

SUBMISSION COVER SHEET

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Registered Entity Identifier Code (optional): 16-083 (2 of 5)

Organization: Chicago Mercantile Exchange Inc. ("CME")

Filing as a: DCM SEF DCO SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 05/02/2016 Filing Description: Amendments to CME, CBOT, NYMEX and COMEX Chapter 8 ("Clearing House and Performance Bonds"); CME Chapter 8G ("Interest Rate Derivative Clearing") and CME Chapter 8H ("Credit Default Swaps Clearing") to Effect Conditions of European Commission's Equivalence Determination

SPECIFY FILING TYPE

Please note only ONE choice allowed per Submission.

Organization Rules and Rule Amendments

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers: 826, 828, 829, 8G07, 8H07, 8G829, 8H829

New Product

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Official Product Name:

Product Terms and Conditions (product related Rules and Rule Amendments)

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected:

Rule Numbers:

May 2, 2016

VIA ELECTRONIC PORTAL

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

RE: CFTC Regulation 40.6(a) Certification. Notification Regarding Amendments to CME, CBOT, NYMEX and COMEX Chapter 8 (“Clearing House and Performance Bonds”); CME Chapter 8G (“Interest Rate Derivative Clearing”) and CME Chapter 8H (“Credit Default Swaps Clearing”) to Effect Conditions of European Commission’s Equivalence Determination. CME/CBOT/NYMEX/COMEX Submission No. 16-083 (2 of 5)

Dear Mr. Kirkpatrick:

Pursuant to Commodity Futures Trading Commission (“CFTC”) Regulation 40.6(a)¹, Chicago Mercantile Exchange Inc. (“CME”), The Board of Trade of the City of Chicago, Inc. (“CBOT”), New York Mercantile Exchange, Inc. (“NYMEX”) and Commodity Exchange, Inc. (“COMEX”) (collectively, the “Exchanges”) hereby self-certify adoption of new CME/CBOT/NYMEX/COMEX Rules 826, 828, 829, 8G829 and 8H829 and amendments to existing CME Rules 8G07 and 8H07 (collectively, the “Rule Amendments”) which are required to effect the conditions outlined in the European Commission’s (the “EC”) implementing decision of equivalence in accordance with Article 25(6) of the European Markets Infrastructure Regulation (EU) No 648/2012 (“EMIR”) and dated February 24, 2016 (the “Implementing Decision”).²

These changes are required to satisfy the equivalence conditions as agreed to by the CFTC and the EC, in order that the CME Clearing House can be recognized by the European Securities and Markets Authority (“ESMA”) under EMIR Article 25. The Rule Amendments were reviewed and approved by Exchange officers pursuant to delegated authority from the Exchanges’ Board of Directors. Each of the Clearing House’s risk committees reviewed and approved the Rule Amendments within their purview. The Rule Amendments will become effective on May 25, 2016. EMIR Article 25(6) establishes as a precondition to ESMA recognition of a third-country

¹ The Rule Amendments are being submitted pursuant to CFTC Regulation 40.6(a) due to the fact that there is not a reasonable possibility that the Rule Amendments could affect the performance of essential clearing and settlement functions or the overall nature or level of risk presented by CME Clearing.

² Generally, CME Clearing would not be self-certifying new rules or amendments to existing rules to effectuate increases to margin levels where the margin methodology is not changed. In fact, the Part 40 rule adopting release clarifies that this is the proper approach where it notes that “the Commission is not authorized to ‘set specific margin amounts’ under Section 8a(7)(D)(iii) of the Act.” Instead, the Commission’s role is to review margin methodology changes which are rules “relating to the setting of margin levels,” not the changes to the margin levels themselves. Effectively, this rule filing is an isolated occurrence where the margin levels applied by CME Clearing are generating rules in order to satisfy the equivalence conditions set forth in the Implementing Decision.

CCP (“TC-CCP”) that the EC deem an applicant TC-CCP’s home regulatory standards as equivalent to those set forth in EMIR. In order for a third-country legal regime to be considered equivalent to EMIR, the substantive outcome of the applicable legal and supervisory arrangements should be equivalent to EU requirements in respect of the regulatory objectives they achieve. Over the past few years, the EC and the CFTC engaged in discussions regarding the EC’s determination of the CFTC’s derivatives clearing organization (“DCO”) regulatory framework as equivalent to that of EMIR. The Implementing Decision determined that CFTC regulations for SIDCOs may be complemented by the CCP’s internal rules and procedures. CME’s internal rules are required to be modified per the Implementing Decision to deliver substantive outcomes equivalent to the effects of the rules contained in EMIR.

Upon recognition by ESMA, CME Clearing will have the regulatory standing required to continue to serve markets in the European Union (“EU”) by acting as an eligible central counterparty (“CCP”) after implementation of the local clearing mandate, currently scheduled to go into effect on June 21, 2016. The EU has taken the unique approach to Basel III implementation that status as a qualifying CCP (“QCCP”) for European counterparties is conditioned upon the CCP being recognized or authorized under the local regulatory framework. ESMA recognition will make CME Clearing a QCCP for purposes of the EU Capital Requirements Regulation, levelling the playing field between U.S. and EU CCPs in respect of the capital treatment their respective counterparties will face on cleared trades. CME Clearing submitted its application for recognition as a TC-CCP to ESMA on September 13, 2013. ESMA deemed the application complete as of August 26, 2014. ESMA suspended review of CME Clearing’s completed TC-CCP application in May 2015 while the equivalence determination remained pending.

On February 10, 2016, the EC and CFTC released a joint statement announcing the EC’s intention to adopt a positive equivalence determination with respect to the DCO regulatory framework, noting that “[t]he steps need to implement this agreement [on equivalence conditions] will be put into place as soon as practicable.” The Implementing Decision includes the condition that DCOs seeking recognition under EMIR demonstrate their internal rules and procedures ensure:

- 1) for clearing members’ proprietary positions in exchange traded derivatives (“ETD”),³ the collection of initial margins are sufficient to take into account a two-day liquidation period;
- 2) that initial margin models include measures to mitigate the risk of procyclicality; and
- 3) the maintenance of pre-funded ‘cover 2’ default resources.⁴

In connection with the Rule Amendments, the Exchanges reviewed the DCO core principles (“DCO Core Principles”), the subpart C regulations applicable to systemically important derivatives clearing organizations (“SIDCOs”) and the designated contract market core principles (“DCM Core Principles”), as set forth in the Commodity Exchange Act (“CEA” or “Act”) and CFTC regulations. During the review, the Exchanges identified that the Rule Amendments may have some bearing on the following principles:

- DCM Core Principle 7 – Availability of general information: The Exchange rules as

³ The conditions will not apply with respect to agricultural commodity derivatives that qualify for the exemption set forth in Art. 2(1) of the Implementing Decision.

⁴ The Implementing Decision is available at:

<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&TsVYZ/CYVaKrfJI DiQUIvJFPOrjeld3O5/U0OEDszy/VqHZGdlwy2rS97ztb5t8b>.

revised by the Rule Amendments will continue to be posted publicly on the CME Group website in satisfaction of this core principle.

- DCO Core Principle B – Financial resources: CFTC Regulation 39.33(a)(1) (“Regulation 39.33”) requires a SIDCO to maintain financial resources sufficient to enable it to meet its financial obligations to its clearing members notwithstanding a default by the two clearing members creating the largest combined loss to the SIDCO in extreme but plausible market conditions. Regulation 39.33(a)(4) provides that affiliates of clearing members are to be accounted for when determining which clearing members create the largest combined loss to the DCO. CME has been subject to these standards since Regulation 39.33 became effective and there will be no impact to the Exchanges or market participants from the adoption of CME/CBOT/NYMEX/COMEX Rule 828 or amendments to CME Rules 8G07 and 8H07 (collectively, the “Cover 2 Rules”), which are being added and revised, respectively, only to implement these requirements in the Exchange rules in satisfaction of the EC’s equivalence conditions. The Cover 2 Rules reflect existing regulatory requirements to which the Exchanges are subject and no impact to the Clearing House or its clearing members is expected from adoption of the Cover 2 Rules.
- DCO Core Principle D – Risk management: CFTC Regulation 39.13 establishes minimum coverage levels and risk-based parameters for initial margin requirements. Pursuant to the terms of the Implementing Decision, the Exchanges are adopting new CME/CBOT/NYMEX/COMEX Rule 826 (the “2-Day MPOR Rules”) establishing a two-day minimum liquidation period, calculated on a net basis, to be applicable to non-exempt clearing member proprietary positions, and new Rules 829, 8G829 and 8H29 (the “APC Rules”) in respect of the requirement to establish anti-procyclicality (“APC”) measures in its rules that are at least equivalent to those established in EMIR Regulatory Technical Standards (“RTS”) Art. 28, or in the case of IRS and CDS, consistent with the requirements set out in EMIR RTS Art. 28. CME Clearing utilizes robust APC measures to ensure that it collects margins at stable and conservative levels. In addition, CFTC Regulation 39.13(g)(8)(A) requires DCOs to collect margin on a gross basis for customer ETD and swaps accounts (at one- and five-day minimum margin periods of risk (“MPOR”), respectively). The gross collection of margin in conjunction with CME Clearing’s APC measures establish specific risk management measures that result in conservative and stable margin calculation and collection.

After implementation of the 2-Day MPOR Rules for non-exempt ETD carried in clearing member proprietary accounts, CME Clearing’s methodologies for calculating margin will remain substantially the same; however, the Clearing House will calculate and collect margin for clearing member proprietary accounts utilizing a two-day MPOR for these products. In many cases, CME Clearing already applies at least a two-day MPOR to ETD products which it clears. However, for products where CME Clearing does not currently apply a two-day MPOR standard, it will move to a two-day MPOR. Where margin level increases are necessary, CME Clearing will adjust margin levels accordingly in compliance with its rules.

With respect to APC, the Rules require that CME’s APC measures achieve an outcome equivalent to that which would be reached by applying the standards required under EMIR RTS Article 28. The APC Rules describe existing measures used to mitigate procyclical effects on performance bond requirements that have been designed to

achieve conservative and stable margins in a manner consistent with the variety of asset classes cleared by CME Clearing. CME/CBOT/NYMEX/COMEX Rule 829 outlines CME Clearing's targeted approach to addressing APC for different asset classes in futures and futures on options equivalent to those required under EMIR RTS Art. 28, whereas Rules 8G829 and 8H829 confirm that CME Clearing specifically applies one of the requirements under EMIR RTS Art. 28 for IRS and CDS, respectively.

After the implementation of the APC Rules, CME Clearing's methodologies for calculating margin will remain substantially the same. However, the Clearing House will, on a daily basis compare the impact of CME Clearing's APC measures on margin conservativeness and stability against the impact of one of the EMIR APC measures on margin to ensure that CME Clearing remains in compliance with the requirement under its rules to that its APC measures are at least equivalent to those established in EMIR RTS Art. 28, as set out in the Rule Amendments.

The Exchanges propose the Rule Amendments in satisfaction of the aforementioned conditions as agreed to by the CFTC and the EC, in order for ESMA to recognize CME Clearing as a TC-CCP and permit the Clearing House to offering its clearing services in the EU, without interruption or degradation of its ability to offer clearing services in a competitive manner.

Pursuant to Section 5c(c) of the CEA and CFTC Regulation 40.6(a), the Exchanges certify that the Rule Amendments comply with the CEA and regulations thereunder. The Exchanges are required to implement these changes as a precondition to recognition under EMIR. The Exchanges are not aware of any substantive opposing views to this proposal.

The Exchanges certify that this submission has been concurrently posted on CME Group's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please contact me at (212) 299-2200 or via e-mail at CMEGSubmissionInquiry@cmegroup.com.

Sincerely,

/s/ Christopher Bowen
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit A: Revisions to CME/CBOT/NYMEX/COMEX Rules

EXHIBIT A

CME/CBOT/NYMEX/COMEX

Chapter 8–Clearing House and Performance Bonds; Chapter 8G–Interest Rate Derivative Clearing; Chapter 8H–Credit Default Swaps Clearing

(additions underlined)

CME/CBOT/NYMEX COMEX

Chapter 8

Clearing House and Performance Bonds

Anti-Procyclicality Rules

CME/CBOT/NYMEX/COMEX Rule 829 MEASURES TO MITIGATE PROCYCLICALITY

(a) With respect to exchange traded derivatives contracts it clears, the Clearing House shall establish performance bond requirements designed to limit the likelihood of procyclical changes in performance bond requirements and mitigate costly and disruptive adjustments to performance bond requirements in periods of high market volatility. The Clearing House shall maintain specific risk management procedures ensuring that performance bond is calculated and collected on a basis that includes measures designed to limit procyclicality that are equivalent to at least one of the options listed in Article 28 (Procyclicality) of Delegated Regulation (EU) No. 153/2013. Such anti-procyclicality measures shall include tools such as extended lookback periods, seasonal volatility metrics, volatility floors, stress volatility metrics and implied volatility.

The Clearing House shall regularly review the measures it utilizes to address procyclicality to ensure they are appropriate in light of market conditions.

Further, the Clearing House’s anti-procyclicality measures shall be designed to ensure that its policy for setting performance bond requirements delivers forward looking, stable, conservative, and prudent performance bond requirements that limit procyclicality to the extent that the soundness and financial security of the CCP is not negatively affected.

(b) Paragraph (a) does not apply to positions in agricultural commodity derivatives contracts that meet the exclusion criteria established in the Article 2 of the European Commission’s equivalence determination dated February 24, 2016.

CME

Chapter 8G

Interest Rate Derivative Clearing

CME Rule 8G829 MEASURES TO MITIGATE PROCYCLICALITY

In order to limit procyclical performance bond changes, with respect to IRS contracts, the Clearing House shall establish performance bond requirements not lower than those that would be calculated using volatility estimated over a ten (10) year historical lookback period.

CME
Chapter 8H
Credit Default Swaps Clearing

CME Rule 8H829 MEASURES TO MITIGATE PROCYCLICALITY

In order to limit procyclical performance bond changes, with respect to CDS contracts, the Clearing House shall establish performance bond requirements that assign at least twenty-five percent (25%) weight to stressed observations in the lookback period.

CME/CBOT/NYMEX COMEX
Chapter 8
Clearing House and Performance Bonds

2-Day MPOR Rule

CME/CBOT/NYMEX/COMEX Rule 826 PROPRIETARY ACCOUNT MINIMUM LIQUIDATION PERIOD

- (a) With respect to clearing member proprietary positions, the Clearing House shall ensure performance bond requirements are calculated and collected using a liquidation period of not less than two (2) days calculated on a net basis.
- (b) Paragraph (a) of this Rule does not apply to positions in (i) agricultural commodity derivatives contracts that meet the exclusion criteria established in Article 2 of the European Commission's equivalence determination dated February 24, 2016; or (ii) cleared-only OTC products accepted for clearing by the Clearing House.

Cover 2 Rules

CME/CBOT/NYMEX/COMEX Rule 828 BASE FINANCIAL RESOURCES

The Clearing House shall maintain funded financial resources sufficient to enable the Clearing House to meet its financial obligations to CME, CBOT, NYMEX and COMEX clearing members notwithstanding a default by the two clearing members creating the largest combined loss to the Clearing House in extreme but plausible market conditions. If a clearing member controls another clearing member or is under common control with another clearing member, the affiliated clearing members shall be deemed to be a single clearing member for financial resources calculations under this rule.

CME
Chapter 8G
Interest Rate Derivative Clearing

Revisions to CME Rule 8G07: IRS Financial Safeguards and Guaranty Fund Deposit

1. (i) The Clearing House shall establish a financial safeguards package to support IRS clearing, and each IRS Clearing Member shall make an IRS Guaranty Fund deposit with the Clearing House. An IRS Clearing Member's deposit to the IRS Guaranty Fund and assessments against it pursuant to these Rules may be used to cover losses incurred by the Clearing House if a defaulted IRS Clearing Member's assets, including amounts available pursuant to any guarantee from an Affiliate of an IRS Clearing Member, available to the Clearing House are insufficient to cover such loss, regardless of the cause of default. The Clearing House shall calculate the requirements for the IRS financial safeguards package, which shall be composed of:

(a) a funded portion, determined by the Clearing House using stress test methodology equal to the theoretical two largest IRS Clearing Member losses produced by such stress test or such other methodology determined by the IRS Risk Committee (such amount, the "IRS Guaranty Fund"), where the risk of each IRS Clearing Member and its Affiliate(s) are taken into account in calculations sizing the IRS Guaranty Fund; and

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CME
Chapter 8H
Credit Default Swaps Clearing

Revisions CME Rule 8H07: CDS Financial Safeguards and Guaranty Fund Deposit

1. (i) The Clearing House shall establish a financial safeguards package to support CDS clearing, and each CDS Clearing Member shall make a CDS Guaranty Fund deposit with the Clearing House. A CDS Clearing Member's deposit to the CDS Guaranty Fund and assessments against it pursuant to these Rules may be used to cover losses incurred by the Clearing House if a defaulted CDS Clearing Member's assets available to the Clearing House, including any assets pursuant to any guarantee from a parent or other Affiliate of a defaulted CDS Clearing Member, are insufficient to cover such losses, regardless of the cause of default. The Clearing House shall calculate the requirements for the CDS financial safeguards package, which shall be composed of:

(a) a funded portion, determined by the Clearing House using stress test methodology, calculated on a net exposure basis within each of the proprietary account and the customer account, equal to the largest theoretical aggregate losses caused by the default of any two CDS Clearing Members produced by such stress test or such other methodology, also on such a net exposure basis, determined by the CDS Risk Committee (such amount, plus any additional funds required to be deposited by CDS Clearing Members as a result of the minimum contribution requirement below, the "CDS Guaranty Fund"), where the risk of each CDS Clearing Member and its Affiliate(s) are taken into account in calculations sizing the CDS Guaranty Fund; and

...