



Jason Silverstein  
Executive Director and Associate General Counsel  
Legal Department

April 20, 2012

**VIA E-MAIL**

Mr. David Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: Amendments to CME Rule 8H04  
CME Submission No. 12-124**

Dear Mr. Stawick:

Chicago Mercantile Exchange Inc. ("CME") pursuant to Commodity Futures Trading Commission (the "Commission") Regulation 40.6 hereby notifies the Commission that it will adopt revisions to CME Rules 8H04 (CDS Clearing Member Obligations and Qualifications). The proposed effective date for these amendments is May 7, 2012.

The Commission has adopted a number of new regulations designed to implement the core principles for derivatives clearing organizations (DCOs) in the Commodity Exchange Act, as amended by the Dodd-Frank Act. CFTC Regulation 39.12, which becomes effective on May 7, 2012, provides for participant and product eligibility requirements. CFTC Regulation 39.12(a)(iii) provides that a DCO "shall not set minimum capital requirements of more than \$50 million for any person that seeks to become a clearing member in order to clear swaps." CFTC Regulation 39.12(a)(2)(ii) provides that "[c]apital requirements shall be scalable to the risks posed by clearing members." CFTC Regulation 39.12(a) provides that a DCO "shall establish appropriate admission and continuing participation requirements for clearing members of the derivatives clearing organization that are objective, publicly disclosed, and risk-based."

In order to comply with these Regulations, CME plans to amend CME Rule 8H04. Revised CME Rule 8H04.2 sets minimum capital for a CDS Clearing Member at \$50 million and defines "capital" consistent with Regulation 39.12(a)(2)(i). In order to scale the capital requirements of CDS Clearing Members to the risks posed by such CDS Clearing Members, new CME Rule 8H04.3 requires CDS Clearing Members to maintain capital of at least 20% of the aggregate performance bond requirement for its proprietary and customer CDS Contracts. Revised CME Rule 8H04.9 requires CDS Clearing Members to provide nominations for certain members of the CDS Risk Committee and CDS Default Management Committee.

The text of the changes to CME Rule 8H04 are set forth on Exhibit A. Additions are underlined and deletions are shown with strikethrough.

The proposed amendments comport with DCO Core Principle C (Participant and Product Eligibility) and with Commission Regulation 39.12(a).

No substantive opposing views regarding this rule amendment were expressed to CME.

Mr. David Stawick  
Page 2  
April 20, 2012

CME certifies that this submission has been concurrently posted on CME Group's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>. CME further certifies that the rule amendments comply with the Commodity Exchange Act and regulations promulgated thereunder.

If you require any additional information regarding this submission, please contact Sasha Rozenberg at 212-299-2106 or via e-mail at [sasha.rozenberg@cmegroup.com](mailto:sasha.rozenberg@cmegroup.com), or contact me at 212-299-2228. Please reference the CME Submission No. 12-124 in the reference line above in any related correspondence.

Sincerely,

/s/ Jason Silverstein  
Executive Director & Associate General Counsel

Attachment: Exhibit A – Changes to CME Rule 8H04

# EXHIBIT A

## Changes to CME Rule 8H04

### Rule 8H04. CDS CLEARING MEMBER OBLIGATIONS AND QUALIFICATIONS

CDS Clearing Members shall be subject to the requirements for CDS Clearing Members set forth in Chapter 8H, all CME Rules applicable to CDS Products, the Clearing House Manual and the CDS Manual unless an exemption has been granted by the CDS Risk Committee. In addition, CDS Clearing Members are subject to all CME, CBOT and NYMEX Rules, as applicable, when clearing products traded on, or subject to the rules of, CME, CBOT or NYMEX. CDS Clearing Members must execute all agreements and documents required by the Clearing House.

A CDS Clearing Member must satisfy the requirements set forth below:

1. A CDS Clearing Member must be registered with its primary regulator and, if relevant under the laws of the jurisdiction of its organization, or incorporation, in "good standing" under each regulatory regime to which it is subject at the time it applies for CDS clearing membership and it must maintain its good standing status, if applicable, while it is a CDS Clearing Member. A CDS Clearing Member and, if applicable, its parent guarantor must be subject to a legal and insolvency regime acceptable to the Clearing House.

2. A CDS Clearing Member must be in compliance with all applicable regulatory capital requirements and it must: maintain minimum capital (as defined in as defined in CFTC Regulation 39.12(a)(2)) of \$50 million. For a CDS Clearing Member that is a bank, "capital" shall mean Tier 1 Capital (as defined in accordance with regulation applicable to the relevant bank and acceptable to the Clearing House or, in the absence of any such regulation, as defined by the Basel Committee on Banking Supervision of the Bank for International Settlements).

3. The capital requirement with respect to the participation of a CDS Clearing Member in the Clearing House shall be scalable to the risks posed by such CDS Clearing Member. Accordingly, a CDS Clearing Member must maintain capital (as defined in 8H04.2 above) at least equal to 20% of the aggregate performance bond requirement for its proprietary and customer CDS Contracts.

i. ~~if such CDS Clearing Member is not a bank, (a) maintain minimum "adjusted net capital" (as defined in accordance with regulation applicable to such entity or, in the absence of any such regulation, as calculated under CFTC Rule 1.17 as though such entity were a Futures Commission Merchant, including the requirement to prepare and provide to the Clearing House a Form 1-FR-FCM or FOCUS Report as of the times required for Futures Commission Merchants) of \$500 million or satisfy such other capital requirements established by the Clearing House and approved by the CDS Risk Committee or (b) (i) provide an irrevocable and unsecured guaranty (in a form satisfactory to the Clearing House and approved by the CDS Risk Committee and in respect of which a legal opinion confirming the enforceability of such guaranty in form and substance acceptable to the Clearing House has been provided to the Clearing House) from its parent that maintains \$500 million adjusted net capital, if such parent is not a bank, or \$5 billion of Tier 1 Capital (as defined below), if such parent is a bank, and such parent guarantor satisfies all other requirements set forth in Rule 8H04 that the Clearing House determines are applicable to guarantors and (ii) maintain minimum adjusted net capital equal to at least such CDS Clearing Member's then current maximum CDS Assessments or (c) satisfy such other capital requirements established by the Clearing House and approved by the CDS Risk Committee.~~

ii. ~~If such CDS Clearing Member is a bank, maintain Tier 1 Capital (as defined in accordance with regulation applicable to the relevant bank and acceptable to the Clearing House or, in the absence of any such regulation, as defined by the Basel Committee on Banking Supervision of the Bank for International Settlements) of \$5 billion or satisfy such other capital requirements established by the Clearing House and approved by the CDS Risk Committee.~~

~~A CDS Clearing Member that fails to satisfy any capital requirement set forth in this Rule 8H04.2 applicable to such CDS Clearing Member or its parent guarantor shall have a 3 Business Day grace period from the date of such failure to achieve compliance.~~

3. ~~If a CDS Clearing Member (or, if such CDS Clearing Member has provided a guaranty of its parent pursuant to Rule 8H04.2.(b), such CDS Clearing Member's parent) is not a bank and has adjusted net capital less than \$1 billion, such CDS Clearing Member must deposit with the Clearing House an amount of excess performance bond that is equal to the excess, if any, of (x) twice the amount calculated pursuant to Rule 8H07.1(ii)(a) for such CDS Clearing Member over (y) the amount referenced in Rule 8H07.1(ii)(b). [Reserved.]~~

4. A CDS Clearing Member and any applicant for CDS clearing membership shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of a CDS Clearing Member and to perform all other obligations of a CDS Clearing Member as described or referenced in these Rules or in the CDS Manual; provided that, in the event that a CDS Clearing Member does not have the capabilities to perform such responsibilities or obligations, such CDS Clearing Member may contract with a third party (including an Affiliate) to fulfill certain operational or risk requirements; provided that all agreements relating to such service shall be subject to the prior

review and approval by the Clearing House staff and the CDS Risk Committee. The Clearing House may impose limitations on CDS Clearing Member utilization of service providers, including limitations on the number of CDS Clearing Members to which a service provider may provide services.

5. A CDS Clearing Member that is not also a CME, CBOT, NYMEX or COMEX Clearing Member shall maintain a membership-equivalent deposit with the Clearing House of at least \$5 million in cash or collateral, which shall be valued in the sole discretion of the Clearing House, to assure performance of all obligations arising out of CDS Products submitted by it to the Clearing House. Such deposit shall be used only for the purposes described in these Rules.

6. A CDS Clearing Member must comply with the requirements set forth in Rule 970, provided that, if the CDS Clearing Member is regulated by a regulatory authority other than the CFTC, then it shall submit to the Clearing House annual audited financial statements as well as all unaudited financial statements provided to its primary regulator within five days after such statements are provided to its regulator as well as reports of a type and frequency determined by the Clearing House and CDS Risk Committee in order to monitor compliance with the capital requirements described in Rule 8H04.2. All financial statements and other reports shall be in the English language.

7. The books and records of a CDS Clearing Member regarding CDS Products cleared by the Clearing House shall be made promptly available for inspection upon request by the Clearing House and such books and records shall be subject to reasonable standards of confidentiality.

8. Each CDS Clearing Member, regardless of whether it is a Futures Commission Merchant, shall keep the types of information and records that are described in Section 4g of the Commodity Exchange Act and CFTC regulations thereunder including, but not limited to, Regulation 1.35, with respect to all CDS Products submitted for clearing.

9. Each CDS Clearing Member shall ~~comply-nominate at least two officers or employees to be members to the~~ with the requirements imposed on CDS Clearing Members in the Charters for the CDS Risk Committee and the CDS Default Management Committee. Upon Clearing House request, each CDS Clearing Member shall submit nominations for an Independent Member of the CDS Risk Committee.

10. Each CDS Clearing Member must demonstrate, at all times, either directly or through an approved service provider in accordance with Rule 8H04.4, the operational capabilities and infrastructure necessary to facilitate physical settlement of CDS Products cleared by such CDS Clearing Member.