

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75025; File No. SR-CFE-2015-004)

May 21, 2015

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing of a Proposed Rule Change Regarding Audit Trail Retention Requirements

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on May 8, 2015 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 May 8, 2015.

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

The Exchange proposes to amend its rules related to audit trail retention requirements. The scope of this filing is limited solely to the application of the rule amendments 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 text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

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

¹ 15 U.S.C. 78s(b)(7).

² 7 U.S.C. 7a-2(c).

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’s requirements regarding the maintenance of front-end audit trail information under CFE Rule 403 (Order Entry). 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 Rule 403(c) currently requires every CFE Trading Privilege Holder (“TPH”) to maintain front-end audit trail information for all electronic orders entered into CFE’s trading system, including order modifications and cancellations. The amendments provide that only CFE clearing members³ and TPHs that are futures commission merchants (“FCMs”) or introducing brokers (“IBs”) are required by Rule 403(c) to maintain front-end audit trail information for all electronic orders as well as quotes entered by that party into CFE’s trading system, including all related modifications and cancellations. In addition, the amendments provide that each CFE clearing member must also maintain, or cause to be maintained, front-end audit trail information for all electronic orders and quotes entered into CFE’s trading system by any TPH for which the clearing member is identified in the order or quote submission as the

³ CFE Rule 121 defines “Clearing Member” to mean a member of The Options Clearing Corporation (“OCC”) that is a CFE TPH and that is authorized under OCC Rules to clear trades in any or all CFE contracts.

clearing member for the execution of the order or quote, including all related modifications and cancellations. Because the first amended sentence of Rule 403(c) requires each CFE clearing member to maintain audit trail information entered by that party and the second amended sentence of Rule 403(c) requires each CFE clearing member to maintain audit trail information where the clearing member has been identified as the clearing member for the execution, there is the potential for some limited overlap in the information CFE clearing members must maintain under these two provisions. In addition, the amendments make clear that each TPH is still obligated to comply with the provisions of CFTC Regulation 1.35⁴ as applicable to that TPH notwithstanding any of the provisions of Rule 403(c). Among other things, CFTC Regulation 1.35 provides requirements relating to records that FCMs, IBs, and members of a designated contract market (“DCM”) must retain. Lastly, the amendments change the title of Rule 403 from “Order Entry” to “Order Entry and Maintenance of Front-End Audit Trail Information” to provide greater clarity as to the requirements covered by the Rule.

Front-end audit trail information is a chronological record that provides documentary evidence of the transactions effected on CFE’s trading system. The CFTC’s DCM Core Principle 10 (Trade Information)⁵ and the CFTC’s related regulations codified in CFTC Regulations 38.551-553⁶ require that a DCM maintain an audit trail program in order to prevent and detect customer and market abuse.

CFE is proposing these amendments for the following reasons. First, when CFE initially established its audit trail program and set forth CFE Rule 403, CFE provided that each TPH was required to maintain front-end audit trail information sufficient to allow CFE to conduct an

⁴ 17 C.F.R. 1.35.

⁵ 17 C.F.R. 38.550.

⁶ 17 C.F.R. 38.551-553.

annual audit trail exam of that TPH, a requirement that went above and beyond what the CFTC requires. The CFTC permits CFE to require clearing members to retain this information for purposes of audit trail exams and to conduct audit trail exams of clearing members in lieu of conducting them of a clearing member's TPH customers. Since Rule 403's inception, there is now an efficient format and mechanism for CFE clearing members to obtain CFE audit trail data for their TPH customers, whereas there was no such format and mechanism when CFE established its current requirements related to the maintenance of front-end audit trail information. Second, it is more efficient for CFE to collect audit trail data from its clearing members than all of its TPHs for audit trail reviews and doing so will enhance the effectiveness of CFE's regulatory program. CFE clearing members now have a standardized method for maintaining and submitting audit trail data of their TPHs, and CFE will be able to access all of the same audit trail information CFE currently can access under Rule 403's current language. Finally, other futures exchanges currently have similar requirements in place.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(5)⁹ and 6(b)(7)¹⁰ in particular in that it is designed:

⁷ See CME Rule 536.B.2 ("Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the electronic audit trail for such systems."); ICE Futures U.S. Rule 27.12A ("Each Clearing Member connecting to the ETS [ICE electronic trading system] by Direct Access is responsible for (1) maintaining or causing to be maintained . . . the audit trail for all orders submitted to the Exchange through its Direct Access connection and any Order Routing system . . .").

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(7).

- 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 Exchange believes that the proposed rule change would strengthen and make more efficient and effective CFE's administration of its audit trail program which will contribute to preventing and detecting customer and market abuse. The change provides that only CFE clearing members and TPHs that are FCMs or IBs, rather than all TPHs, are required to maintain front-end audit trail information for all electronic orders as well as quotes entered into CFE's trading system, including all related modifications and cancellations. In addition, the change provides that CFE clearing members must also maintain, or cause to be maintained, this information for their TPH customers. This proposed rule change promotes efficiencies because CFE clearing members now have available an efficient format and mechanism to obtain CFE audit trail data for their TPH customers. In addition, it is more efficient for CFE to collect audit trail data from its clearing members than all of its TPHs for audit trail reviews and doing so will enhance the effectiveness of CFE's regulatory program. Finally, this proposed rule change is consistent with the requirements of other futures exchanges. In summary, CFE is requiring the same audit information to be maintained and is simply changing who is required to keep it.

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 will enhance CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the amendments regarding the maintenance of front-end audit trail information apply equally to all parties that are subject to the applicable requirements.

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 or after May 22, 2015, on a date to be announced by the Exchange through the issuance of a circular. 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.¹¹

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-2015-004 on the subject line.

¹¹ 15 U.S.C. 78s(b)(1).

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-2015-004. 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 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-2015-004, 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.¹²

Robert W. Errett
Deputy Secretary

¹² 17 CFR 200.30-3(a)(73).