

September 30, 2011

David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW
Washington, DC 20581

Re: Customer Clearing Documentation and Timing of Acceptance for Clearing
76 Fed. Reg. 45730 (Aug. 1, 2011), RIN 3038-AD51

Dear Mr. Stawick:

CME Group Inc. ("CME Group") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("CFTC" or the "Commission") notice of proposed rulemaking ("NPR") regarding (1) the documentation between a customer and a futures commission merchant ("FCM") that clears on behalf of the customer and (2) the timing of acceptance or rejection of trades for clearing by derivatives clearing organizations ("DCOs") and clearing members. CME Group is the parent of Chicago Mercantile Exchange Inc. ("CME"). CME's clearing house division ("CME Clearing") offers clearing and settlement services for exchange-traded futures contracts, and for over-the-counter derivatives transactions through CME ClearPort. CME is registered with the CFTC as a DCO, and is one of the largest central counterparty clearing services in the world.

Background

CME's model for clearing provides for connectivity to multiple execution venues as well as to OTC technology, maintains open access, provides for clearing member and customer limit checks and preserves anonymity. CME Clearing accepts matched transactions for clearing submitted through an open application programming interface ("API"), subject to certain criteria, including product eligibility, account registration, authentication and verification that the transaction does not exceed any risk filters set by the clearing house for the relevant clearing members, and/or risk filters set by each clearing member for its customer and proprietary accounts (collectively, the "Transaction Criteria"). CME connects to multiple execution venues, affirmation platforms as well as to other OTC infrastructure maintaining open access. CME Globex, for example, is our electronic trading platform for CME Group Exchanges. CME Globex Credit Controls enhances CME Clearing's ability to immediately accept for clearing those transactions that are executed on CME Globex.

Transactions executed on other venues and submitted to CME Clearing (e.g., OTC transactions submitted for clearing through CME ClearPort) are subject to verification of the Transaction Criteria on a post-execution basis. For certain non-CME Globex traded futures and options transactions and certain swap transactions, CME Clearing provides clearing members with the option to host client and/or affiliate credit limits at CME Clearing regardless of trading venue. For certain non-CME Globex traded futures and options CME Clearing requires clearing members to host client and affiliate credit checks at the clearing house. Any transaction submitted for a product where CME Clearing hosts such limits will be accepted or rejected for clearing in real time and a confirmation is sent for all accepted trades to the trade submission venue and respective clearing firms in real time.

For transactions that CME Clearing does not provide the credit limit hosting feature and for transactions where a clearing member decline the credit limit hosting feature, CME Clearing will submit a message to each clearing member requesting acceptance or rejection. Clearing Members process such messages through their own limit systems and explicitly accept or reject each transaction via the API in a manner of minutes.

Time Frames for Acceptance into Clearing

The NPR provides for several revisions to proposed Regulation 39.12(b)(7). Revised proposed Regulation §39.12(b)(7)(i) would require a DCO to coordinate with each designated contract markets (“DCMs”) and swap execution facilities (“SEFs”) to facilitate prompt, efficient and accurate processing of trades and the acceptance of trades and a DCO to coordinate with each clearing member that is a FCM, swap dealer (“SD”) or major swap participant (“MSP”) to accept or reject each trade submitted to the DCO for clearing “as quickly as would be technologically practicable if fully automated systems were used”.¹

Revised proposed Regulation §39.12(b)(7)(ii) for transactions executed competitively on or subject to the rules of a DCM or SEF would require a DCO to:

- (ii).... have rules that provide that the derivatives clearing organization will accept or reject for clearing as quickly after execution as would be technologically practicable if fully automated systems were used, all contracts that are listed for clearing by the derivatives clearing organization and are executed competitively on a designated contract market or a swap execution facility. The derivatives clearing organization shall accept all trades:
 - (A) For which the executing parties have clearing arrangements in place with clearing members of the derivatives clearing organization;
 - (B) For which the executing parties identify the derivatives clearing organization as the intended clearinghouse; and
 - (C) That satisfy the criteria of the derivatives clearing organization, including but not limited to applicable risk filters; provided that such criteria are non-discriminatory across trading venues and are applied as quickly as would be technologically practicable if fully automated systems were used.

Revised proposed Regulation §39.12(b)(7)(iii) for swaps not executed on or subject to the rules of a DCM or SEF or executed non-competitively on or subject to the rules of a designated contract market or a swap execution facility would require a DCO to:

- (iii).... have rules that provide that the derivatives clearing organization will accept or reject for clearing as quickly after submission to the derivatives clearing organization as would be technologically practicable if fully automated systems were used, all swaps that are listed for clearing by the derivatives clearing organization and are not executed on a designated contract market or a swap execution facility. The derivatives clearing organization shall accept all trades:

¹ Proposed Regulation §1.74(a) provides parallel requirements for FCMs and proposed Regulation §23.610(a) provides parallel requirements for SDs and MSPs.

- (A) That are submitted by the parties to the derivatives clearing organization, in accordance with § 23.506 of this chapter;
- (B) For which the executing parties have clearing arrangements in place with clearing members of the derivatives clearing organization;
- (C) For which the executing parties identify the derivatives clearing organization as the intended clearinghouse; and
- (D) That satisfy the criteria of the derivatives clearing organization, including but not limited to applicable risk filters; provided that such criteria are non-discriminatory across trading venues and are applied as quickly as would be technologically practicable if fully automated systems were used.

CME Group appreciates the Commission's addition of clauses 39.12(b)(7)(ii)(C) and 39.12(b)(7)(iii)(D) in response to our last comment letter² regarding the proposed timing elements and agrees that the criteria and associated risk filters should be applied on a non-discriminatory basis. CME Group believes that quick acceptance or rejection of clearing is important for effective risk management and for the efficient operation of trading venues" provided that the infrastructure is available for such. We are concerned with the assumption that all elements of the clearing acceptance process will utilize automated systems, or, if not automated, will be able to operate within the same time frames as automated systems "in a matter of milliseconds or seconds, or, at most, a few minutes, not hours or days."³. We note that floor-based or "open outcry" trading is utilized in many of our exchange-traded markets where automated controls are not feasible due to the manual processing of transactions. Further, as additional types and classes of swap products move to central clearing it is important for the performance standard to provide flexibility for the development of the supporting infrastructure, which may include manual processing and/or delayed automation of certain aspects of the clearing acceptance cycle, including the application of risk filters, as discussed in the Background section above. For the above reasons, CME Group believes the standard should be revised to "as quickly as would be technologically practicable if fully automated systems and filters were used or as quickly as possible if automated systems or filters are not used" in all parts of the proposed Regulations.

CME Group also proposes deleting clause (A) in proposed Regulation §39.12(b)(7)(ii) and clause (B) in proposed Regulation §39.12(b)(7)(iii). The sub-clauses infer that a DCO will be required to have knowledge of the clearing arrangements between a clearing member and its customers. DCOs are not privy to the contractual relationships and other aspects of the clearing arrangements between a clearing members and customers.

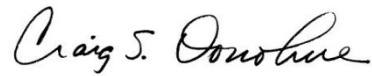
² Letter from Craig Donohue, Chief Executive Officer of CME Group, dated April 11, 2011.

³ 76 Fed. Reg at 45733

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CME Group thanks the CFTC for the opportunity to comment on this matter. We would be happy to discuss any of these issues with the Commission and its staff. If you have any comments or questions, please feel free to contact me at (312) 930-8275 or Craig.Donohue@cmegroup.com; or Jason Silverstein, Director and Associate General Counsel, at (212) 299-2228 or Jason.Silverstein@cmegroup.com.

Sincerely,



Craig S. Donohue

cc: Chairman Gary Gensler (via e-mail)
Commissioner Michael Dunn (via e-mail)
Commissioner Bart Chilton (via e-mail)
Commissioner Jill Sommers (via e-mail)
Commissioner Scott O'Malia (via e-mail)
Ananda Radakrishnan (via e-mail)
John Lawton (via e-mail)