

July 18, 2014

**VIA E-MAIL**

Ms. Melissa Jurgens  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**Re: Regulation 40.6(a) Self-Certification. Amendments to CME/CBOT/NYMEX Rules 814 and 901  
CME/CBOT/NYMEX Submission No. 14-280**

Dear Ms. Jurgens:

Chicago Mercantile Exchange Inc. (“CME”), the Board of Trade of the City of Chicago, Inc. (“CBOT”) and the New York Mercantile Exchange, Inc. (“NYMEX”) (each an “Exchange” and collectively, the “Exchanges”), pursuant to Commodity Futures Trading Commission (“CFTC” or the “Commission”) Regulation 40.6(a), hereby notify the Commission they are self-certifying amendments to Exchange Rules 814 (Settlement Variation) and 901 (General Requirements and Obligations), to become effective on August 4, 2014.

The proposed revisions will not modify clearing house operations but merely clarify to the marketplace the clearing cycle currently in place. The amendments specify in the Exchanges’ rules the time at which a settlement bank becomes responsible to the clearing house to perform variation margin settlement and the point during the clearing cycle at which a clearing member’s obligations to the clearing house cease.<sup>1</sup>

In addition, the revised rules will reflect the best practices outlined in the Principles for Financial Market Infrastructures (“PFMIs”), adopted by the joint Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions (“CPSS-IOSCO”) and implemented by the CFTC. Principle 8 of the PFMIs—*Settlement finality* states that an “FMI’s rules and procedures should clearly define the point at which settlement is final” and that “[a]n FMI should be designed to provide clear and certain final settlement of payments, transfer instructions, or other obligations.” Revised Rule 814 (Settlement Variation) will specify that “settlement variation is deemed final when an irrevocable commitment to pay has been provided to the Clearing House by a settlement bank in a form or manner as approved by the Clearing House”. Rule 901.S (General Requirements and Obligations) is being added to state that “the obligation(s) of a clearing member to pay settlement variation and/or performance bond during each clearing cycle is not extinguished until all required cash and/or collateral is deposited into the correct CME bank account at the relevant custodial or settlement bank.”<sup>2</sup>

Exchange staff and the Exchanges’ Legal Department collectively reviewed the derivatives clearing organization core principles (“Core Principles”), as set forth in the Commodity Exchange Act (“CEA”), and identified the following Core Principles as potentially being impacted:

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<sup>1</sup> We are referring to the clearing member’s obligations in relation to that specific clearing cycle.

<sup>2</sup> Note that CME Rule 901.Q and 901.R are reserved for CME Clearing’s proposed liquidity rules which are currently under consideration by the CFTC, the Federal Reserve and the SEC.

- *Settlement procedures* – This Core Principle requires a derivatives clearing organization (“DCO”) to ensure that settlements are final when effected by ensuring that it has entered into legal agreements that state that settlement fund transfers are irrevocable and unconditional no later than when the DCO’s accounts are debited or credited. The amendment to Rule 814 codifies in the Exchanges’ rules CME’s uniform practice in regard to its settlement bank legal agreements, which provide that the settlement bank’s obligation arises upon CME’s receipt of the settlement bank’s irrevocable commitment to pay.
- *Public information* – Each DCO is required to have clear and comprehensive rules and procedures. Adding the proposed text to the Exchanges’ rules clarifies for settlement banks and clearing members the times at which their settlement obligations arise or are extinguished, respectively.
- *Legal risk considerations* – Each DCO is required to operate pursuant to well-founded and transparent legal framework that addresses, inter alia, finality of settlement and funds transfers. The Exchanges are increasing the transparency of their legal framework and aligning their disclosure of settlement finality with global PFMI standards by specifying in their rules the times at which settlement bank obligations to the clearing house arise and clearing member obligations are extinguished.

The text of the amendments to Exchange Rules 814 and 901 is attached, with additions underlined. The Exchanges are not aware of any substantive opposing views to the proposed amendments.

Pursuant to Section 5c(c) of the CEA and CFTC Regulation 40.6(a), the Exchanges certify that the proposed amendments comply with the CEA and regulations thereunder. The Exchanges certify that this submission has been concurrently posted on the CME Group website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you require any additional information regarding this submission, please contact me at 312-930-8167 or [Sean.Downey@cmegroup.com](mailto:Sean.Downey@cmegroup.com), or alternatively, you may contact John McKinlay at 312-930-3028 or [John.McKinlay@cmegroup.com](mailto:John.McKinlay@cmegroup.com). Please reference CME/CBOT/NYMEX Submission No. 14-280 in any related correspondence.

Sincerely,

/s/ Sean Downey  
Senior Director and Associate General Counsel

Attachments: Exhibit A – Amendments to CME/CBOT/NYMEX Rules 814 and 901

## EXHIBIT A

### Amendments to CME/CBOT/NYMEX Rules 814 and 901 (additions underlined)

#### 814. SETTLEMENT VARIATION

When a clearing member is long or short any amount of any futures contract at the end of the trading day, as indicated by its clearing memoranda, settlement shall be made with the Clearing House to the settlement price for that day, and such member shall be liable to pay to, or entitled to collect from, the Clearing House any loss or profit, as the case may be, represented by the difference between the price at which the commodity was bought or sold and the settlement price of the commodity at the end of the trading day. After making such settlement with the Clearing House, such member shall be deemed long or short (or long and short) such commodity, as the case may be, at the settlement price of the trading day. Notwithstanding the foregoing, the Clearing House shall not be required to pay any profit to a Participating Clearing Member in the event that such member or its Cross-Margining Affiliate fails to make any required settlement for that trading day with a Cross-Margining Clearing Organization.

If the market conditions or price fluctuations are such that the Clearing House deems it necessary, it may call upon the clearing members which in its opinion are affected to deposit with the Clearing House by such time as specified by the Clearing House the amount of funds that it estimates will be needed to meet such settlements as may be necessary. The Clearing House may pay out funds to those clearing members that in the opinion of the Clearing House will have credit balances as a result of those same market conditions or price fluctuations, except that in no instance may the Clearing House pay out funds to a clearing member, other than at the regular settlement, in excess of the total original performance bond deposits it holds for such clearing member. All deposits and payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

Settlement variation is deemed final when an irrevocable commitment to pay has been provided to the Clearing House by a settlement bank in a form or manner as approved by the Clearing House.

#### 901. GENERAL REQUIREMENTS AND OBLIGATIONS

Membership in the Clearing House is a privilege and license granted by the Board and may be withdrawn by the Board for cause at any time. Clearing House staff may grant exemptions to the General Requirements and Obligations set forth below for Clearing Members if it is determined that such an exemption will not jeopardize the financial integrity of the Clearing House. Subject to such exemptions, each applicant for qualification as a clearing member must satisfy the following requirements:

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S. The obligation(s) of a clearing member to pay settlement variation and/or performance bond during each clearing cycle is not extinguished until all required cash and/or collateral is deposited into the correct CME bank account at the relevant custodial or settlement bank.