

pay a fee that they would otherwise have to pay. The Waiver is equitable and not unfairly discriminatory because the Exchange believes that the Waiver will encourage TPHs to transact business in FLEX Options using the CFLEX System and encourage trading of customized options in an exchange environment.<sup>8</sup> The Exchange believes such increased business will provide greater FLEX Options trading opportunities for all market participants. Also, the transaction fees collected from this increased business will allow the Exchange to recoup costs expended in building and developing the CFLEX System.

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

CBOE 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*

The Exchange neither solicited nor received comments on the proposed rule change.

### **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)<sup>9</sup> of the Act and paragraph (f) of Rule 19b-4<sup>10</sup> thereunder. 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,

<sup>8</sup> The Exchange believes that FLEX Options provide TPHs and investors with an improved but comparable alternative to the over-the-counter ("OTC") market in customized options, which can take on contract characteristics similar to FLEX Options. The Exchange believes market participants benefit from being able to trade customized options in an exchange environment in several ways, including, but not limited to the following: (i) Enhanced efficiency in initiating and closing out positions; (ii) increased market transparency; and (iii) heightened contra-party creditworthiness due to the role of The Options Clearing Corporation as issuer and guarantor of FLEX Options.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f).

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-CBOE-2012-037 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-CBOE-2012-037. 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 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. 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-CBOE-2012-037 and should be submitted on or before May 11, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

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

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**BILLING CODE 8011-01-P**

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-66813; File No. SR-CME-2012-11]

### **Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Facilitate Changing its Methodology for Calculation of the "Cash Mark-to-Market" Performance Bonds for Cleared OTC FX Swaps From SPAN<sup>®</sup> to HVaR**

April 16, 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 April 2, 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 to make certain changes that are related to its current cleared-only Cleared Over-the-Counter ("OTC") foreign currency ("FX") product offering to facilitate changing its methodology for calculation of the "cash mark-to-market" performance bonds for OTC FX Swaps from Standard Portfolio Analysis ("SPAN<sup>®</sup>") to Historical Value at Risk ("HVaR"). The text of the proposed rule change is available at CME's Web site at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

#### **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.

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

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

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

CME proposes a rule change that would facilitate changing its methodology for calculation of the "cash mark-to-market" performance bonds for OTC FX Spot, Forward, and Swap transactions from SPAN® to HVaR. This action is consistent with an analogous migration in performance bond methodology for CME Group's cleared OTC Interest Rate Swaps ("IRS") completed in 2011.

CME currently has a total of thirty-eight (38) OTC FX products listed for clearing (twelve non-deliverable forward FX pairs and twenty-six CME WM/Reuters OTC Cash-Settlement Forwards FX pairs).<sup>3</sup> CME Rule 930.A. "Performance Bond System," would be amended to note cleared OTC FX transactions will use the HVaR Performance Bond System for margining. The proposed rule change would be effective on April 16, 2012, when CME intends to migrate all 38 OTC FX pairs currently listed for clearing from the current SPAN to HVaR methodology for determining performance bonds.

Consistent with best practices recommendations, CME's margin model covers losses over any 5-day period in a large universe of portfolios during 99% of days. HVaR methodology is the model of choice for the risk departments

<sup>3</sup> These 38 products include twelve ("12") cleared OTC non-deliverable forward or "NDFs," namely, U.S. Dollar/Brazilian Real ("USD/BRL"), U.S. Dollar/Chinese Renminbi ("USD/RMB" aka, "CNY"), U.S. Dollar/Malaysian Ringgit ("USD/MYR"), U.S. Dollar/Indonesian Rupiah ("USD/IDR"), U.S. Dollar/Indian Rupee ("USD/INR"), U.S. Dollar/Korean Won ("USD/KRW"), U.S. Dollar/Philippine Peso ("USD/PHP"), U.S. Dollar/Taiwan Dollar ("USD/TWD"), U.S. Dollar/Chilean Peso ("USD/CLP"), U.S. Dollar/Colombian Peso ("USD/COP"), U.S. Dollar/Peruvian New Sol ("USD/PEN") and U.S. Dollar/Russian Ruble ("USD/RUB") non-deliverable forwards ("NDFs"); and twenty-six ("26") CME WM/Reuters OTC FX Cash-Settlement Forwards, namely, Australian Dollar/U.S. Dollar ("AUD/USD"), U.S. Dollar/Swiss Franc ("USD/CHF"), U.S. Dollar/Canadian Dollar ("USD/CAD"), New Zealand Dollar/U.S. Dollar ("NZD/USD"), U.S. Dollar/Norwegian Krone ("USD/NOK"), U.S. Dollar/Swedish Krona ("USD/SEK"), U.S. Dollar/Denmark Krone ("USD/DKK"), Euro/U.S. Dollar ("EUR/USD"), U.S. Dollar/Japanese Yen ("USD/JPY"), Great British Pound/U.S. Dollar ("GBP/USD"), U.S. Dollar/Mexican Peso ("USD/MXN"), U.S. Dollar/Singapore Dollar ("USD/SGD"), U.S. Dollar/Polish Zloty ("USD/PLN"), U.S. Dollar/South African Rand ("USD/ZAR"), Australian Dollar/Japanese Yen ("AUD/JPY"), Euro/Australian Dollar ("EUR/AUD"), Canadian Dollar/Japanese Yen ("CAD/JPY"), Euro/Great British Pound ("EUR/GBP"), Euro/Japanese Yen ("EUR/JPY"), Euro/Swiss Franc ("EUR/CHF"), U.S. Dollar/Czech Koruna ("USD/CZK"), U.S. Dollar/Hungarian Forint ("USD/HUF"), U.S. Dollar/Turkish Lira ("USD/TRY"), U.S. Dollar/Israeli Shekel ("USD/ILS"), U.S. Dollar/Thailand Baht ("USD/THB"), and U.S. Dollar/Hong Kong Dollar ("USD/HKD").

of most if not all financial services firms and is widely considered to be a proxy for market risk. It is also well-understood and easily replicable. In the HVaR framework, past events are used for coming up with possible scenarios in the future. This approach implicitly assumes that historical data series provide rich sample sets of the possible probability distribution of the relevant financial variable. CME has arranged for receipt of FX historical data by FX pair by maturity curve from Super Derivatives. In depth analysis and stress testing of sample FX portfolios will be done upon receipt of data.

The margin methodology, at a high level, follows these four steps:

1. Generate matrix of historical returns
2. Compute volatility scaling factors and apply them individually to each tenor in each scenario
3. Generate scenarios by applying the scaled return matrix to today's forward curve and compute the profit (loss) of the portfolio in each scenario.
4. Rank the scenarios by maximum loss to maximum gain and take the required percentile as a margin. In our model, we chose to take the 4th largest loss over the 5-year period, which corresponds to approximately 99.7% confidence interval.

CME believes the proposed rule change is consistent with the requirements of the Act and particularly with Section 17A of the Act because it involves clearing of swaps and futures contracts and thus relate solely to CME's swaps and futures clearing activities pursuant to its registration as a derivatives clearing organization under the Commodity Exchange Act ("CEA") and does not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or persons using such service. CME further notes that the policies of the CEA with respect to clearing are comparable to a number of the policies underlying the Act, such as promoting market transparency for over-the-counter derivatives and futures markets, promoting the prompt and accurate clearance of transactions, and protecting investors and the public interest. The proposed rule changes accomplish those objectives by offering investors enhancements in relation to its FX OTC swap product offering CME.

*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, 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-2012-11 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-2012-11. 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 a.m. and 3 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–2012–11 and should be submitted on or before May 11, 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 with the requirements of Section 17A of the Act,<sup>5</sup> and the rules and regulations thereunder applicable to CME. 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 assure the safeguarding of securities and funds which are in the possession or control of the clearing agency or for which it is responsible and to protect investors and the public interest because it should allow CME to enhance its margin evaluation and collection related to clearing FX products.<sup>6</sup>

In its filing CME requested that the Commission approve this proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing. CME has articulated three reasons for so granting approval. One, the products covered by this filing and CME's operations as a derivatives clearing organization for such products are regulated by the CFTC under the CEA. Two, the proposed rule change relates solely to FX products and therefore relate solely to CME's swaps clearing activities and do not significantly relate to CME's functions as a clearing agency for security-based swaps. Three, not approving this request on an accelerated basis will have a significant impact on the swap clearing business of CME as a designated clearing organization.

The Commission finds good cause for granting approval of the proposed rule change prior to the thirtieth day after publication of the notice of its filing because: (i) The proposed rule change does not significantly affect any securities clearing operations of the clearing agency (whether in existence or

contemplated by its rules) or any related rights or obligations of the clearing agency or persons using such service; (ii) the clearing agency has indicated that not providing accelerated approval would have a significant impact on its FX clearing business as a designated clearing organization; and (iii) the activity relating to the non-security clearing operations of the clearing agency for which the clearing agency is seeking approval is subject to regulation by another federal regulator.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CME–2012–11) 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.

[FR Doc. 2012–9527 Filed 4–19–12; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66819; File No. SR–FINRA–2011–058]

#### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 to Proposed Rule Change To Amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities)

April 17, 2012.

#### I. Introduction

On October 6, 2011, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “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 (Minimum Quotation Size Requirements for OTC Equity Securities). The proposed rule change was published for comment in the **Federal Register** on October 20, 2011.<sup>3</sup> The Commission received seven comment letters on the proposed rule change—two from individual investors, three from an inter-dealer quotation

system and two from a member firm.<sup>4</sup> FINRA responded to comments on December 23, 2011.<sup>5</sup> The Commission published an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act,<sup>6</sup> to determine whether to approve or disapprove the proposed rule change, in the **Federal Register** on January 24, 2012.<sup>7</sup> The comment period closed on February 14, 2012, and FINRA's rebuttal period closed on February 28, 2012. The Commission received one comment letter in response to the Proceedings Order.<sup>8</sup> On April 17, 2012, FINRA filed Amendment No. 1 to the proposed rule change. The text of Amendment No. 1 is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

As stated in the Original Proposal, FINRA is amending FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities) (the “Rule”) to, among other things, (1) Simplify the tier structure, (2) parallel the approach taken by the national securities exchanges for securities priced at or above \$1.00, (3) expand the scope of the Rule to apply to all quotations or orders displayed on an inter-dealer quotation system, (4) incorporate the requirements of FINRA Rule 6434 (Minimum Pricing Increments for OTC Equity Securities)<sup>9</sup>

<sup>4</sup> Letters to Elizabeth M. Murphy, Secretary, Commission, from Suzanne H. Shatto, Seattle, Washington, dated October 20, 2011; Naphtali M. Hamlet, Seattle, Washington, dated October 21, 2011; Daniel Zinn, General Counsel, OTC Markets Group, Inc., dated November 10, 2011; Michael T. Corrao, Managing Director, Knight Capital Group, Inc., dated November 16, 2011 (“Knight #1”); R. Cromwell Coulson, President and CEO, OTC Markets, dated November 18, 2011; Daniel Zinn, General Counsel, OTC Markets Group, Inc., dated December 29, 2011; Michael T. Corrao, Managing Director, Knight Capital Group, Inc., dated January 13, 2012 (“Knight #2”).

Comment letters are available at [www.sec.gov](http://www.sec.gov).

<sup>5</sup> On December 23, 2011, FINRA responded to comment letters received by the SEC as of that date. See letter to Elizabeth M. Murphy, Secretary, Commission, from Stephanie M. Dumont, Senior Vice President and Director of Capital Markets Policy, FINRA (“FINRA Response Letter”).

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

<sup>7</sup> See Securities Exchange Act Release No. 66168 (January 17, 2012), 77 FR 3515 (January 24, 2012) (Order Instituting Proceedings to Determine Whether to Disapprove File No. SR–FINRA–2011–058) (“Proceedings Order”).

<sup>8</sup> See letter to Elizabeth M. Murphy, Secretary, Commission, from Daniel Zinn, General Counsel, OTC Markets Group Inc., dated February 14, 2012.

<sup>9</sup> See Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (File No. SR–FINRA–2009–054; “Order Approving NMS-Principled Rules for OTC Equity Securities”). FINRA Rule 6434 became effective on February 11,

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

<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).

<sup>8</sup> 15 U.S.C. 78s(b)(1).

<sup>9</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 65568 (October 14, 2011), 76 FR 65307 (October 20, 2011) (Notice of Filing of File No. SR–FINRA–2011–058) (“Original Proposal”).