

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- 75748; File No. SR-CFE-2015-006)

August 21, 2015

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Proposed Rule Change Regarding Reportable Position and Ownership and Control Reporting Clarifications

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on August 14, 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”)<sup>2</sup> on August 14, 2015.

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

The Exchange proposes to amend CFE rules to clarify the application of CFE requirements relating to reportable positions and ownership and control reports. 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 that have been traded on CFE were traded under Chapter 16 of CFE’s Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index security futures. CFE does not currently list any security futures for trading. 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.

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

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

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 submitted CFE Rule Certification Submission Number CFE-2015-003 (“CFE-2015-003”) to the CFTC and CFE Rule Filing Number SR-CFE-2015-001 (“SR-CFE-2015-001”)<sup>3</sup> to the Commission on January 28, 2015 (collectively, the “Prior Filings”) to amend CFE Rule 412B (Ownership and Control Reports) to require CFE Trading Privilege Holders (“TPHs”) and non-TPHs to concurrently file with the Exchange submissions relating to CFE contracts that are required to be filed with the CFTC pursuant to the Final Rule adopted by the CFTC under the caption Ownership and Control Reports (“OCR Rule”).<sup>4</sup> In particular, the Prior Filings amended Rule 412B to require each TPH and non-TPH to file concurrently with the Exchange the new CFTC Forms 102A, 102B, and 71 (including any attachments, related submissions, or related information) relating to CFE contracts that each TPH or non-TPH is required to report to the CFTC under the OCR Rule. In addition, CFE-2015-003 amended Rule 412B to require each

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<sup>3</sup> See Securities Exchange Act Release No. 74204 (February 4, 2015), 80 FR 7518 (February 10, 2015).

<sup>4</sup> See CFTC RIN 3038-AD31, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, Final Rule, 78 FR 69178 (November 18, 2013).

TPH that is not a Clearing Member to report to the Exchange the same information regarding the identification and reporting of special accounts relating to CFE contracts that the OCR Rule requires each TPH that is a Clearing Member to report to the CFTC. CFE-2015-003 provided that these changes would become effective on or after February 11, 2015, on a date to be announced by the Exchange through the issuance of a circular. The Exchange has not yet made these changes effective and intends to do so consistent with the compliance dates under the OCR Rule as provided for by the CFTC.<sup>5</sup>

The purpose of the proposed rule change is to make some clarifying changes with respect to the rule amendments included in the Prior Filings.

First, CFE proposes to further amend Rule 412B to make clear that TPHs and non-TPHs will continue to be required to concurrently report to the Exchange reportable positions relating to Exchange contracts that they are required to report to the CFTC pursuant to CFTC regulations. This is required under current Rule 412B, and the Exchange believes that it continues to be required by Rule 412B as amended by the Prior Filings. However, in order to eliminate any potential ambiguity in this regard, CFE is further amending Rule 412B as amended by the Prior Filings to make this explicit and is changing the title of Rule 412B to specifically reference reportable positions.

Second, CFE proposes to amend CFE Rule 714 (Imposition of Fines for Minor Rule Violations) to make new paragraph (c) of Rule 412B added by the Prior Filings subject to the same summary fine schedule under Rule 714(f)(vii) that already applies with respect to violations of paragraphs (a) and (b) of Rule 412B. Rule 412B(c) is the provision of Rule 412B that requires each TPH that is not a Clearing Member to report to the Exchange the same

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<sup>5</sup> See CFTC No-Action Letter No. 15-03 (February 10, 2015) (which provided conditional time-limited no-action relief to extend certain compliance dates under the OCR Rule).

information regarding the identification and reporting of special accounts relating to CFE contracts that the OCR Rule requires each TPH that is a Clearing Member to report to the CFTC. The summary fine schedule under Rule 714(f)(vii) is a Letter of Caution for a first offense, a \$7,500 fine for a second offense, a \$15,000 fine for a third offense, and referral to CFE's Business Conduct Committee for subsequent offenses (all as measured over any twelve month rolling period).

Third, CFE is further revising the reportable volume provision in CFE Rule 1602(n)(ii) that is included in CFE's contract specification rule chapter for Individual Stock Based and Exchange-Traded Fund Based Volatility Index security futures to make clear that this provision is referencing the reportable trading volume in one of those products that triggers the requirement to report a volume threshold account to the CFTC.

The Amendment also includes some minor, non-substantive wording changes, such as to delete a reference in Rule 412B(b) to CFTC Form 102S which is not applicable with respect to CFE products.

## 2. Statutory Basis

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

- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,

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

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78f(b)(7).

- 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.

The Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization. CFE needs to receive the same information relating to reportable positions in CFE contracts from TPHs and non-TPHs that is required to be reported to the CFTC, as well as the information that TPHs and non-TPHs provide to the CFTC under the new OCR Rule, in order to carry out CFE's market surveillance program. The proposed rule change facilitates CFE's ability to receive this information in a form and manner that will allow its seamless integration into the market surveillance program and systems utilized by CFE and its regulatory services provider by making explicit that TPHs and non-TPHs are required to provide this information to CFE in a form and manner prescribed by the Exchange.

**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 enhances CFE's market surveillance program. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the amendments would apply equally to all TPHs and non-TPHs 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 September 30, 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.<sup>9</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-2015-006 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-2015-006. 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

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<sup>9</sup> 15 U.S.C. 78s(b)(1).

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 office 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-2015-006, 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>10</sup>

Robert W. Errett  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(73).