

above.<sup>53</sup> In its review of the proposal, the Commission has carefully considered all of the comments received. The Commission acknowledges the concerns raised by the commenter, as detailed above,<sup>54</sup> about the potential impact on competition resulting from the Proposal in the Exchange's rules governing priority and order allocation for open outcry transactions. At the same time, the Commission also acknowledges the Exchange's belief that this Proposal will encourage order flow providers to send additional crossing, facilitation, and solicited orders to the Exchange,<sup>55</sup> as well as its belief that today, electronic options trading is well-established and no longer requires special rules and incentives to develop further.<sup>56</sup>

Phlx Rule 1014, Commentary .05(c)(ii), as proposed to be revised, describes priority for crossing, facilitation, and solicited orders in open outcry transactions. The proposed rules governing open outcry during crossing, facilitation, and solicited transactions on the Exchange floor are similar to the rules governing priority in crossing transactions at other exchanges.<sup>57</sup> Given that other options exchanges currently have rules that provide lower priority to non-priority customer orders on the electronic book during crossing transactions on those exchanges, the Exchange's proposed revisions to its priority scheme for floor transactions will allow Phlx to compete with other

floor-based exchanges that have substantially similar rules. Accordingly, the Commission believes that it would be appropriate and consistent with the Act to approve the Exchange's proposed rule change.<sup>58</sup>

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>59</sup> that the proposed rule change, as modified by Amendment No. 1, (SR-Phlx-2014-23) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>60</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73287; File No. SR-CME-2014-39]

### Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Amendments to CME ClearPort Hours for Certain Commodity Index Cleared OTC Swap Contracts

October 2, 2014.

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 September 25, 2014, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. 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

CME is filing proposed rules changes that are limited to its business as a derivatives clearing organization. CME proposes to amend the current CME ClearPort hours for certain enumerated commodity index cleared swap contracts. The proposed changes are as follows:

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
CAW .....	AUD Chicago Soft Red Winter Swap (Cleared Only) .....	CBT	14G
CCS .....	Corn Calendar Swap (Clearing Only) .....	CBT	10C
CPC .....	USD Malaysian Crude Palm Oil Calendar Swap (Cleared Only) .....	CME	204A

<sup>53</sup> See ISE Letters I and II. See also notes 29-37 and 44-49 and accompanying text describing the issues and concerns raised by these comments.

<sup>54</sup> See *supra* notes 29-37 and 44-49 and accompanying text.

<sup>55</sup> See Notice, 79 FR at 27353.

<sup>56</sup> See Amendment No. 1 at 4.

<sup>57</sup> See, e.g., CBOE Rule 6.74; NYSE MKT Rule 934NY; NYSE Arca Rule 6.47. CBOE Rule 6.74 provides that for purposes of establishing priority at the same price, bids and offers of In-Crowd Market Participants have first priority, except with respect to public customer orders resting in the electronic book; and all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Market-Makers) have second priority. NYSE MKT Rule 934NY(b)(3) provides that, for a non-facilitation cross, if there are bids or offers in the Consolidated Book better than the proposed execution price or Customer Orders in the Consolidated Book priced at the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book. Once bids or offers in the Book are satisfied, the Floor Broker may cross the balance of the orders, if any, to be crossed. NYSE Arca Rule 6.47 provides that, for crossing orders, the Floor

Broker must trade against: (i) Customer bids or offers on the Consolidated Book priced equal or better than the proposed execution price; and (ii) better-priced non-Customer bids or offers on the Consolidated book along with any equal-priced non-Customer bids and offers that are ranked ahead of any equal-priced Customer bids and offers.

<sup>58</sup> As noted above, the Exchange's proposal is intended to bring its floor priority rules for crossing, facilitation, and solicited orders in line with the floor priority rules of certain other options exchanges. However, the Commission is aware of the concerns, as expressed by the commenter, that the rules of an options trading floor should allow for sufficient competition for orders. This concern is one that the Commission staff intends to continue to evaluate in the context of its ongoing empirical consideration of market structure. For example, there currently is relatively little information available about the extent and nature of floor crossing transactions. The Commission staff, however, expects that an exchange with a trading floor, as part of its regulatory obligations, will monitor the extent to which competition is maintained in floor crossing transactions. One way an exchange could do so would be to assess periodically the level of participation in such crossing transactions by market makers and other

market participants, aside from the firm that initiated the cross, and review whether its rules appropriately allow for such competition. In addition, the Commission reminds broker-dealers that the duty of best execution requires them to assess periodically the quality of competing markets to assure that order flow is directed to the markets providing the most beneficial terms for their customer orders. See, e.g., Order Execution Obligations, Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 at 48322-33 (September 12, 1996). Broker-dealers must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices. See *id.* at 48323. In doing so, broker-dealers must take into account price improvement opportunities, and whether different markets may be more suitable for different types of orders or particular securities. See *id.*

<sup>59</sup> 15 U.S.C. 78s(b)(2).

<sup>60</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.

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

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

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
DFL .....	DAP FOB NOLA Swaps (Clearing Only) .....	CBT	48
DFT .....	DAP FOB Tampa Swaps (Clearing Only) .....	CBT	47
DG2 .....	Bloomberg Commodity Index 2-Month Forward Swaps (Cleared OTC) .....	CBT	29B
DG3 .....	Bloomberg Commodity Index 3-Month Forward Swaps (Cleared OTC) .....	CBT	29C
DGS .....	Bloomberg Commodity Index Swaps (Cleared OTC) .....	CBT	29A
KAW .....	AUD KC Hard Red Winter Wheat Swap (Cleared Only) .....	CBT	14J
KWS .....	KC HRW Wheat Calendar Spread Options .....	CBT	14M
RRE .....	S&P GSCI Enhanced ER Index Swaps (Cleared OTC) .....	CME	415B
SE2 .....	S&P GSCI ER Index 2 Month Forward Swaps (Cleared OTC) .....	CME	415E
SE3 .....	S&P GSCI-ER Index 3 Month Forward Swaps (Cleared OTC) .....	CME	415F
SES .....	S&P GSCI ER swap .....	CME	415A
SNS .....	Soybean Calendar Swaps (Clearing Only) .....	CBT	11D
UFG .....	Urea (Granular) FOB Egypt Swaps (Clearing Only) .....	CBT	50
UFN .....	Urea (Granular) FOB US Gulf Coast Swaps (Clearing Only) .....	CBT	45
UFU .....	UAN FOB NOLA Swaps (Clearing Only) .....	CBT	46
UFZ .....	Urea (Prilled) FOB Yuzhny Swaps (Clearing Only) .....	CBT	49
WCS .....	Wheat Calendar Swaps (Clearing Only) .....	CBT	14C

The current hours for submission to clearing via CME ClearPort for the above-referenced contracts are 5:00 p.m. CT to 4:15 p.m. CT next day, Sunday-Friday. The new hours for the above-referenced contracts will be 6:00 p.m. CT to 5:45 p.m. CT next day, Sunday-Friday.

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

In its filing with the Commission, CME 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. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

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

CME is registered as a DCO with the Commodity Futures Trading Commission and offers clearing services

for many different futures and swaps products. The proposed rule change that is the subject of this filing is limited to CME's business as a DCO offering clearing services for CFTC-regulated swaps products. The proposed rule change would amend the CME ClearPort hours for commodity index cleared swap contracts. CME ClearPort provides functionality for the acceptance of contracts for clearing. The affected contracts are listed below:

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
CAW .....	AUD Chicago Soft Red Winter Swap (Cleared Only) .....	CBT	14G
CCS .....	Corn Calendar Swap (Clearing Only) .....	CBT	10C
CPC .....	USD Malaysian Crude Palm Oil Calendar Swap (Cleared Only) .....	CME	204A
DFL .....	DAP FOB NOLA Swaps (Clearing Only) .....	CBT	48
DFT .....	DAP FOB Tampa Swaps (Clearing Only) .....	CBT	47
DG2 .....	Bloomberg Commodity Index 2-Month Forward Swaps (Cleared OTC) .....	CBT	29B
DG3 .....	Bloomberg Commodity Index 3-Month Forward Swaps (Cleared OTC) .....	CBT	29C
DGS .....	Bloomberg Commodity Index Swaps (Cleared OTC) .....	CBT	29A
KAW .....	AUD KC Hard Red Winter Wheat Swap (Cleared Only) .....	CBT	14J
KWS .....	KC HRW Wheat Calendar Spread Options .....	CBT	14M
RRE .....	S&P GSCI Enhanced ER Index Swaps (Cleared OTC) .....	CME	415B
SE2 .....	S&P GSCI ER Index 2 Month Forward Swaps (Cleared OTC) .....	CME	415E
SE3 .....	S&P GSCI-ER Index 3 Month Forward Swaps (Cleared OTC) .....	CME	415F
SES .....	S&P GSCI ER swap .....	CME	415A
SNS .....	Soybean Calendar Swaps (Clearing Only) .....	CBT	11D
UFG .....	Urea (Granular) FOB Egypt Swaps (Clearing Only) .....	CBT	50
UFN .....	Urea (Granular) FOB US Gulf Coast Swaps (Clearing Only) .....	CBT	45
UFU .....	UAN FOB NOLA Swaps (Clearing Only) .....	CBT	46
UFZ .....	Urea (Prilled) FOB Yuzhny Swaps (Clearing Only) .....	CBT	49
WCS .....	Wheat Calendar Swaps (Clearing Only) .....	CBT	14C

The current hours for submission to clearing via CME ClearPort for these contracts are 5:00 p.m. CT to 4:15 p.m. CT next day, Sunday-Friday. Under the proposed rule change, the new hours for the affected contracts would be 6:00 p.m. CT to 5:45 p.m. CT next day, Sunday-Friday. The proposed change in

hours will shorten the period in which daily trade submission is halted from 45 minutes to 15 minutes. The proposed new hours will be made known to the trading community in advance of the effective date via a Special Executive Report and will be posted in the trading

specifications for the contracts on the CME Web site.

The changes that are described in this filing are limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in

any way. The proposed changes would become effective immediately but would be operationalized on October 6, 2014. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the Commodity Futures Trading Commission ("CFTC"), in a separate filing, CME Submission No. 14-382.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.<sup>5</sup> CME is proposing revised hours for acceptance of cleared swap contracts; the proposed changes would have the effect of shortening the period in which daily trade submission is halted from 45 minutes to 15 minutes and, as such, should be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.<sup>6</sup>

Furthermore, the proposed changes are limited in their effect to products offered under CME's authority to act as a DCO. The products that are the subject of this filing are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a DCO clearing swaps that are not security-based swaps, futures that are not security futures and forwards that are not security forwards. CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to products offered under CME's authority to act as a DCO, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps; and

forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act<sup>7</sup> and are properly filed under Section 19(b)(3)(A)<sup>8</sup> and Rule 19b-4(f)(4)(ii)<sup>9</sup> thereunder.

#### *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. The amendments would adopt new CME ClearPort hours for twenty commodity index cleared swap contracts. Further, the changes are limited to CME's derivatives clearing business and, as such, do not affect the security-based swap clearing activities of CME in any way and therefore would not impose any burden on competition that is inappropriate 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*

Written comments relating to the proposed changes have not been solicited or received. CME will notify the Commission of any written comments received by CME.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>10</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>11</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, 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-CME-2014-39 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CME-2014-39. 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 10:00 a.m. and 3:00 p.m. Copies of such filings will also 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-2014-39 and should be submitted on or before October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

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

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<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(4)(iii).

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

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