



August 6, 2018

Kathleen Cronin  
Senior Managing Director, General Counsel  
Legal Department

**Via Electronic Submission**

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20581

**RE: Request for Comment on Notice of Intent to Renew Collection 3038-0093, Part 40,  
Provisions Common to Registered Entities**

Dear Mr. Kirkpatrick:

CME Group Inc. ("CME Group") appreciates the opportunity to comment in response to the Commodity Futures Trading Commission's ("CFTC" or "Commission") Notice of Intent to Renew Collection 3038-0093 in regard to Part 40, Provisions Common to Registered Entities ("Notice"). By way of background, CME Group is one of the world's largest and most diverse derivatives marketplaces. CME Group is submitting these comments for and on behalf of the following four U.S.-based designated contract markets ("DCMs"): Chicago Mercantile Exchange Inc. ("CME"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX"); the derivatives clearing organization division of CME ("CME DCO"); the swap data repository division of CME ("CME SDR"); and the swap execution facility division of CME ("CME SEF") (collectively, these registered entities are referred to as the "Exchanges"). CME, CBOT, NYMEX, and COMEX offer a wide range of products available across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, metals, and agricultural commodities. CME DCO provides clearing and settlement services for exchange-traded and over-the-counter ("OTC") derivatives transactions. The Exchanges develop new products as well as rules and rule amendments impacting all aspects of the Exchanges' operations and submits them on a daily basis to the Commission pursuant to Part 40 regulations. Therefore, the Exchanges have an in-depth perspective and can provide valuable insight on the user experience and self-certification process.

In this letter, the Exchanges respectfully provide the following comments and recommendations for the Commission's consideration in an effort to simplify the rule filing and submission process for new products, rules, and rule amendments submitted pursuant to §§ 40.2, 40.3, 40.5, 40.6, and 40.10. The comments are grouped in accordance with the request for input topics set forth in the Commission's Notice as follows: I) Usefulness, Necessity, and Practicality of the Collected Information; II) Accuracy of the Commission's Estimation and Methodology of the Burden of the Collection of Information; III) Enhancing Quality, Usefulness, and Clarity of the Collected Information; IV) Conclusion. Additionally, solutions to minimize the burden of the collection of information are proposed in each section throughout this letter.

**I) Usefulness, Necessity, and Practicality of the Collected Information**

The Exchanges believe that the collection of information required for new products, rules, and rule amendments pursuant to §§ 40.2 and 40.6 is necessary; however, there are enhancements that could be made to the self-certification process to increase efficiency and reduce redundancies. Part 40 requires registered entities to certify that each proposed initiative complies with the Commodity Exchange Act (“CEA”) and Commission regulations thereunder. Part 40 also requires a concise explanation and analysis of the proposed initiative and its compliance with core principles. Information regarding each proposal is publicly available on both the Commission’s and the registered entity’s websites in advance of the initiative’s effective date. Additionally, the Exchanges regularly receive input from market participants via committees, surveys, and multiple formal and informal processes. It is common practice to engage with Commission staff during the development of new products, product amendments, new rules, and rule amendments that are novel in nature.

The Exchanges believe that the collection of information through the self-certification process successfully provides the Commission and market participants with useful, necessary, and practical information regarding new products, rules, and rule amendments, with each proposed initiative being submitted to the Commission as a “rule filing”; however, the Exchanges believe there are improvements that can be made to the self-certification process. Although the Exchanges support the collection of information electronically through the Commission’s rule filing portal (the “Portal”), the process is overly operationally burdensome. Currently, if an exchange wishes to list multiple products at one time they must submit a separate rule filing for each new product listed even though the underlying analysis, terms and conditions, fees, etc. are identical or similar in nature. Therefore, the Exchanges will prepare a singular rule filing containing the information for all applicable products to be listed and will have to submit the exact same rule filing multiple times, based on the number of products being listed. For example, if NYMEX were to list ten new crude oil spread futures contracts, a NYMEX rule filing containing the information for all ten products would be compiled into one rule filing and this one rule filing would be submitted via Portal ten separate times, once for each new product being listed. Submitting a rule filing with identical content multiple times adds no value, consumes the Commission’s time by creating duplicative review, and is an inefficient use of the registered entity’s resources. A proposed solution is for the Commission to enable the ability to submit multi-product rule filings in one singular rule filing on the Portal, so long as the contents of the rule filing are identical and applicable to all products being listed.

This issue also arises with multi-entity rule filings. Because CME Group is comprised of seven registered entities, initiatives spanning across multiple entities must be submitted on the Portal commensurate with the number of entities affected. Therefore, as with multi-product rule filings, the Exchanges will prepare a singular rule filing containing the applicable information and will submit identical content for each registered entity via the Portal. For example, rule filing 17-067 (“Amendments to CME/CBOT/NYMEX/COMEX/SEF Rule 230”) was applicable to all four DCMs, CME DCO, and CME SEF, so it had to be submitted via Portal six separate times. This process is neither useful nor practical and consumes time and resources of both the Commission and the registered entities being subjected to this arbitrary process. A proposed solution is for the Commission to give registered entities the ability on the Portal to select any and all related entities that are applicable to a specific rule filing. This would prevent unnecessary, duplicative review by Commission staff and would greatly reduce the administrative burden and time spent on the submission process by registered entities.

Further, as discussed more fully below in section III, there are instances in which the Exchanges must submit § 40.6(a) rule filings as both “Organization Rules/Amendments” and “Product Terms and Conditions” due to the characteristics of certain changes that create ambiguity in the distinction. Prior to the Portal, there was no distinction between the two for a § 40.6(a) rule filing. However, there is no ability to submit one rule filing for both options on the Portal. Instead, as with multi-product and multi-entity rule filings, the Exchanges prepare a singular rule filing and submit the identical content multiple times, creating duplicative review for Commission staff and time-consuming administrative work for registered entities. To remedy this situation and that for multi-product and multi-entity rule filings, registered entities should have the ability to select more than one check box on the rule filing cover sheet, if applicable. This capability could be achieved with an interactive cover sheet on the Portal in which users could add entities, select multiple rule filing classifications, provide the titles of individual products being covered in a new product submission, and include the appropriate attachments as required by the CEA. Additionally, by making the cover sheet an interactive form that users can fill out, it would allow for automation and would eliminate any potential withdrawals or revisions due to human error in the current word and PDF formats.

## **II) Accuracy of the Commission’s Estimation and Methodology of the Burden of the Collection of Information**

The Commission estimates the burden of collection of information under §§ 40.2, 40.3, 40.5, and 40.6 to be an average of 100 annual rule filings submitted by each registered entity, with a time burden of approximately 2 hours to compile the necessary information, perform any analysis, draft the rule filing, and submit via Portal. The Commission also estimates the burden of collection of information under § 40.10 to be an average of 2 annual rule filings submitted by each systemically important DCO (“SIDCO”), with a time burden of approximately 5 hours to compile the necessary information, perform any analysis, draft the rule filing, and submit via Portal. The Exchanges believe the Commission’s estimates are drastically understated and do not represent the time, resources, and efforts required to prepare, finalize, and submit each rule filing. Especially for new products and 40.10 rule filings, the information required to be provided is comprehensive and detailed. Further, the Exchanges note that the Notice fails to indicate the methodology by which the Commission derived these estimates.

Although CME SDR and CME SEF submit very few rule filings annually, CME, CBOT, NYMEX, COMEX, and CME DCO submit substantially more rule filings each year than the Commission estimates. During 2017, the Exchanges submitted over 1080 rule filings to the Commission, inclusive of supplemental FOIA submissions, over 90 of which were DCO submissions. Of this total amount, there were over 100 new futures and OTC products listed pursuant to § 40.2, the majority of which were submitted in multi-product rule filings. Further, over 80 were multi-entity rule filings, having to be submitted up to five times per initiative. The Exchanges submitted 3 §§ 40.4 and 40.5 rule filings and 2 § 40.10 rule filings but were required to revise one of the § 40.10 initiatives multiple times. The Exchanges estimate the average burden of this collection of information as follows: each cash-settled new product requires 8-10 hours; each physically-delivered new product requires 20-40 hours; each rule change requires 2-4 hours; each product term and condition amendment requires 2-4 hours; each market maker or incentive program requires 1-2 hours; all weekly notifications collectively require 1 hour; and each 40.10 rule filing requires anywhere between 20-60 hours for an initial submission, not inclusive of comments and questions received from Commission staff and edits required pursuant thereto. To further illustrate this time and resource burden, for example, NYMEX recently submitted a twelve-part new

product rule filing. Excluding the time spent information gathering, performing the underlying analysis, and drafting the rule filing, submission of the twelve parts via Portal took 2 hours because the rule filing had to be submitted twelve separate times, one for each new product. If the Commission adopted an approach in which multiple products could be combined into a singular rule filing and submitted on the Portal one time, submitting via Portal would have taken no more than 20 minutes.

Although the Exchanges account for the greatest number of rule filings submitted to the Commission each year, the Commission's burden estimate and resulting impact should be recalculated to take this burden into account, not just the burden on the average registered entity that submits rule filings. The Exchanges also request that the Commission provide additional information regarding the methodology used to calculate these estimates.

### **III) Enhancing Quality, Usefulness, and Clarity of the Collected Information**

In addition to the solutions proposed above to enhance the usefulness and practicality of the collection of information, the Exchanges request that the Commission remove the requirement that registered entities distinguish between rule filings that are "Organization Rules/ Amendments" versus "Product Terms and Conditions" as this distinction is not mandated by the Commission's regulations and creates unnecessary confusion among both Commission staff and registered entities. Conversely, if the Commission declines to remove this requirement, the Exchanges request that the Commission provide guidance specifically setting forth which initiatives are considered "Organization Rules/Amendments" and which are considered "Product Terms and Conditions." Although the Commission has required this distinction since the inception of the Portal, registered entities have not received consistent or formal guidance regarding these distinctions and many times are left second-guessing which way to submit certain rule filings. This inconsistency forces registered entities to track submission types over multiple years, have unnecessary debates regarding precedent with Commission staff, and to withdraw and re-submit rule filings that were originally submitted "incorrectly," all of which are inefficient uses of both time and resources. Further, when registered entities are forced to withdraw and re-submit rule filings, at least one business day is lost and many times this causes the initiative to be pushed back, which can cause widespread burdens across the entire organization.

Further, as previously stated in CME Group's Project KISS comment letter<sup>1</sup>, the Commission should revise product "terms and conditions" set forth in § 40.1(j) to include initial listing of block trades in connection with the launch of a new product. Under § 40.2, a DCM may list a new product by self-certifying the product with the Commission by the open of business on the business day preceding the product's listing. The intent behind this rule was to promote innovation on the part of the exchanges. One barrier to the implementation of this listing rule is the fact that the initial establishment of block levels is not considered a product "term and condition" by Commission staff and must therefore be self-certified not less than ten business days prior to the registered entity's implementation of the block minimum threshold. Therefore, DCMs are faced with the decision to either self-certify new products and block levels at least ten business days in advance of the proposed implementation date or to submit two separate rule filings, one for the block levels pursuant to § 40.6 and one for the new product pursuant to § 40.2. To promote efficiency and allow DCMs to enjoy the full benefits of the listing rules, we propose that the

---

<sup>1</sup> See CME Group Project KISS Comment Letter dated September 29, 2017.



Commission characterize the initial establishment of a block trade level as a product term and condition under Part 40 rules.

**IV) Conclusion**

The Exchanges appreciate the opportunity to provide comments in response to the Commission's Notice. The Exchanges support the Commission's willingness to consider the public comments on simplifying and streamlining existing rules, regulations, or practices. Should the Commission have any questions or wish to discuss these comments and recommendations further, please feel free to contact me at 312-930-3488 or via email at [Kathleen.Cronin@cmegroup.com](mailto:Kathleen.Cronin@cmegroup.com). Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Kathleen M. Cronin". The signature is written in a cursive, flowing style.

Kathleen M. Cronin  
Senior Managing Director, General Counsel  
and Corporate Secretary