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January 12, 2018

Via Electronic Submission

Chris Kirkpatrick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: Request for Public Comment on Proposed Changes to Chicago Mercantile Exchange Inc. Rules Regarding Direct Funding Participants

Dear Mr. Kirkpatrick:

The Commodity Markets Council ("CMC") appreciates the opportunity to submit this comment letter in support of the Chicago Mercantile Exchange Inc.'s ("CME") proposed rule changes regarding direct funding participants ("DFP").[1] CMC believes that the proposed rule change ultimately will achieve individual segregation and will allow end-users greater control of their portfolios in the event of a futures commission merchant ("FCM") default. Additionally, CMC believes that the CME and the CFTC should consider extending the proposed rule change to encompass affiliate structures.

I. Introduction

CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal, and soft commodities. Its industry member firms also include regular users and members of swap execution facilities (each, a "SEF") as well as designated contract markets (each, a "DCM"), such as the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Minneapolis Grain Exchange, NASDAQ Futures, and the New York Mercantile Exchange. Along with these market participants, CMC members also include regulated derivatives exchanges and price reporting agencies. As a result, CMC is well-positioned to provide a consensus view of commercial end-users on the impact of CME's proposed changes regarding direct funding participants. Its comments, however, represent the collective view of CMC's members, including end-users, intermediaries, exchanges, and benchmark providers.

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[1] CME CFTC Filing, *available at* http://www.cmegroup.com/market-regulation/rule-filings/2017/08/16-301RRR.pdf.

II. Discussion

a. The proposed rule change achieves individual segregation.

In its CFTC filing, CME states that the proposed rule change will "enable a firm to clear trades solely for its own account," thereby creating a form of end-user individual segregation.[2] Individual segregation benefits end-users in two significant ways. First, while the Commodity Futures Trading Commission ("CFTC") has taken a number of helpful steps through enhanced customer protection, the individual segregation created by the proposed rule change provides choice to end-users regarding how they ensure the safety of their margin funds. Second, individual segregation levels jurisdictional availability of margin treatment. For example, the European Union currently offers a form of individual segregation, which enables a clearing member to distinguish a client's assets and positions held in accounts at a central counterparty ("CCP") from assets and positions held by other clients.[3] Approving the proposed rule change will help to ensure regulatory continuity across these jurisdictions.

b. The proposed rule change allows end-users greater control of their portfolios in the event of an FCM ("DFP Guarantor") default.

Furthermore, the proposed rule change allows end-users greater control of their portfolios by providing the end-user with a number of remedial options in the event of a FCM ("DFP Guarantor") default. In the event of a DFP Guarantor default the proposed rule allows a DFP to, for example, select another guarantor or change its clearing membership status to become a full clearing member.[4] Ultimately, these measures ensure continuity of market access and strengthen the end-user position by providing the end-user with substantial choice and control in how to remedy a potential DFP Guarantor default.

c. CME and the CFTC should consider extending the proposed rule change to encompass affiliate structures.

While we view the current proposal as a great first step, in recognition of the subsidiary/affiliate structures that many of our member firms operate, allowing the proposed rule change to extend to wholly owned subsidiaries, and those under common control, should be an area of exploration for CME and the CFTC. This would allow one affiliate to be the DFP and clear for other affiliated entities in a manner more consistent with the house origin structure for current clearing members. In the current iteration of the proposed rule change, such firms with trading affiliates would each be required to be a separate DFP for each legal entity, thus being required to hold numerous memberships and maintain settlement bank relationships for each DFP, which would result in increasing costs and eroding operational efficiency. Extending the proposed rule change to include affiliate structures described above would enhance the efficiency of the proposed segregation structure for end-users.

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2 *Id.* at 3.

3 European Market Infrastructure Regulation (EMIR), Article 39(3) (2012).

4 CME CFTC Filing, *available at* http://www.cmegroup.com/market-regulation/rule-filings/2017/08/16-301RRR.pdf, at 9.

III. Conclusion

CMC appreciates the opportunity to provide comments in support of CME's proposed rule changes regarding DFPs. CMC believes that the proposed rule changes will achieve individual segregation and will allow end-users greater choice and control of their portfolios in the event of a DFP Guarantor default. Finally, CMC believes that the CME and the CFTC should consider extending the proposed rule change to encompass affiliate structures. If you have any questions or concerns regarding this letter, please do not hesitate to contact Will Simmerson at Will.Simmerson@Commoditymkts.org.

Sincerely,

/s/ Will C. Simmerson

Will C. Simmerson
Associate General Counsel
Commodity Markets Council