

On September 15, 2011, postimplant imaging of the patient revealed that only three seeds were properly located in the prostate (target site), indicating a dose significantly less than the prescribed amount in the written directive. Postimplant imaging also revealed that seven seeds were in the bladder; these seeds were immediately removed. Additional postoperative imaging indicated that a number of seeds had been placed in the bowel wall, bladder wall, and the lumen of the bowel. On October 3, 2011, surgery was performed to remove misplaced seeds. All but four seeds were removed from the patient. With the removal of the seeds that the licensee was able to remove, the licensee concluded that the medical event would not have a significant effect on the patient.

*Cause(s)*—The cause of the medical event was a deviation from protocol by not having a medical physicist present during the procedure and not using fluoroscopy during needle placement.

#### Actions Taken To Prevent Recurrence

*Licensee*—Corrective actions include emphasizing strict adherence to prostate brachytherapy protocols.

*State*—The IEMA conducted an investigation on September 26, 2011, and verified the root cause of the event as reported by the licensee. The IEMA issued an NOV to the licensee regarding this failure to implement appropriate procedures.

Dated at Rockville, Maryland, this 15th day of June, 2012.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67207; File No. SR-CME-2012-21]

### Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend CME Rule 971 Reporting Requirements for FCM Clearing Members

June 15, 2012.

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 June 7,

2012, 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

CME proposes amendments to certain reporting requirements for futures commission merchant (“FCM”) clearing members. The enhanced reporting requirements are designed to further safeguard customer funds held at the FCM level. The text of the proposed changes is as follows with additions italicized and deletions in brackets.

\* \* \* \* \*

#### Rule 100—Rule 970—No Change

\* \* \* \* \*

#### CME Rule 971. SEGREGATION, SECURED AND SEQUESTERED REQUIREMENTS

A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, and 30.7, and CME Rules 8F100 through 8F136. This includes, but is not limited to, the following:

1. Maintaining sufficient funds *at all times* in segregation [or set aside in separate or], *secured 30.7* and sequestered accounts;
2. Computing, recording and reporting completely and accurately the balances in the:

- a. Statement of Segregation Requirements and Funds in Segregation;
- b. Statement of Secured Amounts and Funds Held in Separate Accounts; and
- c. Statement of Sequestration Requirements and Funds Held in Sequestered Accounts.

3. Obtaining satisfactory segregation, [separate] *secured 30.7* and sequestered account acknowledgement letters and identifying segregated, [separate] *secured 30.7* and sequestered accounts as such; and

4. Preparing complete and materially accurate daily segregation, *secured 30.7* and sequestered amount computations in a timely manner.

B. [Exchange staff may prescribe additional segregation, *secured* and sequestered amount requirements.] *All FCM clearing members must submit a daily segregated, secured 30.7 and sequestered amount statement, as applicable, through Exchange-approved*

*electronic transmissions by 12:00 noon on the following business day.*

C. [All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation or set-aside in separate or sequestered accounts. The Audit Department must receive immediate written notification when a clearing member knows or should have known of such failure.] *All FCM clearing members must submit a report of investments in a manner as prescribed through Exchange-approved electronic transmissions as of the 15th of the month (or the following business day if the 15th is a holiday or weekend) and last business day of the month by the close of business on the following business day. The report of investments shall be prepared and shall identify separately for segregated, secured 30.7 and sequestered funds held:*

1. *The dollar amount of funds held in cash and each permitted investment identified in CFTC Regulation 1.25(a); and*

2. *The identity of each depository holding funds and the dollar amount held at each depository.*

D. *All disbursements not made for the benefit of a customer from a segregated, secured 30.7 or sequestered account which exceed 25% of the FCM clearing members excess segregated, secured 30.7 or sequestered of the respective origin must be pre-approved in writing by the clearing member’s Chief Executive Officer or Chief Financial Officer.*

1. *In determining if a disbursement exceeds the 25% level, such disbursement must be:*

a. *Compared to the most recent calculation of excess segregated, secured 30.7 and sequestered amounts; and*

b. *A single disbursement must be reviewed individually and in the aggregated with all other disbursements not made for the benefit of a customer of the respective segregated, secured 30.7 or sequestered origin since the last calculation of excess funds.*

2. *Upon approval of a single disbursement or the disbursement which in the aggregated exceeds the 25% level as defined in Rule 971.D.1., the FCM clearing member must provide immediate notification to the Audit Department through Exchange-approved electronic transmissions. Such notification shall include:*

a. *Confirmation that the FCM clearing member’s Chief Executive Officer or Chief Financial Officer pre-approved in writing the disbursement(s);*

b. *The amount(s) and recipient(s) of such disbursement(s); and*

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

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

*c. A description of the reasons for the single or multiple transaction(s) that resulted in the disbursement(s).*

*E. All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation, secured 30.7 or sequestered accounts. The Audit Department must receive immediate written notification when a clearing member knows or should have known of such failure.*

*F. Each statement and report filing required under this Rule must be submitted by the Chief Executive Officer, Chief Financial Officer or their authorized representative as approved by CME using their assigned User Identification ("User ID"). The User ID will constitute and become a substitute for the manual signature of the authorized signer to the electronically submitted daily segregated, secured 30.7 and sequestered amount statements. The User ID is a representation by the authorized signer that, to the best of his or her knowledge, all information contained in the statement being transmitted under the User ID is true, correct and complete. The unauthorized use of a User ID for electronic attestation by an unauthorized party is expressly prohibited.*

*G. Exchange staff may prescribe additional segregation, secured 30.7 and sequestered amount requirements.*

\* \* \* \* \*

Rule 972—End—No Change

## **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 is registered as a derivatives clearing organization with the Commodity Futures Trading Commission ("CFTC") and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to amend CME Rule 971 to impose additional reporting requirements for FCM clearing members that are

designed to further safeguard customer funds held at the FCM level.

The proposed rule changes are being made in connection with certain recommendations developed by CME, the National Futures Association and the Futures Industry Association. The changes to the text of CME Rule 971 that are the subject of this filing can be summarized as follows:

- *Maintenance of Excess Segregated, Secured 30.7 and Sequestered Funds.* Revised Rule 971.A.1 clarifies that FCM clearing members must maintain excess segregated, secured 30.7 and "sequestered" (i.e., customer cleared swaps) funds at all times, including on an intra-day basis.

- *Daily Segregated, Secured 30.7 and Sequestered Statements.* Subparts B and F of revised Rule 971 require FCM clearing members to file daily segregated, secured 30.7 and sequestered statements, as applicable, through WinJammer, by 12:00 noon on the following business day. These daily statements must be electronically submitted and signed off by the firm's Chief Executive Officer, Chief Financial Officer or their designated representative, as approved by CME and as authorized on the User Identification Request Form.

- *Semi-monthly Investment Reports.* Revised Rule 971.C requires FCM clearing members to file semi-monthly reports reflecting how customer segregated, secured 30.7 and sequestered funds are invested and where those funds are held. The reports of investments will be filed electronically through WinJammer as of the 15th of the month and last day of the month.

- *Disbursement Approvals.* Rule 971.D requires all disbursements made by FCM clearing members of customer segregated, secured 30.7 or sequestered funds that are not made for the benefit of customers of the respective customer origin and that exceed 25% of the excess segregated, secured 30.7 or sequestered funds, as applicable, to be pre-approved in writing by the FCM's Chief Executive Officer or Chief Financial Officer. In determining if the 25% level has been exceeded, all such disbursements not made for the benefit of customers by customer origin should be aggregated and compared to the most current daily segregated, secured 30.7 and sequestered calculations, as applicable. In addition, CME must be immediately notified upon pre-approval of such disbursements through WinJammer notification filings, including a description of the nature of the disbursement(s) and confirmation of pre-approval.

CME notes that it previously announced certain of the enhanced reporting requirements described above when it issued Audit Information Bulletin ("AIB") 12-04 on April 2, 2012. The AIB was filed with the Commission in SR-CME-2012-13.<sup>3</sup>

CME anticipates making the changes to Rule 971.C effective on July 1, 2012. CME anticipates making the changes to Rule 971.D effective at some point in the July 2012 time period. The other changes to Rule 971, the substance of which were addressed by CME's previous filing of AIB 12-04, are scheduled to become effective on June 14, 2012. CME also made a filing, CME Submission 12-178, with the CFTC with respect to the proposed changes.

CME believes the proposed changes are consistent with the requirements of the Act. First, CME, a derivatives clearing organization, is implementing the proposed changes in furtherance with applicable CFTC regulations and Commodity Exchange Act ("CEA"), which contains a number of provisions that are comparable to the policies underlying the Act, including, for example, promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest. Second, CME believes the proposed changes are specifically designed to protect investors and the public interest because the requirements help safeguard customer funds held at the FCM level.

### *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,

<sup>3</sup> The Commission approved SR-CME-2012-13 on April 26, 2012, as to the new reporting requirement requiring all FCM clearing members to file daily, segregated, secured 30.7 and "sequestered" (or customer cleared swaps) statements, as applicable, on a daily basis. Exchange Act Release No. 34-66867, 77 FR 26062 (May 2, 2012).

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CME-2012-21 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, DC, 20549-1090.

All submissions should refer to File Number SR-CME-2012-21. This file number should be included on the subject line if email 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 Web site 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-2012-21 and should be submitted on or before July 12, 2012.

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

Section 19(b) of the Act<sup>4</sup> 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, and the rules and regulations thereunder applicable to CME.<sup>5</sup> 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 protect investors and the public interest because the proposed rule change should allow CME to better monitor the financial status and risk management procedures of its clearing members.<sup>6</sup>

In its filing, CME requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. CME cites as the reason for this request CME's operation as a DCO, which is subject to regulation by the CFTC under the CEA. This rule change is being made to enhance CME's efforts to protect investors who utilize its clearinghouse services through its FCM clearing members.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because the proposed rule change allows CME to implement the additional clearing member surveillance designed specifically to protect investors and the public interest.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-CME-2012-21) is approved on an accelerated basis.

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

**Kevin M. O'Neill**,

*Deputy Secretary.*

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<sup>5</sup> 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).

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67208; File No. SR-FINRA-2011-058]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities)

June 15, 2012.

#### I. Introduction

On October 6, 2011, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to amend FINRA Rule 6433 ("Rule"), which governs minimum quotation size requirements for OTC Equity Securities ("Original Proposal").<sup>3</sup> The proposed rule change is intended to simplify the Rule's price and size tiers; facilitate the display of customer limit orders under FINRA Rule 6460 (Display of Customer Limit Orders);<sup>4</sup> and expand the scope of the Rule. The proposed rule change was published for comment in the **Federal Register** on October 20, 2011.<sup>5</sup> The Commission received seven comment letters on the Original Proposal from four separate commenters,<sup>6</sup> as well as

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

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

<sup>3</sup> "OTC Equity Security" means "any equity security that is not an NMS stock as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term 'OTC Equity Security' shall not include any Restricted Equity Security." See FINRA Rule 6420(e).

<sup>4</sup> See Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (Order Approving NMS-Principled Rules for OTC Equity Securities) ("NMS-Principled Rules Approval Order"). FINRA Rule 6460 became operative on May 9, 2011.

<sup>5</sup> See Securities Exchange Act Release No. 65568 (October 14, 2011), 76 FR 65307 ("Notice") (publication of Original Proposal). On November 17, 2011, FINRA consented to extending the time period for the Commission to either approve or disapprove the proposed rule change or to institute proceedings to determine whether to disapprove the proposed rule change to January 18, 2012.

<sup>6</sup> See Letter from Suzanne H. Shatto, dated October 20, 2011 ("Shatto Letter"); Letter from Naphtali M. Hamlet, dated October 21, 2011 ("Hamlet Letter"); Letter from Daniel Zinn, General Counsel, OTC Markets Group Inc. ("OTC Markets") to Elizabeth M. Murphy, Secretary, Commission, dated November 10, 2011 ("OTC Markets Letter I"); Letter from Michael T. Corrao, Managing Director, Knight Capital Group, Inc. ("Knight") to Elizabeth

<sup>4</sup> 15 U.S.C. 78s(b).