

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71670; File No. SR-CME-2014-06)

March 10, 2014

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rules Changes Regarding Implementation of Rules to Address Third Party Swap Execution Platforms

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2014, 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)(iii) of the Act<sup>3</sup> and Rule 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 is filing proposed rules changes that address issues relating to third party swap execution platforms. The proposed rules generally clarify the time at which the rules of the CME Clearing House (“Clearing House”) apply, confirm the authority of the Clearing House to conduct risk management in conformance with its obligations under applicable regulations, and ensure that the Clearing House has sufficient flexibility to perform default management as

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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)(iii).

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

required by applicable regulations. In addition, the proposed rules ensure that voids and price adjustments cannot occur after clearing without Clearing House consent, stipulate that Execution Platforms connected to the Clearing House comply with regulatory obligations, and require position transfers to comply with the Clearing House rules. Further, the proposed rule clarifies that it does not apply to security-based swaps. The proposed rules are limited to CME's business as a derivatives clearing organization clearing swaps under the jurisdiction of the Commodity Futures Trading Commission ("CFTC").

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. The purpose of these proposed rule changes is to address issues relating to third party swap execution platforms. Although these changes will be effective on filing, CME plans to operationalize the proposed changes on February 28, 2014.

Proposed Rule 815 is designed to address the risks posed to the Clearing House by third party execution platforms for swaps. The proposed rules: clarify the time at which the rules of the Clearing House apply; confirm the authority of the Clearing House to conduct risk

management in conformance with its obligations under CFTC Regulation 39.13; and ensure that the Clearing House has sufficient flexibility to perform default management as required under CFTC Regulations 39.16 and 39.27(b)(4). Proposed Rule 815 also explains that all third party execution platforms (“Execution Platforms”) that submit, or have submitted on their behalf, swap trades for clearing to the Clearing House, are bound by the Clearing House Rules. CME notes that the Clearing House also separately negotiated provisions in its commercial agreements with third party execution platforms for swaps which stipulate that the Clearing House rules apply once a trade has been submitted for clearing. In addition, the Execution Platforms all contractually agreed to be bound by the Clearing House rules applicable to the clearing services provided to them by the Clearing House.

Proposed Rule 815 specifically confirms that the Clearing House rules apply once a trade has been submitted for clearing and that the Clearing House has the sole authority, where circumstances permit, to: accept or reject trades, block or cancel trades, block or terminate connections with Execution Platforms, determine whether it will accept trade transaction counterparty risk and determine whether contracts are economically equivalent. In addition, the proposed rules ensure that voids and price adjustments cannot occur after clearing without Clearing House consent, stipulate that Execution Platforms connected to the Clearing House comply with regulatory obligations, and require position transfers to comply with the Clearing House rules. The proposed rules are intended to avoid the possibility of unacceptable ambiguities regarding the clearing and risk management of swap positions and prevent the actions of third parties from limiting or interfering with the ability of the Clearing House to perform prudent risk management and comply with its regulatory obligations. The proposed rule does not apply to security-based swaps.

CFTC Regulations require DCOs like the Clearing House to implement an enforceable legal framework to address the default of a clearing member, including but not limited to, the unimpeded ability to liquidate collateral and close out or transfer positions in a timely manner. The Clearing House believes that Execution Platforms may provide the necessary liquidity pools in the future which may assist it in closing out positions in a timely manner. As such, the Clearing House determined that it was important to implement a binding rule providing it with the ability to access the swap liquidity available at Execution Platforms. As noted above, Execution Platforms agreed to be bound by the Clearing House rules in their commercial arrangements with the Clearing House which, in conjunction with these rules, enhances the legal framework under which the Clearing House manages default risks.

The changes that are described in this filing are 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 14-060.

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> The proposed rule changes are generally designed to: address risks posed by third party execution platforms for swaps by clarifying the time at which the rules of the Clearing House apply; confirm the authority of the Clearing House to conduct risk management in conformance with its regulatory obligations; and ensure that the Clearing House has sufficient flexibility to perform default management. In

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

addition, the proposed rules ensure that voids and price adjustments cannot occur after clearing without Clearing House consent, stipulate that Execution Platforms connected to the Clearing House comply with regulatory obligations, and require position transfers to comply with the Clearing House rules. Further, the proposed rule clarifies that it does not apply to security-based swaps. These purposes 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>6</sup>

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. As such, the proposed CME changes are limited to CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps; 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.

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 properly classified as effecting a change in an existing service of CME that:

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

(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 therefore consistent with the requirements of Section 17A of the Exchange Act<sup>7</sup> and are properly filed under Section 19(b)(3)(A)<sup>8</sup> and Rule 19b-4(f)(4)(ii)<sup>9</sup> thereunder.

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 proposed rule changes address potential risks posed to the Clearing House by third party execution platforms. The proposed rules clarify the time at which the rules of the Clearing House apply; confirm the authority of the Clearing House to conduct risk management in conformance with its regulatory obligations; and ensure that the Clearing House has sufficient flexibility to perform default management. In addition, the proposed rules ensure that voids and price adjustments cannot occur after clearing without Clearing House consent, stipulate that Execution Platforms connected to the Clearing House comply with regulatory obligations, and require position transfers to comply with the Clearing House rules. Further, the proposed rule clarifies that it does not apply to security-based swaps. These purposes do not act

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<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(4)(ii).

as a restraint on competition but rather are prudent measures in line with the Clearing House's regulatory risk management obligations.

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 pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>11</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.

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-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-CME-2014-06 on the subject line.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(4)(ii).

Paper Comments:

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

All submissions should refer to File Number SR-CME-2014-06. 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-2014-06 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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