards and Swaps). The proposed rule text is available on CME's website.

The first set of proposed changes deal with CFTC position limit, accountability and reportable levels. Individual entries in CME's current Appendix to Chapter 300 provide either Position Accountability (PA) or Position Limits (PL) or a combination of both (e.g., PA with spot month PL) depending generally on the liquidity in the underlying OTC instruments and coordinating with existing and similar FX futures and options on futures contracts. Highly liquid underlying FX pair activity enable Position Accountability trigger levels as opposed to finite limits, and less liquid underlying FX pair activity require the more restrictive Position Limits. Since FX futures, options on FX futures, cleared OTC FX spot, forwards and swaps; and OTC FX options on spot and forwards, are essentially extensions of the same market, CME rules will aggregate positions for an account holder across all of these product lines per FX pair. Notional level equivalents for existing CME FX pair futures contracts for Position Accountability and/or Position Limits are carried over to CME's Cleared OTC FX rules.

Twenty-two of the twenty-six new cleared CME WMR OTC FX products being launched on Monday, December 19, 2011, have underlying FX pair futures and/or options on futures contracts for these same FX pairs that will be listed for cleared OTC transactions (i.e., AUD/USD, USD/CHF, USD/CAD, NZD/USD, USD/NOK, USD/SEK, EUR/USD, USD/JPY, GBP/USD, USD/MXN, USD/PLN, USD/ZAR, AUD/JPY, EUR/AUD, CAD/JPY, EUR/GBP, EUR/JPY, EUR/CHF, USD/CZK, USD/HUF, USD/TRY and USD/ILS). As noted above, CME considers FX futures, options on FX futures, cleared OTC FX spot, forwards and swaps; and OTC FX options on spot and forwards, as essentially extensions of the same market, and CME

rules will aggregate positions for an account holder across all of these product lines per FX pair. In instances where there are existing underlying futures and options on futures contracts for the same FX pair, CME is basing the new OTC contract Position Accountability and Position Limits rules on these underlying, existing futures and options on futures. That is, for purposes of aggregation, positions in the new cleared OTC products will be rolled up in equivalent amounts of currency specified in the corresponding FX pair futures and options on futures Position Accountability and/or Position Limits rules.

CME Chapter 300 contains new rules governing the twenty-six new CME WMR OTC CSFs that are scheduled to be launched on Monday, December 19, 2011. CME proposes to add a second sentence to the preexisting second paragraph of CME Rule 300.02.A. This additional sentence in the rule plus an analogous single-asterisked footnote added to the Chapter 300 Appendix would denote the additional step at final cash settlement, where for several asterisked FX pairs, the final calculated “minimum fluctuation currency amount” is converted into the “Unit of Trading and Clearing Currency” by dividing by the Final Settlement Price. This action would minimize the number of different currency accounts that customers will need to open in order to participate in CME’s cleared OTC FX offering. For example, for 14 of the 26 new CME WMR OTC CSFs launching on December 19, 2011, the final settlement amount will be converted into USDs from CHF, NOK, SEK, DKK, MXN, SGD, PLN, ZAR, CZK, HUF, TRY, ILS, THB and HKD, eliminating the need for customers to maintain accounts in these 14 currencies. A new additional second paragraph for CME Rule 300.02.A. would denote that, in some cases, the Final Settlement Prices for a given FX pair would be calculated using the appropriate WM/Reuters Closing Spot Rates for component currency pairs. For example, the AUD/JPY Final Settlement Price will be calculated by multiplying the two WM/Reuters 4 PM

London time Closing Spot Rates for AUD/USD and USD/JPY; therefore, the AUD/JPY Final Settlement Price is derived from those two FX pairs' Final Settlement Prices. Double asterisks and an explanatory footnote in the Appendix table to Chapter 300 clearly identify those FX pairs that would be calculated in this way. Lastly, for CME Rule 300.02.A., a fourth paragraph is proposed to define the movement of the final payment amount between the CME Clearing House and buyers and sellers, when the calculation of that final payment amount is positive or negative. This language had been adopted previously by CME for many of the cleared OTC FX NDF products and is being included also for the cleared CME WM/Reuters OTC FX products and those cleared OTC FX NDF offerings where CME has an underlying futures contract for the same FX pair.

CME is also proposing amendments to CME Rule 277H.02.A. (Day of Cash Settlement) to make the rule provision for number of decimals (six) of the Final Settlement Price calculation to align with the decimal notation for the minimum price increment (six).

CME is also proposing a change to CME Chapters 257H, 260H, 270H and 271H. These changes would add language to the cash settlement provisions in the rules governing four different cleared OTC FX NDF products to mirror procedures and documentation for other cleared OTC FX NDF products. The proposed rule changes are designed to define movement of the final payment amount at termination between CME Clearing and the buyers and sellers in the transaction. The proposed changes impact the OTC USD/RUB, USD/BRL, USD/CNY and USD/ KRW non-deliverable forwards products.

CME is also making a filing, CME Submission 11-463, with its primary regulator, the Commodity Futures Trading Commission, with respect to the proposed rule changes.

CME believes the proposed changes are consistent with the requirements of the Exchange

Act including Section 17A of the Exchange Act because they involve clearing of swaps and thus relate solely to CME's swaps clearing activities pursuant to its registration as a derivatives clearing organization under the Commodity Exchange Act ("CEA") and do not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service. CME further notes that the policies of CEA with respect to clearing are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest. The proposed rule changes accomplish those objectives by offering investors clearing for a range of FX OTC swap products.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

- Electronic comments may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or send an e-mail to [rule-](#)

[comments@sec.gov](mailto:comments@sec.gov). Please include File No. SR-CME-2011-17 on the subject line.

- Paper comments should be sent in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C., 20549-1090.

All submissions should refer to File Number SR-CME-2011-17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CME-2011-17 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

In its filing, CME requested that the Commission approve this request on an accelerated basis for good cause shown. CME has articulated three reasons for granting this request on an accelerated basis. One, the products covered by this filing, and CME's operations as a derivatives clearing organization for such products, are regulated by the CFTC under the CEA. Two, the proposed rule changes relate solely to FX swap clearing and therefore relate solely to its swaps clearing activities and do not significantly relate to CME's functions as a clearing agency for security-based swaps. Three, not approving this request on an accelerated basis will have a significant impact on the swap clearing business of CME as a designated clearing organization.

Section 19(b) of the Act<sup>4</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act,<sup>5</sup> and the rules and regulations thereunder applicable to CME. Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions because it should allow CME to enhance its services in clearing FX swaps, thereby promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions.<sup>6</sup>

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<sup>4</sup> 15 U.S.C. 78s(b).

<sup>5</sup> 15 U.S.C. 78q-1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> for approving the proposed rule change prior to the 30th day after the date of publication of notice in the Federal Register because: (i) the proposed rule change does not significantly affect any securities clearing operations of the clearing agency (whether in existence or contemplated by its rules) or any related rights or obligations of the clearing agency or persons using such service; (ii) CME has indicated that not providing accelerated approval would have a significant impact on the swap clearing business of CME as a designated clearing organization; and (iii) the activity relating to the non-security clearing operations of the clearing agency for which the clearing agency is seeking approval is subject to regulation by another regulator.

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<sup>7</sup> 15 U.S.C. 78s(b)(2).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-CME-2011-17) is approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).