



ASIC

Australian Securities & Investments Commission

REPORT 102

**Market assessment report:
Chicago Mercantile
Exchange Inc.**

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February 2008

About this report

This report summarises the fourth annual assessment of Chicago Mercantile Exchange Inc. (CME) by the Australian Securities and Investments Commission (ASIC) under s794C of the *Corporations Act 2001* (Corporations Act).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous reports on CME

CME was granted an Australian market licence (AML) commencing 23 December 2003.

Report number	Date released
REP 52	August 2005
REP 72	May 2006
REP 92	March 2007

Contents

Key findings and recommendations	4
Key findings	4
Recommendations.....	4
A The assessment.....	5
Purpose and scope.....	5
Background.....	5
Our methodology	6
B Our observations and recommendations for CME	8
Supervisory arrangements.....	8
Regulation of CME in the United States of America.....	9
Reporting obligations	9
Conclusion	10
Key terms	11

Key findings and recommendations

Key findings

- 1 ASIC is satisfied that Chicago Mercantile Exchange Inc. (CME) has adequate arrangements and resources for the supervision of its market in accordance with its obligations under s792A(c) of the Corporations Act.

Recommendations

- 2 ASIC does not have any recommendations to make about CME's current supervisory arrangements.

A The assessment

Key points

ASIC conducts annual assessments of market licensees, such as CME, because it is required to do so under s794C of the Corporations Act.

The scope of our assessment must always include the obligations in s792A(c) of the Corporations Act, but we can include other Chapter 7 obligations too.

ASIC uses the licensee's self-assessment reports, information from its previous assessments, ASIC's observation of the licensee's performance, market intelligence and other things to form a view of how well the licensee has operated its market.

Purpose and scope

- 3 ASIC is required to assess how well a market licensee complies with its obligations in s792A(c) at least once a year (s792C(2)).
- 4 A market licensee is required to have adequate arrangements for supervising the market (under s792A) including for:
 - handling conflicts between the commercial interests of the licensee and the need for the licensee to ensure that the market is fair, orderly and transparent;
 - monitoring the conduct of participants on or in relation to the market; and
 - enforcing compliance with the market's operating rules.
- 5 In addition, we are permitted to extend the scope of our assessment to review how well CME complies with any or all of its obligations under Chapter 7 (s794C(1)).

Background

- 6 The AML permits CME to operate their financial market, Globex, in Australia. Globex is an electronic trading platform that facilitates trading by Australian participants in futures and options on futures contracts.
- 7 CME requires all Australian participants to hold an Australian financial services licence that permits them to trade in products of the same kind as those that can be dealt with on the market, unless the participant is exempt under Australian law from the requirement to hold such a licence to participate in the market.

- 8 CME is registered to operate in the United States with the Commodity Futures Trading Commission (CFTC). CME is a self-regulating body with its own by-laws, rules and regulations contained in the CME Rulebook.
- 9 On 12 July 2007, CME Holdings Inc. and CBOT Holdings Inc., former parent companies of market licensees, CME and Board of Trade of the City of Chicago Inc. (CBOT) respectively, merged to form a common parent company, CME Group Inc. CME expects that both it and CBOT will continue to operate under their respective AMLs.
- 10 A copy of CME's AML is available on our website at www.asic.gov.au.

Our methodology

Our assessment process

- 11 A market licensee's obligations are ongoing. Whether it is likely to comply with its obligations in the future cannot be judged merely by reference to its past compliance.
- 12 We therefore use the assessment process to:
- reach conclusions about the adequacy of the arrangements a market licensee has in place for supervising its market in accordance with its obligations under the Corporations Act at the time of the assessment; and
 - identify issues, which in our view need, or may need, to be addressed to ensure ongoing compliance.

What we considered

- 13 In conducting our assessment we:
- analysed information we received from and about CME in the ordinary course of our dealings with the licensee, including CME's annual regulatory report required under s792F;
 - reviewed information from the media, CME's website and other sources;
 - reviewed CME's half-yearly reports to ASIC;
 - sought additional information from CME for the purpose of this assessment; and
 - obtained information from the CFTC about the market and CME;

Consultation

- 14 CME has had the opportunity to view and comment on the findings contained in a draft version of this report. Where appropriate, this final report reflects CME's responses.

What we focused on for this assessment

- 15 Our focus in this assessment was to review how well CME complied with its ongoing supervisory and reporting obligations under its AML and the Corporations Act.

B Our observations and recommendations for CME

Key points

As part of this assessment, we have considered the adequacy of CME's arrangements and resources for supervising its market including:

- handling conflicts between the commercial interests of the licensee and the need for the licensee to ensure that the market is fair, orderly and transparent;
- monitoring the conduct of participants on or in relation to the market; and
- enforcing compliance with the market's operating rules.

ASIC has also considered CME's compliance with its reporting obligations under the Corporations Act.

Supervisory arrangements

- 16 We conclude that CME has adequate arrangements and resources for the supervision of its market in accordance with its obligations under s792A(c).
- 17 This conclusion is based on the following observations drawn from information gathered during our assessment process, our observations from our ongoing correspondence with CME, and the present operating conditions (including trading volumes and financial products traded on the market):
- CME confirmed the arrangements for supervising the market have not changed during the previous annual reporting period.
 - The CFTC confirmed that it had no concerns with CME's supervision of Globex.
 - During our assessment, nothing came to our attention to suggest that the supervisory arrangements were not operating properly.

Conflicts of interest

- 18 ASIC is not aware of any significant conflicts of interest events occurring during the assessment period.
- 19 The CFTC has no information that would cause it to suspect or conclude that CME has not been meeting its arrangements for handling conflicts.

Monitoring market and participant conduct

- 20 CME has arrangements for monitoring the conduct of participants that are adequate for the nature of the market it operates.
- 21 The CFTC has no information that would cause it to suspect or conclude that CME has not been meeting its obligations for monitoring participant conduct.

Compliance with market operating rules

- 22 CME has adequate arrangements for enforcing compliance with its operating rules.
- 23 The CFTC has no information that would cause it to suspect or conclude that CME has not been meeting its obligations to enforce compliance with its operating rules.
- 24 No event has been brought to ASIC's attention where an Australian participant breached CME's operating rules.

Regulation of CME in the United States of America

- 25 ASIC received information from the CFTC about the regulation of CME during the assessment period.
- 26 The CFTC confirmed that CME remains a designated contract market under the Commodity Exchange Act and continues to meet its self-regulatory obligations and is in good standing. CME's authorisations and permissions to operate its market have not changed.
- 27 The CFTC has not identified any inadequacies in CME's market monitoring program nor any evidence to suggest that CME has not complied with its self-regulatory responsibilities.

Reporting obligations

Annual regulatory report

- 28 ASIC notes that CME lodged its s792F annual regulatory report with ASIC in a timely manner.

Reports required by AML

- 29 CME's 6-monthly reports satisfied s10(1)a and 10(1)b of the AML.

- 30 ASIC acknowledges that CME has provided notices on rule changes in a timely manner and with sufficient information to satisfy s793D(3) of the Corporations Act.

Change in holding or voting power

- 31 Under s792B(5) of the Corporations Act, CME provided notice to ASIC of changes in senior office bearers at CME in a timely manner and with sufficient information to satisfy the regulatory requirements.

Conclusion

- 32 Based on this assessment, ASIC does not have any recommendations to make about CME's current supervisory arrangements.

Key terms

Term	Meaning in this document
AML	Australian market licence
ASIC	Australian Securities and Investments Commission
CBOT	Board of Trade of the City of Chicago Inc.
CFTC	Commodity Futures Trading Commission
CME	Chicago Mercantile Exchange
Corporations Act	<i>Corporations Act 2001</i> (Cth)
Globex	The electronic trading platform operated by CME that facilitates trading by Australian participants in futures and options on futures contracts