

Title: While we're looking at Hester Pierce, have we looked into WilmerHale (she worked there) yet? In 2009, SEC approved Citadel taking a large counterparty role for credit default swaps. WilmerHale represented them.

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Created 2022-07-10 02:12:10 UTC

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WILMERHALE



SEC Approves Joint Venture of CME and Citadel to Act as a Central Counterparty for Credit Default Swaps

2009-03-19

PUBLICATION

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financial system, regulators in the U.S. and Europe have made it a high priority. While it is expected that the movement to centralized clearing will be an adjustment and may take some time,¹⁰ market participants are optimistic. ICE Trust centrally cleared the first CDS in the U.S. on March 13.¹¹

The CME Exemptive Order and Request for Exemptive Relief can be viewed at www.sec.gov/news/press/2009/2009-58.htm.

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¹ Order Granting Temporary Exemptions Under the Securities Exchange Act of 1934 in Connection With the Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps, and Request for Comments, Exchange Act Release No. 34, 59578 (March 13, 2009) (the CME/Citadel Order).

² WilmerHale has acted as counsel for Citadel in connection with the request for exemption.

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On March 13, 2009, the Securities and Exchange Commission ("SEC" or "Commission") approved temporary exemptions¹ for the Chicago Mercantile Exchange, Inc. ("CME") to operate as a central counterparty ("CCP") for certain non-excluded credit default swap ("CDS") contracts submitted to or traded through CME, a trading and clearing platform for CDS created through a joint venture between CME and Citadel Investment Group ("Citadel").² A CDS is a bilateral contract between two counterparties, the value of which can be based on the underlying obligations of a single entity or group or index of entities, or on a particular security or other debt obligation or an index of securities or other obligations. CDS can be used for a number of different purposes, including hedging risk, taking positions in a certain segment of the market, or capitalizing on credit spreads. Non-excluded CDS are CDS that are not swap agreements, and that therefore (unlike swap agreements) are not expressly excluded from the definition of security in Section 3A of the Exchange Act of 1934 ("Exchange Act").

In November 2008, the President's Working Group on Financial Markets stated that the implementation of a CCP for CDS was a top priority.³ The Commission, the Board of Governors of the Federal Reserve System (FRB) and

Contributors

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