

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72042; File No. SR-CFE-2014-001)

April 29, 2014

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt and Amend Certain Customer Protection and Financial Rules

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on April 11, 2014, 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”)² on April 11, 2014.

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

The Exchange proposes to adopt and amend certain customer protection and financial rules that are applicable 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 security futures. The rule amendments included as part of this rule change relate generally to amending CFE Rules to incorporate new and amended CFTC regulations concerning customer protection and the

¹ 15 U.S.C. 78s(b)(7).

² 7 U.S.C. 7a-2(c).

financial surveillance of futures commission merchants (“FCMs”). The text of the proposed rule change is attached as Exhibit 4.³

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

The purpose of the proposed CFE rule amendments included as part of this rule change is to amend CFE rules (i) to incorporate the final regulations adopted by the CFTC under the caption Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations (“CFTC Rulemaking”)⁴ and (ii) to enhance the financial surveillance of FCMs that are Trading Privilege Holders (“TPHs”). The rule amendments included as part of this rule change are to apply to all products traded on CFE, including both non-security futures and security futures. CFE is making these rule amendments in conjunction with other rule amendments being made by CFE consistent with the CFTC

³ The Commission notes that the Exhibit 4 is attached to the filing, but is not attached to the publication of this notice.

⁴ 78 FR 68506 (Nov. 14, 2013).

Rulemaking that are not required to be submitted to the Commission pursuant to Section 19(b)(7) of the Act⁵ and thus are not included as part of this rule change.

CFE has incorporated into Appendix to Chapter 5 of its Rulebook certain CFTC regulations relating to customer protection, recordkeeping, and reporting and has provided that a violation of any of those regulations shall be deemed a violation of a specific CFE Rule. With the exception of the amendments to CFE Rule 503A, all other amendments to CFE Rules contained in this filing are proposed to change the CFE Rules in the Appendix to Chapter 5 of the CFE Rulebook to make their language consistent with the language in the CFTC regulations that was amended by the CFTC Rulemaking.

CFE already requires that its FCMs that are TPHs comply with all CFTC regulations. For example, CFE Rule 604 prohibits TPHs and their Related Parties from engaging in conduct in violation of Applicable Law (which includes, among other things, the CEA⁶ and CFTC regulations). CFE Rule 505 specifically requires TPHs to comply with CFTC regulations relating to the treatment of Customer funds and the maintenance of related books and records. CFE Rule 518 specifically requires TPHs to comply with CFTC regulations relating to minimum financial requirements, financial reporting requirements, and protection of customer funds that are set forth in the Appendix to Chapter 5 of the CFE Rulebook. The purpose of these proposed rule amendments is to make the CFTC regulations that were added or amended by the CFTC Rulemaking even more explicit.

Risk Management Program for FCMs

CFE is proposing to add to its Rules new Rule 520 (and renumber all subsequent Rules in the Chapter) to require that FCMs comply with the risk management requirements set forth in

⁵ 15 U.S.C. 78s(b)(7).

⁶ 7 U.S.C. 1 et seq.

CFTC Regulation 1.11: Risk Management Program for futures commission merchants.⁷ As a result of the CFTC Rulemaking, CFTC Regulation 1.52(b)(2) requires that all self-regulatory organizations (“SROs”) (defined as designated contract markets and registered futures associations in CFTC Regulation 1.52(a)(2)) adopt rules prescribing risk management requirements for FCM member registrants that are at least as stringent as the requirements contained in CFTC Regulation 1.11.⁸ CFTC Regulation 1.11 imposes, among other things, both recordkeeping and reporting requirements on FCMs. Specifically, FCMs must maintain their risk management policies and procedures, all written approvals, and all records and reports required under the Regulation.⁹ In addition, FCMs must furnish a copy of their risk management policies and procedures to the CFTC and its designated SRO upon application for registration and thereafter upon request, as well as furnish copies of Risk Exposure Reports to the CFTC.¹⁰ Although all FCMs that are TPHs must already comply with all CFTC Regulations, new CFE Rule 520 is proposed specifically to follow the CFTC Rulemaking's directive with respect to CFTC Regulation 1.11.

Recordkeeping

The recordkeeping amendments proposed to be included in the Appendix to Chapter 5 of the CFE Rulebook would impose requirements that generally already exist under CFE Rules 505, 518, and 604, which, as discussed, require adherence to CFTC regulations. The amendments to certain CFTC regulations by the CFTC Rulemaking will now be specifically incorporated into CFE's rules. In particular, CFE is proposing to amend CFE Rule 521 which incorporates into

⁷ 17 CFR 1.11.

⁸ 17 CFR 1.52.

⁹ 17 CFR 1.11(c)(2), (h).

¹⁰ 17 CFR 1.11(c)(4), (e)(2)(ii).

CFE's Rulebook CFTC Regulation 1.18 (Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers),¹¹ CFE Rule 523 which incorporates into CFE's Rulebook CFTC Regulation 1.20 (Futures Customer Funds to be Segregated and Separately Accounted for),¹² CFE Rule 526 which incorporates into CFE's Rulebook CFTC Regulation 1.23 (Interest of Futures Commission Merchants in Segregated Futures Customer Funds; Additions and Withdrawals),¹³ CFE Rule 528 which incorporates into CFE's Rulebook CFTC Regulation 1.25 (Investment of Customer Funds),¹⁴ CFE Rule 529 which incorporates into CFE's Rulebook CFTC Regulation 1.26 (Deposit of Instruments Purchased with Futures Customer Funds),¹⁵ and CFE Rule 535 which incorporates into CFE's Rulebook CFTC Regulation 1.32 (Reporting of Segregated Account Computation and Details Regarding the Holding of Futures Customer Funds).¹⁶

Reporting

As CFE is proposing to do with various recordkeeping requirements, CFE is also proposing to specifically incorporate into the Appendix to Chapter 5 of its Rulebook the CFTC Rulemaking's amendments to CFTC regulations relating to reporting. Like with the foregoing amended recordkeeping requirements, the reporting amendments to this regulation would impose requirements that generally already exist under CFE Rules 505, 518, and 604, which, as discussed, require adherence to CFTC regulations. These amendments by the CFTC Rulemaking

¹¹ 17 CFR 1.18.

¹² 17 CFR 1.20.

¹³ 17 CFR 1.23.

¹⁴ 17 CFR 1.25.

¹⁵ 17 CFR 1.26.

¹⁶ 17 CFR 1.32. CFE notes that certain of these amendments relate to both recordkeeping and reporting (discussed in the next section) but is only including discussion of them in this section to avoid duplicative mention.

will now be specifically incorporated into CFE's rules. In particular, CFE is proposing to amend CFE Rule 519 which incorporates into CFE's Rulebook CFTC Regulation 1.10 (Financial Reports of Futures Commission Merchants and Introducing Brokers)¹⁷ and CFE Rule 520 which incorporates into CFE's Rulebook CFTC Regulation 1.12 (Maintenance of Minimum Financial Requirements by Futures Commission Merchants and Introducing Brokers).¹⁸

In addition to the foregoing amendments that incorporate the CFTC Rulemaking, CFE is proposing amendments to CFE Rule 503A, which relate to reporting obligations on FCMs and are not related to the CFTC Rulemaking. CFE Rule 503A, which presently imposes reporting obligations on FCMs that are TPHs, is proposed to be amended to require these FCMs to file financial documentation with CFE in addition to the documentation the Rule already requires. First, each TPH that is an FCM would be required, in a form and manner prescribed by the Exchange, to concurrently file with the Exchange all FOCUS Report Part III submissions as well as any attachments or related submissions to all Form 1-FR-FCM, Form 1-FR-IB, or FOCUS Report Part II, Part IIA or Part II CSE and Part III submissions. Second, each TPH that is an FCM would be required, in a form and manner prescribed by the Exchange, to concurrently file with the Exchange a copy of any daily Statement of Segregation Requirements and Funds in Segregation for Customers Trading on U.S. Commodity Exchanges filed with the CFTC pursuant to CFTC Regulation 1.32. Third, each TPH that is an FCM would be required, in a form and manner prescribed by the Exchange, to concurrently file with the Exchange a copy of any daily net capital filings submitted by the TPH to its Designated Self-Regulatory Organization. Fourth, each TPH that is an FCM would be required, in a form and manner prescribed by the Exchange, to concurrently file with the Exchange a copy of any notice that is

¹⁷ 17 CFR 1.10.

¹⁸ 17 CFR 1.12.

filed with the CFTC pursuant to CFTC Regulation 1.23. The receipt of this information will enhance CFE's financial surveillance of FCMs.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5)²⁰ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

The addition of new CFE Rule 520, which requires FCMs to establish risk management programs that comply with CFTC Regulation 1.11, will enhance CFE's ability to protect investors and the public interest and to enforce CFE Rules that prohibit fraudulent and manipulative acts and conduct inconsistent with just and equitable principles of trade. By specifically requiring that FCMs that are TPHs establish risk management programs that comply with CFTC Regulation 1.11, CFE further protects FCM customers.

The recordkeeping amendments to CFE Rules 521, 523, 526, 528, 529, and 535 and the reporting amendments to CFE Rules 503A, 519, and 520 will also enhance CFE's ability to protect investors and the public interest and to enforce CFE Rules that prohibit fraudulent and manipulative acts and conduct inconsistent with just and equitable principles of trade. These recordkeeping requirements are designed to ensure that TPHs maintain records that enable CFE and/or other regulators to investigate whether TPHs are complying with applicable rules and

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

regulations by requiring the maintenance of information that may be reviewed to determine whether or not a TPH is complying with applicable regulatory requirements. Similarly, these reporting requirements are designed to enable CFE to receive and request information that allows CFE to monitor for compliance with rules and regulations, to investigate for noncompliance when appropriate, and to conduct financial monitoring with regard to TPHs that are FCMs.

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, in that the rule change makes enhancements to CFE's financial surveillance of FCMs and requires TPHs to comply with the amendments set forth in the CFTC Rulemaking. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because all of the amended Rules would apply equally to all TPHs that are subject to the applicable requirements, and the Amendment is expressly consistent with the CFTC Rulemaking.

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 effective on April 28, 2014.

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.²¹

²¹ 15 U.S.C. 78s(b)(1).

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. Please include File Number SR-CFE-2014-001 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CFE-2014-001. 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 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-2014-001, 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.²²

Kevin M. O'Neill
Deputy Secretary

²² 17 CFR 200.30-3(a)(12).