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December 7, 2012

The Honorable Gary Gensler  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

Re: Chicago Mercantile Exchange Inc. Amended Request to Adopt New Chapter 10 and New Rule 1001 of CME's Rulebook (IF 12-013)

Dear Chairman Gensler:

The Depository Trust & Clearing Corporation (“DTCC”) submits this letter to the Commodity Futures Trading Commission (“CFTC” or “Commission”) in response to the recent submission by the Chicago Mercantile Exchange Inc. (“CME”) of an amended petition for approval of a rule.<sup>1</sup> According to CME, this is a new rule, and therefore the previous petition on which the Commission requested comment is null and void.

We urge that the new proposed rule be rejected, as its objective and substance violates Commission rules and the Commodities and Exchange Act (“CEA”). This new rule request fundamentally mistakes the role of a swap data repository (“SDR”) and SDR reporting, as CME fights to have Part 45 requirements for SDR reporting eviscerated. CME’s amended proposed rule makes clear its intent to simply copy data CME maintains as a derivatives clearing organization (“DCO”), and allow CFTC access to that data, rather than comport with the more robust and timely trade reporting to regulators contemplated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).

CME implicitly admits this when it recommends, as part of their rule change, that the CFTC’s Part 45 rules be modified<sup>2</sup> to accommodate the CME’s amended proposed rule change. The only way that the new rule proposed by CME can be lawfully considered is through an Administrative Procedure Act (“APA”) notice and comment process that includes a thorough cost-benefit analysis. Further, we again

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<sup>1</sup> Amended CME Rule Filing, New Chapter 10 and New Rule 1001 (“Regulatory Reporting of Swap Data”), Submission # 12-391R, *available at* <http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/ru120612cme001.pdf>.

<sup>2</sup> Notably, while CME states that the Part 45 rules be modified, its new rule filing remains devoid of explanation regarding how Part 45 should be modified.

strongly urge that the CFTC recognize this as an issue that is vitally important to market participants beyond CME and DTCC. As such, the CFTC could include as part of the APA rulemaking process a public roundtable with interested parties to discuss the proposal to ensure that a full airing of the issues presented is considered.

The CME is plainly attempting to short circuit important procedural requirements and the opportunity for meaningful comment, going so far as to ask for the new rule to be effective the day following Commission approval. DTCC, and we understand many other market participants, were preparing to comment on CME's prior proposed rule by the old comment deadline of December 21, 2012. At a bare minimum, the filing of this new proposal calls for a significant extension of the comment period so that interested parties can analyze and respond to the adequacy and accuracy of the information provided in the CME's new proposal.

We look forward to hearing how the Commission will proceed with this new proposed rule and trust that this information will be made public by the Commission in short order. We are concerned that the Commission is following a course that is overly sympathetic to CME's efforts to undercut the requisite procedural protections of the APA and undermine core principles enacted as part of the Dodd-Frank Act and otherwise embodied in the CEA. The Commission and other systemic risk regulators should not tolerate CME's attempt to utilize procedural shortcuts to undermine the protections and transparency afforded by the Dodd-Frank Act.

Sincerely yours,



Larry E. Thompson  
General Counsel

Cc: The Honorable Jill Sommers  
The Honorable Scott O'Malia  
The Honorable Bart Chilton  
The Honorable Mark Wetjen  
Dan Berkovitz  
Richard Shilts  
Jonathan Marcus  
Susan Nathan  
Eric Juzenas  
Nancy Markowitz