

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104786; File No. S7-2026-04]

Notice of an Application of the Chicago Mercantile Exchange Inc. for an Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 and Request for Comment in Connection with the Opening Price Settlement Requirements of Rule 6h-1(b) Under the Securities Exchange Act of 1934 for Certain Cash-Settled Security Futures

February 10, 2026.

On July 25, 2025, the Securities and Exchange Commission (“SEC” or “Commission”) received an application¹ from the Chicago Mercantile Exchange Inc. (“CME”) to obtain an exemption pursuant to Section 36² of the Securities Exchange Act of 1934 (“Exchange Act”),³ in accordance with the procedures set forth in Exchange Act Rule 0-12.⁴ Specifically, CME is requesting exemptive relief from Rule 6h-1(b) under the Exchange Act to permit the final settlement price of certain cash-settled security futures to reflect the closing price of the underlying security. The Commission is publishing this notice to provide interested persons with an opportunity to comment.

I. Introduction

A. Security Futures Regulatory Framework

¹ Letter from Jonathan Marcus, Senior Managing Director and General Counsel, CME (July 25, 2025) (“Application”). The Application is attached as an appendix to this notice. Defined terms in this notice are the same as used in the Application, unless noted otherwise.

² 15 U.S.C. 78mm. Section 36(a)(1) of the Exchange Act gives the Commission the authority to exempt any person, security or transaction or any class or classes of persons, securities or transactions, conditionally or unconditionally, from any Exchange Act provision or any rule or regulation thereunder by rule, regulation or order, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. 15 U.S.C. 78mm(a)(1).

³ 15 U.S.C. 78a *et seq.*

⁴ 17 CFR 240.0-12.

The Commodity Futures Modernization Act of 2000⁵ (“CFMA”) authorizes the trading of futures on individual stocks and narrow-based security indexes (collectively, “security futures”)⁶ and any put, call, straddle, option, or privilege on any security future (collectively with security futures, “security futures products”).⁷ The CFMA defines security futures as securities under the Exchange Act⁸ and contracts of sale for future delivery under the Commodity Exchange Act (“CEA”).⁹ Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the Commission and the Commodity Futures Trading Commission (“CFTC”) with joint jurisdiction.

B. Exemption Request

CME plans to list and trade cash-settled security futures on certain individual securities.¹⁰ CME previously listed and traded security futures and ceased offering security futures for trading in March 2011. CME previously adopted general listing standards for security futures in Chapter 700 of its Rules. In connection with its plans to begin listing and trading security futures again, CME intends to revise its security futures listing standards to establish contract terms and conditions specific to listing and trading cash-settled single stock futures. In addition to the listing standards CME originally established for single stock security futures, CME would limit the listing and trading of cash-settled security futures to an underlying security that (1) has an

⁵ Pub. L. No. 106-554, Appendix E, 114 Stat. 2763.

⁶ See Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55) (defining security future as “a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security under section 3(a)(12) of this title 5 as in effect on the date of the enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) as in effect on the date of the enactment of the Futures Trading Act of 1982”).

⁷ See Section 3(a)(56) of the Exchange Act, 15 U.S.C. 78c(a)(56) (defining “security futures product” as “a security future or any put, call, straddle, option, or privilege on any security future”).

⁸ See Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

⁹ See Section 1a(44) of the CEA, 7 U.S.C. 1a(44) (defining “security future”).

¹⁰ Application at 1.

outstanding market capitalization of \$20 billion or greater, (2) has an estimated deliverable supply¹¹ of greater than 20 million shares, and (3) a minimum average daily value of transactions (“ADVT”) of \$100 million over the prior six months¹² (“Proposed Cash-Settled Products”). The new listing standards also would provide for the Proposed Cash-Settled Products to settle at expiration based on the closing prices of the underlying securities.¹³

The SEC and CFTC jointly adopted Exchange Act Rule 6h-1(b) and CFTC Regulation 41.25(c) to require that cash-settled security futures products be A.M. Settled.¹⁴ CME’s planned P.M. Settlement would not comply with Rule 6h-1(b). Therefore, CME requests that the Commission grant an exemption from Rule 6h-1(b) of the Exchange Act. Simultaneously, CME is seeking from the CFTC an exemption from the corresponding requirement under CFTC Regulation 41.25.¹⁵ Rule 6h-1(d) states that the SEC may grant a national securities exchange or national securities association an exemption from the above SEC requirements if the SEC determines that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.¹⁶ The Commission is publishing this notice to provide interested persons with an opportunity to comment.

¹¹ See *infra* note 68.

¹² An underlying security that has been trading for less than six months must have a minimum ADVT of \$1 billion over the prior month.

¹³ Cash-settled derivatives contracts such as security futures must determine a settlement price on expiration date that is based on the underlying product of the derivatives contract on expiration date. Cash-settled derivatives products’ final settlement prices on the expiration date can be based on different reference prices for the underlying security, including: (1) the opening price (“A.M. Settlement” or “A.M. Settled”) or (2) the closing price (“P.M. Settlement” or “P.M. Settled”) of the underlying security.

¹⁴ Rule 6h-1(b) also requires that, if an opening price for an underlying security or securities was not readily available, the final settlement price of the overlying cash-settled security futures product has to fairly reflect the price of the underlying security or securities during its most recent regular trading session or the next available opening price of the underlying security or securities.

¹⁵ Application at 1.

¹⁶ The standard for exemptive authority under Rule 6h-1(d) is the same as that in Section 36 of the Exchange Act. 15 U.S.C. 78mm.

II. Discussion of History of P.M. Settlement and CME’s Application

A. History of P.M. Settlement

In the mid-1980s, cash-settled index options and futures utilized P.M. Settlement procedures.¹⁷ The Commission and the CFTC became concerned that cash-settled index derivatives that were P.M. Settled contributed to market volatility in the underlying securities near the close on expiration days.¹⁸ These cash settlement provisions in index futures and options “facilitated the growth of sizable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays in order to ‘unwind’ arbitrage-related positions.”¹⁹ Unwinding these positions often severely constrained the liquidity of the securities markets because unwinding sometimes involved large sell or buy orders in individual securities and there was insufficient buy or sell interest to absorb the derivatives’ expiration-related trading within the limited amount of time to establish closing prices at 4 P.M.²⁰ Specialists in the underlying securities often had to drop or raise share prices sharply at the close to establish sufficient buy-side or sell-side interest to offset order imbalances.²¹ In addition, these derivative expiration liquidity constraints created concerns that liquidity constraints could provide opportunities for market participants to “anticipate these pressures and enter orders as part of manipulative or abusive trading practices

¹⁷ See, e.g., Securities Exchange Act Release Nos. 45956 (May 17, 2002), 67 FR 36740, 36741 (May 24, 2002) (“Rule 6h-1 Joint Adopting Release”); 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR-C2-2011-008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103-66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

¹⁸ See Rule 6h-1 Joint Adopting Release, 67 FR at 36741; Securities Exchange Act Release Nos. 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR-C2-2011-008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103-66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

¹⁹ Rule 6h-1 Joint Adopting Release, 67 FR at 36741.

²⁰ See *id.*; Securities Exchange Act Release No. 44743 (Aug. 24, 2001), 66 FR 45904, 45907 (Aug. 30, 2001) (“Rule 6h-1 Joint Proposing Release”).

²¹ See Rule 6h-1 Joint Proposing Release, 66 FR at 45907.

designed to artificially drive up or down share prices.”²² These concerns were heightened during the “triple-witching” hour on the third Friday of March, June, September, and December when index options, index futures, and options on index futures expired concurrently.²³ Academic research at the time suggested that futures and options expirations contributed to excess volatility and reversals around the close on those days.²⁴

The SEC and CFTC expected that opening price settlement procedures would solve these expiration-related liquidity pressures.²⁵ For example, smaller price discounts or premiums were needed to accommodate derivatives’ expiration related trading in opening auctions because market participants in an opening auction would have the rest of the trading day to trade out of long or short positions acquired in the opening auction.²⁶ Additionally, the New York Stock Exchange was able to use its existing electronic order routing systems and electronic specialist books to process and match incoming unwinding stock orders before the opening of the regular trading session at 9:30 A.M.²⁷ Specialists could then utilize long-standing procedures to disseminate price indications in an orderly manner before index component stocks opened for trading.²⁸

In light of the concerns with P.M. Settlement and to help ameliorate the price effects associated with expirations of P.M. Settled index products, in 1987, CME proposed to change its

²² See id.

²³ See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103, 66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

²⁴ See Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated Feb. 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (Sept. 16, 2020) (“Pilot Memo”) at 5-6, available at: https://www.sec.gov/files/Analysis_of_PM_Cash_Settled_Index_Option_Pilots.pdf (citing, among other papers, Stoll, Hans R., and Robert E. Whaley, “Expiration day effects of index options and futures,” Monograph Series in Finance and Economics, no. 3 (1986)).

²⁵ Rule 6h-1 Joint Adopting Release, 67 FR at 36742-43.

²⁶ Rule 6h-1 Joint Proposing Release, 66 FR at 45908.

²⁷ See id.

²⁸ See id.

rules to provide for A.M. Settlement for index futures, including futures on the S&P 500.²⁹ The Commission subsequently approved several filings to list and trade A.M. Settled options.³⁰ The SEC and CFTC expected the widespread adoption of opening-price settlement procedures in index futures and options served to mitigate the liquidity strains that had previously been experienced in the securities markets on expirations.³¹

Shortly after the CFMA was enacted, the SEC and CFTC jointly adopted Rule 6h-1 and CFTC Regulation 41.25(c) to establish an A.M. Settlement standard for cash-settled security futures that had become common for index futures and index options.³² Rule 6h-1 states that the final settlement price of a “cash-settled” security futures product must fairly reflect the opening price of the underlying security or securities.³³ As discussed above, this rule was established in response to concerns with cash-settled index derivatives that were P.M. Settled.³⁴ At the time, there were no single stock futures products; single stock options were physically settled using P.M. Settlement, as they are generally done today.³⁵

²⁹ See Proposed Amendments Relating to the Standard and Poor’s 500, the Standard and Poor’s 100 and the Standard Poor’s OTC Stock Price Index Futures Contract, 51 FR 47053 (Dec. 30, 1986) (notice of proposed rule change submitted by CME to the CFTC). See also Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR-CBOE-87-11) (noting that CME moved the S&P 500 futures contract’s settlement value to opening prices on the delivery date).

³⁰ See Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR-CBOE-87-11). See also Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SR-CBOE-92-09). The Commission also approved proposals by other options markets to transfer most of their cash-settled index products to A.M. Settlement. See, e.g., Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23475 (June 22, 1988) (SR-NYSE-87-11 and 88-04).

³¹ See Pilot Memo, *supra* note 24; see also Rule 6h-1 Joint Proposing Release, 66 FR at 45908.

³² See 17 CFR 6h-1(b)(1) and 17 CFR 41.25(c); see also Rule 6h-1 Joint Adopting Release, 67 FR at 36759.
³³ 17 CFR 6h-1(b)(1).

³⁴ See Rule 6h-1 Joint Adopting Release, 66 FR at 36741-42.

³⁵ The Commission has approved cash settlement for two types of single security options, in each case recognizing several factors that mitigated manipulation concerns with these products: 1) binary options on certain single stocks (“BYRDS”); and 2) Flexible Exchange (“FLEX”) options on certain exchange traded products such as exchange traded funds (“ETFs”). See, e.g., Securities Exchange Act Release Nos. 56251 (Aug. 14, 2007), 72 FR 46523 (Aug. 20, 2007) (SR-Amex- 2004-27) (Order approving listing of Fixed Return Options, later known as “BYRDS”); 88131 (Feb. 5, 2020), 85 FR 7806 (Feb. 11, 2020) (SR-NYSEAMER-

B. Options P.M. Pilots

Starting in 2010, the Commission approved proposals, on a pilot basis, permitting CBOE and other options exchanges to introduce P.M. Settlement for various cash-settled broad-based index options (“P.M. Pilots”). These included P.M. Settled index options expiring weekly (other than the third Friday) and at the end of each month,³⁶ as well as P.M. Settled Mini-S&P 500 index options (“SPX”) and Mini-Russell 2000 index options expiring on the third Friday of the month.³⁷ In the course of approving the various P.M. Pilots, the Commission reiterated its concerns about P.M. Settled, cash-settled index options on the underlying component stocks at expiration.³⁸ However, the Commission also recognized the potential impact was unclear.³⁹ The Commission approved the programs on a pilot basis to allow the various exchanges and the Commission to monitor for any adverse market effects.⁴⁰ As part of the P.M. Pilots, the Commission required that certain data and analysis be provided by the exchanges in order to evaluate the effects of these products on the underlying securities.⁴¹

2019-38) (Order approving certain FLEX options to be cash-settled). Section 6(h)(3)(C) of the Exchange Act states that listing standards for security futures shall be no less restrictive than comparable listing standards for options traded on a national securities exchange. 15 U.S.C. 78f(h)(3)(C). Section 6(h)(3)(H) of the Exchange Act states that listing standards for security futures shall “require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.” 15 U.S.C. 78f(h)(3)(H).

³⁶ See Securities Exchange Act Release Nos. 62911 (Sept. 14, 2010), 75 FR 57539 (Sept. 21, 2010) (SR-CBOE-2009-075); 76529 (Nov. 30, 2015), 80 FR 75695 (Dec. 3, 2015) (SR-CBOE-2015-106); 78531 (Aug. 10, 2016), 81 FR 54643 (Aug. 16, 2016) (SR-CBOE-2016-046).

³⁷ See Securities Exchange Act Release Nos. 70087 (July 31, 2013), 78 FR 47809 (Aug. 6, 2013) (SR-CBOE-2013-055); 91067 (Feb. 5, 2021) 86 FR 9108 (Feb. 11, 2021) (SR-CBOE-2020-116).

³⁸ See, e.g., Securities Exchange Act Release No. 68888 (Feb. 8, 2013), 78 FR 10668, 10669 (Feb. 14, 2013) (SR-CBOE-2012-120).

³⁹ See id.

⁴⁰ See id.

⁴¹ Information provided as part of the pilot data included, among other data: monthly volume aggregated for all trades; monthly volume aggregated by expiration date; monthly volume for each individual series; month-end open interest aggregated for all series; month-end open interest for all series aggregated by expiration date; month-end open interest for each individual series; a time series analysis of open interest; and (8) an analysis

After a lengthy evaluation period, the Commission approved the P.M. Pilots on a permanent basis.⁴² Generally, during the pilot period, the exchanges listing and trading these products stated that they had not identified any evidence indicating that the trading of P.M. Settled index options had any adverse impact on fair and orderly markets on expiration days, nor had there been any observations of abnormal market movements attributable to P.M. Settled index options from any market participants.⁴³ For example, one exchange reviewed a sample of pilot data from 2019 through 2021, and measured the volatility of the S&P 500 over the final fifteen minutes of each trading day and compared expiration days to non-expiration days.⁴⁴ That exchange observed that generally volatility was slightly higher on expiration days, but in cases where overall market volatility increased, the normalized impact on expiration days versus non-expiration days remained consistent.⁴⁵ The exchange further analyzed volatility on days when the S&P 500 was rebalanced, and stated the results suggest more closing volatility on rebalance dates compared to non-rebalance expiration dates, indicating that rebalancing of the S&P 500 may have had a greater impact on S&P 500 volatility than P.M. Settled index option expirations.⁴⁶ In addition to reviewing the data and analysis provided by the exchanges, the Commission reviewed analysis prepared by the Commission's Division of Economic and Risk Analysis. This analysis, contained in the Pilot Memo, evaluated whether higher levels of expiring open interest in P.M. Settled index options

of the distribution of trade sizes. See, e.g., Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4266 (Jan. 24, 2023) (SR-CBOE-2023-005).

⁴² See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103 (Sept. 26, 2023) (SR-CBOE-2023-005).

⁴³ See, e.g., Securities Exchange Act Release Nos. 96703 (Jan. 18, 2023), 88 FR 4265, 4267 (Jan. 24, 2023) (SR-CBOE-2023-005); 98451 (Sept. 20, 2023), 88 FR 66088, 66091 (Sept. 26, 2023) (SR-Phlx-2023-07).

⁴⁴ See Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4268 (Jan. 24, 2023) (SR-CBOE-2023-005).

⁴⁵ See id.

⁴⁶ See id.

resulted in increased volatility and price reversals around the close.⁴⁷ The Pilot Memo concluded that, although expiring P.M. Settled index option open interest may have a statistically significant relationship with volatility and price reversals of the underlying index, index futures, and index component securities around the market close, the magnitude of the effect was economically small.⁴⁸

C. CME Application⁴⁹

In its Application, CME states that now, more than twenty years later, the historic concern around thin liquidity at the close of the equity securities markets is largely moot given the characteristics of today's markets for those securities.⁵⁰ CME states that trading volumes and liquidity for equity securities have increased substantially since 2002, including trading volumes at both the open and close of the markets.⁵¹ CME states that trading volume for equity securities is generally significantly greater at the close than at the open.⁵² CME states that the liquidity characteristics of today's cash equity markets, as well as the current use of the closing price for final settlement of cash-settled index options and physically-settled options on individual stock, mitigate the concerns regarding closing volatility and manipulation, and support CME's proposed use of the official closing prices for securities underlying the Proposed Cash-Settled Products.⁵³

⁴⁷ See Pilot Memo, supra note 24.

⁴⁸ See id. at 3.

⁴⁹ This section describes CME's statements in support of its request for exemptive relief. The Commission seeks comment on CME's statements in support of such exemption.

⁵⁰ Application at 4.

⁵¹ See id. (citing C. Tarun, et al., *Recent Trends in Trading Activity and Market Quality*, 101 J. Fin. Econ. 2 (2011) (analyzing, among other data, the large increase in daily trading volume from 1993—under 1,000 trades per day—to 2008—over 100,000 trades per day); B. Novick, et al., *A global perspective on market-on-close activity*, BlackRock ViewPoint (2020) (observing the “notable escalation globally in [market-on-close] activity” from the early 2000s through 2020)).

⁵² Application at 4.

⁵³ See id. at 5.

In support of its position, CME provided comparisons of trading volume at the market close versus the market open.⁵⁴ The sample consisted of the constituents within the Russell 1000 as of June 30, 2025.⁵⁵ CME sorted stocks into various buckets of trading activity and liquidity; and the average full day trading volume by value for each stock on the Fridays from January 2025 through June 2025 was ranked and filtered based on per-stock ADVT (\$).⁵⁶ The most active 25 stocks by this metric were grouped as the top 25 stocks in tables provided by CME, followed subsequent rank based on ADVT to provide an indication of activity throughout the index.⁵⁷

CME's tables showed that on the 25 Fridays from January 2025 through June 2025 (excluding April 18, 2025, Good Friday), irrespective of the trading activity bucket, trading volume at the closing auction far outstripped trading volume at the opening auction.⁵⁸ For the top 25 traded stocks, the former was 5.14 times greater than the latter. For the second 25 traded stocks, the ratio was 7.04.⁵⁹ As the "liquidity" of the stock dropped, the ratio became increasingly larger, e.g., 14.84 for the 350th stock within the Russell 1000.⁶⁰ Additionally, for opening and closing auctions on third Fridays other than quarterly third Fridays, the difference in volume was even greater in favor of the close.⁶¹ Therefore, CME states that the exchange equities markets that exist today have substantial liquidity that can absorb trading demand at the close in contrast to the circumstances of the distant past.⁶² Thus, according to CME, it is no longer a valid concern that

⁵⁴ Id. at 4-8.

⁵⁵ Id. at 5.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id. at 8.

⁶² Id.

using official closing prices for final settlement of security futures could strain trading liquidity at the close for the underlying securities when market participants engaged in intermarket trading strategies unwind their securities positions.⁶³

In addition to the analysis described above, CME states that the listing standards for cash-settled futures on individual equity securities described in its Application ensure substantial protection from manipulation, because they require a highly liquid underlying market for any such contracts the Exchange will list for trading.⁶⁴ Specifically, CME's planned additions to Chapter 700, as described in its exemption request, include the requirement that the underlying security for each product must exceed 20 million shares in estimated deliverable supply (Rule 70001.5); have a minimum market capitalization of at least \$20 billion (Rule 70001.6); and have a minimum ADVT of \$100 million over the prior six months (Rule 70001.7).⁶⁵ CME further states that it will review the underlying securities on a quarterly basis and apply maintenance standards under which an underlying security must maintain over 20 million shares in estimated deliverable supply, a minimum market capitalization of at least \$10 billion, and an ADVT of \$100 million for the prior calendar quarter.⁶⁶ CME states that the new listing standards assure a robust market for the underlying security to protect against manipulation.⁶⁷ It also states that it has carefully structured the initial listing standards to assure that the contracts it will list at a minimum meet the more stringent requirements for CME to have the flexibility allowed under CFTC Regulation 41.25(b)(3)(i)(A) to set positions limits as a percentage of the security's estimated deliverable

⁶³ Id. at 8-9.

⁶⁴ Id. at 9.

⁶⁵ Id. at 9-10.

⁶⁶ Id. at 1-2. An underlying security that has been listed for trading for less than a quarter must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

⁶⁷ Id. at 10.

supply.⁶⁸

CME also states that the position limits that CME will establish will provide additional protection against manipulation.⁶⁹ In particular, CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC’s guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁰ CME states that its existing Rule 71101.E., Position Limits, provides that: “Position limits shall be applied in accordance with CFTC Rule 41.25(b)(3). Cash-Settled Single Stock Security Futures limits will be set no greater than the equivalent of 12.5 percent of the estimated deliverable supply of the underlying security for securities exceeding 20 million shares in estimated deliverable supply and no greater than 25,000 contracts for securities at or below 20 million shares in estimated deliverable supply. Limits will be effective during the last three trading days of an expiring contract month.”⁷¹ CME states that it will set out the position limits in the

⁶⁸ Id. The CFTC revised its position limits rule concerning single stock futures in 2019, and in that rulemaking defined “estimated deliverable supply” for security futures position limits. See Position Limits and Position Accountability for Security Futures Products, 84 FR 51005 (Sept. 27, 2019) (“CFTC Position Limit Rule”). CFTC Rule 41.25 defines “estimated deliverable supply” as “the quantity of the security underlying a security futures product that reasonably can be expected to be readily available to short traders and salable by long traders at its market value in normal cash marketing channels during the specified delivery period.” See 17 CFR 41.25(a). Appendix A to Part 41 of the CFTC’s rules states that for equity securities “deliverable supply should be no greater than the free float of the security.” See 17 CFR 41 Appendix A. The CFTC stated that estimated deliverable supply should be “based on free float, that is, shares issued and outstanding, excluding shares that either: (i) [a]re restricted from transfer (*e.g.*, restricted stock units), or (ii) have been repurchased by the issuing corporation (*i.e.*, treasury shares).” See CFTC Position Limit Rule, 84 FR at 51008.

⁶⁹ Application at 10.

⁷⁰ Id. CFTC Rule 41.25 establishes position limits for security futures on a single equity security, including ETFs. See 17 CFR 41.25. For any equity security with an estimated deliverable supply of greater than 20 million shares, Rule 41.25 permits a DCM to adopt, if appropriate considering the liquidity and trading in the underlying security, a position limit as high as 12.5% of the estimated deliverable supply of the underlying security. See 17 CFR 41.25(b)(3)(i)(A). For single equity securities where the six-month total trading volume in the underlying exceeds 2.5 billion shares and there are more than 40 million shares of estimated deliverable supply, a DCM is permitted to adopt a position accountability rule instead of a position limit. See 17 CFR 41.25(b)(3)(i)(B).

⁷¹ Application at 10.

Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.⁷²

CME also states that it has rules prohibiting market participants from engaging in manipulation of the security futures or the underlying cash market and disciplinary rules to enforce such prohibition.⁷³ Finally, CME states that trading activity in the Proposed Cash-Settled Products will be subject to monitoring and surveillance by CME Group Inc.'s Market Regulation Department.⁷⁴

III. Request for Comments

We request and encourage any interested person to submit comments regarding the Application, including whether the Commission should grant the exemption request. We also request comment on whether the Commission should establish any limitations or conditions in connection with an exemption. In particular, we request comment on the following questions:

1. Does the data and analysis provided by CME in its Application support granting an exemption from Rule 6h-1 for the Proposed Cash-Settled Products?
2. Are there potential risks associated with P.M. Settlement for cash-settled single equity security futures? If so, what are they and how do the risks of P.M Settlement compare to the risks of A.M. Settlement? Does P.M. Settlement present risks that do not exist with A.M. Settlement with respect to cash-settlement and, if so, what are these risks?
3. Would P.M. Settlement of the Proposed Cash-Settled Products result in constraints on liquidity, closing volatility, and manipulation in the market for the underlying securities at expiration that the SEC and CFTC were concerned about when Rule 6h-1 was adopted?

⁷² Id.

⁷³ Id.

⁷⁴ Id.

Does CME's Application, including its contemplated initial and maintenance listing standards, address these concerns regarding P.M. Settlement for the Proposed Cash-Settled Products that were present when Rule 6h-1 was adopted? What factors should CME consider when determining whether a Proposed Cash-Settled Product is readily susceptible to manipulation?

4. As discussed above, the markets have changed significantly in the decades since Rule 6h-1 was adopted as has the regulatory landscape, such as the implementation of Regulation National Market System. Do these regulatory and market structure changes affect the concerns regarding constraints on liquidity, closing volatility, and manipulation regarding P.M. Settlement?
5. What data would facilitate the Commission's analysis of liquidity levels and absorption of imbalances at the time of expiration?
6. Do closing processes in today's markets mitigate against the risk of constraints on liquidity, closing volatility, and manipulation due to P.M. Settlement and, if so, how? Could P.M. Settlement nonetheless result in constraints on liquidity and increased closing volatility on expiration days due to insufficient buy or sell interest to satisfy demand to unwind security futures positions or from market participants being less willing to provide liquidity at the close on expiration day due to the risk of carrying positions overnight?
7. Does the listing and trading of the Proposed Cash-Settled Products that are P.M. Settled raise concerns about manipulation of the underlying security in order to benefit the position in the security futures or options on such security? If so, what are these concerns? Are there conditions on the listing and trading of the Proposed Cash-Settled Products that may mitigate these concerns?

8. Should an exemption be granted for the Proposed Cash-Settled Products that meet the specific listing standards that CME described in its Application? Should CME's proposed listing standards be subject to periodic evaluation to ensure their continued appropriateness? What methods should be used to conduct this evaluation?
9. With respect to each listing standard described by CME in its Application and identified below, should any of them be modified? If the listing standard should be modified, please explain why and in what way. If not, please explain why not. Specifically, CME has proposed that each underlying security has:
- an outstanding market capitalization of \$20 billion or greater;
 - an estimated deliverable supply of greater than 20 million shares;
 - a minimum ADVT of \$100 million over the prior six months (or if the underlying security has been trading for less than six months, a minimum ADVT of \$1 billion over the prior month); and
 - these exact same standards to maintain listing except that market capitalization must be at least \$10 billion (instead of \$20 billion required for initial listing) and ADVT must be at least \$100 million over the prior quarter (instead of the prior six months)?⁷⁵
10. Currently, approximately 300 underlying securities would qualify for listing a cash-settled security future based on CME's listing standards identified in the exemption request. Should the Commission limit an exemption to a smaller group of securities than those that would qualify for the Proposed Cash-Settled Products and if so, how should the Commission determine which securities should qualify for the exemption? Is there a

⁷⁵ If an underlying security has been listed for trading for less than a quarter, it must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

smaller group of securities that have certain characteristics (e.g., very high daily trading volume or accessible shares outstanding) that effectively mitigate the Commission's concerns regarding constraints on liquidity, closing volatility, and manipulation in the underlying securities related to the P.M. Settlement of cash-settled products? For example, should the Proposed Cash-Settled Products be limited to security futures overlying the top 25 or 50 securities in terms of daily trading volume?

11. Are the P.M. Pilots informative with respect to P.M. Settlement of the Proposed Cash-Settled Products? Are the P.M. Pilots informative on the issue of constraints on liquidity, closing volatility, and manipulation in the underlying markets? If so, please explain. If not, what aspects of the P.M. Pilots make them different enough to not be a relevant precedent?
12. Are there differences between cash-settled index derivatives and cash-settled single stock derivatives that raise or mitigate concerns related to constraints on liquidity, closing volatility, and manipulation in the underlying securities of P.M. Settlement as applied to the Proposed Cash-Settled Products and, if so, what are those differences?
13. What type of market participant is likely to trade the Proposed Cash-Settled Products, and what would be the common use cases for these products? What are the benefits to the market of permitting the listing and trading of the Proposed Cash-Settled Products?
14. Would P.M. Settlement of the Proposed Cash-Settled Products lead to any unintended consequences?
15. Would trading volume in the underlying cash securities migrate to the Proposed Cash-Settled Products? Are there certain types of underlying securities where it is more likely for trading volume to migrate from the underlying cash security to the Proposed Cash-Settled Products? Could potential trading volume migration to the Proposed Cash-Settled

Products negatively impact the liquidity of the underlying securities, including on expiration days?

16. Should data regarding the trading of cash-settled security futures be made publicly available? What data would be useful for the evaluation of any potential impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities? Should an exemption be conditioned on CME making publicly available in a machine-readable Comma-Separated Values format for a period of three years the following information:

- on a daily basis, a daily report of aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (e.g., proprietary and customer account as required by CFTC Rule 16.00)⁷⁶ for each security future listed and traded pursuant to this exemption (“Listed Cash-Settled Product”);
- for each security underlying a Listed Cash-Settled Product, the opening price for the next trading day after the settlement Friday and the closing price on the settlement Friday, along with the percentage change between these two prices, and the average percent change between these two prices over the course of a year, made available once a year and to the Commission upon request;
- for each Listed Cash-Settled Product, the month-end aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (e.g., proprietary and customer

⁷⁶ See 17 CFR 16.00.

account as required by CFTC Rule 16.00) and trading volume for each month, made available once a year and to the Commission upon request; and

- for each security underlying a Listed Cash-Settled Product, the first traded price and the last traded price for the 15-minute periods of 3:30 P.M. – 3:45 P.M. and 3:45 P.M. – 4:00 P.M. for every Friday of each month along with the next trading day’s opening price, made available once a year and to the Commission upon request?

17. Should an exemption be conditioned on CME providing the Commission within four years of listing and trading security futures pursuant to the exemption, a report examining the effect of cash-settled single stock futures and, to the extent listed and traded, cash-settled single stock options, on the market for the underlying securities? If so, should this report include analysis concerning the Proposed Cash-Settled Products, as well as analysis of any other P.M. Settled, cash-settled single stock security futures, security options, or other derivative listed and traded during the period subject to the report? Should the report examine the price of the underlying stock at 3:30 P.M. and 3:45 P.M., the closing price of the underlying stock on expiration day, the opening price on the next trading day, and the percentage change among such prices? Should the number of security futures contracts settled based on the closing price of the underlying stock be included with a discussion of price reversal (i.e., change in the closing price of the underlying security and the opening price on the next trading day)? Should such a report be made publicly available?
18. Are the data and report described above sufficient to evaluate the potential impacts of the Proposed Cash-Settled Products on the market for the underlying security or options on such security? What other or different data or report would be useful concerning the

- Proposed Cash-Settled Products in order to evaluate the impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities?
19. Section 6(h)(3)(I) of the Exchange Act requires that procedures be in place for coordinated surveillance among the markets trading security futures, the markets trading the underlying securities, and markets trading related securities to detect manipulation and insider trading. What surveillance (coordinated or otherwise) is in place that could help identify manipulation and insider trading related to the Proposed Cash-Settled Products? Would a surveillance agreement among CME, the primary markets where the underlying securities trade, and markets that trade related securities be appropriate to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products? Would membership by CME in the Intermarket Surveillance Group be appropriate and sufficient to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products?
 20. Should an exemption be conditioned on CME entering a market-to-market surveillance sharing agreement with the markets trading the underlying securities and markets that trade related securities? Should an exemption be conditioned, instead, on CME entering a market-to-market surveillance sharing agreement with the primary listing market? Should an exemption be conditioned on CME being a member of ISG?
 21. Would position limits that are filed with the Commission pursuant to Section 19(b)(7) of the Exchange Act for the Proposed Cash-Settled Products mitigate the concerns around cash settlement and P.M. Settlement, and, if so, what should be the position limits for the Proposed Cash-Settled Products in order to support the Commission granting an exemption from Rule 6h-1(d)? Should an exemption be conditioned on CME filing such position limits with the Commission pursuant to Section 19(b)(7) of the Exchange Act?

22. CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC’s guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁷ Would a position limit of 12.5% of the estimated deliverable supply (as represented by CME and reflected in CFTC Rule 41.25⁷⁸), which would be applicable to most of the Proposed Cash-Settled Products, be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement? Would a higher or lower limit be appropriate?
23. CFTC Rule 41.25(b)(3)(i)(B) permits a designated contract market to adopt a position accountability rule in lieu of position limits if the 6-month total trading volume of the underlying security exceeds 2.5 billion shares and it has more than 40 million shares of estimated deliverable supply. Approximately 40 Proposed Cash Settled Products would qualify for position accountability.⁷⁹ Would position accountability (i.e., requirements to provide information about or adjust positions if certain position levels are reached) be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement?
24. Is the method for estimating deliverable supply that is prescribed in CFTC Rule 41.25, and Appendix A to Subpart C of Part 41 of the CFTC’s regulations, appropriate for setting position limits on the Proposed Cash-Settled Products? Should alternative methods be considered when estimating the deliverable supply for the Proposed Cash-Settled Products?

⁷⁷ Application at 10.

⁷⁸ See supra notes 69-70 and accompanying text.

⁷⁹ See 17 CFR 41.25(b)(3)(i)(B) and supra notes 68 and 70 (discussing CFTC position limit and accountability rules).

25. Should position limits be different for cash-settled single stock futures that are P.M Settled versus those that are A.M. Settled?
26. Would applying to the Proposed Cash-Settled Products the same position limits that are currently applied to securities options mitigate concerns regarding cash settlement and P.M. Settlement and, if not, should position limits for the Proposed Cash-Settled Products be higher or lower?
27. Should any position limit require the aggregation of positions across exchange-traded derivatives (or across all derivatives whether traded on exchange or over-the-counter) overlying the same underlying security?

Comments should be received on or before [insert date 30 days following the date of publication in the Federal Register]. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission’s Internet comment form (<https://www.sec.gov/rules-regulations/commission-orders-notices/other-commission-orders-notices-information>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-2026-04 on the subject line.

Paper Comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-2026-04. This file number should be included on the subject line if email 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 (<https://www.sec.gov/rules-regulations/exchange-act-exemptive-notice-orders>). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

For further information, you may contact David Dimitriou, Senior Special Counsel; Michou Nguyen, Special Counsel; and Alba Baze, Attorney-Advisor, Office of Market Supervision, Division of Trading and Markets, at (202) 551-5550, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

Appendix: CME's Application

July 25, 2025

Via Email

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
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countrymanv@sec.gov

Jamie Selway
Director
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Re: **Request for Exemptive Relief under Section 36 of the Exchange Act**

Dear Secretary Countryman and Director Selway:

Chicago Mercantile Exchange Inc. (“CME”) requests the U.S. Securities and Exchange Commission (“Commission” or “SEC”) to grant a Section 36 exemption from the requirements of SEC Rule 6h-1(b) under the Securities Exchange Act of 1934, as amended (“Exchange Act”), in connection with CME’s plans to list cash-settled futures on individual equity securities for trading pursuant to its registration as a designated contract market and notice registration as a national securities exchange. SEC Rule 6h-1(d) also expressly contemplates that the Commission could grant an exemption from this requirement. CME is concurrently requesting the Commodity Futures Trading Commission (“CFTC”) to grant an exemption from its corresponding listing standards requirement under CFTC Regulation 41.25(e).

As explained further below, CME is seeking exemptive relief from the requirements of SEC Rule 6h-1(b) to enable CME to adopt listing standard rules for cash-settled single equity security futures that provide for final settlement based on the underlying security’s official closing price on the security’s primary listing exchange in lieu of the security’s opening price. This request is limited to those underlying equity securities meeting the proposed initial listing and maintenance standards. Specifically, CME’s proposed additions to Chapter 700 include the requirements for the initial listing standards that the underlying security for each product must (1) exceed 20 million shares in estimated deliverable supply (Rule 70001.5 or “Standard 1”), (2) have a minimum market capitalization of at least \$20 billion (Rule 70001.6 or “Standard 2”), and (3) have a minimum average daily value of transactions (“ADVT”) of \$100 million over the prior six months (Rule 70001.7 or “Standard 3”).¹ CME will review the underlying securities on a quarterly basis and apply maintenance standards, as set out in Chapter 700. Under the maintenance standards,

¹ In the event an underlying security has been listed for trading for less than six months, Standard 3 would instead be a minimum ADVT of \$1 billion over the prior month.

Standard 1 would remain the same; Standard 2 would be reduced to \$10 billion; and Standard 3 would be an ADVT of \$100 million for the prior calendar quarter.²

Need for Relief

CME previously offered security futures contracts for trading but ceased in March 2011.³ CME previously adopted general listing standard rules for security futures set out in its Chapter 700 Rules. In connection with its plans to relaunch security futures, CME is proposing revisions to its Chapter 700 Rules and developing related new Chapter 711 Rules setting out the contract terms and conditions specific to listing cash-settled futures on individual equity securities.⁴ CME will file these rule revisions and new rules with the Commission in accordance with the applicable filing requirements of Exchange Act Section 19(b)(7) and Commission Rule 19b-7.

SEC Rule 6h-1(b), adopted in 2002, requires the final settlement price of a cash-settled security futures contract to “fairly reflect the *opening price* of the underlying security or securities” on the last trading day (emphasis added). CME has determined, though, that using the underlying securities’ closing prices will better achieve the objective of insulating the contracts from being susceptible to manipulation and is preferable for other reasons as well. Notably, options on individual securities listed on Cboe Exchange, Inc. (“Cboe Options”) and other options exchanges regulated by the SEC are exercised based on the securities’ closing prices. CME expects strong market demand for the settlement procedure for these security futures contracts to align with the settlement procedure for corresponding options on individual securities. Using a closing price procedure for futures on the same securities will assure that the security futures and listed securities options markets are appropriately aligned to avoid unnecessary disruption to market participants that may engage in hedging or arbitrage trading strategies in both markets. Thus, CME Rule 71102.B. provides that on the last day of trading of an expiring contract, the “Final Settlement Price” for the contract “is the official closing price for the underlying security published by the primary listing exchange for the security for that day” (subject to an alternative determination under limited circumstances).

Accordingly, CME requests exemptive relief from the requirements of SEC Rule 6h-1(b) to enable CME to adopt listing standard rules that provide for final settlement based on the underlying security’s official closing price on the security’s primary listing exchange in lieu of its

² In the event an underlying security has been listed for trading for less than a quarter, Standard 3 would instead be a minimum ADVT of \$1 billion over the period traded during the calendar quarter.

³ CME filed its rule amendments with the SEC and CFTC, respectively, in November 2010 to delist the contracts. The filing to the SEC is File No. SR-CME-2010-01. *See also* SEC Release 34-63551, Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amendments to Chicago Mercantile Exchange’s Rules Governing Contract Specifications for Physically Delivered Single Security Futures (Dec. 15, 2010), at <https://www.sec.gov/files/rules/sro/cme/2010/34-63551.pdf>.

⁴ CME has separate Chapter 710 Rules, previously adopted, setting out the contract terms and conditions specific to listing futures on individual equity securities that settle by delivery of the underlying security. CME currently has no plans to list such security futures contracts for trading.

opening price. This request is limited to those underlying equity securities meeting the proposed listing standards.

The Commission may grant this exemptive relief pursuant to Exchange Act Section 36 and SEC Rule 6h-1(d) if it “determines that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors.” As demonstrated below, the relief CME seeks will benefit the public interest and enhance investor protection by enabling CME to offer security futures with a superior design that provides more robust protection against potential manipulation by market participants engaged in intermarket trading activity and against other forms of market disruption and inefficiencies.

Support for Granting the Relief

The Historical Rationale for Opening-Price Settlement Is Outdated.

In the mid-1980s, the futures exchanges that listed stock index futures for trading and the options exchanges that listed options on stock indexes and on individual equity securities generally used closing-price settlement procedures for final settlement.⁵ Due to constraints with available technology and market conditions at the time, however, the use of closing prices for final settlement created certain risks, as described by the SEC and CFTC in their final rulemaking release when they jointly adopted the requirement at issue.⁶ For example, arbitrageurs could unwind their positions on expiration Fridays, straining liquidity at the close in the exchange markets for the underlying securities as they existed at the time.⁷ This practice also created concerns that liquidity constraints could increase the risk of manipulative or abusive trading practices that could artificially drive share prices up or down.⁸ Additionally, Friday afternoon settlements were seen to subject floor specialists on the securities exchanges to large market-on-close orders without adequate information or mechanisms to handle those orders, sometimes resulting in price volatility.⁹ In response to these concerns, some futures and options exchanges migrated to settlement procedures based on opening prices, including CME in 1987.¹⁰ Certain market declines in the late 1980s and early 1990s exposed some of the adverse effects resulting

⁵ Securities Exchange Act Release No. 34-98454 (Sept. 20, 2023), 88 Fed. Reg. 66103, 66103 (Sept. 26, 2023) (“Approval of Cboe P.M.-Settled Index Options”).

⁶ *Cash Settlement and Regulatory Halt Requirements for Security Futures Products*, 67 Fed. Reg. 36740, 36741, 36755 (May 24, 2002) (“Cash Settlement Adopting Release”).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 36742, 36755.

¹⁰ *E.g.*, *Proposed Amendments Relating to the Standard and Poor’s 500, the Standard and Poor’s 100 and the Standard Poor’s OTC Stock Price Index Futures Contract*, 51 Fed. Reg. 47053 (December 30, 1986) (notice of proposed rule change from CME to list A.M.-settled index futures); Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (April 27, 1987) (SR-CBOE-87-11) (approving Cboe Options rule change to list A.M.-settled options).

from settlement procedures based on the closing price.¹¹ Gradually, the futures and options exchanges migrated to settling their respective listed securities index futures and options contracts based on the opening price, in part to ease the strain on liquidity then experienced by the securities exchanges for the underlying securities.

The SEC and CFTC jointly adopted the current requirement that final settlement of cash-settled security futures contracts should reflect the opening prices of the underlying securities in 2002, in large part based on these historic concerns.¹² The final rulemaking release also noted that most listed cash-settled index options used opening-price settlement procedures as of 2002, so requiring the same for security futures products was also consistent with the options exchanges' practice.¹³

Now, however, more than twenty years later, the historic concern around thin liquidity at the close of the equity securities markets is largely moot given the characteristics of today's markets for those securities.

First, trading volumes and liquidity for equity securities have increased substantially since 2002 including trading volumes at both the open and close of the markets.¹⁴ Importantly, trading volumes for equity securities is generally significantly greater at the close than at the open.

Second, many cash-settled security index options today settle based on the closing prices,¹⁵ and they have done so without apparent incident. Most relevant here, listed options on individual stocks are exercised based on the underlying securities' closing prices. Although most options on individual stocks are not cash-settled,¹⁶ this closing price final settlement procedure is germane nevertheless because market participants may trade the options until the close on the expiration day. In addition, option holders may tender their exercise instruction after the close. Accordingly, if futures on the same stock terminate on the morning of the same expiration day, and settle based

¹¹ See, e.g., Trading Analysis of November 15, 1991, S.E.C. Div. Mkt. Reg., at 44 (Oct. 1992) (explaining that opening-price settlement procedures, as opposed to closing-price settlement procedures, “would improve the capacity ... to absorb the huge influx of derivative-based orders that must be processed on expirations,” and that “the influx of orders, computations and disseminations of order imbalances, and necessary opening-price adjustments and indications all could be processed in an orderly fashion before regular trading commenced”).

¹² Cash Settlement Adopting Release at 36741-43, 36754-56.

¹³ *Id.* at 36742, 36759.

¹⁴ C. Tarun, et al., *Recent Trends in Trading Activity and Market Quality*, 101 J. Fin. Econ. 2 (2011) (analyzing, among other data, the large increase in daily trading volume from 1993—under 1,000 trades per day—to 2008—over 100,000 trades per day); B. Novick, et al., *A global perspective on market-on-close activity*, BlackRock ViewPoint (2020) (observing the “notable escalation globally in [market-on-close] activity” from the early 2000s through 2020).

¹⁵ See generally *id.* at 66103-06.

¹⁶ Exchanges have listed cash-settled options on individual securities. E.g., NYSE American's Rules allow for the listing of Binary Return Derivatives, or ByRDs, which are cash-settled single stock options products. The SEC approved NYSE American's (then American Stock Exchange LLC) proposed rulemaking to list ByRDs in 2007. Securities Exchange Act Release No. 34-56251 (Aug. 14, 2007), 72 Fed. Reg. 46523 (Aug. 20, 2007).

on the opening price of the underlying security, the contracts will not provide a hedge for the options for the remainder of the day. Thus, requiring cash-settled futures on individual equity securities to be finally settled based on the opening price would be inconsistent with the final settlement for options on the securities. That disconnect could also cause disruption and inefficiency for intermarket arbitrage or hedging trading strategies.

In short, the liquidity characteristics of today's cash equity markets, described further below, and the current use of the closing price for final settlement of cash-settled index options and (non-cash-settled) options on individual stocks support CME's proposed use of the official closing prices for securities underlying the security futures contracts CME plans to launch.

Recent Data of Highly Liquid Stocks Shows Greater Trading Volume at Market Close.

Tables 1A and 1B and 2A and 2B show the comparison of trading volume at the market close versus the market open for stocks in the Russell 1000 index, which were screened to capture securities that meet the ADVT requirements of Standard 3 of the initial listing standards. The data is overinclusive, in that it includes securities that may not meet the other standards, to illustrate the substantial trading volume at the close even for securities that may not meet all our listing standards. (As described in further detail below, the scope of underlying securities meeting all three listing standards is substantially reduced.) For stocks listed at NYSE as their primary exchange, the trading volume is defined as that of the opening auction and the closing auction each day. For stocks listed at NASDAQ as their primary exchange, the trading volume is defined as that of the opening cross and the closing cross. Both arrangements result in all counterparties trading at the same price concurrently. Trading volume is measured by the aggregate value of all the transactions in the opening / closing auctions.

The sample consists of the constituents within the Russell 1000 as of June 30, 2025. To sort stocks into various buckets of trading activities and liquidity, the average full day trading volume by value for each stock on the Fridays from January 2025 through June 2025 is ranked and filtered based on per-stock ADVT (\$). The most active 25 stocks by this metric are grouped as the top 25 stocks in the tables, followed by subsequent rank, based on ADVT, to provide an indication of activity throughout the index.

Table 1A shows that, on the 25 Fridays from January 2025 through June 2025 (excluding April 18, 2025, Good Friday), irrespective of the trading activity bucket, trading volume at the closing auction far outstripped trading volume at the opening auction. For the top 25 traded stocks, the former is 5.14 times the latter. For the second 25 traded stocks, the ratio is 7.04. As the "liquidity" of the stock drops, the ratio gets increasingly larger, *e.g.*, 14.84 for the 350th stock within the Russell 1000. While CME currently intends to list security futures on individual securities expiring only on quarterly third Fridays, we included other Fridays to provide a more robust sample, as well as to provide a data robustness check in the event either CME or another exchange lists additional Friday expirations.

Table 1A

Sample Period: Fridays within 1/1/2025-6/30/2025, excluding 4/18/2025 (Good Friday)	Per Stock Average Daily Value of Transactions (\$) – This table is inclusive of stocks that had an ADVT of greater than \$100M in H1-2025. 698 Stocks met this criteria.	
	Closing Auction	Opening Auction
Average for Top 25 Stocks	\$ 755,665,856	\$ 147,143,136
Average for Stocks 26-50	\$ 263,521,571	\$ 37,431,604
Rank 100	\$ 136,529,803	\$ 18,083,670
Rank 150	\$ 116,018,326	\$ 12,142,327
Rank 200	\$ 75,341,762	\$ 8,874,476
Rank 250	\$ 67,601,857	\$ 6,905,839
Rank 300	\$ 64,791,123	\$ 5,466,645
Rank 350	\$ 64,318,752	\$ 4,334,761
Rank 400	\$ 58,336,767	\$ 3,559,475
Rank 450	\$ 45,876,877	\$ 2,929,315
Rank 500	\$ 39,211,669	\$ 2,297,964
Rank 550	\$ 36,645,124	\$ 1,799,269
Rank 600	\$ 36,599,979	\$ 1,480,229
Rank 650	\$ 30,577,019	\$ 1,037,229
Rank 698	\$ 30,548,118	\$ 467,918

Table 1B

Sample Period: Fridays in June 2025	Per Stock Average Daily Value of Transactions (\$) – This table is inclusive of stocks that had an ADVT of greater than \$1B in June 2025. 72 Stocks met this criteria.	
	Closing Auction	Opening Auction
Average for Top 25 Stocks	\$ 1,289,012,180	\$ 219,139,521
Average for Stocks 26-50	\$ 556,356,026	\$ 59,356,437
Rank 25 out of 72	\$ 435,933,012	\$ 54,600,055
Rank 50 out of 72	\$ 338,136,065	\$ 44,795,388
Rank 72 out of 72	\$ 101,095,533	\$ 10,677,021

Tables 1A and 1B. Comparing closing and opening auction trading volume for the Russell 1000 stocks on Fridays at the primary exchange of each respective stock. Further filtering was done according to the initial listing standard of ADVT (6 month look-back (\$100M) and 1 month look-back (if less than 6 months trading history) (\$1B)). CME further notes that, when inclusive of the other two listing standards (i.e., more than 20 million shares in estimated deliverable supply and minimum market capitalization of at least \$20 billion), based on H1-2025 data the universe of eligible stocks would be 389 stocks.

Tables 2A and 2B provide robustness analysis for the market under different market conditions. Three separate weeks of the same data were isolated. The weeks were chosen to

represent average, high, and low market volatility environments. Under all scenarios, the liquidity comparison between the opening and closing auctions remains consistent under different market conditions. The closing auctions are more robust when compared to the opening auctions.

Table 2A

Per Stock Average Daily Value of Transactions (\$) with ADVT of greater than \$1B in June 2025 – 698 stocks met criteria	Sample: 4/7/25-4/11/25 Average volatility week		Sample: 2/10/2025-2/14/2025 High volatility week		Sample: 3/17/2025-3/21/2025 Low volatility week	
	Closing Auction	Opening Auction	Closing Auction	Opening Auction	Closing Auction	Opening Auction
Average for Top 25 Stocks	\$ 809,391,655	\$ 106,220,727	\$ 510,603,551	\$ 60,546,386	\$ 932,236,673	\$ 145,994,218
Average for Stocks 26-50	\$ 254,130,179	\$ 26,182,419	\$ 158,186,064	\$ 17,468,181	\$ 364,795,869	\$ 49,335,888
Rank 100	\$ 101,236,286	\$ 13,100,443	\$ 77,922,481	\$ 12,415,814	\$ 198,680,187	\$ 26,359,378
Rank 150	\$ 92,286,186	\$ 6,340,720	\$ 66,304,885	\$ 6,150,633	\$ 149,386,278	\$ 19,337,056
Rank 200	\$ 82,639,698	\$ 5,161,707	\$ 48,765,536	\$ 5,410,497	\$ 111,493,649	\$ 11,339,522
Rank 250	\$ 60,495,902	\$ 4,721,612	\$ 43,831,530	\$ 4,261,626	\$ 97,101,615	\$ 6,330,682
Rank 300	\$ 38,411,684	\$ 4,212,686	\$ 43,719,305	\$ 3,817,578	\$ 60,337,582	\$ 6,197,608
Rank 350	\$ 36,507,992	\$ 2,864,746	\$ 37,186,807	\$ 3,321,326	\$ 58,236,370	\$ 5,793,814
Rank 400	\$ 31,355,171	\$ 2,796,899	\$ 36,730,166	\$ 1,501,289	\$ 57,682,434	\$ 5,596,939
Rank 450	\$ 26,559,933	\$ 1,795,094	\$ 21,456,844	\$ 1,456,933	\$ 51,037,660	\$ 4,323,057
Rank 500	\$ 25,719,836	\$ 1,443,763	\$ 19,623,001	\$ 1,393,953	\$ 46,480,542	\$ 4,034,318
Rank 550	\$ 22,965,623	\$ 1,164,716	\$ 13,888,823	\$ 905,106	\$ 34,224,315	\$ 3,870,725
Rank 600	\$ 19,967,301	\$ 1,147,874	\$ 13,655,629	\$ 653,634	\$ 31,631,807	\$ 3,661,788
Rank 650	\$ 15,126,201	\$ 1,081,819	\$ 13,527,773	\$ 578,374	\$ 28,101,320	\$ 3,176,530

Rank 698	\$ 15,010,870	\$ 611,643	\$ 10,752,297	\$ 537,522	\$ 26,999,180	\$ 1,833,701
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Table 2B

Per Stock Average Daily Value of Transactions (\$) with ADVT of greater than \$1B in June 2025 – 72 stocks met criteria	Daily Average for Week of 6/2/2025-6/6/2025		Daily Average for Week of 6/9/2025-6/13/2025		Daily Average for Week of 6/16/2025-6/20/2025	
	Closing Auction	Opening Auction	Closing Auction	Opening Auction	Closing Auction	Opening Auction
Average for Top 25 Stocks	\$ 499,250,393	\$ 61,035,301	\$ 481,250,694	\$ 57,003,396	\$ 1,895,115,101	\$ 208,065,515
Average for Stocks 26-50	\$ 139,717,492	\$ 32,939,509	\$ 171,282,108	\$ 16,187,861	\$ 800,197,030	\$ 56,094,396
Rank 25 out of 72	\$ 208,837,340	\$ 17,030,143	\$ 245,991,494	\$ 16,104,298	\$ 740,251,171	\$ 51,751,503
Rank 50 out of 72	\$ 164,917,677	\$ 14,388,007	\$ 120,960,502	\$ 11,027,776	\$ 307,840,383	\$ 44,218,357
Rank 72 out of 72	\$ 159,212,590	\$ 9,652,325	\$ 100,635,233	\$ 7,905,391	\$ 115,363,838	\$ 8,397,521

Tables 2A and 2B. Comparing closing and opening auction trading volume for Russell 1000 stocks under different market volatility conditions. Further filtering was done according to the initial listing standard of ADVT (6 month look-back (\$100M) and 1 month look-back (if less than 6 months trading history) (\$1B)). Additionally, as noted above, when inclusive of the other two initial listing standards (i.e., more than 20 million shares in estimated deliverable supply and minimum market capitalization of at least \$20 billion), based on H1-2025 data the universe of eligible stocks would be 389 stocks.

As illustrated, the trading volumes at the close are substantially larger than the trading volumes at the open. Moreover, for opening and closing prices on third Fridays other than quarterly third Fridays, the difference in volume is even greater in favor of the close. In short, the exchange equities markets that exist today have substantial liquidity that can absorb trading demand at the close in contrast to the circumstances of the distant past.¹⁷ Thus, it is no longer a valid concern that using official closing prices for final settlement of security futures contracts could strain trading liquidity at the close for the underlying securities when market participants engaged in intermarket trading strategies unwind their securities positions. As explained above,

¹⁷ Novick, *supra* note 14, at 1 (“In fact, the growth of closing auction volumes has amplified its critical role as a forum for deep liquidity and accurate price discovery, thus providing greater market stability and investor protection.”).

the official closing prices of underlying securities have been used for final settlement at other exchanges (for listed options) without incident.

Cash-Settled Index Options Prove the Benefits of Closing-Price Settlement.

Although certain listed securities index options settle based on opening prices, there has been a sharp transition to using closing prices for certain other securities index options.¹⁸ Notably, the SEC recently granted permanent approval of Cboe Options rules pursuant to which Cboe Options lists index options that cash settle using closing prices of the underlying securities for the index calculation, lifting the rules out of “pilot program” status. The SEC’s action underscores that the securities markets have evolved and today do not present the concerns of the past.¹⁹ Even more on point, final expiration of options on individual equity securities is based on the official closing prices for the underlying securities.²⁰

Through its pilot programs, Cboe Options conducted various studies demonstrating the lack of any adverse market impact attributable to cash-settled index options that settle based on closing prices. For example, Cboe Options assessed whether higher levels of expiring open interest in P.M.-settled index options resulted in increased volatility around the close, and found that the magnitude of the effect is economically very small.²¹ Cboe Options also concluded that advances in trading systems and technology have significantly minimized risks of any potential impact of P.M.- cash-settled index options on the underlying cash markets.²² Based on these and other Cboe Options studies and findings, as well as an analysis conducted by Cornerstone Research at the direction of the SEC, the SEC concluded that Cboe Options’ pilot program “has benefited investors and other market participants by providing more flexible trading and hedging opportunities while also having no disruptive impact on the market.”²³

CME’s Proposed Listing Standards Offer Strong Protections Against Manipulation.

Most importantly, CME’s proposed listing standards for cash-settled futures on individual equity securities ensure substantial protection from manipulation, because they require a highly liquid underlying market for any such contracts the Exchange will list for trading. As noted above, CME’s proposed additions to Chapter 700 include the initial listing standard requirements that the underlying security for each product must exceed 20 million shares in estimated deliverable supply

¹⁸ *E.g.*, Rules of Cboe Exchange, Inc., at Rules 4.10(b), (f), (j) & (l), 4.13(a)(4) (Sept. 2024) (listing A.M.-settled index options approved for trading on Cboe Options); *id.* at Rules 4.10(h), 4.13(a), (c), & (e) (listing P.M.-settled index options approved for trading on Cboe Options); *see also* Approval of Cboe P.M.-Settled Index Options at 66105-06 (referencing Cboe Options’ pilot programs for listing P.M.-settled index options).

¹⁹ Approval of Cboe P.M.-Settled Index Options at 66103-06.

²⁰ *See id.* at Rule 4.5(e)(3) (“Quarterly Options Series [on individual equity securities] will be P.M.-settled.”); *id.* at Rule 4.5(g)(3) (“Monthly Options Series [on individual equity securities] will be P.M.-settled.”).

²¹ Approval of Cboe P.M.-Settled Index Options at 66105.

²² *Id.*

²³ *Id.* at 66106.

(Rule 70001.5) (Standard 1), have a minimum market capitalization of at least \$20 billion (Rule 70001.6) (Standard 2), and have a minimum ADTV of 100 million over the prior six months (Rule 70001.7) (with a higher ADTV requirement for securities with less than 6 months trading history). Indeed, CME initially intends to list cash-settled futures on individual equity securities on only the most highly liquid securities as measured by ADTV. Pursuant to Rule 70002.1, CME will not list for trading any single equity security futures with a new expiration or delivery month if the underlying security does not meet the maintenance listing standard requirements established under the rule. As explained above, under the maintenance standards, Standard 1 remains the same; Standard 2 is reduced to \$10 billion; and Standard 3 is an ADTV of \$100 million for the prior calendar quarter (with a higher ADTV requirement for securities with less than one quarter trading history).

In any case, the proposed listing standards assure a robust market for the underlying security to protect against manipulation. In this regard, CME has carefully structured the listing standards to assure that the contracts it will list at a minimum meet the more stringent requirements for CME to have the flexibility allowed under CFTC Regulation §41.25(b)(3)(i)(A) to set positions limits as a percentage of the security's estimated deliverable supply.

Importantly, positions limits themselves, which CME will establish here, provide additional protections against manipulation. Pursuant to CME Rule 71101.E., CME will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Regulation §41.25(b)(3) and the CFTC's guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products. Specifically, Rule 71101.E., Position Limits, provides that: "Position limits shall be applied in accordance with CFTC Regulation §41.25(b)(3). Cash-Settled Single Stock Security Futures limits will be set no greater than the equivalent of 12.5 percent of the estimated deliverable supply of the underlying security for securities exceeding 20 million shares in estimated deliverable supply and no greater than 25,000 contracts for securities at or below 20 million shares in estimated deliverable supply. Limits will be effective during the last three trading days of an expiring contract month." CME will set out the position limits in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.

In addition, as an overlay, existing CME Rule 432 provides that any activity "to engage in, or attempt to engage in, the manipulation of prices of Exchange futures or options contracts; to corner or squeeze, or attempt to corner or squeeze, the underlying cash market; to intentionally or recklessly use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud; or to purchase or sell, or offer to purchase or sell Exchange futures or options contracts, or any underlying commodities or securities, for the purpose of upsetting the equilibrium of the market or creating a condition in which prices do not or will not reflect fair market values" is a "general offense." CME Rule 402.B spells out the disciplinary capabilities of CME which include, but are not limited to, expulsion, suspension, disgorgement, and/or a fine of not more than \$5 million per violation.

And, as with any new product listed for trading on CME or on any other designated contract market owned by CME Group Inc., trading activity in the contracts proposed herein will be subject to monitoring and surveillance by CME Group Inc.'s Market Regulation Department.

Conclusion

For the foregoing reasons, we respectfully request that the Commission grant an exemption under Section 36 of the Exchange Act (and as contemplated under SEC Rule 6h-1(d)) to allow CME to base the final settlement price for security futures contracts listed under the CME Chapter 700 and 711 Rules on the official closing price of the underlying security, specifically those underlying equity securities meeting both the proposed initial and maintenance listing standards. If the Commission has any questions or requires any additional information in support of this request, please contact the undersigned.

Respectfully,



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cc: [Paul Atkins, Hester Peirce, Caroline Crenshaw, Mark Uyeda, David Dimitriou, Eric Juzenas]