



8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104786; File No. S7-2026-04]

Notice of an Application of the Chicago Mercantile Exchange Inc. for an Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 and Request for Comment in Connection with the Opening Price Settlement Requirements of Rule 6h-1(b) Under the Securities Exchange Act of 1934 for Certain Cash-Settled Security Futures

February 10, 2026.

On July 25, 2025, the Securities and Exchange Commission (“SEC” or “Commission”) received an application¹ from the Chicago Mercantile Exchange Inc. (“CME”) to obtain an exemption pursuant to Section 36² of the Securities Exchange Act of 1934 (“Exchange Act”),³ in accordance with the procedures set forth in Exchange Act Rule 0-12.⁴ Specifically, CME is requesting exemptive relief from Rule 6h-1(b) under the Exchange Act to permit the final settlement price of certain cash-settled security futures to reflect the closing price of the underlying security. The Commission is publishing this notice to provide interested persons with an opportunity to comment.

I. Introduction

A. Security Futures Regulatory Framework

The Commodity Futures Modernization Act of 2000⁵ (“CFMA”) authorizes the trading of

¹ Letter from Jonathan Marcus, Senior Managing Director and General Counsel, CME (July 25, 2025) (“Application”). The Application is an appendix to this notice and available on the Commission’s internet website (<https://www.sec.gov/rules-regulations/exchange-act-exemptive-notices-orders>). Defined terms in this notice are the same as used in the Application, unless noted otherwise.

² 15 U.S.C. 78mm. Section 36(a)(1) of the Exchange Act gives the Commission the authority to exempt any person, security or transaction or any class or classes of persons, securities or transactions, conditionally or unconditionally, from any Exchange Act provision or any rule or regulation thereunder by rule, regulation or order, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. 15 U.S.C. 78mm(a)(1).

³ 15 U.S.C. 78a *et seq.*

⁴ 17 CFR 240.0-12.

⁵ Pub. L. No. 106-554, Appendix E, 114 Stat. 2763.

futures on individual stocks and narrow-based security indexes (collectively, “security futures”)⁶ and any put, call, straddle, option, or privilege on any security future (collectively with security futures, “security futures products”).⁷ The CFMA defines security futures as securities under the Exchange Act⁸ and contracts of sale for future delivery under the Commodity Exchange Act (“CEA”).⁹ Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the Commission and the Commodity Futures Trading Commission (“CFTC”) with joint jurisdiction.

B. Exemption Request

CME plans to list and trade cash-settled security futures on certain individual securities.¹⁰ CME previously listed and traded security futures and ceased offering security futures for trading in March 2011. CME previously adopted general listing standards for security futures in Chapter 700 of its Rules. In connection with its plans to begin listing and trading security futures again, CME intends to revise its security futures listing standards to establish contract terms and conditions specific to listing and trading cash-settled single stock futures. In addition to the listing standards CME originally established for single stock security futures, CME would limit the listing and trading of cash-settled security futures to an underlying security that (1) has an outstanding market capitalization of \$20 billion or greater, (2) has an estimated deliverable supply¹¹ of greater than 20 million shares, and (3) a minimum average daily value of transactions

⁶ See Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55) (defining security future as “a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security under section 3(a)(12) of this title 5 as in effect on the date of the enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) as in effect on the date of the enactment of the Futures Trading Act of 1982)”).

⁷ See Section 3(a)(56) of the Exchange Act, 15 U.S.C. 78c(a)(56) (defining “security futures product” as “a security future or any put, call, straddle, option, or privilege on any security future”).

⁸ See Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

⁹ See Section 1a(44) of the CEA, 7 U.S.C. 1a(44) (defining “security future”).

¹⁰ Application at 1.

¹¹ See *infra* note 68.

(“ADVT”) of \$100 million over the prior six months¹² (“Proposed Cash-Settled Products”). The new listing standards also would provide for the Proposed Cash-Settled Products to settle at expiration based on the closing prices of the underlying securities.¹³

The SEC and CFTC jointly adopted Exchange Act Rule 6h-1(b) and CFTC Regulation 41.25(c) to require that cash-settled security futures products be A.M. Settled.¹⁴ CME’s planned P.M. Settlement would not comply with Rule 6h-1(b). Therefore, CME requests that the Commission grant an exemption from Rule 6h-1(b) of the Exchange Act. Simultaneously, CME is seeking from the CFTC an exemption from the corresponding requirement under CFTC Regulation 41.25.¹⁵ Rule 6h-1(d) states that the SEC may grant a national securities exchange or national securities association an exemption from the above SEC requirements if the SEC determines that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.¹⁶ The Commission is publishing this notice to provide interested persons with an opportunity to comment.

II. Discussion of History of P.M. Settlement and CME’s Application

A. History of P.M. Settlement

In the mid-1980s, cash-settled index options and futures utilized P.M. Settlement procedures.¹⁷ The Commission and the CFTC became concerned that cash-settled index

¹² An underlying security that has been trading for less than six months must have a minimum ADVT of \$1 billion over the prior month.

¹³ Cash-settled derivatives contracts such as security futures must determine a settlement price on expiration date that is based on the underlying product of the derivatives contract on expiration date. Cash-settled derivatives products’ final settlement prices on the expiration date can be based on different reference prices for the underlying security, including: (1) the opening price (“A.M. Settlement” or “A.M. Settled”) or (2) the closing price (“P.M. Settlement” or “P.M. Settled”) of the underlying security.

¹⁴ Rule 6h-1(b) also requires that, if an opening price for an underlying security or securities was not readily available, the final settlement price of the overlying cash-settled security futures product has to fairly reflect the price of the underlying security or securities during its most recent regular trading session or the next available opening price of the underlying security or securities.

¹⁵ Application at 1.

¹⁶ The standard for exemptive authority under Rule 6h-1(d) is the same as that in Section 36 of the Exchange Act. 15 U.S.C. 78mm.

¹⁷ See, e.g., Securities Exchange Act Release Nos. 45956 (May 17, 2002), 67 FR 36740, 36741 (May 24, 2002) (“Rule 6h-1 Joint Adopting Release”); 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR-C2-2011-008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103-66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

derivatives that were P.M. Settled contributed to market volatility in the underlying securities near the close on expiration days.¹⁸ These cash settlement provisions in index futures and options “facilitated the growth of sizable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays in order to ‘unwind’ arbitrage-related positions.”¹⁹ Unwinding these positions often severely constrained the liquidity of the securities markets because unwinding sometimes involved large sell or buy orders in individual securities and there was insufficient buy or sell interest to absorb the derivatives’ expiration-related trading within the limited amount of time to establish closing prices at 4 P.M.²⁰ Specialists in the underlying securities often had to drop or raise share prices sharply at the close to establish sufficient buy-side or sell-side interest to offset order imbalances.²¹ In addition, these derivative expiration liquidity constraints created concerns that liquidity constraints could provide opportunities for market participants to “anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.”²² These concerns were heightened during the “triple-witching” hour on the third Friday of March, June, September, and December when index options, index futures, and options on index futures expired concurrently.²³ Academic research at the time suggested that futures and options expirations contributed to excess volatility and reversals around the close on those days.²⁴

¹⁸ See Rule 6h-1 Joint Adopting Release, 67 FR at 36741; Securities Exchange Act Release Nos. 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR-C2-2011-008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103-66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

¹⁹ Rule 6h-1 Joint Adopting Release, 67 FR at 36741.

²⁰ See id.; Securities Exchange Act Release No. 44743 (Aug. 24, 2001), 66 FR 45904, 45907 (Aug. 30, 2001) (“Rule 6h-1 Joint Proposing Release”).

²¹ See Rule 6h-1 Joint Proposing Release, 66 FR at 45907.

²² See id.

²³ See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103, 66104 (Sept. 26, 2023) (SR-CBOE-2023-005).

²⁴ See Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated Feb. 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (Sept. 16, 2020) (“Pilot Memo”) at 5-6, available at: https://www.sec.gov/files/Analysis_of_PM_Cash_Settled_Index_Option_Pilots.pdf (citing,

The SEC and CFTC expected that opening price settlement procedures would solve these expiration-related liquidity pressures.²⁵ For example, smaller price discounts or premiums were needed to accommodate derivatives' expiration related trading in opening auctions because market participants in an opening auction would have the rest of the trading day to trade out of long or short positions acquired in the opening auction.²⁶ Additionally, the New York Stock Exchange was able to use its existing electronic order routing systems and electronic specialist books to process and match incoming unwinding stock orders before the opening of the regular trading session at 9:30 A.M.²⁷ Specialists could then utilize long-standing procedures to disseminate price indications in an orderly manner before index component stocks opened for trading.²⁸

In light of the concerns with P.M. Settlement and to help ameliorate the price effects associated with expirations of P.M. Settled index products, in 1987, CME proposed to change its rules to provide for A.M. Settlement for index futures, including futures on the S&P 500.²⁹ The Commission subsequently approved several filings to list and trade A.M. Settled options.³⁰ The SEC and CFTC expected the widespread adoption of opening-price settlement procedures in index futures and options served to mitigate the liquidity strains that had previously been experienced in the securities markets on expirations.³¹

among other papers, Stoll, Hans R., and Robert E. Whaley, "Expiration day effects of index options and futures," Monograph Series in Finance and Economics, no. 3 (1986).

²⁵ Rule 6h-1 Joint Adopting Release, 67 FR at 36742-43.

²⁶ Rule 6h-1 Joint Proposing Release, 66 FR at 45908.

²⁷ See id.

²⁸ See id.

²⁹ See Proposed Amendments Relating to the Standard and Poor's 500, the Standard and Poor's 100 and the Standard Poor's OTC Stock Price Index Futures Contract, 51 FR 47053 (Dec. 30, 1986) (notice of proposed rule change submitted by CME to the CFTC). See also Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR-CBOE-87-11) (noting that CME moved the S&P 500 futures contract's settlement value to opening prices on the delivery date).

³⁰ See Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR-CBOE-87-11). See also Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SR-CBOE-92-09). The Commission also approved proposals by other options markets to transfer most of their cash-settled index products to A.M. Settlement. See, e.g., Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23475 (June 22, 1988) (SR-NYSE-87-11 and 88-04).

³¹ See Pilot Memo, supra note 24; see also Rule 6h-1 Joint Proposing Release, 66 FR at 45908.

Shortly after the CFMA was enacted, the SEC and CFTC jointly adopted Rule 6h-1 and CFTC Regulation 41.25(c) to establish an A.M. Settlement standard for cash-settled security futures that had become common for index futures and index options.³² Rule 6h-1 states that the final settlement price of a “cash-settled” security futures product must fairly reflect the opening price of the underlying security or securities.³³ As discussed above, this rule was established in response to concerns with cash-settled index derivatives that were P.M. Settled.³⁴ At the time, there were no single stock futures products; single stock options were physically settled using P.M. Settlement, as they are generally done today.³⁵

B. Options P.M. Pilots

Starting in 2010, the Commission approved proposals, on a pilot basis, permitting CBOE and other options exchanges to introduce P.M. Settlement for various cash-settled broad-based index options (“P.M. Pilots”). These included P.M. Settled index options expiring weekly (other than the third Friday) and at the end of each month,³⁶ as well as P.M. Settled Mini-S&P 500 index options (“SPX”) and Mini-Russell 2000 index options expiring on the third Friday of the month.³⁷ In the course of approving the various P.M. Pilots, the Commission reiterated its concerns about

³² See 17 CFR 6h-1(b)(1) and 17 CFR 41.25(c); see also Rule 6h-1 Joint Adopting Release, 67 FR at 36759.

³³ 17 CFR 6h-1(b)(1).

³⁴ See Rule 6h-1 Joint Adopting Release, 66 FR at 36741-42.

³⁵ The Commission has approved cash settlement for two types of single security options, in each case recognizing several factors that mitigated manipulation concerns with these products: 1) binary options on certain single stocks (“BYRDS”); and 2) Flexible Exchange (“FLEX”) options on certain exchange traded products such as exchange traded funds (“ETFs”). See, e.g., Securities Exchange Act Release Nos. 56251 (Aug. 14, 2007), 72 FR 46523 (Aug. 20, 2007) (SR-Amex- 2004-27) (Order approving listing of Fixed Return Options, later known as “BYRDS”); 88131 (Feb. 5, 2020), 85 FR 7806 (Feb. 11, 2020) (SR-NYSEAMER-2019-38) (Order approving certain FLEX options to be cash-settled). Section 6(h)(3)(C) of the Exchange Act states that listing standards for security futures shall be no less restrictive than comparable listing standards for options traded on a national securities exchange. 15 U.S.C. 78f(h)(3)(C). Section 6(h)(3)(H) of the Exchange Act states that listing standards for security futures shall “require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.” 15 U.S.C. 78f(h)(3)(H).

³⁶ See Securities Exchange Act Release Nos. 62911 (Sept. 14, 2010), 75 FR 57539 (Sept. 21, 2010) (SR-CBOE-2009-075); 76529 (Nov. 30, 2015), 80 FR 75695 (Dec. 3, 2015) (SR-CBOE-2015-106); 78531 (Aug. 10, 2016), 81 FR 54643 (Aug. 16, 2016) (SR-CBOE-2016-046).

³⁷ See Securities Exchange Act Release Nos. 70087 (July 31, 2013), 78 FR 47809 (Aug. 6, 2013) (SR-CBOE-2013-055); 91067 (Feb. 5, 2021) 86 FR 9108 (Feb. 11, 2021) (SR-CBOE-2020-116).

P.M. Settled, cash-settled index options on the underlying component stocks at expiration.³⁸

However, the Commission also recognized the potential impact was unclear.³⁹ The Commission approved the programs on a pilot basis to allow the various exchanges and the Commission to monitor for any adverse market effects.⁴⁰ As part of the P.M. Pilots, the Commission required that certain data and analysis be provided by the exchanges in order to evaluate the effects of these products on the underlying securities.⁴¹

After a lengthy evaluation period, the Commission approved the P.M. Pilots on a permanent basis.⁴² Generally, during the pilot period, the exchanges listing and trading these products stated that they had not identified any evidence indicating that the trading of P.M. Settled index options had any adverse impact on fair and orderly markets on expiration days, nor had there been any observations of abnormal market movements attributable to P.M. Settled index options from any market participants.⁴³ For example, one exchange reviewed a sample of pilot data from 2019 through 2021, and measured the volatility of the S&P 500 over the final fifteen minutes of each trading day and compared expiration days to non-expiration days.⁴⁴ That exchange observed that generally volatility was slightly higher on expiration days, but in cases where overall market volatility increased, the normalized impact on expiration days versus non-expiration days remained

³⁸ See, e.g., Securities Exchange Act Release No. 68888 (Feb. 8, 2013), 78 FR 10668, 10669 (Feb. 14, 2013) (SR-CBOE-2012-120).

³⁹ See id.

⁴⁰ See id.

⁴¹ Information provided as part of the pilot data included, among other data: monthly volume aggregated for all trades; monthly volume aggregated by expiration date; monthly volume for each individual series; month-end open interest aggregated for all series; month-end open interest for all series aggregated by expiration date; month-end open interest for each individual series; a time series analysis of open interest; and (8) an analysis of the distribution of trade sizes. See, e.g., Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4266 (Jan. 24, 2023) (SR-CBOE-2023-005).

⁴² See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103 (Sept. 26, 2023) (SR-CBOE-2023-005).

⁴³ See, e.g., Securities Exchange Act Release Nos. 96703 (Jan. 18, 2023), 88 FR 4265, 4267 (Jan. 24, 2023) (SR-CBOE-2023-005); 98451 (Sept. 20, 2023), 88 FR 66088, 66091 (Sept. 26, 2023) (SR-Phlx-2023-07).

⁴⁴ See Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4268 (Jan. 24, 2023) (SR-CBOE-2023-005).

consistent.⁴⁵ The exchange further analyzed volatility on days when the S&P 500 was rebalanced, and stated the results suggest more closing volatility on rebalance dates compared to non-rebalance expiration dates, indicating that rebalancing of the S&P 500 may have had a greater impact on S&P 500 volatility than P.M. Settled index option expirations.⁴⁶ In addition to reviewing the data and analysis provided by the exchanges, the Commission reviewed analysis prepared by the Commission’s Division of Economic and Risk Analysis. This analysis, contained in the Pilot Memo, evaluated whether higher levels of expiring open interest in P.M. Settled index options resulted in increased volatility and price reversals around the close.⁴⁷ The Pilot Memo concluded that, although expiring P.M. Settled index option open interest may have a statistically significant relationship with volatility and price reversals of the underlying index, index futures, and index component securities around the market close, the magnitude of the effect was economically small.⁴⁸

C. CME Application⁴⁹

In its Application, CME states that now, more than twenty years later, the historic concern around thin liquidity at the close of the equity securities markets is largely moot given the characteristics of today’s markets for those securities.⁵⁰ CME states that trading volumes and liquidity for equity securities have increased substantially since 2002, including trading volumes at both the open and close of the markets.⁵¹ CME states that trading volume for equity securities is

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See Pilot Memo, *supra* note 24.

⁴⁸ See *id.* at 3.

⁴⁹ This section describes CME’s statements in support of its request for exemptive relief. The Commission seeks comment on CME’s statements in support of such exemption.

⁵⁰ Application at 4.

⁵¹ See *id.* (citing C. Tarun, et al., *Recent Trends in Trading Activity and Market Quality*, 101 J. Fin. Econ. 2 (2011) (analyzing, among other data, the large increase in daily trading volume from 1993—under 1,000 trades per day—to 2008—over 100,000 trades per day); B. Novick, et al., *A global perspective on market-on-close activity*, BlackRock ViewPoint (2020) (observing the “notable escalation globally in [market-on-close activity]” from the early 2000s through 2020)).

generally significantly greater at the close than at the open.⁵² CME states that the liquidity characteristics of today’s cash equity markets, as well as the current use of the closing price for final settlement of cash-settled index options and physically-settled options on individual stock, mitigate the concerns regarding closing volatility and manipulation, and support CME’s proposed use of the official closing prices for securities underlying the Proposed Cash-Settled Products.⁵³

In support of its position, CME provided comparisons of trading volume at the market close versus the market open.⁵⁴ The sample consisted of the constituents within the Russell 1000 as of June 30, 2025.⁵⁵ CME sorted stocks into various buckets of trading activity and liquidity; and the average full day trading volume by value for each stock on the Fridays from January 2025 through June 2025 was ranked and filtered based on per-stock ADVT (\$).⁵⁶ The most active 25 stocks by this metric were grouped as the top 25 stocks in tables provided by CME, followed subsequent rank based on ADVT to provide an indication of activity throughout the index.⁵⁷

CME’s tables showed that on the 25 Fridays from January 2025 through June 2025 (excluding April 18, 2025, Good Friday), irrespective of the trading activity bucket, trading volume at the closing auction far outstripped trading volume at the opening auction.⁵⁸ For the top 25 traded stocks, the former was 5.14 times greater than the latter. For the second 25 traded stocks, the ratio was 7.04.⁵⁹ As the “liquidity” of the stock dropped, the ratio became increasingly larger, e.g., 14.84 for the 350th stock within the Russell 1000.⁶⁰ Additionally, for opening and closing auctions on third Fridays other than quarterly third Fridays, the difference in volume was even greater in

⁵² Application at 4.

⁵³ See id. at 5.

⁵⁴ Id. at 4-8.

⁵⁵ Id. at 5.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

favor of the close.⁶¹ Therefore, CME states that the exchange equities markets that exist today have substantial liquidity that can absorb trading demand at the close in contrast to the circumstances of the distant past.⁶² Thus, according to CME, it is no longer a valid concern that using official closing prices for final settlement of security futures could strain trading liquidity at the close for the underlying securities when market participants engaged in intermarket trading strategies unwind their securities positions.⁶³

In addition to the analysis described above, CME states that the listing standards for cash-settled futures on individual equity securities described in its Application ensure substantial protection from manipulation, because they require a highly liquid underlying market for any such contracts the Exchange will list for trading.⁶⁴ Specifically, CME's planned additions to Chapter 700, as described in its exemption request, include the requirement that the underlying security for each product must exceed 20 million shares in estimated deliverable supply (Rule 70001.5); have a minimum market capitalization of at least \$20 billion (Rule 70001.6); and have a minimum ADVT of \$100 million over the prior six months (Rule 70001.7).⁶⁵ CME further states that it will review the underlying securities on a quarterly basis and apply maintenance standards under which an underlying security must maintain over 20 million shares in estimated deliverable supply, a minimum market capitalization of at least \$10 billion, and an ADVT of \$100 million for the prior calendar quarter.⁶⁶ CME states that the new listing standards assure a robust market for the underlying security to protect against manipulation.⁶⁷ It also states that it has carefully structured the initial listing standards to assure that the contracts it will list at a minimum meet the more

⁶¹ Id. at 8.

⁶² Id.

⁶³ Id. at 8-9.

⁶⁴ Id. at 9.

⁶⁵ Id. at 9-10.

⁶⁶ Id. at 1-2. An underlying security that has been listed for trading for less than a quarter must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

⁶⁷ Id. at 10.

stringent requirements for CME to have the flexibility allowed under CFTC Regulation 41.25(b)(3)(i)(A) to set positions limits as a percentage of the security's estimated deliverable supply.⁶⁸

CME also states that the position limits that CME will establish will provide additional protection against manipulation.⁶⁹ In particular, CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC's guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁰ CME states that its existing Rule 71101.E., Position Limits, provides that: “Position limits shall be applied in accordance with CFTC Rule 41.25(b)(3). Cash-Settled Single Stock Security Futures limits will be set no greater than the equivalent of 12.5 percent of the estimated deliverable supply of the underlying security for securities exceeding 20 million shares in estimated deliverable supply and no greater than 25,000 contracts for securities at or below 20 million shares in estimated deliverable supply. Limits will be effective during the last three trading days of an expiring contract month.”⁷¹ CME states that it will set out the position limits in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special

⁶⁸ Id. The CFTC revised its position limits rule concerning single stock futures in 2019, and in that rulemaking defined “estimated deliverable supply” for security futures position limits. See Position Limits and Position Accountability for Security Futures Products, 84 FR 51005 (Sept. 27, 2019) (“CFTC Position Limit Rule”). CFTC Rule 41.25 defines “estimated deliverable supply” as “the quantity of the security underlying a security futures product that reasonably can be expected to be readily available to short traders and salable by long traders at its market value in normal cash marketing channels during the specified delivery period.” See 17 CFR 41.25(a). Appendix A to Part 41 of the CFTC's rules states that for equity securities “deliverable supply should be no greater than the free float of the security.” See 17 CFR 41 Appendix A. The CFTC stated that estimated deliverable supply should be “based on free float, that is, shares issued and outstanding, excluding shares that either: (i) [a]re restricted from transfer (e.g., restricted stock units), or (ii) have been repurchased by the issuing corporation (i.e., treasury shares).” See CFTC Position Limit Rule, 84 FR at 51008.

⁶⁹ Application at 10.

⁷⁰ Id. CFTC Rule 41.25 establishes position limits for security futures on a single equity security, including ETFs. See 17 CFR 41.25. For any equity security with an estimated deliverable supply of greater than 20 million shares, Rule 41.25 permits a DCM to adopt, if appropriate considering the liquidity and trading in the underlying security, a position limit as high as 12.5% of the estimated deliverable supply of the underlying security. See 17 CFR 41.25(b)(3)(i)(A). For single equity securities where the six-month total trading volume in the underlying exceeds 2.5 billion shares and there are more than 40 million shares of estimated deliverable supply, a DCM is permitted to adopt a position accountability rule instead of a position limit. See 17 CFR 41.25(b)(3)(i)(B).

⁷¹ Application at 10.

CME also states that it has rules prohibiting market participants from engaging in manipulation of the security futures or the underlying cash market and disciplinary rules to enforce such prohibition.⁷³ Finally, CME states that trading activity in the Proposed Cash-Settled Products will be subject to monitoring and surveillance by CME Group Inc.'s Market Regulation Department.⁷⁴

III. Request for Comments

We request and encourage any interested person to submit comments regarding the Application, including whether the Commission should grant the exemption request. We also request comment on whether the Commission should establish any limitations or conditions in connection with an exemption. In particular, we request comment on the following questions:

1. Does the data and analysis provided by CME in its Application support granting an exemption from Rule 6h-1 for the Proposed Cash-Settled Products?
2. Are there potential risks associated with P.M. Settlement for cash-settled single equity security futures? If so, what are they and how do the risks of P.M Settlement compare to the risks of A.M. Settlement? Does P.M. Settlement present risks that do not exist with A.M. Settlement with respect to cash-settlement and, if so, what are these risks?
3. Would P.M. Settlement of the Proposed Cash-Settled Products result in constraints on liquidity, closing volatility, and manipulation in the market for the underlying securities at expiration that the SEC and CFTC were concerned about when Rule 6h-1 was adopted? Does CME's Application, including its contemplated initial and maintenance listing standards, address these concerns regarding P.M. Settlement for the Proposed Cash-Settled Products that were present when Rule 6h-1 was adopted? What factors should

⁷² Id.

⁷³ Id.

⁷⁴ Id.

CME consider when determining whether a Proposed Cash-Settled Product is readily susceptible to manipulation?

4. As discussed above, the markets have changed significantly in the decades since Rule 6h-1 was adopted as has the regulatory landscape, such as the implementation of Regulation National Market System. Do these regulatory and market structure changes affect the concerns regarding constraints on liquidity, closing volatility, and manipulation regarding P.M. Settlement?
5. What data would facilitate the Commission's analysis of liquidity levels and absorption of imbalances at the time of expiration?
6. Do closing processes in today's markets mitigate against the risk of constraints on liquidity, closing volatility, and manipulation due to P.M. Settlement and, if so, how? Could P.M. Settlement nonetheless result in constraints on liquidity and increased closing volatility on expiration days due to insufficient buy or sell interest to satisfy demand to unwind security futures positions or from market participants being less willing to provide liquidity at the close on expiration day due to the risk of carrying positions overnight?
7. Does the listing and trading of the Proposed Cash-Settled Products that are P.M. Settled raise concerns about manipulation of the underlying security in order to benefit the position in the security futures or options on such security? If so, what are these concerns? Are there conditions on the listing and trading of the Proposed Cash-Settled Products that may mitigate these concerns?
8. Should an exemption be granted for the Proposed Cash-Settled Products that meet the specific listing standards that CME described in its Application? Should CME's proposed listing standards be subject to periodic evaluation to ensure their continued appropriateness? What methods should be used to conduct this evaluation?
9. With respect to each listing standard described by CME in its Application and identified

below, should any of them be modified? If the listing standard should be modified, please explain why and in what way. If not, please explain why not. Specifically, CME has proposed that each underlying security has:

- an outstanding market capitalization of \$20 billion or greater;
- an estimated deliverable supply of greater than 20 million shares;
- a minimum ADVT of \$100 million over the prior six months (or if the underlying security has been trading for less than six months, a minimum ADVT of \$1 billion over the prior month); and
- these exact same standards to maintain listing except that market capitalization must be at least \$10 billion (instead of \$20 billion required for initial listing) and ADVT must be at least \$100 million over the prior quarter (instead of the prior six months)?⁷⁵

10. Currently, approximately 300 underlying securities would qualify for listing a cash-settled security future based on CME's listing standards identified in the exemption request. Should the Commission limit an exemption to a smaller group of securities than those that would qualify for the Proposed Cash-Settled Products and if so, how should the Commission determine which securities should qualify for the exemption? Is there a smaller group of securities that have certain characteristics (e.g., very high daily trading volume or accessible shares outstanding) that effectively mitigate the Commission's concerns regarding constraints on liquidity, closing volatility, and manipulation in the underlying securities related to the P.M. Settlement of cash-settled products? For example, should the Proposed Cash-Settled Products be limited to security futures overlying the top 25 or 50 securities in terms of daily trading volume?
11. Are the P.M. Pilots informative with respect to P.M. Settlement of the Proposed Cash-

⁷⁵ If an underlying security has been listed for trading for less than a quarter, it must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

- Settled Products? Are the P.M. Pilots informative on the issue of constraints on liquidity, closing volatility, and manipulation in the underlying markets? If so, please explain. If not, what aspects of the P.M. Pilots make them different enough to not be a relevant precedent?
12. Are there differences between cash-settled index derivatives and cash-settled single stock derivatives that raise or mitigate concerns related to constraints on liquidity, closing volatility, and manipulation in the underlying securities of P.M. Settlement as applied to the Proposed Cash-Settled Products and, if so, what are those differences?
 13. What type of market participant is likely to trade the Proposed Cash-Settled Products, and what would be the common use cases for these products? What are the benefits to the market of permitting the listing and trading of the Proposed Cash-Settled Products?
 14. Would P.M. Settlement of the Proposed Cash-Settled Products lead to any unintended consequences?
 15. Would trading volume in the underlying cash securities migrate to the Proposed Cash-Settled Products? Are there certain types of underlying securities where it is more likely for trading volume to migrate from the underlying cash security to the Proposed Cash-Settled Products? Could potential trading volume migration to the Proposed Cash-Settled Products negatively impact the liquidity of the underlying securities, including on expiration days?
 16. Should data regarding the trading of cash-settled security futures be made publicly available? What data would be useful for the evaluation of any potential impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities? Should an exemption be conditioned on CME making publicly available in a machine-readable Comma-Separated Values format for a period of three years the following information:

- on a daily basis, a daily report of aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (e.g., proprietary and customer account as required by CFTC Rule 16.00)⁷⁶ for each security future listed and traded pursuant to this exemption (“Listed Cash-Settled Product”);
- for each security underlying a Listed Cash-Settled Product, the opening price for the next trading day after the settlement Friday and the closing price on the settlement Friday, along with the percentage change between these two prices, and the average percent change between these two prices over the course of a year, made available once a year and to the Commission upon request;
- for each Listed Cash-Settled Product, the month-end aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (e.g., proprietary and customer account as required by CFTC Rule 16.00) and trading volume for each month, made available once a year and to the Commission upon request; and
- for each security underlying a Listed Cash-Settled Product, the first traded price and the last traded price for the 15-minute periods of 3:30 P.M. – 3:45 P.M. and 3:45 P.M. – 4:00 P.M. for every Friday of each month along with the next trading day’s opening price, made available once a year and to the Commission upon request?

17. Should an exemption be conditioned on CME providing the Commission within four years of listing and trading security futures pursuant to the exemption, a report examining the effect of cash-settled single stock futures and, to the extent listed and traded, cash-settled single stock options, on the market for the underlying securities? If so,

⁷⁶ See 17 CFR 16.00.

should this report include analysis concerning the Proposed Cash-Settled Products, as well as analysis of any other P.M. Settled, cash-settled single stock security futures, security options, or other derivative listed and traded during the period subject to the report? Should the report examine the price of the underlying stock at 3:30 P.M. and 3:45 P.M., the closing price of the underlying stock on expiration day, the opening price on the next trading day, and the percentage change among such prices? Should the number of security futures contracts settled based on the closing price of the underlying stock be included with a discussion of price reversal (i.e., change in the closing price of the underlying security and the opening price on the next trading day)? Should such a report be made publicly available?

18. Are the data and report described above sufficient to evaluate the potential impacts of the Proposed Cash-Settled Products on the market for the underlying security or options on such security? What other or different data or report would be useful concerning the Proposed Cash-Settled Products in order to evaluate the impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities?
19. Section 6(h)(3)(I) of the Exchange Act requires that procedures be in place for coordinated surveillance among the markets trading security futures, the markets trading the underlying securities, and markets trading related securities to detect manipulation and insider trading. What surveillance (coordinated or otherwise) is in place that could help identify manipulation and insider trading related to the Proposed Cash-Settled Products? Would a surveillance agreement among CME, the primary markets where the underlying securities trade, and markets that trade related securities be appropriate to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products? Would membership by CME in the Intermarket Surveillance Group be appropriate and sufficient to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products?

20. Should an exemption be conditioned on CME entering a market-to-market surveillance sharing agreement with the markets trading the underlying securities and markets that trade related securities? Should an exemption be conditioned, instead, on CME entering a market-to-market surveillance sharing agreement with the primary listing market? Should an exemption be conditioned on CME being a member of ISG?
21. Would position limits that are filed with the Commission pursuant to Section 19(b)(7) of the Exchange Act for the Proposed Cash-Settled Products mitigate the concerns around cash settlement and P.M. Settlement, and, if so, what should be the position limits for the Proposed Cash-Settled Products in order to support the Commission granting an exemption from Rule 6h-1(d)? Should an exemption be conditioned on CME filing such position limits with the Commission pursuant to Section 19(b)(7) of the Exchange Act?
22. CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC's guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁷ Would a position limit of 12.5% of the estimated deliverable supply (as represented by CME and reflected in CFTC Rule 41.25⁷⁸), which would be applicable to most of the Proposed Cash-Settled Products, be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement? Would a higher or lower limit be appropriate?
23. CFTC Rule 41.25(b)(3)(i)(B) permits a designated contract market to adopt a position accountability rule in lieu of position limits if the 6-month total trading volume of the underlying security exceeds 2.5 billion shares and it has more than 40 million shares of estimated deliverable supply. Approximately 40 Proposed Cash Settled Products would

⁷⁷ Application at 10.

⁷⁸ See supra notes 69-70 and accompanying text.

- qualify for position accountability.⁷⁹ Would position accountability (i.e., requirements to provide information about or adjust positions if certain position levels are reached) be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement?
24. Is the method for estimating deliverable supply that is prescribed in CFTC Rule 41.25, and Appendix A to Subpart C of Part 41 of the CFTC's regulations, appropriate for setting position limits on the Proposed Cash-Settled Products? Should alternative methods be considered when estimating the deliverable supply for the Proposed Cash-Settled Products?
25. Should position limits be different for cash-settled single stock futures that are P.M. Settled versus those that are A.M. Settled?
26. Would applying to the Proposed Cash-Settled Products the same position limits that are currently applied to securities options mitigate concerns regarding cash settlement and P.M. Settlement and, if not, should position limits for the Proposed Cash-Settled Products be higher or lower?
27. Should any position limit require the aggregation of positions across exchange-traded derivatives (or across all derivatives whether traded on exchange or over-the-counter) overlying the same underlying security?

Comments should be received on or before [insert date 30 days following the date of publication in the Federal Register]. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<https://www.sec.gov/rules-regulations/commission-orders-notices/other-commission-orders-notices-information>); or

⁷⁹ See 17 CFR 41.25(b)(3)(i)(B) and *supra* notes 68 and 70 (discussing CFTC position limit and accountability rules).

- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-2026-04 on the subject line.

Paper Comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-2026-04. 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 website (<https://www.sec.gov/rules-regulations/exchange-act-exemptive-notices-orders>). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

For further information, you may contact David Dimitrius, Senior Special Counsel; Michou Nguyen, Special Counsel; and Alba Baze, Attorney-Advisor, Office of Market Supervision, Division of Trading and Markets, at (202) 551-5550, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.