

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65655; File No. SR-CME-2011-07)

October 28, 2011

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Order Approving Proposed Rule Change to Accept Additional Credit Default Index Swaps for Clearing

I. Introduction

On September 9, 2011, the Chicago Mercantile Exchange Inc. (“CME”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-CME-2011-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the Federal Register on September 28, 2011.³ The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The rule change will permit CME to expand its ability to clear credit default swap (“CDS”) contracts referencing broad-based securities indices by permitting CME to clear CDS contracts referencing the Markit CDX North American High Yield Index Series 11, 12, 13, 14, 15, 16 and 17, in each case solely with respect to contracts referencing the applicable index with an original tenor of five years. As of the date that it filed this rule change, CME offered for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-65378 (September 22, 2011), 76 FR 60110 (September 28, 2011). In its filing with the Commission, CME included statements concerning the purpose of and basis for the proposed rule change. The text of these statements are incorporated into the discussion of the proposed rule change in Section II below.

clearing CDS contracts referencing the Markit CDX North American Investment Grade Index Series 10, 11, 12, 13, 14, 15, 16 and 17.⁴

III. Discussion

Section 19(b)(2)(B) of the Act 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.⁵ In particular, Section 17A(b)(3)(F) of the Act⁶ requires, among other things, that the rules of a 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, and to assure the safeguarding of securities and funds which are in the custody or control of such clearing agency or for which it is responsible.

The proposed rule change would make additional CDS contracts eligible for central clearing at CME and thus would facilitate the prompt and accurate clearance and settlement of derivative agreements, contracts and transactions. CME's rules and procedures for clearing CDS contracts referencing broad-based securities indices, particularly those pertaining to its risk management operations and financial safeguards systems, are also designed to limit the risk of

⁴ CME subsequently filed a rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(4)(i) thereunder to allow it to clear CDS contracts referencing the Markit CDX North American Investment Grade Index Series 9. See Securities Exchange Act Release No. 34-65489 (October 5, 2011), 76 FR 63339 (October 12, 2011). For CDS contracts referencing the Markit CDX North American Investment Grade Index Series 9 and 10, CME's rule permit the clearing of contracts referencing the applicable index with an original tenor of five, seven or ten years. For CDS contracts referencing the Markit CDX North American Investment Grade Index Series 11, 12, 13, 14, 15, 16 and 17, CME's rule permit the clearing of contracts referencing the applicable index with an original tenor of three, five, seven or ten years.

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

financial loss to CME and its members as a result of these additional CDS contracts. Thus, the proposed rule change to permit CME to clear and settle CDS contracts referencing the Markit CDX North American High Yield Index Series 11, 12, 13, 14, 15, 16 and 17 is consistent with the requirement that CME assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.⁷

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁸ and the rules and regulations thereunder.

⁷ Moreover, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was passed by Congress and signed into law by the President to, among other things, ensure that, wherever possible and appropriate, derivatives contracts formerly traded exclusively in the over-the-counter market be cleared. See, e.g., Report of the Senate Committee on Banking, Housing, and Urban Affairs regarding The Restoring American Financial Stability Act of 2010, S. Rep. No. 111-176 at 34 (stating that “[s]ome parts of the OTC market may not be suitable for clearing and exchange trading due to individual business needs of certain users. Those users should retain the ability to engage in customized, uncleared contracts while bringing in as much of the OTC market under the centrally cleared and exchange-traded framework as possible.”). The Commission believes that expanding CME’s ability to clear CDS contracts referencing broad-based securities indices will facilitate bringing additional security-based swaps into clearing, particularly with respect to the individual components of these indices.

⁸ 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-CME-2011-07) be, and hereby is, approved.¹⁰

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill
Deputy Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 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).

¹¹ 17 CFR 200.30-3(a)(12).