

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66914; File No. SR-CME-2012-16)

May 3, 2012

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Amend Rules Regarding CDS Clearing Member Obligations and Qualifications

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 April 23, 2012, 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 substantially 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 the Terms of Substance of the Proposed Rule Change

CME proposes to amend certain of its rules to comply with pending revisions to the CFTC Regulations. The text of the proposed rule change is available at the CME’s website at <http://www.cmegroup.com>.

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

In its filing with the Commission, the self-regulatory organization 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

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

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

places specified in Item III below. The self-regulatory organization 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 the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission ("CFTC") and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to amend certain of its rules to comply with certain mandatory revisions that are related to recent changes in CFTC Regulations that will become effective on May 7, 2012. More specifically, CME proposes to adopt revisions to CME Rule 8H04 (CDS Clearing Member Obligations and Qualifications).

As described above, the CFTC adopted a number of new regulations designed to implement the core principles for derivatives clearing organizations (DCOs) in the Commodity Exchange Act, as amended by the Dodd-Frank Act. CFTC Regulation 39.12, which becomes effective on May 7, 2012, provides for participant and product eligibility requirements. CFTC Regulation 39.12(a)(iii) provides that a DCO "shall not set minimum capital requirements of more than \$50 million for any person that seeks to become a clearing member in order to clear swaps." CFTC Regulation 39.12(a)(2)(ii) provides that "[c]apital requirements shall be scalable to the risks posed by clearing members." CFTC Regulation 39.12(a) provides that a DCO "shall establish appropriate admission and continuing participation requirements for clearing members of the derivatives clearing organization that are objective, publicly disclosed, and risk-based."

In order to comply with these Regulations, CME plans to amend CME Rule 8H04. Revised CME Rule 8H04.2 sets minimum capital for a CDS Clearing Member at \$50 million and defines "capital" consistent with Regulation 39.12(a)(2)(i). In order to scale the capital requirements of CDS Clearing Members to the risks posed by such CDS Clearing Members, new

CME Rule 8H04.3 requires CDS Clearing Members to maintain capital of at least 20% of the aggregate performance bond requirement for its proprietary and customer CDS Contracts.

Revised CME Rule 8H04.9 requires CDS Clearing Members to provide nominations for certain members of the CDS Risk Committee and CDS Default Management Committee.

The text of the proposed rule change is available at the CME's website at <http://www.cmegroup.com>. CME also made a filing, CME Submission 12-124, with its primary regulator, the CFTC, with respect to the proposed rule changes.

CME believes the proposed changes are consistent with the requirements of the Exchange Act. First, CME, a derivatives clearing organization, is required to implement the proposed changes to comply with recent changes to CFTC regulations. CME notes that the policies of the Commodity Exchange Act ("CEA") with respect to clearing are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest. Second, CME believes the proposed changes are specifically designed to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, and assure the safeguarding of securities and funds which are in the custody or control of CME, and, in general, protect investors and the public interest, because the rules changes establish objective and risk-based admission and continuing participation requirements for clearing members in compliance with applicable law.

**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:rule-comments@sec.gov). Please include File No. SR-CME-2012-16 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-2012-16. 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-2012-16 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

Section 19(b) of the Act<sup>3</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.<sup>4</sup> In particular, Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts, and transactions.<sup>5</sup>

The proposed change would allow CME to expand the base of potential clearing members by lowering the net capital threshold for membership, thereby promoting the prompt and accurate clearance and settlement of securities transactions, and derivative agreements, contracts, and transactions. It should also allow CME to comply with new CFTC regulatory

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<sup>3</sup> 15 U.S.C. 78s(b).

<sup>4</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

requirements, thereby promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions.

In its filing, CME requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. CME cites as the reason for this request CME's operation as a DCO, which is subject to regulation by the CFTC under the CEA and, in particular, new CFTC regulations that become effective on May 7, 2012. Thus, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> for approving the proposed rule change prior to the 30th day after the date of publication of notice in the Federal Register because as a registered DCO, CME is required to comply with the new CFTC regulations by the time they become effective on May 7, 2012.

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<sup>6</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-2012-16) is approved on an accelerated basis.<sup>7</sup>

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>7</sup> In approving the proposed rule change, the Commission considered the proposal’s impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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