

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65200; File No. SR-CME-2011-02)

August 25, 2011

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reflect Differences in Proprietary Trading Exchange Fees Based on Ownership of CME Group Shares

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 12, 2011, Chicago Mercantile Exchange Inc. (“CME”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(4)(ii)⁴ thereunder.

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

The text of the proposed rule change is below. Underscored text indicates additions; bracketed text indicates deletions.

Rule 106. TRANSACTIONS, SECURITY TRANSACTIONS, AND AUTHORIZATIONS
TO TRANSFER OR SELL

106.I. Affiliate Member Firm

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4)(ii).

An "affiliate" shall be defined to include a firm [clearing member or Rule 106.J equity member or a firm] that either: owns, directly or indirectly, 100% of a clearing member with shares or Rule 106.J. equity member firm or has 100% ownership, direct or indirect, in common with a firm that owns, directly or indirectly, 100% of a clearing member with shares or Rule 106.J. equity member firm. Clearing members with shares are those clearing members that maintain CME Group Class A shares in accordance with CME Rule 106.J. Equity Member Firm requirements in order to receive equity member rates.

A membership may be owned by a clearing member with shares, Rule 106.J. equity member or affiliate firm under this Rule. The membership may be held in the name of the firm or principals or employees of an affiliate and be transferred among its principals and employees provided that: (1) the transfer is approved by Exchange staff; (2) the transferee is approved for membership pursuant to the rules of the Exchange; and (3) the transfer is for the legitimate business purposes of the firm. The affiliate firm shall have the right, at any time, to withdraw the authority of the transferee to trade on the membership owned by the clearing member with shares, Rule 106.J. equity member or affiliate firm, but must withdraw such authority upon termination of his employment or other association with the firm. Notice of the withdrawal of the authority of the transferee to trade on the membership owned by a clearing member with shares, Rule 106.J. equity member or affiliate firm must be given to his qualifying clearing member, and such clearing member must subsequently notify the Exchange pursuant to Rule 511.A. The clearing member with shares, Rule 106.J. equity member or affiliate firm shall designate on a form provided

by the Exchange a representative who shall be authorized to deal with the Exchange with respect to the membership held under this Section.

The proceeds of the sale of a membership which is used to qualify a Rule 106.I. affiliate member firm shall be subject to Rule 110 claims against both the owner of the membership and the Rule 106.I. affiliate member firm.

A Rule 106.I. membership may not be transferred pursuant to any other provision of Rule 106. The membership may not be assigned for membership purposes under Rules 106.H., 106.J., 106.R., 106.S. or 902.

Rule 106.I. firm benefits apply to the firm trading activity of any affiliate as defined in this Rule. All such positions of the firm and its affiliates must be carried by a clearing member(s) in accounts separate from positions of subsidiaries, customers and other entities.

A Rule 106.I. affiliate member firm may not hold itself out to the public as a clearing member.

Exchange staff may grant exemptions from the requirements of this Rule.

Chapter 9. CLEARING MEMBERS

900.A. CME Clearing Members

CME Clearing Members shall have all applicable rights, responsibilities and privileges attendant thereto, subject to the provisions of these rules and shall be qualified to clear transactions for all CME products and all Expanded-Access Products listed for trading by CBOT after July 12, 2007.

CME Clearing Members receive fees in conjunction with CME Rule 106.H. Trading Member Firms. CME Clearing Members with shares are those clearing members that maintain CME Group Class A shares in accordance with CME Rule 106.J. Equity Member Firm requirements in order to receive equity member rates.

900.B. Financial Instrument Clearing Members

A Financial Instrument Clearing Member (“FICM”) shall have the right to clear, for its own account, trades in certain CME and CBOT interest rate products executed in connection with a cash versus futures trading strategy.

The FICM must be guaranteed by a CME and/or CBOT Clearing Member that is entitled to clear all of the products cleared by the FICM. The guarantor must be the clearing member for the FICM’s transactions in U.S. Treasury Securities and report to the Clearing House, at appropriate intervals, the FICM’s open positions in U.S. Treasury Securities. The guarantor shall assume complete responsibility for all of the FICM’s obligations to the Exchange and Clearing House arising from its operations as a FICM. In the event of a default by the FICM to the Clearing House in respect of any futures or options on futures, the FICM shall be suspended by the Exchange and the open positions of the FICM shall be transferred to, owned by, and become the direct responsibility of the guarantor. In the event of a default by the FICM or a related entity to the guarantor clearing firm, the Exchange will, at the request of the guarantor clearing firm, and upon due verification of the facts, facilitate the suspension of the FICM, in which case the open positions of the FICM shall be transferred to, owned by, and become the direct responsibility of the guarantor.

The FICM shall be subject to applicable CME and CBOT Rules, including those

contained in CME and CBOT Rules Chapter 8 and Chapter 9, and including without limitation, CME Rule 802 (Protection of the Clearing House, including the primary responsibility for the Clearing House assessment obligation therein). The FICM shall comply with all of the requirements and obligations of a clearing member pursuant to CME Rule 901 (General Requirements and Obligations) with the exception of the parent guarantee requirement pursuant to CME 901(L). The FICM must satisfy the following requirements:

- (i) Adjusted Net Capital of \$500,000;
- (ii) Initial minimum guaranty fund deposit of \$50,000 to be increased to reflect transaction volume, open interest and risk;
- (iii) The assignment of one Full or two Associate Memberships [and 4,000 CME Group shares] for the privilege of clearing CBOT interest rate products and two CME, two IMM, two IOM, and one GEM membership [and 6000 CME Group shares] for the privilege of clearing CME interest rate products. [The CME Group share requirement for FICMs eligible to clear both CBOT and CME interest rate products is 7,750 shares.] Memberships [and shares] may be independently assigned.
- (iv) FICMs receive fees in conjunction with CME and/or CBOT Rule 106.H. Trading Member Firms as applicable. FICMs that maintain CME Group Class A shares in accordance with CME Rule 106.J. Equity Member Firm requirements are eligible to receive equity member rates. The applicant shall be engaged in or demonstrate immediate capacity to engage in U.S. Treasury/interest rate futures spread trades and in order to maintain the

status of a FICM, shall actively execute both sides of U.S. Treasury/interest rate futures spread trades.

A FICM applicant shall execute and place on file with the Exchange the following documents:

- (v) An application for the FICM clearing membership;
- (vi) Globex System access documentation;
- (vii) Settlement bank account documents to permit the Clearing House to collect and disperse monies directly to the FICM;
- (viii) An acknowledgement from the guarantor that it agrees to guarantee the performance and financial obligations of the FICM to the Clearing House for certain identified interest rate products;
- (ix) Authorization to the Clearing House to verify, at its discretion, the transactions and open positions of the FICM in U.S. Treasury Securities;
- (x) Authorization to the Clearing House to deliver the FICM's trade register and recap ledger to the FICM's Clearing Member guarantor;
- (xi) A Clearing Member and FICM authorization pursuant to which the Clearing Member/guarantor will be authorized to submit complete and accurate transaction and position information respecting the U.S Treasury Securities of the FICM to the Clearing House; and
- (xii) Any additional documents or information requested by the Clearing House for risk management purposes.

Exchange staff may grant exceptions to the requirements of Rule 900.[C]B for good cause if it is determined that such exceptions will not jeopardize the financial integrity of the Exchange.

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

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

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

The financial-safeguards package that has historically applied to CME's futures market has used the value of memberships and shares to comprise a significant portion of the assets available to CME Clearing in a clearing member default situation. Recent enhancements to CME's financial-safeguards package significantly increased the amount of the guaranty-fund deposits available to CME Clearing. These changes also included amendments to make CME Group shares a much smaller portion of the total assets available to CME Clearing in a default scenario. Most recently, on May 13, 2011, CME determined to eliminate the CME Group share assignment requirement entirely from the requirements that apply to a CME clearing membership.

Notwithstanding these recent changes to the clearing membership requirements, the proprietary trading exchange fee requirements that apply to the futures trading activities of a CME clearing member that maintains CME Group shares are different than those that apply to a

CME clearing member that does not. The purpose of the proposed rule change in this filing is to make clarifying revisions to the CME rulebook to more accurately reflect these fee differentials. The rule changes affecting the CME rulebook are included in File No. SR-CME-2011-02.

CME notes that it submitted the rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (“CFTC”), in a separate filing.⁵ This filing also included corresponding changes to the rulebook of its affiliated exchanges, The Board of Trade of the City of Chicago, Inc. (“CBOT”) and New York Mercantile Exchange, Inc. (“NYMEX”).

The text of the CME rule proposed amendments is in Section I of this notice, with additions underlined and deletions in brackets. The proposed effective date for these rule amendments is August 12, 2011 (i.e., ten business days after the date of CME’s submission to the CFTC).⁶

The proposed CME rule amendments do not significantly affect the securities clearing operations of CME or any related rights or obligations of CME clearing members. The proposed rule changes are intended to clarify the application of certain proprietary trading exchange fees to a CME clearing member that maintains CME shares and to those that do not. These changes do not affect CME’s credit default swap clearing activities in any significant way. As such, the

⁵ CME submitted its filing to the CFTC pursuant to CFTC Regulation 40.6 on July 28, 2011 with a proposed effective date of August 12, 2011 relating to the following CME Group rules: CME and CBOT Rule 106.I. (Affiliate Member Firm), CME Rules 900.A. (CME Clearing Members) and 900.B. (Financial Instrument Clearing Member), CBOT Rules 900 (Categories of Clearing Members) and 901 (General Requirements and Obligations), and NYMEX Rule 900.A. (NYMEX Clearing Members).

⁶ The Commission notes that the proposed rule change became effective upon filing under Section 19(b)(3)(A) of the Act. CME’s statement indicates that the proposed rule change, which became effective on August 12, 2011, became operative that same day.

proposed rule change is properly filed under Section 19(b)(3)(A)⁷ and Rule 19b-4(f)(4)(ii)⁸ thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures and does not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A)⁹ of the Act and paragraph (f)(4)(ii) of Rule 19b-4¹⁰ became effective on August 12, 2011, the same date CME's corresponding filing with the CFTC became effective. At any time within sixty days of the filing of such rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for

⁷ Supra note 3.

⁸ Supra note 4.

⁹ Supra note 3.

¹⁰ Supra note 4.

the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. 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. Please include File No. SR-CME-2011-02 on the subject line.
- Paper comments should be sent in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C., 20549-1090.

All submissions should refer to File Number SR-CME-2011-02. 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. Copies of such filing also will be available for inspection and copying at the principal office of CME. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CME-2011-02 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Elizabeth M. Murphy
Secretary

¹¹ 17 CFR 200.30-3(a)(12).