

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69731; File No. SR-CFE-2013-004)

June 11, 2013

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Requirements Applicable to Foreign Trading Privilege Holders

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on May 31, 2013, CBOE Futures Exchange, LLC (“CFE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (“CFTC”). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (“CEA”)<sup>2</sup> on May 30, 2013.

I. Self-Regulatory Organization’s Description of the Proposed Rule Change

CFE proposes to amend CFE Rule 305B (Foreign Trading Privilege Holders) by adding new subparagraphs (b)(ii) and (b)(iii) to that rule that would require that foreign Trading Privilege Holders (“TPHs”): (1) maintain in English and U.S. dollars any books and records that are required to be kept by TPHs under CFE Rules; and (2) prior to acting as agent for a customer from a foreign jurisdiction in relation to a CFE Contract, obtain written consent from that customer that permits the TPH to provide information regarding the customer and the customer’s activities in CFE Contracts to CFE in response to a regulatory request for information pursuant to CFE Rules.

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<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 7 U.S.C. 7a-2(c).

The scope of this filing is limited solely to the application of the rule changes to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE’s Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index (“Volatility Index”) security futures.

The text of the proposed rule change is attached as Exhibit 4.<sup>3</sup>

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

In its filing with the Commission, CFE 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. CFE 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

CFE Rule 305B (Foreign Trading Privilege Holders) provides that each TPH shall be organized under the laws of, and be solely responsible for ensuring that the location of any CBOE Workstation<sup>4</sup> is in, the United States or a foreign jurisdiction expressly approved by the

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<sup>3</sup> The Commission notes that Exhibit 4 is attached to the filing, not to this Notice.

<sup>4</sup> CFE Rule 116 provides that the term “CBOE Workstation” means any computer connected directly to the CBOE System, including by means of an Exchange application programming interface, for the purpose of trading Contracts. CFE Rule 115 provides that the term “CBOE System” means (i) the electronic systems administered by or on behalf of the Exchange which perform the functions set out in the Rules of the Exchange, including controlling, monitoring, and recording trading on the Exchange and (ii) any connectivity to the foregoing electronic systems that is administered by or on behalf of the Exchange, such as a communications hub in a foreign jurisdiction.

Exchange. CFE Rule 305B also sets forth certain requirements that are applicable to any TPH organized under the laws of, or with a CBOE Workstation in, a foreign jurisdiction.

CFE proposes to amend CFE Rule 305B by adding two additional requirements that would apply to these foreign TPHs. First, a foreign TPH would be required under new subparagraph (b)(ii) to CFE Rule 305B to maintain in English and U.S. dollars any books and records required to be kept by the TPH under the Rules of the Exchange. Second, a foreign TPH, prior to acting as agent for a Customer from a foreign jurisdiction in relation to a CFE Contract, would be required under new subparagraph (b)(iii) to CFE Rule 305B to obtain written consent from that Customer that permits the TPH to provide information regarding the Customer and the Customer's activities in CFE Contracts to the Exchange in response to a regulatory request for information pursuant to the Rules of the Exchange.

The Exchange believes that the proposed changes will assist CFE in enforcing compliance with its Rules. Specifically, the Exchange believes that the proposed changes will be beneficial in connection with CFE regulatory examinations and investigations involving foreign TPHs and in connection with obtaining information for regulatory purposes regarding the trading activities in CFE Contracts of foreign customers that trade through those TPHs.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

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<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change will strengthen its ability to examine and investigate foreign TPHs more readily because books and records that are required to be kept under CFE Rules will be more easily understandable by CFE regulatory staff because they would be maintained in English and denominated in U.S. dollars. In addition, the Exchange believes that the proposed change will strengthen the Exchange's ability to carry out its self-regulatory obligations regarding the trading activities in CFE Contracts by foreign customers that trade those foreign TPHs.

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

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because amended CFE Rule 305B would apply to all foreign TPHs and reasonably and fairly requires uniformity (i.e., English/U.S. dollar denomination) concerning books and records obligations.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The proposed rule change will become operative on June 17, 2013.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of

Section 19(b)(1) of the Act.<sup>7</sup>

#### 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CFE-2013-004 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-CFE-2013-004. This file number should be included on the subject line if e-mail 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 (<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 website viewing and printing in the Commission's Public Reference Room, 100 F

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<sup>7</sup> 15 U.S.C. 78s(b)(1).

Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. 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-CFE-2013-004, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).