

staff SE. Table 3 in the staff's August 4, 2005, SE of BAW-2308, Revision 1, contains the NRC staff-accepted  $IRT_{TO}$  and corresponding initial uncertainty term,  $\sigma_I$ , for specific Linde 80 weld wire heat numbers. In accordance with the conditions and limitations outlined in the NRC staff's August 4, 2005 SE of TR BAW-2308, Revision 1, for utilizing the values in Table 3, the licensee's proposed methodology (1) utilized the appropriate NRC staff-accepted  $IRT_{TO}$  and  $\sigma_I$  values for Linde 80 weld wire heat numbers; (2) applied the appropriate chemistry factors for temperatures greater than 167 °F (the weld wire heat-specific chemical composition, via the methodology of RG 1.99, Revision 2, indicated that higher chemistry factors are applicable); (3) applied a value of 28 °F for  $\sigma_{\Delta}$  in the margin term; and (4) submitted values for  $\Delta RT_{NDT}$  and the margin term for each Linde 80 weld in the RPV through the end of the current operating license. Additionally, the NRC's SE for TR BAW-2308, Revision 2, concludes that the revised  $IRT_{TO}$  and  $\sigma_I$  values for Linde 80 weld materials are acceptable for referencing in plant-specific licensing applications as delineated in TR BAW-2308, Revision 2, and to the extent specified under Section 4.0, Limitations and Conditions, of the SE, which states: "Future plant-specific applications for RPVs containing weld heat 72105, and weld heat 299L44, of Linde 80 welds must use the revised  $IRT_{TO}$  and  $\sigma_I$  values in TR BAW-2308, Revision 2." The staff notes that neither of these weld heats is used at DBNPS. Therefore, all conditions and limitations outlined in the NRC staff SEs for TR BAW-2308, Revisions 1-A and 2-A, have been met for DBNPS.

The use of the methodology in TR BAW-2308, Revision 1, will ensure the PTS evaluation developed for the DBNPS RPV will continue to be based on an adequately conservative estimate of RPV material properties and ensure the RPV will be protected from failure during a PTS event. Also, when additional fracture toughness data relevant to the evaluation of the DBNPS RPV welds is acquired as part of the surveillance program, this data must be incorporated into the evaluation of the DBNPS RPV fracture toughness requirements.

Based on the above, no new accident precursors are created by allowing an exemption to use an alternate methodology to comply with the requirements of 10 CFR 50.61 in determining adjusted/indexing reference temperatures, thus, the probability of postulated accidents is not increased. Also, based on the above,

the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety. On February 3, 2010, a new rule, 10 CFR 50.61a, "Alternate Fracture Toughness Requirements for Protection Against PTS Events," became effective. The NRC staff reviewed this new rule against the licensee's exemption request and determined that there is no effect on the exemption request. The new rule does not modify the requirements from which the licensee has sought an exemption, and the alternative provided by the new rule does not address the scope of issues associated with both 10 CFR 50.61 and 10 CFR Part 50, Appendix G that the requested exemption does.

#### *Consistent With Common Defense and Security*

The proposed exemption would allow the licensee to use an alternate methodology to allow the use of fracture toughness test data for evaluating the integrity of the DBNPS RPV beltline welds. This change has no relation to security issues. Therefore, the common defense and security is not impacted by these exemptions.

#### *Special Circumstances*

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR Part 50, Appendix G and 10 CFR 50.61 is to protect the integrity of the reactor coolant pressure boundary by ensuring that each reactor vessel material has adequate fracture toughness. Therefore, since the underlying purpose of 10 CFR Part 50, Appendix G and 10 CFR 50.61 is achieved by an alternative methodology for evaluating RPV material fracture toughness, the special circumstances required by 10 CFR 50(a)(2)(ii) for the granting of an exemption from portions of the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61 exist.

#### **4.0 Conclusion**

The staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for an exemption from certain requirements of Appendix G to 10 CFR Part 50 and 10 CFR 50.61, to allow an alternative methodology that is based on using fracture toughness test data to determine initial, unirradiated properties for evaluating the integrity of the DBNPS RPV beltline welds.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, "Specific exemptions," an exemption from certain requirements of Appendix G to 10 CFR Part 50 and 10 CFR 50.61 is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 76498).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 14th day of December 2010.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63551; File No. SR-CME-2010-01]

### **Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amendments to Chicago Mercantile Exchange's Rules Governing Contract Specifications for Physically Delivered Single Security Futures**

December 15, 2010.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 7, 2010, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CME also has filed this proposed rule change concurrently with the Commodity Futures Trading Commission ("CFTC"). CME filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act on November 24, 2010.

<sup>1</sup> 15 U.S.C. 78s(b)(7).

**I. Self-Regulatory Organization’s Description of the Proposed Rule Change**

CME proposes to amend its Rules governing the trade of physically delivered single security futures. Specifically, the Exchange intends to delist futures on three (3) Exchange

Traded Funds (ETFs), specifically the Nasdaq-100 Tracking Stock<sup>SM</sup> (“QQQQ”), Standard & Poor’s Depository Receipts<sup>®</sup> (“SPDR”) and iShares Russell 2000 (“IWM”).

The text of the proposed rule changed [sic] is as follows (brackets indicate words to be deleted; italics indicate words to be added):

**CHAPTER 710: PHYSICALLY DELIVERED SINGLE SECURITY FUTURES 71004. APPROVED SECURITIES**

The following securities have been approved by the Board of Directors as the subject of Physically Delivered Single Security Futures Contracts:

Approved security	Unit of trading	Minimum fluctuation	Position limit in expiring contract in last 5 trading days
[Nasdaq-100 Tracking Stock <sup>SM</sup> (“QQQQ”)] .....	[200 Shares] .....	[\$0.01 or \$2.00 per contract] .....	[11,250]
[Standard & Poor’s Depository Receipts <sup>®</sup> (“SPDR”)] .....	[100 Shares] .....	[\$0.01 or \$1.00 per contract] .....	[22,500]
[iShares Russell 2000 (“IWM”)] .....	[200 Shares] .....	[\$0.01 or \$2.00 per contract] .....	[11,250]

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of 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.

The self-regulatory organization 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*

1. Purpose

CME intends to delist futures on three (3) Exchange Traded Funds (ETFs),

specifically the Nasdaq-100 Tracking Stock<sup>SM</sup> (“QQQQ”), Standard & Poor’s Depository Receipts<sup>®</sup> (“SPDR”) and iShares Russell 2000 (“IWM”), because trading activity has been *de minimis* in these products as illustrated below.

**AVERAGE DAILY VOLUME**

	Jan–Oct 2010	2009
Nasdaq-100 Tracking Stock <sup>SM</sup> (“QQQQ”) .....	1	1
Standard & Poor’s Depository Receipts <sup>®</sup> (“SPDR”) .....	4	7
iShares Russell 2000 (“IWM”) .....	0	0

2. Statutory Basis

CME believes that the proposed delistings are consistent with Section 6 of the Act.<sup>2</sup> CME believes the rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest, because the proposed rule change merely delists products that have had a *de minimis* amount of historical trading activity on CME.

*B. Self-Regulatory Organization’s Statement on Burden on Competition*

CME does not believe that the proposed action will have an impact on competition because the proposed rule change merely delists products that have had a *de minimis* amount of historical trading activity on CME.

*C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Comments on the proposed rule change have not been solicited.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change has become effective on December 7, 2010. However, CME intends to implement this delisting in such a way as to avoid impacting any current positions in these markets. Accordingly, CME will not delist any contract months while there are open positions. Rather, CME will simply refrain from listing any new contracts. To the extent that open interest declines to zero in any contract month listed subsequent to December 7, 2010, CME shall retire that contract month. Note that, as of Friday, November 12, 2010, there were a total of 14 open positions in the SPDR contract with 5 open contracts in December 2010 and 9 open contracts in

January 2011. There was a total of 9 open positions in the QQQQ contract, all held in the December 2010 contract. Finally, there were zero (0) open positions held in the IWN [sic] contract.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>3</sup>

**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:

<sup>2</sup> 15 U.S.C. 78f(b).

<sup>3</sup> 15 U.S.C. 78s(b)(1).

*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 Number SR-CME-2010-01 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-2010-01. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.<sup>4</sup> 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-2010-01 and should be submitted on or before January 12, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>5</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>4</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov>.

<sup>5</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-63558; File No. SR-NYSEAmex-2010-100]

**Self-Regulatory Organizations; NYSE Amex LLC; Order Approving a Proposed Rule Change Relating to Complex Orders**

December 16, 2010.

**I. Introduction**

On October 20, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to: (i) Add to Rule 900.3NY(h) a definition of "Stock/Complex Order;" (ii) revise Rule 963NY(d) to update the provisions governing open outcry trading of Complex Orders and Stock/option Orders and apply these provisions to Stock/Complex Orders; (iii) delete Rule 963.1NY; (iv) add Rule 980NY(e) to establish an electronic Complex Order Auction ("COA"); and (v) revise other provisions of Rule 980NY to include Stock/Complex Orders. The proposed rule change was published for comment in the **Federal Register** on November 2, 2010.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change.

**II. Description of the Proposal***A. Definition of Stock/Complex Order*

The proposal amends Rule 900.3NY(h) to add a definition of "Stock/Complex Order." Rule 900.3NY(h)(2) defines a "Stock/Complex Order" as the purchase or sale of a Complex Order, as defined in Rule 900.3NY(e), coupled with an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock ("convertible security") representing either (A) the same number of units of the underlying stock or convertible security as are represented by the options leg of the Complex Order with the least number of options contracts, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight options contracts per unit of trading of the underlying stock or convertible security established for that series by the

Clearing Corporation, as represented by the options leg of the Complex Order with the least number of options contracts.

*B. Revisions To Open Outcry Rules*

The proposal revises paragraph (d) of Rule 963NY, "Priority and Order Allocation Procedures—Open Outcry," to update the provisions governing the trading of Complex Orders Stock/option Orders in open outcry. Rule 963NY(d), as amended, will also apply to Stock/Complex Orders trading in open outcry. According to the Exchange, the changes to Rule 963NY(d) streamline and update the text of Rule 963NY(d), but do not alter the Exchange's existing procedures for trading Complex Orders or Stock/option Orders, or the priority of quotations and orders. The Exchange notes that the Rule 963NY(d), as amended, is based on Chicago Board Options Exchange, Incorporated ("CBOE") Rule 6.45(e).<sup>4</sup>

Under Rule 963(d), as amended, Complex Orders, as defined in Rule 900.3NY(e), and Stock/Complex Orders, as defined in Rule 900.3(h)(2), may be executed at a net debit or credit with another ATP Holder without giving priority to equivalent bids (offers) in the individual series legs that are represented in the Trading Crowd or Customer limit orders in the Consolidated Book, provided that at least one options leg of the order betters the corresponding Customer bid (offer) in the Consolidated Book by at least one minimum trading increment, as defined in Rule 960NY (*i.e.*, \$0.10, \$0.50, or \$0.01, as applicable), or a \$0.01 increment, as determined by the Exchange on a class-by-class basis. Stock/option Orders, as defined in Rule 900.3(h)(1), have priority over equivalent bids (offers) of the trading crowd, but not over equivalent Customer bids (offers) in the Consolidated Book.

In addition, Rule 963NY(d) provides that bids and offers for Complex Orders, Stock/option Orders, and Stock/

<sup>4</sup> CBOE Rule 6.45(e) states that "A complex order as defined in Rule 6.42.01 may be executed at a net debit or credit price with another Trading Permit Holder without giving priority to equivalent bids (offers) in the individual series legs that are represented in the trading crowd or in the public customer limit order book provided at least one leg of the order betters the corresponding bid (offer) in the public customer limit order book by at least one minimum trading increment as defined in Rule 6.42 (*i.e.*, \$0.10, \$0.05 or \$0.01, as applicable) or a \$0.01 increment, which increment shall be determined by the Exchange on a class-by-class basis. Stock-option orders and security future-option orders, as defined in Rule 1.1(ii)(a) and Rule 1.1(zz)(a), respectively, have priority over bids (offers) of the trading crowd but not over bids (offers) in the public customer limit order book."

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

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

<sup>3</sup> See Securities Exchange Act Release No. 63187 (October 27, 2010), 75 FR 67424 ("Notice").