



This document is scheduled to be published in the Federal Register on 11/01/2011 and available online at <http://federalregister.gov/a/2011-28213>.

8010-01p

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65637; File No. SR-CME-2011-12)

October 26, 2011

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Expand its OTC FX Swaps Clearing Offering

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 October 17, 2011, the 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. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

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

The proposed rule changes amend current CME rules to expand its cleared-only, foreign currency (“FX”) swaps offering to support the introduction of (1) twenty-six new foreign FX currency derivatives for over-the counter (“OTC”) cash settlement; and (2) eleven new FX non-deliverable forward transaction currency pairs for traditional, OTC cash settlement. Both types of new FX derivatives products will be offered as cleared-only products.

The text of the proposed rule change is available on CME’s Web site at <http://www.cmegroup.com>, at the principal office of CME, and at the Commission’s Public

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Reference Room.

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 III 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

CME currently offers clearing for certain U.S. Dollar/Chilean Peso ("USD/CLP") spot, forward and swap contracts that are executed between two counterparties on an over-the-counter ("OTC") basis. These products, described in CME Rule 274H, are listed for clearing-only; after two counterparties submit qualifying transactions to CME, the transactions are novated to the CME Clearing House. For purposes of CME Rules, the minimum-fluctuations currency is the Chilean peso and the clearing-unit currency is the U.S. dollar.

CME's proposed rule changes are intended to amend certain rules to support the introduction of additional cleared-only OTC foreign currency derivatives. More specifically, the proposed filing would add: (1) twenty-six new foreign exchange ("FX") currency derivatives for over-the counter ("OTC") cash settlement; and (2) eleven new FX non-deliverable forward ("NDF") transaction currency pairs for traditional, OTC cash settlement. As mentioned above, both categories of new FX derivatives products will be offered as cleared-only products.

The twenty-six new FX pairs are branded as CME WM/Reuters spot, forward and swap products. They include the following currency pairs: GBP/USD; USD/CAD; USD/JPY;

USD/CHF; AUD/USD; USD/MXN; NZD/USD; USD/ZAR; EUR/USD; USD/NOK; USD/SEK; USD/CZK; USD/HUF; USD/PLN; USD/ILS; USD/TRY; USD/DKK; EUR/GBP; EUR/JPY; EUR/CHF; AUD/JPY; CAD/JPY; EUR/AUD; USD/HKD; USD/SGD; and USD/THB. Although the twenty-six new OTC CME WM/Reuters currency pairs are capable of being physically deliverable, they may also be cash settled in U.S. dollars to the OTC FX benchmark WM/Reuters London FX Closing Spot Rate (4 PM London time).

The eleven new NDF FX pairs are very similar to CME's current USD/CLP product. These cash-settled OTC products will include the following currency pairs: USD/BRL; USD/RMB; USD/RUB; USD/COP; USD/PEN; USD/KRW; USD/INR; USD/MYR; USD/IDR; USD/TWD; and USD/PHP. Like the current CME USD/CLP product, the USD versus BRL, RMB, RUB, COP, PEN, KRW, INR, MYR, IDR, TWD and PHP products are offered as NDF-style contracts financially or cash settled in U.S. dollars with positions held in clearing at the original trade price marked to the applicable standard OTC NDF settlement rate option (many are central bank determined/sanctioned rates). For example, final settlements for USD/BRL spot transactions are concluded based on the difference between (1) the spot exchange rate of Brazilian real per U.S. dollar "Central Bank of Brazil PTAX offered rate" as reported for the valid value date for cash settlement by Banco Central do Brasil for the formal exchange market, and (2) the original trade price for each transaction, and (3) the result divided by the BRL per USD spot exchange rate to convert notional BRLs to USDs. Cash settlement of cleared only transactions occurs on a net basis at the customer account level.

OTC FX transactions that are executed bilaterally through brokers, ECNs or other FX trading platforms, when submitted to CME Clearing, are novated for purposes of clearing and application of financial safeguards, bookkeeping, trade processing, and final delivery or cash

settlement. These contracts will be carried in CME's OTC sequestered account class.

CME Clearing uses the SPAN system to establish performance bond or "margin" requirements for FX spot, forwards and swaps. Initial performance bond requirements are established at levels that are consistent with observed levels of volatility in the particular currency pairing and generally aligned with initial margin levels applied to current CME FX futures and option contracts, where applicable. CME Clearing collects and pays in cash between the counterparties each day. CME Clearing will accept as collateral cash or any other instruments currently designated as approved collateral for posting for performance bonds. In order to calculate variation requirements, settlement prices will be established for each contract and for each delivery date referencing data collected from a variety of market sources.

CME notes that it has also submitted the proposed rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission ("CFTC").

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act because they involve clearing of swaps and thus relate solely to CME's swaps clearing activities pursuant to its registration as a derivatives clearing organization under the Commodity Exchange Act ("CEA") and do 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. CME further notes that the policies of the CEA with respect to clearing 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. The proposed rule changes accomplish those objectives by offering investors clearing for an expanded range of FX OTC swap products.

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. 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-2011-12 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-2011-12. 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. 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-2011-12 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

In its filing, CME requested that the Commission approve this request on an accelerated basis, for good cause shown. CME has articulated three reasons for granting this request on an accelerated basis. One, the products covered by this filing, and CME's operations as a derivatives clearing organization for such products, are regulated by the CFTC under the CEA. Two, the proposed rule changes relate solely to FX swap products and therefore relate solely to its swaps clearing activities and do not significantly relate to CME's functions as a clearing agency for security-based swaps. Three, not approving this request on an accelerated basis will have a significant impact on the swap clearing business of CME as a designated clearing organization.

Section 19(b) of the Act³ 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. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act,⁴ and the rules and regulations thereunder applicable to CME. Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions because it should allow CME to enhance its services in clearing foreign currency derivative products, thereby promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions.⁵

The Commission finds good cause for accelerating approval because: (i) the proposed rule change does not significantly affect any securities clearing operations of the clearing agency (whether in existence or contemplated by its rules) or any related rights or obligations of the clearing agency or persons using such service; (ii) CME has indicated that not providing accelerated approval would have a significant impact on the foreign currency derivative products clearing business of CME as a designated clearing organization; and (iii) the activity relating to the non-security clearing operations of the clearing agency for which the clearing agency is seeking approval is subject to regulation by another regulator.

³ 15 U.S.C. 78s(b).

⁴ 15 U.S.C. 78q-1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78q-1(b)(3)(F).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2)⁶ of the Act, that the proposed rule change (SR-CME-2011-12) is approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁷

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2011-28213 Filed 10/31/2011 at 8:45
am; Publication Date: 11/01/2011]

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).