

27 January 2012

David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington DC 20581

Dear Mr. Stawick,

Re: CME Clearing Europe Limited – Further information Concerning Request for Vacation of Registration as a Derivatives Clearing Organization

Further to my letter of December 14, 2011, requesting vacation of registration as a Derivatives Clearing Organization, I am pleased to provide further information to explain the decision and the context in which it was made.

As the Commission is aware, CME Clearing Europe Limited (“CMECE”) is authorised by the UK Financial Services Authority as a Recognised Clearing House (RCH), under Part XVIII of the Financial Services and Markets Act 2000 (FSMA). The initial recognition of clearing houses in the UK confers approval for them to clear the products that they have specified in their application to the FSA. Insofar as the broad product scope of the clearing of a RCH expands, it seeks approval for such expansion from the FSA. CMECE’s initial authorisation was for the clearing of OTC commodity derivatives and that remains the case to date.

CMECE’s activities do not currently require DCO registration because it does not and never has handled US client business (through any clearing member) or accepted a US-based clearing member. CMECE represents that this is the case, and would note that it has ‘checks and balances’ in place to ensure that it remains so. First, under FSA’s rules it is required to perform due diligence in relation to all associated dimensions of risk, and to notify FSA, if it accepts a clearing member incorporated in a jurisdiction that is not currently represented in CMECE’s clearing membership. The US is of course one of those jurisdictions, and CMECE is aware of the need for DCO status before it can accept a US-based clearing member for OTC derivatives clearing. Secondly, clearing members have a legal obligation under their current Clearing Membership Agreement with CMECE to ensure that any US-based clients do not clear through CMECE. As an additional ‘safety mechanism’, all clients linked to CMECE through their clearing members have to register as users of the ClearPort system, enabling CMECE to monitor clients to ensure that they are not US-based.

CMECE took the decision to pursue DCO status for the clearing of OTC energy products (later broadened following discussions with CFTC staff to cover most OTC commodity derivatives) in late 2010, prior to commencing operations as a clearing house, on the basis that the inability to handle US client business in OTC commodity business would limit future development in a harmful manner. At that stage, it was not, however, in a position to assess the extent of such limitation and to obtain considered input from potential clients and clearing members.

By the time the DCO application process had completed, user views had formed and strengthened and CMECE found that the majority preference was for the obligations of clearing members and clients to fall to the fullest extent possible under a single legal-regulatory jurisdiction, rather than falling under more than one jurisdiction, with potential ambiguities arising from different or inconsistent requirements. Remaining solely regulated as an RCH under English law also differentiates CMECE's clearing business more clearly from that of CME Clearing in the US. At the time the decision to apply to be a DCO was made, and it is fair to say during much of the consideration process, there were few proposed or final rules spelling out how DCOs and cleared business would be regulated. Those only became clearer later in the process, which allowed CMECE and its users to better weigh the apparent costs and benefits of operating under both an RCH and DCO environment rather than just as an RCH.

The decision regarding DCO status was discussed in the Board of CMECE and, following a full executive assessment and recommendation, the decision was taken to request de-registration by the Commission.

CMECE is most appreciative of the time dedicated earlier by Commission staff in reviewing its application for registration as a DCO. It has taken the decision only after careful reflection, taking account of the current development of our clearing business in OTC commodity derivatives and the prospects for its future expansion. CMECE is of course aware that regulation is changing on many fronts and that central clearing is becoming more important across all asset classes. Because of changing regulation and other influences on client and intermediaries' business decisions, the decision may be re-visited at a later stage.

CMECE represents that it will not engage in activities that require DCO registration without a new order of registration. CMECE acknowledges that, in the event that it should decide to re-apply to become a DCO, it would do so pursuant to the Form DCO as provided for in Part 39 of the Commission's regulations.

Yours sincerely,



Andrew Lamb
Chief Executive Officer

Copies to Ananda Radhakrisnan ; Heidi Rauh ; Phyllis Dietz