

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR–NYSEArca–2012–04) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Kevin M. O'Neill,**  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66555; File No. SR–FINRA–2012–017]

#### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Online Form NMA, the Standardized Membership Application Form Applicants Must File Pursuant to NASD Rule 1013 (New Member Application and Interview)

March 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on March 5, 2012, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b–4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend online Form NMA, the standardized membership application form applicants must file pursuant to NASD Rule 1013 (New Member Application and Interview) as part of their new membership application.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Pursuant to NASD Rule 1012 (General Provisions) and NASD Rule 1013 (New Member Application and Interview), each applicant for FINRA membership must complete and electronically file the standardized online Form NMA as part of its new member application. The standardized online Form NMA was implemented several years ago to streamline the new member application process and to assist applicants in compiling a complete application package by identifying and organizing the information and supporting documentation required by NASD Rule 1013 into eight major sections: (1) Section I (General Information); (2) Section II (Business Lines); (3) Section III (Personnel); (4) Section IV (Net Capital and Sources of Funding); (5) Section V (Contractual and Business Arrangements); (6) Section VI (Policies and Procedures); (7) Section VII (Facilities); and (8) Section VIII (Recordkeeping).

Prior to FINRA’s adoption of Form NMA, applicants would submit inadequate or incomplete new member applications that were subject to rejection pursuant to NASD Rule 1013(a)(3) as not substantially complete.<sup>4</sup>

FINRA is now proposing to revise Form NMA to further streamline the new member application process and to

organize Form NMA according to the 12 standards for membership enumerated in NASD Rule 1014 (Department Decision) and further detailed below.<sup>5</sup> The revisions also seek to group information requests on specific topics that currently are located throughout existing Form NMA, as well as reduce current duplicative information requests in Form NMA. Additionally, revised Form NMA provides the following new user-friendly features intended to reduce the administrative burden placed on applicants:

- Information fields, included in standards 1, 2, 8, and 12, that are pre-populated with information previously provided by applicants to FINRA in other submissions (e.g., Central Registration Depository (“CRD”®) entitlement forms and Form BD) or otherwise available to FINRA from CRD records (e.g., continuing education status), thereby minimizing the time necessary for applicants to complete the new form;

- Information fields, included in standards 2, 3, 5, 6, 8, and 12, requesting information that applicants are currently required to provide during FINRA’s review of the new member application that were not included in current Form NMA but rather obtained during application review through requests from FINRA for additional information. These information fields, which were added based on industry and staff feedback on existing Form NMA and the new member application process should reduce the need for extensive follow-up during the review process which currently results in processing delays; and

- Information fields, included in all standards except standard 9, allowing applicants to provide additional information, if applicable to their proposed business activities, structures, or circumstances.

Below is a synopsis of the content of revised Form NMA, by standard, and its nexus to existing Form NMA:

##### • Standard 1 (Overview of the Applicant):

This standard seeks certain applicant overview information currently contained primarily in Sections I (General Information) and VII (Facilities) of existing Form NMA (e.g., formation information, identification of

<sup>4</sup> See Securities Exchange Act Release No. 53564 (March 29, 2006), 71 FR 16847 (April 4, 2006) (SR–NASD–2006–038) (Order Approving File No. SR–NASD–2006–038); NASD Notice to Members 06–16 (April 2006) (NASD Amends Rule 1013 to Adopt a Standardized Application Form (Form NMA) to be Used by All New Member Applicants); see also Securities Exchange Act Release No. 55412 (March 7, 2007), 72 FR 11414 (March 13, 2007) (Order Approving File No. SR–NASD–2007–015); NASD Notice to Members 07–20 (May 2007) (NASD Amends Rules 1012 and 1013 to Require Applicants for Membership to Submit Applications Using Online Form NMA).

<sup>5</sup> While NASD Rule 1014 sets forth 14 standards for membership, Form NMA does not elicit specific information from the applicant regarding standards 13 (FINRA does not possess information indicating that the applicant may circumvent the federal securities laws or FINRA rules) or 14 (the application is consistent with the federal securities laws and FINRA rules). See NASD Rule 1014(a)(13) and (14).

<sup>25</sup> 15 U.S.C. 78s(b)(2).

<sup>26</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 17 CFR 240.19b–4(f)(6).

business activities, types of customers (and/or counterparties), owners, officers, directors, and control persons, validation of clearing arrangements).

• *Standard 2 (Licenses and Registrations):*

This standard consists of information requests regarding licenses and registrations (e.g., required licenses and registrations, two-principal requirement waiver, Securities Information Center exemption, other self-regulatory organization registrations) currently contained primarily in Sections I and III (Personnel) of existing Form NMA as well as incorporating additional information requests (e.g., intent to claim exemptions from registration or seek examination waivers for personnel).

• *Standard 3 (Compliance With Securities Laws, Just and Equitable Principles of Trade):*

This standard consists of specific requests for information (e.g., disciplinary history) contained in Sections I and III of existing Form NMA that FINRA considers necessary for the applicant to demonstrate compliance with the requirements of this standard in the revised Form NMA and also incorporates additional information requests (e.g., state or federal orders or decrees, statements of claims, settlement agreements).

• *Standard 4 (Contractual and Business Relationships):*

This standard includes the information requests regarding an applicant's contractual and business relationships currently contained in Sections I, IV (Net Capital and Sources of Funding) and V (Contractual and Business Arrangements) of existing Form NMA (e.g., description of contractual arrangements, expense sharing agreements, financing arrangements, fidelity bonds or fidelity bond applications, support and service agreements, auditor information).

• *Standard 5 (Facilities):*

This standard consists of information requests regarding an applicant's facilities primarily contained in Section VII of existing Form NMA (e.g., space sharing arrangements, leasing or sub-leasing arrangements). This standard also incorporates requests for additional information (e.g., authorizations to sublet, deeds of ownership).

• *Standard 6 (Communications and Operational Systems):*

This standard includes information requests regarding an applicant's communications and operational systems currently in Sections VI (Policies and Procedures) and VII of existing Form NMA (e.g., communications and operational

systems descriptions, supervision arrangements of multiple locations, business continuity plan documents). The standard also incorporates requests for additional information (e.g., information relating to the use of social media sites).

• *Standard 7 (Maintaining Adequate Net Capital):*

This standard includes information regarding an applicant's net capital requirements currently requested primarily in Section IV of existing Form NMA (e.g., information on the nature and source of capital, additional funding plans, minimum net capital requirements, future funding sources).

• *Standard 8 (Financial Controls):*

This standard seeks information regarding an applicant's financial controls currently requested primarily in Sections I, III, and VI of existing Form NMA (e.g., information regarding the FINOP's experience, financial controls, FINOP outside business activity notification) as well as incorporates requests for additional information (e.g., net capital deficiency plans).

• *Standard 9 (Written Procedures):*

This standard seeks information regarding an applicant's written procedures currently requested in Sections III, VI, and VIII (Recordkeeping System) of existing Form NMA (e.g., written supervisory procedures ("WSP"), WSP checklist, sample reports to support supervision and financial controls, heightened supervisory procedures attestation).

• *Standard 10 (Supervisory Structure):*

This standard seeks information regarding an applicant's supervisory structure currently requested in Sections I and III of the existing Form NMA (e.g., information regarding supervisors' experience and duties, chief compliance officers' experience, non-FINOP outside business activities notifications).

• *Standard 11 (Books and Records):*

This standard seeks information regarding an applicant's books and records currently requested primarily in Section VIII of existing Form NMA (e.g., recordkeeping system, sample books and records, recordkeeping service providers).

• *Standard 12 (Continuing Education):*

This standard seeks information regarding an applicant's continuing education ("CE") obligations currently requested in Section VI of existing Form NMA (e.g., firm element owner identification, CE checklist, CE needs assessment) as well as incorporates additional requests for information (e.g.,

information regarding the applicant's CE deficiency mitigation plan).

FINRA worked closely with an industry task force, comprised of seven representatives from small and large firms, several of whom also act as consultants, during the development of revised Form NMA.<sup>6</sup> Among other things, the task force's input assisted FINRA to make changes intended to reduce applicants' administrative burden when completing Form NMA. Overall, FINRA believes that revised Form NMA will facilitate more effective and efficient application processing for applicants.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date for the revised Form NMA will be July 23, 2012.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed change restructures the content of existing Form NMA to make the requested information and documentation more consistent with the standards in NASD Rule 1014 against which they are evaluated and elicits information that applicants are currently required to provide during FINRA's review of the new member application. FINRA believes that revised Form NMA will reduce new member applicants' administrative burden and ensure a more streamlined and efficient membership application process for both FINRA and applicants.

### B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

<sup>6</sup> The task force also assisted FINRA in creating a new online Form CMA for continuing member applicants. See SR-FINRA-2012-018 (February 28, 2012) (proposed rule change amending NASD Rules 1012 and 1017 to adopt a new standardized online Form CMA).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-017 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-FINRA-2012-017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2012-017 and should be submitted on or before April 5, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66554; File No. SR-CME-2012-04]

### Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule Applicable to Its OTC Interest Rate Swap Clearing Offering

March 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 2012, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2)<sup>4</sup> thereunder.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

### I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

CME is proposing to amend the fee schedule that currently applies to its OTC Interest Rate Swap clearing offering. The text of the proposed changes is attached as Exhibit 5 to the proposed rule change, which is available on CME's Web site at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

### II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change*

CME currently offers clearing for certain OTC Interest Rate Swap products. The filing proposes to amend the current fee schedule that applies to CME's OTC Interest Rate Swap ("IRS") clearing fees. The proposed changes are related to fees and therefore will become effective immediately. However, the proposed fee changes will become operative as of March 12, 2012, and by their terms will expire on September 30, 2012.

The proposed fee changes will temporarily modify CME's current OTC IRS clearing fee schedule so that all house accounts of CME IRS Clearing Members will be charged a flat fee of \$250 per ticket on a preallocation basis between March 12, 2012, and September 30, 2012, for any trades accepted for clearing where the effective date of the trade is prior to the date the trade was accepted for clearing ("backloaded trades"). The temporary fee rates will apply to all CME IRS Clearing members submitting backloaded trades to CME for clearing during the applicable time period.

CME believes the temporary modification to the CME IRS Fee Schedule will encourage IRS Clearing members to submit additional volume into the system to ensure readiness and help build open interest ahead of a regulatory mandate.

CME has also certified the proposed rule changes that are the subject of this

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).