

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65612; File No. SR–CME–2011–13]

### Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules To Reflect the Change in Regulatory Status of Eris Exchange, LLC From an EBOT to a DCM

October 24, 2011.

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 October 18, 2011, Chicago Mercantile Exchange Inc. (“CME”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b–4(f)(4)(ii)<sup>4</sup> thereunder.

#### I. Self-Regulatory Organization’s Statement of Terms of Substance of the Proposed Rule Change

CME proposes to adopt revisions to certain CME rules in connection with its clearing of contracts listed by the Eris Exchange, LLC (“Eris”) to reflect the pending change in regulatory status of Eris from an “EBOT” to a designated contract market. CME is also at the same time amending its Manual of Operations to reflect the proposed rule changes related to Eris. The text of the proposed rule change in the CME rulebook is available at the CME’s Web site at <http://www.cmegroup.com>, at the principal office of CME, and at the Commission’s Public Reference Room.

#### 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 IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

CME proposes to adopt revisions to CME Rules 8F001 (Scope of Chapter) and 8F004 (OTC Clearing Member Obligations and Qualifications) and to the CME Clearing House Manual of Operations in connection with its clearing of contracts listed by Eris Exchange, LLC (“Eris”). CME began acting as the clearing house for Eris in 2010, at which time Eris became an exempt board of trade (“EBOT”). Initially, with respect to customer positions, Eris contracts were cleared in the Regulation 30.7/secured origin, and since October 2010, they have been cleared in the Cleared OTC Derivatives Account Class/sequestered origin. Because of its status as an EBOT, Eris has been referenced in Chapter 8–F (Over-the-Counter Derivative Clearing) of CME’s rule book.

After passage of the Dodd-Frank Act, Eris applied for registration with the Commodity Futures Trading Commission as a designated contract market (“DCM”). CME understands that Eris expects to begin operating as a DCM in or around mid October, 2011. To reflect Eris’s change in regulatory status from an EBOT to a DCM, and the related requirement that customer positions and collateral be maintained in the futures account class/segregated origin, CME proposes to remove references to Eris from Chapter 8–F of CME’s rule book. CME also proposes to make related revisions to the section on Eris in CME’s Clearing House Manual of Operations.

All proposed revisions will become effective immediately but will not become operational earlier than the date on which the Commodity Futures Trading Commission grants Eris’s DCM application. CME notes that it has also certified the proposed rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (“CFTC”).

The proposed CME rule amendments are intended to facilitate CME’s activities as a derivatives clearing organization clearing the futures transactions of a DCM. As such, the proposed CME rule amendments do not significantly affect the security-based swap clearing operations of CME or any related rights or obligations of CME security-based swap clearing participants. The proposed rule change is therefore properly filed under Section 19(b)(3)(A) and Rule 19b–4(f)(4)(ii) thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the futures clearing operations of the

clearing agency with respect to futures that are not security futures 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.

#### 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(2) of Rule 19b–4 and became effective on filing. At any time within sixty days of the filing of such 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, 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–2011–13 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–2011–13. 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

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

<sup>2</sup> 17 CFR 240.19b–4.

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

<sup>4</sup> 17 CFR 240.19b–4(f)(4)(ii).

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. 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-2011-13 and should be submitted on or before November 18, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>5</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65610; File No. SR-PHLX-2011-141]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Introduce the Minimum Life Order as a New Order Type

October 24, 2011.

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 October 12, 2011, NASDAQ OMX PHLX LLC ("PHLX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by PHLX. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

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

PHLX is filing this proposed rule change to introduce a new order type—the Minimum Life Order—for use in the NASDAQ OMX PSX ("PSX") system. PHLX proposes to implement the rule change as soon as practicable following Commission approval. The text of the proposed rule change is available at <http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx>, at PHLX's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of 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 IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

PHLX proposes to introduce a new order type—the Minimum Life Order—for use on PSX. Today's cash equities markets are characterized by high levels of automation and speed, both in the systems employed by exchanges and by their market participants. In such an environment, the degree to which displayed orders reflect committed trading sentiment has become less predictable, because many entered orders are rapidly cancelled. Market participants that seek to interact with orders that are cancelled before they can execute may ultimately achieve less favorable executions than would have been the case if the order had not cancelled or if they had directed their own order elsewhere. The more often a market participant pursues displayed liquidity at a particular venue that is no longer available by the time its order arrives, the more likely it is that the market participant will pursue liquidity at another venue. Conversely, if an exchange's fill rates are good, market

participants will direct liquidity-seeking orders to it with greater confidence.

PSX was developed to provide an alternative to traditional price-time markets that reward market participants whose systems are quickest to post at a given price. Through its unique price-size-pro rata algorithm, PSX instead allocates execution opportunities based on the size of posted orders. The Exchange has devised the Minimum Life Order as a further enhancement to this market model, designed to provide market participants with a means to signal that their order will not be cancelled within a given time frame, and thereby encourage removers of liquidity to route orders to PSX in the expectation of receiving higher fill rates. The Exchange believes that the order type may also enhance price discovery by allowing a market participant to signal its commitment to trade at a particular price.

Once entered, a Minimum Life Order may not be cancelled for a period of time established in advance by the Exchange. If a market participant entering a Minimum Life Order submits a cancel message with respect to a Minimum Life Order at the same time as the order, or at any point during the "no cancel" window, the cancel message will not be rejected, but will be effected only following the expiration of the window (assuming the order has not already been executed). Thus, a market participant that wished to use the order type but that was concerned about the potential for keeping its order on the book too long would have a readily available mechanism for cancelling the order at the end of the window. The initial "no cancel" window will be 100 milliseconds. The Exchange reserves the right to change the duration of the no cancel window by submitting a proposed rule change to do so. All Minimum Life Orders must be designated as Displayed Orders.

Through a separate filing, the Exchange will establish pricing for the order. Because the Exchange believes that the order type may enhance PSX's market quality through improved fill rates, the Exchange expects to propose to offer an enhanced liquidity provider rebate of \$0.0026 per share executed for Minimum Life Orders that provide liquidity after posting to the book. This rebate is the same as the rebate offered with respect to displayed orders with an initial size of 2,000 shares or more, and compares favorably to the rates of \$0.0024 per share executed for displayed orders with a smaller size and \$0.0010 per share executed for non-displayed orders.

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

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