Act and will enhance the interests of the Company's stockholders while retaining for them the important protections afforded by the Act. In addition, because the joint participants will conduct their operations as though they comprise one company, the participation of one will not be on a basis different from or less advantageous than the others. Accordingly, applicants submit that the standard for relief under section 57(i) and rule 17d–1 is satisfied.

17. Section 54 of the Act provides that a closed-end company may elect BDC treatment under the Act if the company has either a class of equity securities registered under section 12 of the Exchange Act or has filed a registration statement pursuant to section 12 of the Exchange Act for a class of its equity securities. Section 12(g) of the Exchange Act requires issuers with specified assets and a specified number of security holders to register under the Exchange Act. As a BDC, the Company has registered its common stock under section 12(b) of the Exchange Act. In order to elect BDC treatment under the Act, Fidus SBIC voluntarily registered its securities under the Exchange Act even though it is not required to do so by section 12(g) of the Exchange Act.

18. By filing a registration statement under section 12 of the Exchange Act, absent an exemption, Fidus SBIC would be required to make periodic filings with the Commission, even though Fidus SBIC will have only one equity holder. Section 13 of the Exchange Act is the primary section requiring such filings. Accordingly, applicants request an order under section 12(h) of the Exchange Act exempting Fidus SBIC from the reporting requirements of section 13(a) of the Exchange Act.

19. Section 12(h) of the Exchange Act provides that the Commission may exempt an issuer from section 13 of the Exchange Act if the Commission finds that by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors. Fidus SBIC has only one investor, which is itself a reporting company, and no public investors. There will be no trading in Fidus SBIC securities, so no public interest or investor protective purpose will be served by separate Fidus SBIC reporting. Further, applicants state that the nature and extent of Fidus SBIC's activities are such that its activities will be fully reported through consolidated reporting in accordance with normal accounting rules. Accordingly, applicants believe that the requested exemption meets the standards of section 12(h) of the Exchange Act.

## Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The Company will at all times own and hold, beneficially and of record, all of the outstanding limited partnership interests in Fidus SBIC and all of the outstanding membership interests in the New General Partner, or otherwise own and hold beneficially all of the outstanding voting securities and equity interests of Fidus SBIC.

2. Fidus SBIC will have investment policies not inconsistent with those of the Company, as set forth in the Company's registration statement.

3. No person shall serve as a member of the Fidus SBIC Board unless such person shall also be a member of the Company's Board. The Fidus SBIC Board will be appointed by the equity owners of Fidus SBIC.

4. The Company will not itself issue or sell any senior security and the Company will not cause or permit Fidus SBIC to issue or sell any senior security of which the Company or Fidus SBIC is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61); provided that immediately after the issuance or sale of any such senior security by either the Company or Fidus SBIC, the Company and Fidus SBIC on a consolidated basis, and the Company individually, shall have the asset coverage required by section 18(a) (as modified by section 61(a)). In determining whether the Company and Fidus SBIC on a consolidated basis have the asset coverage required by section 18, as modified by section 61(a), any senior securities representing indebtedness of Fidus SBIC shall not be considered senior securities, and for purposes of the definition of ''asset coverage'' in section 18(h), shall be treated as indebtedness not represented by senior securities.

5. The Company will acquire securities of Fidus SBIC representing indebtedness only if, in each case, the prior approval of the SBA has been obtained. In addition, the Company and Fidus SBIC will purchase and sell portfolio securities between themselves only if, in each case, the prior approval of the SBA has been obtained.

6. No person shall serve or act as investment adviser to Fidus SBIC unless the Board and the stockholders of the Company shall have taken such action with respect thereto that is required to be taken pursuant to the Act by the functional equivalent of the Fidus SBIC Board and the equity holders of Fidus SBIC.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–5515 Filed 3–6–12; 8:45 am]

**BILLING CODE 8011–01–P**

# SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66495/March 1, 2012]**

## Order Making Fiscal Year 2012 Mid-Year Adjustments to Transaction Fee Rates

### I. Background

Section 31 of the Securities Exchange Act of 1934 (''Exchange Act'') requires each national securities exchange and national securities association to pay transaction fees to the Commission.[1] Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted on the exchange.[2] Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted by or through any member of the association other than on an exchange.[3]

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate, and in some circumstances, to also make a mid-year adjustment. The Dodd-Frank Act amendments to Section 31 of the Exchange Act establish a new method for annually adjusting the fee rates applicable under Sections 31(b) and (c) of the Exchange Act. Specifically, the Commission must now adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the Commission for the applicable fiscal year.[4] For fiscal year 2012, the regular

[1] 15 U.S.C. 78ee.

[2] 15 U.S.C. 78ee(b).

[3] 15 U.S.C. 78ee(c).

[4] *See* 15 U.S.C. 78ee(j)(1) (The Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the regular appropriation

Continued

appropriation to the Commission is $1,321,000,000.[5] On January 20, 2012 the Commission issued an order under Section 31(j)(1) of the Exchange Act setting the fee rates applicable under Sections 31(b) and (c) for fiscal year 2012.[6]

## II. Determination of the Need for a Mid-Year Adjustment in Fiscal 2012

Under Section 31(j)(2) of the Exchange Act, the Commission must make a mid-year adjustment to the fee rates under Sections 31(b) and (c) in fiscal year 2012 if it determines, based on the actual aggregate dollar volume of sales during the first five months of the fiscal year, that the baseline estimate $71,646,369,036,088 is reasonably likely to be 10% (or more) greater or less than the actual aggregate dollar volume of sales for fiscal year 2012.[7] To make this determination, the Commission must estimate the actual aggregate dollar volume of sales for fiscal year 2012.

Based on data provided by the national securities exchanges and the national securities association that are subject to Section 31,[8] the actual aggregate dollar volume of sales during the first four months of fiscal year 2012 was $21,401,568,899,359.[9] Using these data and a methodology for estimating the aggregate dollar amount of sales for the remainder of fiscal year 2012 (developed after consultation with the Congressional Budget Office and the OMB),[10] the Commission estimates that the aggregate dollar amount of sales for the remainder of fiscal year 2012 to be $42,485,082,013,879. Thus, the Commission estimates that the actual aggregate dollar volume of sales for all of fiscal year 2012 will be $63,886,650,913,238.

Because the baseline estimate of $71,646,369,036,088 is more than 10% greater than the $63,886,650,913,238 estimated actual aggregate dollar volume of sales for fiscal year 2012, Section 31(j)(2) of the Exchange Act requires the Commission to issue an order adjusting the fee rates under Sections 31(b) and (c).

## III. Calculation of the Uniform Adjusted Rate

Section 31(j)(2) specifies the method for determining the mid-year adjustment for fiscal 2012. Specifically, the Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of fiscal year 2012, is reasonably likely to produce aggregate fee collections under Section 31 (including fees collected during such 5-month period and assessments collected under Section 31(d)) that are equal to $1,321,000,000.'' [11] In other words, the uniform adjusted rate is determined by subtracting fees collected prior to the effective date of the new rate and assessments collected under Section 31(d) during all of fiscal year 2012 from $1,321,000,000, which is the amount to be collected for fiscal year 2012. That difference is then divided by the revised estimate of the aggregate dollar volume of sales for the remainder of the fiscal year following the effective date of the new rate.

The Commission estimates that it will collect $597,429,581 in fees for the period prior to the effective date of the mid-year adjustment and $16,425 in assessments on round turn transactions in security futures products during all of fiscal year 2012. Using the methodology referenced in Part II above, the Commission estimates that the aggregate dollar volume of sales for the remainder of fiscal year 2012 following the effective date of the new rate will be $32,330,785,567,489. This amount reflects more recent information on the dollar amount of sales of securities than was available at the time of the setting of the initial fee rate for fiscal year 2012, and indicates a significant reduction in sales. Based on these estimates, and employing the mid-year adjustment mechanism established by statute, the uniform adjusted rate must be adjusted to $22.40 per million of the aggregate dollar amount of sales of securities.[12] The aggregate dollar amount of sales of securities subject to Section 31 fees is illustrated in Appendix A.

## IV. Effective Date of the Uniform Adjusted Rate

Section 31(j)(4)(B) of the Exchange Act provides that a mid-year adjustment shall take effect on April 1 of the fiscal year in which such rate applies. Therefore, the exchanges and the national securities association that are subject to Section 31 fees must pay fees under Sections 31(b) and (c) at the uniform adjusted rate of $22.40 per million for sales of securities transacted on April 1, 2012, and thereafter until the annual adjustment for fiscal 2013 is effective.

## V. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,[13]

*It is hereby ordered* that each of the fee rates under Sections 31(b) and (c) of the Exchange Act shall be $22.40 per $1,000,000 of the aggregate dollar amount of sales of securities subject to these sections effective April 1, 2012.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

## Appendix A

*A. Baseline Estimate of the Aggregate Dollar Amount of Sales*

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (January 2002–January 2012). The data obtained from the exchanges and FINRA are presented in Table A. The monthly aggregate dollar amount of sales from all exchanges and FINRA is contained in column C.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The average monthly change in the logarithm of ADS over the entire sample is 0.007 and the standard deviation 0.126. Assume the monthly percentage change in ADS follows a random walk. The expected monthly percentage growth rate of ADS is 1.5 percent.

to the Commission by Congress for such fiscal year.'').

[5] *Id.*

[6] Order Making Fiscal Year 2012 Annual Adjustments to Transaction Fee Rates, Rel. No. 34–66202 (January 20, 2012).

[7] The amount $71,646,369,036,088 is the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012 calculated by the Commission in its Order Making Fiscal Year 2012 Annual Adjustments to Transaction Fee Rates, Rel. No. 34–66202 (January 20, 2012).

[8] The Financial Industry Regulatory Authority, Inc. (''FINRA'') and each exchange is required to file a monthly report on Form R31 containing dollar volume data on sales of securities subject to Section 31. The report is due on the 10th business day following the month for which the exchange or association provides dollar volume data.

[9] Although Section 31(j)(2) indicates that the Commission should determine the actual aggregate dollar volume of sales for fiscal 2012 ''based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year,'' data are only available for the first four months of the fiscal year as of the date the Commission is required to issue this order, *i.e.,* March 1, 2012. Dollar volume data on sales of securities subject to Section 31 for February 2012 will not be available from the exchanges and FINRA for several weeks.

[10] *See* Appendix A.

[11] 15 U.S.C. 78ee(j)(2). The term ''fees collected'' is not defined in Section 31. Because national securities exchanges and national securities associations are not required to pay the first installment of Section 31 fees for fiscal 2012 until March 15, the Commission will not ''collect'' any fees in the first five months of fiscal 2012. *See* 15 U.S.C. 78ee(e). However, the Commission believes that, for purposes of calculating the mid-year adjustment, Congress, by stating in Section 31(j)(2) that the ''uniform adjusted rate * * * is reasonably likely to produce aggregate fee collections under Section 31 * * * that are equal to [$1,321,000,000],'' intended the Commission to include the fees that the Commission will collect based on transactions in the six months before the effective date of the mid-year adjustment.

[12] The calculation is as follows: ($1,321,000,000 − $597,429,581 − $16,425)/$32,330,785,567,489 = 0.0000223797. Round this result to the seventh decimal point, yielding a rate of $22.40 per million.

[13] 15 U.S.C. 78ee.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for January 2012 ($236,326,110,324) to forecast ADS for February 2012 ($239,879,615,120 = $236,326,110,324 × 1.015).[14] Multiply by the number of trading days in February 2012 (20) to obtain a forecast of the total dollar volume for the month ($4,797,592,302,406). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column G of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column C) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month t, calculate the change in ADS from the previous month as $\Delta_t = \log(ADS_t/ADS_{t-1})$, where log (x) denotes the natural logarithm of x.

3. Calculate the mean and standard deviation of the series $\{\Delta_1, \Delta_2, * * *, \Delta_{120}\}$. These are given by $\mu = 0.007$ and $\sigma = 0.126$, respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that $\Delta_s$ and $\Delta_t$ are statistically independent for any two months s and t.

5. Under the assumption that $\Delta_t$ is normally distributed, the expected value of $ADS_t/ADS_{t-1}$ is given by $\exp(\mu + \sigma^2/2)$, or on average $ADS_t = 1.015 \times ADS_{t-1}$.

6. For February 2012, this gives a forecast ADS of 1.015 × $236,326,110,324 = $239,879,615,120. Multiply this figure by the 20 trading days in February 2012 to obtain a total dollar volume forecast of $4,797,592,302,406.

7. For March 2012, multiply the February 2012 ADS forecast by 1.015 to obtain a forecast ADS of $243,486,551,999. Multiply this figure by the 22 trading days in March 2012 to obtain a total dollar volume forecast of $5,356,704,143,984.

8. Repeat this procedure for subsequent months.

*B. Using the Forecasts From A To Calculate the New Fee Rate*

1. Determine the aggregate dollar volume of sales between 10/1/11 and 2/20/12 to be $24,520,003,895,923. Multiply this amount by the fee rate of $19.20 per million dollars in sales during this period and get $470,784,075 in actual and projected fees collected during 10/1/11 and 2/20/12. Determine the projected aggregate dollar volume of sales between 2/21/12 and 3/31/12 to be $7,035,861,449,826. Multiply this amount by the fee rate of $18.00 per million dollars in sales during this period and get an estimate of $126,645,506 in projected fees collected during 2/21/12 and 3/31/12.

2. Estimate the amount of assessments on security futures products collected during 10/1/11 and 9/30/12 to be $16,425 by summing the amounts collected through January 2012 of $5,716 with projections of a 1.5% monthly increase in subsequent months.

3. Determine the projected aggregate dollar volume of sales between 4/1/12 and 9/30/12 to be $32,330,785,567,489.

4. The rate necessary to collect $1,321,000,000 in fee revenues is then calculated as: ($1,321,000,000 − $470,784,075 − $126,645,506 − $16,425) ÷ $32,330,785,567,489 = 0.0000223797.

5. Round the result to the seventh decimal point, yielding a rate of 0.0000224000 (or $22.40 per million).

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[14] The value 1.015 has been rounded. All computations are done with the unrounded value.

**Table A. Estimation of baseline of the aggregate dollar amount of sales.**
**(Methodology developed in consultation with the Office of Management and Budget and the Congressional Budget Office.)**

**Fee rate calculation.**

| | |
|---|---|
| a. Baseline estimate of the aggregate dollar amount of sales, 10/1/11 to 2/20/12 ($Millions) | 24,520,004 |
| b. Baseline estimate of the aggregate dollar amount of sales, 2/21/12 to 3/31/12 ($Millions) | 7,035,861 |
| c. Baseline estimate of the aggregate dollar amount of sales, 4/1/12 to 9/30/12 ($Millions) | 32,330,786 |
| d. Estimated collections in assessments on security futures products in FY 2012 ($Millions) | 0.016 |
| e. Implied fee rate (($1,321,000,000 - 0.0000192*a - 0.0000180*b - d) /c) | $22.40 |

**Data**

| (A) Month | (B) # of Trading Days in Month | (C) Aggregate Dollar Amount of Sales | (D) Average Daily Dollar Amount of Sales (ADS) | (E) Change in LN of ADS | (F) Forecast ADS | (G) Forecast Aggregate Dollar Amount of Sales |
|---|---|---|---|---|---|---|
| Jan-02 | 21 | 2,149,243,312,432 | 102,344,919,640 | - | | |
| Feb-02 | 19 | 1,928,830,595,585 | 101,517,399,768 | -0.008 | | |
| Mar-02 | 20 | 2,002,216,374,514 | 100,110,818,726 | -0.014 | | |
| Apr-02 | 22 | 2,062,101,866,506 | 93,731,903,023 | -0.066 | | |
| May-02 | 22 | 1,985,859,756,557 | 90,266,352,571 | -0.038 | | |
| Jun-02 | 20 | 1,882,185,380,609 | 94,109,269,030 | 0.042 | | |
| Jul-02 | 22 | 2,349,564,490,189 | 106,798,385,918 | 0.126 | | |
| Aug-02 | 22 | 1,793,429,904,079 | 81,519,541,095 | -0.270 | | |
| Sep-02 | 20 | 1,518,944,367,204 | 75,947,218,360 | -0.071 | | |
| Oct-02 | 23 | 2,127,874,947,972 | 92,516,302,086 | 0.197 | | |
| Nov-02 | 20 | 1,780,816,458,122 | 89,040,822,906 | -0.038 | | |
| Dec-02 | 21 | 1,561,092,215,646 | 74,337,724,555 | -0.180 | | |
| Jan-03 | 21 | 1,723,698,830,414 | 82,080,896,686 | 0.099 | | |
| Feb-03 | 19 | 1,411,722,405,357 | 74,301,179,229 | -0.100 | | |
| Mar-03 | 21 | 1,699,581,267,718 | 80,932,441,320 | 0.085 | | |
| Apr-03 | 21 | 1,759,751,025,279 | 83,797,667,870 | 0.035 | | |
| May-03 | 21 | 1,871,390,985,678 | 89,113,856,461 | 0.062 | | |
| Jun-03 | 21 | 2,122,225,077,345 | 101,058,337,016 | 0.126 | | |
| Jul-03 | 22 | 2,100,812,973,956 | 95,491,498,816 | -0.057 | | |
| Aug-03 | 21 | 1,766,527,686,224 | 84,120,366,011 | -0.127 | | |
| Sep-03 | 21 | 2,063,584,421,939 | 98,265,924,854 | 0.155 | | |
| Oct-03 | 23 | 2,331,850,083,022 | 101,384,786,218 | 0.031 | | |
| Nov-03 | 19 | 1,903,726,129,859 | 100,196,112,098 | -0.012 | | |
| Dec-03 | 22 | 2,066,530,151,383 | 93,933,188,699 | -0.065 | | |
| Jan-04 | 20 | 2,390,942,905,678 | 119,547,145,284 | 0.241 | | |
| Feb-04 | 19 | 2,177,765,594,701 | 114,619,241,826 | -0.042 | | |
| Mar-04 | 23 | 2,613,808,754,550 | 113,643,858,893 | -0.009 | | |
| Apr-04 | 21 | 2,418,663,760,191 | 115,174,464,771 | 0.013 | | |
| May-04 | 20 | 2,259,243,404,459 | 112,962,170,223 | -0.019 | | |
| Jun-04 | 21 | 2,112,826,072,876 | 100,610,765,375 | -0.116 | | |
| Jul-04 | 21 | 2,209,808,376,565 | 105,228,970,313 | 0.045 | | |
| Aug-04 | 22 | 2,033,343,354,640 | 92,424,697,938 | -0.130 | | |
| Sep-04 | 21 | 1,993,803,487,749 | 94,943,023,226 | 0.027 | | |
| Oct-04 | 21 | 2,414,599,088,108 | 114,980,908,958 | 0.191 | | |
| Nov-04 | 21 | 2,577,513,374,160 | 122,738,732,103 | 0.065 | | |
| Dec-04 | 22 | 2,673,532,981,863 | 121,524,226,448 | -0.010 | | |
| Jan-05 | 20 | 2,581,847,200,448 | 129,092,360,022 | 0.060 | | |
| Feb-05 | 19 | 2,532,202,408,589 | 133,273,810,978 | 0.032 | | |
| Mar-05 | 22 | 3,030,474,897,226 | 137,748,858,965 | 0.033 | | |
| Apr-05 | 21 | 2,906,386,944,434 | 138,399,378,306 | 0.005 | | |
| May-05 | 21 | 2,697,414,503,460 | 128,448,309,689 | -0.075 | | |
| Jun-05 | 22 | 2,825,962,273,624 | 128,452,830,619 | 0.000 | | |
| Jul-05 | 20 | 2,604,021,263,875 | 130,201,063,194 | 0.014 | | |
| Aug-05 | 23 | 2,846,115,585,965 | 123,744,155,912 | -0.051 | | |
| Sep-05 | 21 | 3,009,640,645,370 | 143,316,221,208 | 0.147 | | |
| Oct-05 | 21 | 3,279,847,331,057 | 156,183,206,241 | 0.086 | | |
| Nov-05 | 21 | 3,163,453,821,548 | 150,640,658,169 | -0.036 | | |
| Dec-05 | 21 | 3,090,212,715,561 | 147,152,986,455 | -0.023 | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Jan-06 | 20 | 3,573,372,724,766 | 178,668,636,238 | 0.194 | | |
| Feb-06 | 19 | 3,314,259,849,456 | 174,434,728,919 | -0.024 | | |
| Mar-06 | 23 | 3,807,974,821,564 | 165,564,122,677 | -0.052 | | |
| Apr-06 | 19 | 3,257,478,138,851 | 171,446,217,834 | 0.035 | | |
| May-06 | 22 | 4,206,447,844,451 | 191,202,174,748 | 0.109 | | |
| Jun-06 | 22 | 3,995,113,357,316 | 181,596,061,696 | -0.052 | | |
| Jul-06 | 20 | 3,339,658,009,357 | 166,982,900,468 | -0.084 | | |
| Aug-06 | 23 | 3,410,187,280,845 | 148,269,012,211 | -0.119 | | |
| Sep-06 | 20 | 3,407,409,863,673 | 170,370,493,184 | 0.139 | | |
| Oct-06 | 22 | 3,980,070,216,912 | 180,912,282,587 | 0.060 | | |
| Nov-06 | 21 | 3,933,474,986,969 | 187,308,332,713 | 0.035 | | |
| Dec-06 | 20 | 3,715,146,848,695 | 185,757,342,435 | -0.008 | | |
| Jan-07 | 20 | 4,263,986,570,973 | 213,199,328,549 | 0.138 | | |
| Feb-07 | 19 | 3,946,799,860,532 | 207,726,308,449 | -0.026 | | |
| Mar-07 | 22 | 5,245,051,744,090 | 238,411,442,913 | 0.138 | | |
| Apr-07 | 20 | 4,274,665,072,437 | 213,733,253,622 | -0.109 | | |
| May-07 | 22 | 5,172,568,357,522 | 235,116,743,524 | 0.095 | | |
| Jun-07 | 21 | 5,586,337,010,802 | 266,016,048,133 | 0.123 | | |
| Jul-07 | 21 | 5,938,330,480,139 | 282,777,641,911 | 0.061 | | |
| Aug-07 | 23 | 7,713,644,229,032 | 335,375,836,045 | 0.171 | | |
| Sep-07 | 19 | 4,805,676,596,099 | 252,930,347,163 | -0.282 | | |
| Oct-07 | 23 | 6,499,651,716,225 | 282,593,552,879 | 0.111 | | |
| Nov-07 | 21 | 7,176,290,763,989 | 341,728,131,619 | 0.190 | | |
| Dec-07 | 20 | 5,512,903,594,564 | 275,645,179,728 | -0.215 | | |
| Jan-08 | 21 | 7,997,242,071,529 | 380,821,051,025 | 0.323 | | |
| Feb-08 | 20 | 6,139,080,448,887 | 306,954,022,444 | -0.216 | | |
| Mar-08 | 20 | 6,767,852,332,381 | 338,392,616,619 | 0.098 | | |
| Apr-08 | 22 | 6,150,017,772,735 | 279,546,262,397 | -0.191 | | |
| May-08 | 21 | 6,080,169,766,807 | 289,531,893,657 | 0.035 | | |
| Jun-08 | 21 | 6,962,199,302,412 | 331,533,300,115 | 0.135 | | |
| Jul-08 | 22 | 8,104,256,787,805 | 368,375,308,537 | 0.105 | | |
| Aug-08 | 21 | 6,106,057,711,009 | 290,764,652,905 | -0.237 | | |
| Sep-08 | 21 | 8,156,991,919,103 | 388,428,186,624 | 0.290 | | |
| Oct-08 | 23 | 8,644,538,213,244 | 375,849,487,532 | -0.033 | | |
| Nov-08 | 19 | 5,727,998,341,833 | 301,473,596,939 | -0.221 | | |
| Dec-08 | 22 | 5,176,041,317,640 | 235,274,605,347 | -0.248 | | |
| Jan-09 | 20 | 4,670,249,433,806 | 233,512,471,690 | -0.008 | | |
| Feb-09 | 19 | 4,771,470,184,048 | 251,130,009,687 | 0.073 | | |
| Mar-09 | 22 | 5,885,594,284,780 | 267,527,012,945 | 0.063 | | |
| Apr-09 | 21 | 5,123,665,205,517 | 243,984,057,406 | -0.092 | | |
| May-09 | 20 | 5,086,717,129,965 | 254,335,856,498 | 0.042 | | |
| Jun-09 | 22 | 5,271,742,782,609 | 239,624,671,937 | -0.060 | | |
| Jul-09 | 22 | 4,659,599,245,583 | 211,799,965,708 | -0.123 | | |
| Aug-09 | 21 | 4,582,102,295,783 | 218,195,347,418 | 0.030 | | |
| Sep-09 | 21 | 4,929,155,364,888 | 234,721,684,042 | 0.073 | | |
| Oct-09 | 22 | 5,410,025,301,030 | 245,910,240,956 | 0.047 | | |
| Nov-09 | 20 | 4,770,928,103,032 | 238,546,405,152 | -0.030 | | |
| Dec-09 | 22 | 4,688,555,303,171 | 213,116,150,144 | -0.113 | | |
| Jan-10 | 19 | 4,661,793,708,648 | 245,357,563,613 | 0.141 | | |
| Feb-10 | 19 | 4,969,848,578,023 | 261,570,977,791 | 0.064 | | |
| Mar-10 | 23 | 5,563,529,823,621 | 241,892,601,027 | -0.078 | | |
| Apr-10 | 21 | 5,546,445,874,917 | 264,116,470,234 | 0.088 | | |
| May-10 | 20 | 7,260,430,376,294 | 363,021,518,815 | 0.318 | | |
| Jun-10 | 22 | 6,124,776,349,285 | 278,398,924,967 | -0.265 | | |
| Jul-10 | 21 | 5,058,242,097,334 | 240,868,671,302 | -0.145 | | |
| Aug-10 | 22 | 4,765,828,263,463 | 216,628,557,430 | -0.106 | | |
| Sep-10 | 21 | 4,640,722,344,586 | 220,986,778,314 | 0.020 | | |
| Oct-10 | 21 | 5,138,411,712,272 | 244,686,272,013 | 0.102 | | |
| Nov-10 | 21 | 5,279,700,881,901 | 251,414,327,710 | 0.027 | | |
| Dec-10 | 22 | 4,998,574,681,208 | 227,207,940,055 | -0.101 | | |
| Jan-11 | 20 | 5,043,391,121,345 | 252,169,556,067 | 0.104 | | |
| Feb-11 | 19 | 5,114,631,590,581 | 269,191,136,346 | 0.065 | | |
| Mar-11 | 23 | 6,499,355,385,307 | 282,580,668,926 | 0.049 | | |
| Apr-11 | 20 | 4,975,954,868,765 | 248,797,743,438 | -0.127 | | |
| May-11 | 21 | 5,717,905,621,053 | 272,281,220,050 | 0.090 | | |
| Jun-11 | 22 | 5,820,079,494,414 | 264,549,067,928 | -0.029 | | |
| Jul-11 | 20 | 5,189,681,899,635 | 259,484,094,982 | -0.019 | | |
| Aug-11 | 23 | 8,720,566,877,109 | 379,155,081,613 | 0.379 | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Sep-11 | 21 | 6,343,578,147,811 | 302,075,149,896 | -0.227 | | |
| Oct-11 | 21 | 6,163,272,963,688 | 293,489,188,747 | -0.029 | | |
| Nov-11 | 21 | 5,493,906,473,584 | 261,614,593,980 | -0.115 | | |
| Dec-11 | 21 | 5,017,867,255,600 | 238,946,059,790 | -0.091 | | |
| Jan-12 | 20 | 4,726,522,206,487 | 236,326,110,324 | -0.011 | | |
| Feb-12 | 20 | | | | 239,879,615,120 | 4,797,592,302,406 |
| Mar-12 | 22 | | | | 243,486,551,999 | 5,356,704,143,984 |
| Apr-12 | 20 | | | | 247,147,724,390 | 4,942,954,487,796 |
| May-12 | 22 | | | | 250,863,947,801 | 5,519,006,851,628 |
| Jun-12 | 21 | | | | 254,636,050,005 | 5,347,357,050,113 |
| Jul-12 | 21 | | | | 258,464,871,221 | 5,427,762,295,633 |
| Aug-12 | 23 | | | | 262,351,264,299 | 6,034,079,078,884 |
| Sep-12 | 19 | | | | 266,296,094,918 | 5,059,625,803,434 |

**BILLING CODE 8011–01–C**

[FR Doc. 2012–5453 Filed 3–6–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66506; File No. SR–CME–2012–01]**

## Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Order Approving Proposed Rule Change To Amend Rules Relating to Credit Default Swap Guaranty Fund

March 2, 2012

### I. Introduction

On January 23, 2012, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–CME–2012–01 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on February 1, 2012.[3] The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

### II. Description

The rule change would replace CME's ''aggregate performance bond requirement'' standard, which determines how CME calculates each CDS Clearing Member's allocation to the CDS Guaranty Fund, with a new standard that CME believes better allocates tail risk. Currently CME rules provide that each CDS Clearing Member's allocation to the CDS Guaranty Fund will be the greater of (i) $50,000,000 and (ii) its proportionate share of the 90-day trailing average of its aggregate performance bond requirements and average gross notional open interest outstanding at the Clearing House. The proposal would change the CDS Guaranty Fund so that the allocation will be made on the basis of each CDS Clearing Member's potential residual loss (''PRL''). PRL is a stress test of the tail risk CDS Clearing Member portfolios bring to the market. CME is also proposing to make conforming changes to its CDS Manual of Operations.

### III. Discussion

Section 19(b)(2)(B) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[4] In particular, Section 17A(b)(3)(F)[5] of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The proposed rule change would allow CME to change the method used for calculating individual CDS Clearing Member contributions to the CDS Guaranty Fund and is designed to more accurately align the allocation of its CDS Guaranty Fund requirement to CDS Clearing Members based on the risk presented by each such member. Thus, the proposed rule change to change CME's CDS Guaranty Fund allocation is consistent with the requirement in Section 17A(b)(3)(F) that CME safeguard the securities and funds which are in the custody or control of CME or for which it is responsible.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

*It Is Therefore Ordered,* pursuant to Section 19(b)(2)[6] of the Act, that the proposed rule change (File No. SR–CME–2012–01) be, and hereby is, approved.[7]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–5513 Filed 3–6–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–66497; File No. SR–Phlx–2012–23]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Amend Registration and Qualification Requirements

March 1, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on February 16, 2012, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–66250 (January 26, 2012), 77 FR 5070 (February 1, 2012). In its filing with the Commission, CME included statements concerning the purpose of and basis for the proposed rule change. The text of these statements is incorporated into the discussion of the proposed rule change in Section II below.

[4] 15 U.S.C. 78s(b)(2)(B).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78s(b)(2).

[7] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.