

SCHEDULE OF ANCILLARY MEETINGS—Continued

Washington State Delegation	7 a.m.
Enforcement Consultants	8 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Olympic Coast National Marine Sanctuary	
Marine Habitat Research Report	7 p.m.
<b>Thursday, September 13, 2007</b>	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Enforcement Consultants	As needed.
<b>Friday, September 14, 2007</b>	
Council Secretariat	7 a.m.
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Enforcement Consultants	As needed.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820-2280 at least 5 days prior to the meeting date.

Dated: August 17, 2007.

**Tracey L. Thompson,**  
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
[FR Doc. E7-16625 Filed 8-22-07; 8:45 am]

**BILLING CODE 3510-22-S**

**COMMODITY FUTURES TRADING COMMISSION**

**Petition of the Chicago Mercantile Exchange Inc. for Exemptive Relief, Pursuant to Section 4(c) of the Commodity Exchange Act, From the Requirement That the China Foreign Exchange Trade System and National Interbank Funding Center or Its Members Register as Futures Commission Merchants**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed order and request for comment.

**SUMMARY:** The Chicago Mercantile Exchange Inc. (CME) has petitioned the Commodity Futures Trading Commission (Commission) for exemptive relief, pursuant to section 4(c) of the Commodity Exchange Act (Act or CEA), from the requirement that the China Foreign Exchange Trade System and National Interbank Funding Center (CFETS) or its members register as futures commission merchants (FCMs). The Commission seeks comment on CME's petition. Copies of the petition are available for inspection at the Office of the Secretariat by mail at the address listed below, by telephoning (202) 418-5100, or on the Commission's Web site (<http://www.cftc.gov>).

**DATES:** Comments must be received on or before September 24, 2007.

**ADDRESSES:** Comments should be sent to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by

facsimile transmission to (202) 418-5521, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "CME Petition for Exemption from FCM Registration on Behalf of CFETS." Comments may also be submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following the comment submission instructions. Comments will be published on the Commission's Web site.

**FOR FURTHER INFORMATION CONTACT:** Robert B. Wasserman, Associate Director, (202) 418-5092, [rwasserman@cftc.gov](mailto:rwasserman@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

By petition dated July 27, 2007 (Petition), CME applied for an exemption, pursuant to section 4(c) of the Act, 7 U.S.C. 6(c), from the requirement (pursuant to section 4d of the Act, 7 U.S.C. 6d) that CFETS or its members register as FCMs.

According to the Petition, CFETS is a non-profit affiliate of the People's Bank of China (PBC). CFETS operates an electronic trading system with respect to trading in the interbank foreign exchange market, Renminbi (RMB) lending, and trading on the bond market in China. The foreign currencies traded against the RMB through CFETS include the U.S. dollar, Japanese yen, Euro, and Hong Kong dollar, and CFETS provides trading services for foreign exchange spot, forwards, and swaps. CFETS also operates China's interbank RMB money

market and facilitates the trading of government securities and repo transactions. CFETS has over 270 members engaged in foreign exchange trading, including all of the major Chinese banks. CFETS members also include insurance and securities companies, fund management companies, and foreign financial institutions.

CME and CFETS have entered into an agreement pursuant to which CFETS will become a "super-clearing" member of CME authorized to clear foreign currency and interest rate futures transactions on behalf of CFETS members and their customers domiciled in China. Although CFETS members include non-Chinese financial institutions, only those of its members (and their customers) that are domiciled in China would be permitted to clear CME contracts through CFETS under the agreement. Pursuant to the agreement, CME will, among other things, provide consulting services and technical assistance to CFETS. In addition, CME and CFETS will cooperate to complete both a comprehensive training program and a marketing program. Under the arrangement, CFETS' compliance with CME operational procedures will not be enforced via regulatory processes applicable to other clearing members, but instead under the terms of the agreement.

As a clearing member of CME, CFETS would fall within the FCM definition of section 1a(20) of the Act, 7 U.S.C. 1a(20), in that it would "accept[] orders for the purchase or sale of [a] commodity for future delivery on or subject to the rules of [a] contract market \* \* \* and \* \* \* in or in connection with such \* \* \* acceptance of orders, [would] accept[] \* \* \* money, securities, or property \* \* \* to margin, guarantee, or secure \* \* \* trades or contracts that \* \* \* result therefrom." While the Commission and its predecessor agencies have not applied the FCM registration requirement to foreign brokers<sup>1</sup> that

<sup>1</sup> In this context, "foreign broker" means any person located outside the U.S., its territories, or possessions who is engaged in soliciting or in accepting orders only from persons located outside the U.S., its territories, or possessions for the purchase or sale of any commodity interest transaction on or subject to the rules of any designated contract market or derivatives execution facility and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. See *Exemption From Registration for Certain Foreign Persons*, 72 FR 15,637 (Apr. 2, 2007) (proposing to revise and redesignate a definition for the term "foreign broker").

clear through U.S. FCMs, Commission staff have stated that the FCM registration requirement of Section 4d(a)(1) of the Act, 7 U.S.C. 6d(a)(1), applies to foreign brokers that clear directly through a U.S.-based clearinghouse,<sup>2</sup> as CFETS will under the proposed arrangement with CME.

CME states that, given CFETS' status as an entity that is not separately capitalized, "CFETS itself will not be in a position to provide net capital information to CME. Therefore, CFETS cannot meet the requirements that would apply if it were required to register as an FCM."<sup>3</sup> CME further states that, in light of CFETS' existing business environment, CFETS is currently unable to establish a capitalized subsidiary in the U.S. that could otherwise meet the requirements applicable to registered FCMs. Consequently, CME is seeking an exemption, pursuant to section 4(c) of the Act, 7 U.S.C. 6(c), on behalf of CFETS, from the FCM registration requirement. CME is also seeking relief from any FCM registration requirement that might apply to CFETS members.

Section 4(c)(1) of the Act, 7 U.S.C. 6(c)(1), empowers the Commission to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions, including any person offering or entering into such transaction, from any of the provisions of the CEA (subject to exceptions not relevant here) where the Commission determines that the exemption would be consistent with the public interest.<sup>4</sup>

<sup>2</sup> The Commission has recently proposed to codify its longstanding view that a foreign broker is not required to register if the foreign broker: (1) Limits its customers to foreign customers; (2) submits the trades of such foreign customers that are entered into on U.S. markets for clearing on an omnibus basis through a registered FCM; and (3) does not solicit or accept orders from U.S. customers for trading on U.S. markets. See *supra* note 1; see also CFTC Staff Letter 89-07, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,479 at 36,096-97 (June 22, 1989) ("The Commission has not required a person located outside the United States which engages in the conduct described in section 2(a)(1)(A) of [the Act] for or on behalf of foreign customers through a U.S. FCM to register as an FCM"). In the proposal, the Commission specifically noted that, by limiting exemptive relief in the past to activities conducted "though a U.S. FCM" "staff did not extend the exemptive relief available to a foreign broker to include the submission of trades executed for its customer and non-customer accounts directly to a clearing organization for a U.S. market." See 72 FR at 15,638.

<sup>3</sup> Petition, at 3.

<sup>4</sup> Section 4(c)(1) of the Act, 7 U.S.C. 6(c)(1), provides that:

In order to promote responsible economic or financial innovation and fair competition, the Commission by \* \* \* order, after notice and

The Petition includes, among other things, the following conditions that could be included in any order granting an exemption to CFETS pursuant to section 4(c), § 6(c):

- CFETS shall be required to comply with financial requirements that substitute for those applicable to CME's clearing members. Specifically, CFETS shall be required to satisfy CME's security deposit requirement, which is currently a minimum of \$500,000. CFETS shall be required to maintain "surrogate capital"<sup>5</sup> of 8% of aggregate required customer performance bond, but in any case, no less than \$10 million. All such surrogate capital shall be required to be held in the form of U.S. dollars or Treasury securities (subject to any haircuts required by Regulation 1.17) in a CME-controlled account in the U.S.

- CME shall be required to provide the Commission a monthly report detailing surrogate capital amounts and calculation (which report, or portions thereof, would be published on the Commission's Web site). CME shall be required to provide next-day notice to the Commission if: (i) Surrogate capital falls below 110% of the requirement; or (ii) if a customer margin call exceeds excess surrogate capital on deposit.<sup>6</sup>

opportunity for hearing, may ( \* \* \* on application of any person, including any board of trade designated or registered as a contract market \* \* \*) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) of this section (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods \* \* \* from any \* \* \* provision of this chapter (except subparagraphs (C)(ii) and (D) of section 2(a)(1) of this title, except that the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) of this title), if the Commission determines that the exemption would be consistent with the public interest.

While Section 4(c)(2) of the Act, 7 U.S.C. 6(c)(2), imposes additional requirements with respect to any exemption from the requirements of Section 4(a) of the Act, 7 U.S.C. 6(a), CME is not seeking such relief.

<sup>5</sup> If the Commission were to grant CFETS' request for relief, CFETS would not be required to meet the minimum capital requirements of Regulation 1.17. See Regulation 1.17, 17 CFR 1.17 (minimum capital requirements applicable to persons "registered as a futures commission merchant"). "Surrogate capital" refers to alternative minimum capital requirements that CME represents that CFETS would be required to meet that are intended to parallel, in effect, the minimum capital requirements of Regulation 1.17. These requirements may be imposed on CFETS as conditions of a Commission order pursuant to Section 4(c)(1), 6(c)(1).

<sup>6</sup> For example, if CFETS had a surrogate capital requirement of \$10 million, it would be required to maintain surrogate capital of \$11 million (110% of the requirement) in a CME-controlled account in

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CME shall be required to provide the Commission immediate notice of any deficiency in surrogate capital.

- CME and CFETS shall be required to provide all large-trader reporting information at the same time and in the same format that CFETS would be required to provide if CFETS were registered as an FCM. CME and CFETS shall be required to act as agent for service of process regarding trading on CME for both CFETS members and customers of CFETS members.

- CME shall not hold CFETS positions and associated funds in U.S. customer accounts segregated pursuant to section 4d of the Act, 7 U.S.C. 6d.

- CME and CFETS shall be required to maintain records, in English, in the U.S., sufficient to permit the Commission to confirm compliance with any provision of any order issued by the Commission. CME and CFETS shall be required to make such records available to the Commission in the U.S. within 72 hours of any request.

- CME and CFETS shall be required to comply with U.S. anti-money laundering requirements as determined by the U.S. Treasury.

- CME and CFETS shall be required to accept joint and several liability in any Commission enforcement action relating to compliance with any order issued by the Commission.

- CME and CFETS shall be required to file a report with the Commission providing statistics and analyzing issues (to be determined) within 18 months after issuance of any relief.

**II. Request for Comments**

The Commission requests public comment on any aspect of the Petition that commenters believe may raise issues under the CEA or Commission regulations. In particular, the Commission invites comment regarding: (1) Whether the proposed exemption is consistent with the requirements for relief set forth in section 4(c) of the Act, 7 U.S.C. 6(c), including whether granting the exemption would be consistent with the public interest and the purposes of the CEA; (2) whether CME's representations, as discussed above, if imposed as conditions of an order pursuant to section 4(c)(1), section 6(c)(1), would provide adequate safeguards with respect to the U.S. clearing system in light of CFETS' exemption from the FCM registration requirement; (3) whether an order granting the request for relief should include requirements different from or in addition to those discussed above; (4)

order to avoid providing the Commission with next-day notice of its surrogate capital on deposit.

whether an order granting the request for relief should exclude any one or more of the requirements discussed above; (5) any material adverse effects that granting the petition would have upon other derivatives clearing organizations, exchanges, or other Commission registrants from a competitive<sup>7</sup> or other perspective<sup>8</sup>; and (6) any other issues relevant to this petition.

Issued in Washington, DC, on August 8, 2007 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. E7-16641 Filed 8-22-07; 8:45 am]

**BILLING CODE 6351-01-P**

**COMMODITY FUTURES TRADING COMMISSION**

**Fees for Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Establish the FY 2007 schedule of fees.

**SUMMARY:** The Commission charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization (SRO) rule enforcement programs (17 CFR part 1 Appendix B) (National Futures Association (NFA), a registered futures association, and the contract markets are referred to as SROs). The calculation of the fee amounts to be charged for FY 2007 is based upon an average of actual program costs incurred during FY 2004, 2005, and 2006, as explained below. The FY 2007 fee schedule is set forth in the **SUPPLEMENTARY INFORMATION**. Electronic payment of fees is required.

The FY 2007 fee schedule is set forth in the **SUPPLEMENTARY INFORMATION**. Electronic payment of fees is required.

<sup>7</sup> As noted above, the Commission may grant an exemption pursuant to Section 4(c)(1) of the Act, 7 U.S.C. 6(c)(1), "[i]n order to promote responsible economic or financial innovation and fair competition." Section 15(b) of the Act, 7 U.S.C. 19(b), provides that the "Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this chapter, as well as the policies and purposes of this chapter, in issuing any order \* \* \*."

<sup>8</sup> The Commission notes that Section 15(a) of the Act, 7 U.S.C. 19(a), requires that the Commission, before issuing an order, consider the costs and benefits in light of considerations of protection of market participants and the public; considerations of the efficiency, competitiveness, and financial integrity of futures markets; considerations of price discovery; considerations of sound risk management practices; and other public interest considerations.

**DATES: Effective Dates:** The FY 2007 fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than October 22, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Stacy Dean Yochum, Counsel to the Executive Director, Commodity Futures Trading Commission, (202) 418-5160, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. For information on electronic payment, contact Adrienne Young-Burgess, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5196.

**SUPPLEMENTARY INFORMATION:**

**I. General**

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations<sup>1</sup> and designated contract markets (DCM), which are referred to as SROs, regulated by the Commission.

**II. Schedule of Fees**

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and DCMs regulated by the Commission:

Entity	Fee amount
Chicago Board of Trade .....	\$72,547
Chicago Mercantile Exchange ....	97,725
New York Mercantile Exchange .....	59,604
Kansas City Board of Trade .....	10,799
New York Board of Trade .....	57,273
Minneapolis Grain Exchange .....	10,967
HedgeStreet .....	2,736
One Chicago .....	18,355
Chicago Climate Futures Ex- change .....	1,731
EUREX .....	2,523
National Futures Association .....	273,854
<b>Total .....</b>	<b>608,114</b>

**III. Background Information**

**A. General**

The Commission recalculates the fees charged each year with the intention of recovering the costs of operating this Commission program.<sup>2</sup> All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which records each employee's time for each pay period. The fees are set each year based

<sup>1</sup> NFA is the only registered futures association.

<sup>2</sup> See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission Fees, see 52 FR 46070 (Dec. 4, 1987).