

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71201; File No. SR-CME-2013-35)

December 30, 2013

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Modifications to its OTC FX Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 23, 2013, Chicago Mercantile Exchange Inc. (“CME”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rules 19b-4(f)(2) and 19b-4(f)(4)(ii)<sup>4</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

CME proposes to extend the terms of a current OTC FX fee waiver program. The text of the proposed rule change is below. Underscored text indicates additions; bracketed text indicates deletions.

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(2) and 17 CFR 240.19b-4(f)(4)(ii).

## **CME OTC FX Fee Waiver Program**

### **Program Purpose**

The purpose of this Program is to incentivize market participants to submit transaction in the OTC FX products listed below to the Clearing House for clearing. The resulting increase in volume benefits all participant segments in the market.

### **Product Scope**

The following cleared only OTC FX products (“Products”):

1. CME Cleared OTC FX – Emerging Markets
  - a. USDBRL, USDCLP, USDCNY, USDCOP, USDIDR, USDINR, USDKRW, USDMYR, USDPEN, USDPHP, USDRUB, USDTWD Non-Deliverable Forwards.
  - b. USDCZK, USDHUF, USDHKD, USDILS, USDMXN, USDPLN, USDSGD, USDTHB, USDTRY, USDZAR Cash-Settled Forwards.
2. CME Cleared OTC FX – Majors
  - a. AUDJPY, AUDUSD, CADJPY, EURAUD, EURCHF, EURGBP, EURJPY, EURUSD, GBPUSD, NZDUSD, USDCAD, USDCHF, USDDKK, USDJPY, USDNOK, USDSEK Cash-Settled Forwards.

### **Eligible Participants**

The temporary reduction in fees will be open to all market participants and will automatically be applied to any transaction in the Products submitted to the Clearing House for clearing.

### **Program Term**

Start date is February 1, 2012. End date is [December 31, 2013] June 30, 2014.

### **Hours**

The Program will be applicable regardless of the transaction time.

### **Program Incentives**

*Fee Waivers.* All market participants that submit transactions in the Products to the Clearing House will have their clearing fees waived.

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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to modify the fees that apply to certain OTC FX cleared-only products cleared at CME. More specifically, the proposed changes would extend the existing CME fee waiver program supporting OTC FX products through June 30, 2014. The fee waiver program applies to all market participants and the fee waivers automatically apply to any transaction in the covered products submitted to CME for clearing. The current program by its terms is set to expire on December 31, 2013. All other terms of the fee waiver program would remain unchanged. Although the changes would become effective on filing, CME plans to operationalize the proposed fee changes on January 2, 2014.

The changes that are described in this filing impact fees for OTC FX products; these proposed fee changes are therefore limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC") and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has already submitted the proposed rule changes

that are the subject of this filing to its primary regulator, the CFTC, in CME Submission 13-455R.

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.<sup>5</sup> More specifically, the proposed rule changes establish or change a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii)<sup>6</sup> of the Securities Exchange Act of 1934 and Rule 19b-4(f)(2)<sup>7</sup> thereunder. CME believes that the proposed fee change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder and, in particular, to 17A(b)(3)(D)<sup>8</sup>, because the proposed fee changes apply equally to all market participants clearing covered products and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues.

Furthermore, the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization. These products are under the exclusive jurisdiction of the CFTC.<sup>9</sup> As such, the proposed CME changes are limited to

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<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>9</sup> CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps. CME believes the proposed changes will promote increased centralized clearing of swaps products and should therefore be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.<sup>10</sup>

Because the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization, the proposed changes are also properly classified as effecting a change in an existing service of CME that:

- (a) primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and
- (b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are also consistent with the requirements of Section 17A of the Exchange Act<sup>11</sup> and are properly filed under Section 19(b)(3)(A)<sup>12</sup> and Rule 19b-4(f)(4)(ii)<sup>13</sup> thereunder.

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<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>11</sup> 15 U.S.C. 78q-1.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(4)(ii).

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. The rule changes simply extend a current CME OTC FX fee waiver and as such do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

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 has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>14</sup> of the Act and paragraphs (f)(2) and (f)(4)(ii) of Rule 19b-4<sup>15</sup> thereunder. At any time within 60 days of the filing of the proposed 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 the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>16</sup>

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(2) and 17 CFR 240.19b-4(f)(4)(ii).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(C).

#### 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:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CME-2013-35 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-CME-2013-35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the

principal office of CME and on CME's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

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-2013-35 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.<sup>17</sup>

Elizabeth M. Murphy  
Secretary

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