CME Group

Timothy R. Elliott
Executive Director and Associate General Counsel
Legal Department

August 24, 2012

VIA E-MAIL

Richard Shilts
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Chicago Mercantile Exchange Inc. SDR Application

Dear Mr. Shilts:

As you are aware, on June 7, 2012, Chicago Mercantile Exchange Inc. ("CME") applied to become a swap data repository ("SDR"). We have been working with your staff since March 2012 on SDR registration. CME very much appreciates your staff's diligent attention to our application and their efforts to expedite review. We are writing to inform you of a situation that has arisen that may complicate our registration process.

Following its decision to apply as an SDR, CME began its SDR system design and build out starting in March 2012 based on the published SDR rules. In connection with our application, CME met with Division staff on July 26 to provide a status report on the SDR real-time public reporting part of our system. We explained to staff how CME SDR intended to comply with the applicable requirements, which included publishing data on publicly reportable swap transactions on CME's website within one minute of execution (subject to applicable delays). During this meeting, Division staff explained that "real-time" meant an SDR must publish publicly reportable swap data within thirty seconds after the later of execution or expiration of applicable time delays.

CME has been working diligently since that July 26 meeting to develop real-time public reporting functionality which features a searchable and downloadable public web interface that updates on a no later than thirty second basis. In our view, it is clear this standard of performance should be seen to meet the published regulatory obligations for an SDR on day one of reporting (October 12, 2012).

However, on August 8, 2012, Division staff conveyed to us new SDR requirements in the area of real-time public reporting of swap data. We were advised the new requirements constituted "recent directives" that would require all SDRs to push out streaming market data on a zero latency basis to a website and to a web-based feed; accordingly, the thirty second standard would no longer be adequate. Further, all SDRs would be required to support functionality that would give the public instant on-demand historical access to all publicly reported data that is housed in an SDR via a group of user-selected parameters for web display and custom extract.

These new directives were explained as conditions an SDR must meet to accept swap data and otherwise become operational by the initial swap reporting deadlines. When CME asked to see these new directives in writing to ensure there was no miscommunication, Division staff advised they did not have, and we should not expect to receive, a written confirmation of these new directives. By this letter, we are asking you to confirm that our understanding of the new directives is correct, a request we are

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making because the new "directives" greatly exceed the current scope of CME's SDR real-time public reporting build-out plans as explained above.

In addition to changing the real-time public reporting requirements, Division staff also advised CME on August 8, 2012, that charging fees for different SDR services would be considered discriminatory. This interpretation would make it unacceptable for an SDR to differentiate what it charges based on the different costs it incurs, for example, whether the swap is cleared or uncleared. The staff did not provide an explanation as to how charging different rates for cleared and uncleared swaps is discriminatory. CME advised staff months ago that it intended to implement a fee schedule which featured different fees for reporting based on whether a swap is cleared or uncleared, but that fees would be applied uniformly across all users in all cases. This approach is reasonable because the costs CME would incur for reporting these two categories of trades would be different, and it is not discriminatory as all participants would pay the same rate for the type of trade they report. In our view, the fee constraint communicated by CFTC staff is not supported or required by the statutory language or the current CFTC Regulations governing SDRs.

We request that CFTC staff clarify and confirm whether these last minute communications of directives are indeed requirements that the Division views as being required by the Commission prior to CME being granted initial approval to operate as an SDR. If so, we request the Division reconsider these directives and instead allow CME to proceed with its application based on the rules and plans discussed with staff prior to August 8. Thank you for your attention to this matter.

Sincerely,

Timothy R. Elliott
Executive Director and Associate General Counsel

cc: Susan Nathan
Nancy Markowitz
Jonathan Lave

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