

requirement that ISE proposes to change is to eliminate the requirement that contra-side orders of a QCC Order be for at least 1,000 contracts.

The Commission believes that this change to the minimum size requirement for the contra-side(s) of QCC Orders is narrowly tailored and, significantly, the Exchange's rule text clearly requires that the originating side of a QCC Order must be comprised of a single order (*i.e.*, a single party) for at least 1,000 contracts. The Commission believes that retention of the requirements that the original side be comprised of a single order from a single party and that such single order be for at least 1,000 contracts will continue to ensure that sophisticated investors, who are aware that their orders will not be exposed for price improvement, and who themselves should be able to assess whether the net prices for their QCC Orders are competitive, will initiate QCC Orders in an effort to effectuate a complex transaction that complies with all the requirements of the QCC Order.

The proposed rule change will allow multiple contra-parties with order sizes of less than 1,000 to aggregate their interest to pair against the originating side of a QCC Order to facilitate the execution of the QCC Order. The Commission believes that allowing smaller orders from multiple parties to participate on the contra-side of QCC Orders may provide a better opportunity for QCC Orders to be executed and, potentially, at better prices. The Commission acknowledges that limiting participation on the contra-side of a QCC Order only to liquidity providers who are willing to participate on the trade for 1,000 contracts, could result in less interest in the trade than if contra-side orders were not required to meet the 1,000 contract minimum, potentially diminishing the opportunity for competition and price improvement. The Commission believes that the proposed modification to the definition of QCC Order is narrowly drawn in that it does not impact the fundamental aspects of this order type, and merely permits QCC Orders to include multiple contra-parties, regardless of size on the contra-side, while preserving the 1,000 contract minimum on the originating side of a QCC Order. Accordingly, the Commission finds the proposed rule consistent with the Act.

The issues raised in the comment letters do not specifically address the changes proposed in the instant filing, and the Commission agrees with ISE that the commenters on the proposed rule change do not present any arguments that were not considered

fully in Original QCC Approving Order (*i.e.*, QCC Orders harm the market by not requiring exposure), or are outside the scope of this proposal (*i.e.*, fee rebates for initiating QCC Orders create a conflict of interest for brokers).³⁸

The Commission notes that, given the differing requirements as between the originating side and contra-side for QCC Orders, it is essential that the Exchange be able to clearly identify and monitor—throughout the life of a QCC Order, beginning at time of order entry on the Exchange through the post-trade allocation process—each side of the QCC Order and ensure that the requirements of the order type are being satisfied including, importantly, those relating to the originating side. The Commission believes this to be critical so that the Exchange can ensure that market participants are not able to circumvent the requirements of the QCC Order (as amended by this proposed rule change), each of which the Commission continues to believe are critical to ensuring that the QCC Order is narrowly drawn.³⁹ Further, the Commission notes that, in Amendment No. 1, the Exchange has made certain representations regarding its enforcement and surveillance of its Members' use of QCC Orders, including, for example, not only at the time of order entry, but through the post-trade allocation process as well.

For the foregoing reasons, the Commission believes that the proposed rule change is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act⁴⁰ that the proposed rule change (SR-ISE-2013-72), as modified by Amendment No.1, be, and it hereby is, approved.

³⁸ In addition, the Commission again emphasizes, as it did in the Original QCC Approval Order, that broker-dealers are subject to a duty of best execution for their customers' orders, and that duty does not change for QCC Orders. *See supra* note 36.

³⁹ The Commission expects the Exchange to have the capability to enable it to surveil that such requirements are being met. Though the Exchange has stated its ability to do so in Amendment No. 1, if the Exchange is not able to have such monitoring at any point in time, the Commission would expect the Exchange to take other steps to ensure that the QCC Order cannot be improperly used. For example, if the Exchange were not able to identify and monitor which side of a QCC Order is the originating order, the Commission would expect that it would require that both sides of the QCC Order meet the more stringent requirements of the originating side, *i.e.*, that it be for a single order for at least 1,000 contracts.

⁴⁰ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴¹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71853; File No. SR-CME-2014-11]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Clarifications to Its Chapter 7 Delivery Rules

April 3, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 27, 2014, 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. CME filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1)⁴ thereunder so that the proposal was effective upon filing with the Commission. 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

CME is filing the proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would clarify certain aspects of CME's Chapter 7 rules with respect to deliveries of futures products.

II. Self-Regulatory Organization's Statement of the 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

⁴¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

may be examined at the places specified in Item IV 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 the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a DCO with the Commodity Futures Trading Commission ("CFTC") and offers clearing services for many different futures and swaps products. The proposed rule change that is the subject of this filing is limited to its business as a DCO clearing futures contracts.

Per existing CME Rule 702, CME guarantees financial performance (i.e., replacement cost) for all physically deliverable futures products. In assessing the current rulebook, CME noted that certain provisions in current Chapter 7 should be clarified to more clearly state CME's obligations in deliveries and delivery failures as the existing rule contains some language that may be seen as inconsistent with the overriding impact of CME Rule 702. As a result, CME is now proposing clarifying amendments to more clearly state CME's obligations for deliveries and delivery failures as specified below.

The proposed amendments to CME Rules 730–732 and 742.A delete the operational mechanics of the currency delivery rules in light of the guaranty of financial performance per Rule 702 for deliveries.

The proposed amendments to CME Rule 743.B clarify that the clearing member causing a currency delivery failure is liable to CME for any financial performance paid by CME to the contra-clearing member. The proposed amendments to CME Rule 743.A delete the reference to charging a clearing member overdraft fees for late or inaccurate deliveries.

Finally, CME is proposing changes to CME Rule 702 to harmonize and more clearly state that CME is responsible for financial performance to the clearing member that did not cause or contribute to the delivery failure by strengthening the operative language (the current rule states that CME "shall seek to ensure financial performance . . ."). "Financial performance" is defined as payment of the commercially reasonable costs of the affected clearing member for replacing the failed delivery and includes any fines, penalties and fees incurred in replacing the delivery and does not include physical performance or legal fees. The changes further include a deadline for affected clearing members to seek a claim for financial

performance and codification of the requirement to submit supporting documentation.

The rule change that is described in this filing is limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and does not materially impact CME's security-based swap clearing business in any way. The above listed change is a clarification to existing rules and does not result in changes to the operational processes or the nature or level of the risks posed to CME or clearing members. The change will be effective on filing and CME plans to operationalize it on March 27, 2014. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the CFTC, in a separate filing, CME Submission No. 14–077.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A.⁵ The proposed change is intended to clarify existing CME obligations for deliveries in a manner consistent with CFTC Regulation 39.14(g), which requires DCOs to state their obligations with respect to deliveries, including obligations to make or accept deliveries. The proposed change simply clarifies existing practices by revising current rules to more clearly state that, in the event of a delivery failure, CME's obligations will be for financial performance to the clearing member whose actions or omissions did not cause or contribute with respect to the delivery failure (the proposed change also clearly defines the term "financial performance"). These clarifications to CME's existing delivery process rules will provide greater clarity to the marketplace regarding CME's obligations in the delivery process and as such are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, 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, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.⁶

Furthermore, the proposed change is limited in its effect to futures products currently offered under CME's authority to act as a DCO. These products are under the exclusive jurisdiction of the CFTC. CME notes that the policies of the

CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed change is limited to making clarifications to more clearly state CME's obligations in the delivery process under already existing CME rules, the change is therefore consistent with the requirements of Section 17A of the Exchange Act⁷ and is properly filed under Section 19(b)(3)(A)⁸ and Rule 19b–4(f)(1)⁹ thereunder.

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. The proposed change clarifies existing CME practices and simply states that in the event of a delivery failure, CME's obligations will be for financial performance to the clearing member whose actions or omissions did not cause or contribute with respect to the delivery failure and defines financial performance to be payment of the commercially reasonable costs of the affected clearing member for replacing the failed delivery and includes any fines, penalties and fees incurred in replacing the delivery and does not include physical performance or legal fees.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁰ of the Act and Rule 19b–4(f)(1)¹¹ thereunder, as CME has designated that this rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposed rule change

⁷ 15 U.S.C. 78q–1.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b–4(f)(1).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b–4(f)(1).

⁵ 15 U.S.C. 78q–1.

⁶ 15 U.S.C. 78q–1(b)(3)(F).

effective upon filing. At any time within 60 days of the filing of the 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. Please include File No. SR-CME-2014-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CME-2014-11. 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 and on CME's Web site at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

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-2014-11 and should be submitted on or before April 30, 2014.

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

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71854; File No. SR-ISEGemini-2014-11]

Self-Regulatory Organizations; ISE Gemini Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit Market Makers To Enter Opening Only Orders in Appointed Options Classes

April 3, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on March 26, 2014, ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission the proposed rule change, as 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.

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

ISE Gemini is proposing to amend Rule 805(a) to permit market makers to enter Opening Only Orders in the options classes to which they are appointed. The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.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 Exchange 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

On February 25, 2014 ISE Gemini's sister exchange, the International Securities Exchange, LLC ("ISE"), filed an immediately effective rule change to permit market makers on that exchange to enter Opening Only Orders in the options classes to which they are appointed.³ That ISE filing restored functionality that was previously available to ISE market makers through the use of immediate-or-cancel ("IOC") orders prior to the introduction of the ISE's T7 trading system, which introduced Opening Only Orders on that exchange, and limited IOC orders to intraday.⁴ As was previously the case on the ISE, market makers on ISE Gemini are not presently permitted to submit Opening Only Orders in the options classes to which they are appointed.⁵ The Exchange therefore proposes to amend Rule 805(a), which is based on the ISE rule amended by the filing referenced above, to similarly permit ISE Gemini market makers to enter Opening Only Orders in their appointed options classes.⁶ The proposed rule change is meant to conform the rules of ISE Gemini to the rules of other options exchanges, including the ISE, where market makers presently have the ability to enter Opening Only Orders in their appointed classes.⁷

³ See Securities Exchange Act Release No. 71685 (March 11, 2014), 79 FR 14774 (March 17, 2014) (SR-ISE-2014-11).

⁴ Prior to the launch of the ISE's T7 trading system, ISE market makers could submit IOC orders at any time prior to the opening of trading, which, like Opening Only Orders, would execute during the opening rotation, with any unexecuted portion being cancelled.

⁵ Market makers are currently permitted to submit the following order types in their appointed options classes: IOC orders, market orders, fill-or-kill orders, and certain block orders and non-displayed penny orders. See ISE Gemini Rule 805(a).

⁶ An "Opening Only Order" is a limit order that can be entered for the opening rotation only. Any portion of the order that is not executed during the opening rotation is cancelled.

⁷ See supra note 3. As another example, market makers on the MIAX Options Exchange ("MIAX") similarly have the ability to enter "opening only" orders in their appointed classes. See MIAX Rule 605(a).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.