Chicago Mercantile Exchange

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April 11, 2007

VIA ELECTRONIC DELIVERY

Ms. Eileen Donovan
Acting Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Chicago Mercantile Exchange Inc. Submission (07-17) Regarding a Proposal to List CME Credit Index Event Contracts

Dear Ms. Donovan:

The Chicago Mercantile Exchange Inc. ("CME") made a voluntary submission of CME Credit Event Futures for Commodity Futures Trading Commission ("CFTC") review and approval pursuant to section 5c(c)(2) of the Commodity Exchange Act ("CEA") and CFTC Regulation §40.3 thereunder.[1] The Chicago Board Options Exchange ("CBOE") and the Options Clearing Corp. ("OCC") (collectively, the "Objectors"), filed comment letters dated March 28, 2007, with the Commission. We are submitting this letter in response to the comment letters filed by CBOE and OCC.

The Objectors claim the Credit Index Event Contracts (the "Index Event Contracts" or "Contracts") are options, based largely upon the Commission's prior statement with respect to CME's single name credit event contracts. The submitted Index Event Contracts do not include any of the features used by financial analysts to distinguish options from futures. Ordinarily the purchaser of an option pays for the benefit of price movements above or below a predetermined strike price and has no liability in addition to the premium paid in order to secure the option. Option sellers assume an opposite risk profile. While some options operate pursuant to an automatic exercise feature, such a feature may generally be overridden at the discretion of the buyer. Buyers and sellers of the Contracts enjoy no such optionality. Moreover, the Contracts do not involve any strike prices or premium payments. We thus believe that the Contracts are most properly characterized as a cash-settled index futures contract tied to a digital index upon final settlement.

The Objectors attempt to deconstruct the index to demonstrate that the same result may be engineered by stitching together a series of digital options. Every standard futures contract can be engineered by combining the correct pair of put and call options. Also, the fact that each name in the index will, at the conclusion of trading, be valued at zero or at full value is not

[1] CME Submission # 07-17.

relevant to the question of whether this is a futures contract. Hurricane contracts are valued at zero or some higher amount depending on whether the hurricane strikes. During the life of the Contract its value will vary based on the market's expectations regarding the prospects of the component companies.

Moreover, consider that at any given point in time, an index value may fluctuate either upward or downward generally constrained to tick increments. Thus, movements in any index value at a given temporal point assume a certain binary character. In the aggregate, these binary movements assume a certain digital character and in the limit they approach the analog. Accordingly, the inventive mind may suggest that the index constitutes a bundle of binary options. But this level of inventiveness is unwarranted and inappropriate.

In addition, despite the Objectors' ongoing protestations to the contrary, CME believes that the Contracts are based on commodities, not securities. The events that may trigger a payment—bankruptcy or a failure to pay—are events that are not dependant upon the price or value of any security. At the same time, the Contract does not provide for the future delivery or cash settlement of a security or for the delivery of any measure of value based on a security or an index of securities. The payout is fixed in advance of the listing of the contract and does not vary in relation to the price of any security of the referenced entity. Accordingly, the underlier for the CME contract is not a security – it is an index of hypothetical cash-settled binary credit default swaps such as those that are traded on an over-the-counter basis.

CME appreciates the opportunity to respond to CBOE's and OCC's comments. Please do not hesitate to contact me at 312-466-7469 if we can provide any additional information.

Sincerely,

John W. Labuszewski, Managing Director
Research & Product Development