

same fee structure. In addition, trading activity is generally lower on early closing days, so the Tier 4 Customer monthly posting credit, which is based on a threshold percentage of trading activity, would adjust automatically. Credit tiers based on a fixed threshold, including the Tier 1, 2, and 3 Customer monthly posting credit and the Super Tier Market Maker monthly posting credit, would be minimally impacted and OTP Holders, OTP Firms, and Market Makers would still benefit from the streamlined process for calculating trading activity during the month.

The Exchange believes that the proposed changes bring better organization to the Fee Schedule and are designed to incent all market participants, thereby removing impediments to and perfecting the mechanism of a free and open market system. In addition, for the reasons stated above, the proposed changes are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>11</sup> thereunder, because it establishes a due,

fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **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:

#### *Electronic Comments*

- Use 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 Number SR-NYSEArca-2012-137 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-NYSEArca-2012-137. 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 the Exchange. 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-NYSEArca-2012-137, and should be submitted on or before January 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-30321 Filed 12-14-12; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-68401; File No. SR-CME-2012-42]**

### **Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Order Approving Proposed Rule Change Regarding the Valuation of Securities on Deposit**

December 11, 2012.

#### **I. Introduction**

On October 10, 2012, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-CME-2012-42 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> The proposed rule change was published for comment in the **Federal Register** on October 30, 2012.<sup>3</sup> The Commission received no comment letters regarding this proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### **II. Description**

CME is proposing to issue an Advisory Notice that announces certain changes to the way CME will value securities on deposit. Under the proposed changes, CME will begin using the current market value, plus accrued interest, to value securities on deposit. CME currently excludes accrued interest from the value of securities on deposit. Therefore, with this adjustment, accrued interest will now be included in the market value of the security. The purpose of the adjustment is to harmonize valuations with existing industry conventions. CME initially

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

<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. 34-68093 (October 24, 2012), 77 FR 65730 (October 30, 2012).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

planned to implement these changes beginning on December 3, 2012;<sup>4</sup> however, CME has delayed the implementation date and will notify its Clearing Members of the new implementation date in a subsequent notice to its members.<sup>5</sup>

### III. Discussion

Section 19(b)(2)(C) of the Act<sup>6</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. Section 17A(b)(3)(F) of the Act<sup>7</sup> requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The Commission believes that these changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act<sup>8</sup> and the rules and regulations thereunder applicable to CME. These changes would use the current market value, plus accrued interest, for securities on deposit at CME, which will better align CME's practices with the marketplace and expectations of its participants. The changes will therefore promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the

proposed rule change (File No. SR-CME-2012-42) be, and hereby is, approved.<sup>11</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-30270 Filed 12-14-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68399; File No. SR-NYSEARCA-2012-134]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule To Allow Manual Orders Entered Into the Exchange's Electronic Order Capture System or Entered Into an Order Entry Device and Contemporaneously Recorded Into the EOC System To Qualify for the Manual Transaction Fee

December 11, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 29, 2012, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III 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.

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

The Exchange proposes to amend the NYSE Arca Options Fee Schedule ("Fee Schedule") to allow manual orders that are entered into the Exchange's Electronic Order Capture ("EOC") System or entered into an order entry device approved by the Exchange and contemporaneously recorded into the EOC System to qualify for the manual transaction fee. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com),

at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the Fee Schedule to allow manual orders that are entered into the Exchange's EOC System<sup>4</sup> or entered into an order entry device approved by the Exchange and contemporaneously recorded into the EOC System to qualify for the manual transaction fee. The Exchange proposes to make the fee change operative on December 1, 2012.

In December 2011, the Exchange amended endnote 5 of the Fee Schedule to reflect that a manual order that executes in part against an electronic order or quote resting on the Consolidated Book prior to executing against interest in the trading crowd would be assessed the applicable manual transaction fee for the entire order.<sup>5</sup> However, if a manual order executes completely against an electronic order or quote, and therefore does not execute against interest in the trading crowd, then the order would be charged the applicable electronic transaction fee. The Exchange also specified that in order to be eligible for the manual transaction fee, all orders must be entered into the Exchange's EOC System. Therefore, currently, Floor Brokers that enter orders into an order entry device rather than only into the

<sup>4</sup> The EOC System is the Exchange's electronic audit trail and order tracking system that provides an accurate time-sequenced record of all orders and transactions on the Exchange. EOC records the receipt of an order and documents the life of the order through the process of execution, partial execution, or cancellation. See NYSE Arca Options Rule 6.1(b)(39).

<sup>5</sup> See Securities Exchange Act Release No. 65922 (December 9, 2011), 76 FR 78066 (December 15, 2011) (SR-NYSEArca-2011-91).

<sup>4</sup> See *supra* note 3.

<sup>5</sup> Telephone conversation among Tim Elliott, Executive Director and Associate General Counsel, CME; Gena Lai, Senior Special Counsel, SEC; Justin Byrne, Attorney-Adviser, SEC; December 4, 2012.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>25</sup> U.S.C. 78a.

<sup>37</sup> CFR 240.19b-4.