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**VIA E-MAIL**

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

**Re: Regulation 40.6(a) Rule Certification. CME Clearing Europe limited. Submission #11-397: Notification Regarding the Addition of New Rules to the CMECE Clearing Rules.**

Dear Mr. Stawick,

CME Clearing Europe Limited ("CMECE" or "the Clearing House") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying a change to the CMECE Clearing Rules. The changes are additional wording in the Disciplinary Proceedings (section 9.4) to set out full details of the composition of any Disciplinary Panel. Other changes have been made to update rule numbers and references to other rule numbers where necessary as a result of the change. Full details can be found in the Appendix.

The change is due to come into effect on November 14, 2011.

**COMPLIANCE WITH CORE PRINCIPLES**

An analysis of the Core Principles has been conducted by CMECE business and compliance staff. The Core Principles set out below have been identified as potentially being impacted by the addition of the new contract and/or the rule changes; however we have concluded that their introduction will not affect CMECE's ability to comply with the Core Principles. We have not listed the remaining Core Principles that, in our assessment, are unaffected.

**RULE ENFORCEMENT**

The Disciplinary Proceedings for these products will be exactly the same as described in CMECE's application to become a derivatives clearing organization, except that the Risk Committee will no longer act as the Disciplinary Panel under the CMECE Rules. The Board of Directors felt it was inappropriate for the Risk Committee - largely comprised of industry professionals - to perform such a role due to the conflicts of interest that may arise. However, as 9.4.3 states, Risk Committee members may be chosen to sit on the Panel.

The rules previously stated that for the purposes of each Disciplinary Proceeding the Board of Directors shall nominate the members of a disciplinary panel, as it deems appropriate. The change to the rules now state clearly how the disciplinary panel will be comprised. The wording is designed to ensure the panel is comprised of individuals with relevant knowledge and experience and that conflicts of interest are avoided.

## **GOVERNANCE FITNESS STANDARDS**

Revised rule 9.4 establishes appropriate fitness standards for members of any disciplinary committee. These will be enforced by CMECE.

## **CONFLICTS OF INTEREST**

The new rule 9.4 has been designed to ensure that members of the disciplinary panel will not be conflicted. In particular, it states that

Neither employees nor directors of the Clearing House shall be appointed to a Disciplinary Panel.

No Clearing Member subject to disciplinary proceedings or any of their Affiliates, Representatives or customers shall be appointed to a Disciplinary Panel.

No person shall serve on or sit with a Disciplinary Panel if he has a personal or financial interest in, or has been involved in any investigation into the matter under consideration.

No person shall serve on or sit with a Disciplinary Panel if an undertaking with which he is associated has any commercial relationship with any [Affiliates, Representatives or customers] that may cause actual or potential material conflict.

The new rule also establishes what will happen in the event of any member of the Disciplinary Panel having or acquiring a personal or financial interest in the outcome, or a commercial relationship as described above. We therefore believe that the additional rules strengthen CMECE's protection against potential conflicts of interest.

## **COMPOSITION OF GOVERNING BOARDS**

The new rules on how the disciplinary panel will be comprised state that the two "other persons" sitting on the disciplinary panel with the chairman shall be "market practitioners, members of the Risk Committee, experts, lawyers or other suitable persons at the discretion of the Clearing House".

No opposing views have been expressed to CMECE by the governing board or committee members, members of the entity or market participants.

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act ("Act") and CFTC Regulation 40.6(a), CMECE hereby certifies that the attached contracts comply with the Act, including regulations under the Act.

CMECE certifies that this submission has been concurrently posted on the Clearing House's website at: <http://www.cmegroup.com/market-regulation/rule-filings.html> and <http://www.cmeclearingeuropa.com/membership/notices.html>.

CMECE shall provide, if requested by Commission staff, additional evidence, information or data that may be beneficial to the Commission in conducting a due diligence assessment of the filing and CMECE's compliance with any of the requirements of the Act or the Commission's regulations or policies thereunder.

If you require any additional information regarding this action, please do not hesitate to contact me on +44 20 3379 3136 or Anita.Collett@cme clearing europe.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anita Collett', written in a cursive style.

Anita Collett  
Head of Regulatory Compliance

Enclosure

# APPENDIX

*Additions are underlined, deletions are shown ~~struck-through~~.*

## CHANGES TO THE CMECE CLEARING RULES

### Changes to Chapter 9

9.4.3 For the purposes of each Disciplinary Proceeding the Board of Directors shall nominate the members of a disciplinary panel, as it deems appropriate, which shall accordingly be referred to for the purposes of this Rule 0 as the **Disciplinary Panel**. The Disciplinary Panel will be comprised in accordance with (a) to (f) below:

- (a) Each Disciplinary Panel shall consist of a chairman sitting with two other persons. Such persons, including the chairman, that are appointed to the Disciplinary Panel may be market practitioners, members of the Risk Committee, experts, lawyers or other suitable persons at the discretion of the Clearing House.
- (b) Neither employees nor directors of the Clearing House shall be appointed to a Disciplinary Panel.
- (c) No Clearing Member subject to disciplinary proceedings or any of their Affiliates, Representatives or customers shall be appointed to a Disciplinary Panel.
- (d) No person shall serve on or sit with a Disciplinary Panel if he has a personal or financial interest in, or has been involved in any investigation into the matter under consideration.
- (e) No person shall serve on or sit with a Disciplinary Panel if an undertaking with which he is associated has any commercial relationship with any of those parties listed in (c) that may cause actual or potential material conflict.
- (f) Expert assessors may be appointed, at the discretion of the Disciplinary Panel itself, to sit with and advise the Disciplinary Panel but not to vote.

9.4.4 The Clearing Member alleged to have committed the breach may object to any particular appointment to the Disciplinary Panel, which objection will be

determined in the first instance by the chairman of the Disciplinary Panel and, in the event that the objection is in relation to the chairman of the Disciplinary Panel, the Chairman of the Board of Directors of the Clearing House.

9.4.5 In the event of any member of the Disciplinary Panel having or acquiring a personal, or financial interest in the outcome, or a commercial relationship as described in 9.4.3(e), or in any other way being or becoming incapacitated or permanently unavailable, the chairman of the Disciplinary Panel (or in the case of the chairman of the Disciplinary Panel, the Chairman of the Board of Directors of the Clearing House) may direct that the Disciplinary Panel shall continue to act with a reduced number or appoint another person to take the place of the retiring member of the Disciplinary Panel (and the disciplinary proceedings shall then proceed as if such person had been originally appointed in lieu of the first person) or may direct that a new Disciplinary Panel should be appointed to rehear the matter.

9.4.6 In the event of equality of votes, the chairman shall have a second or casting vote in reaching any determination.

9.4.4 9.4.7 [numbering change only]

9.4.5 9.4.8 [numbering change only]

9.4.6 9.4.9 After due consideration of the Defence, the Clearing House may either:

- (a) proceed with the Disciplinary Proceedings;
- (b) terminate the Disciplinary Proceedings; or
- (c) amend the Disciplinary Notice in accordance with Rule 9.4.7 9.4.10.

9.4.7 9.4.10 [numbering change only]

9.4.8 9.4.11 [numbering change only]

~~9.4.9~~ 9.4.12 [numbering change only]

~~9.4.10~~ 9.4.13 [numbering change only]

~~9.4.11~~ 9.4.14 [numbering change only]

~~9.4.12~~ 9.4.15 [numbering change only]

~~9.4.13~~ 9.4.16 The Disciplinary Panel shall communicate in writing its findings and particulars of any sanction determined to the Clearing House and to the Clearing Member concerned. Such findings and sanctions shall be deemed conclusive and binding upon expiry of the time permitted for appeal or receipt by the Clearing House of any earlier written notice from the Clearing Member that such right of appeal will not be exercised. Subject to Rule ~~9.4.14(b)~~ 9.4.17(b), such findings and sanctions shall not be made public.

~~9.4.14~~ 9.4.17 [numbering change only]

~~9.4.15~~ 9.4.18 [numbering change only]

~~9.4.16~~ 9.4.19 The contravention of any sanction imposed or direction made under or pursuant to Rule ~~9.4.14~~ 9.4.17 may be treated for all purposes as a breach of the Rules.

~~9.4.17~~ 9.4.20 [numbering change only]