

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81402; File No. SR-CFE-2017-002)

August 15, 2017

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

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on August 7, 2017 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 August 7, 2017.

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

The Exchange proposes to amend CFE Rules 502 and 535 related to recordkeeping requirements. The scope of this filing is limited solely to the application of the proposed rule amendments to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future. 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

CFE Rule 502 sets forth CFE's requirements relating to record retention periods and the inspection and delivery of books and records. CFE Rule 535 provides that any CFE Trading Privilege Holder subject to CFTC Regulation 1.31³ that violates CFTC Regulation 1.31 shall be deemed to have violated Rule 535. Rule 535 also includes the text of CFTC Regulation 1.31 within Rule 535.

The CFTC recently issued a final rulemaking regarding recordkeeping requirements which amends CFTC Regulation 1.31.⁴ The amendments to CFTC Regulation 1.31 become effective on August 28, 2017. CFE is proposing to amend Rules 502 and 535 to conform them to amended CFTC Regulation 1.31. Rule 502 continues to provide for a five year record retention period consistent with CFTC Regulation 1.31. In conformity with amended CFTC Regulation 1.31, CFE is proposing to amend Rule 502 to provide that required books and records exclusively created and maintained on paper shall be readily accessible during the first two years of that five year period and that electronic books and records shall be readily accessible for the entire five year period. CFE is proposing to amend Rule 535 to replace the previous text of CFTC Regulation 1.31 with the new text of CFTC Regulation 1.31. CFE is proposing to amend

³ 17 C.F.R. 1.31.

⁴ 82 FR 24479 (May 30, 2017).

Rule 535 to modernize and make technology neutral the form and manner in which regulatory records must be kept, as well as rationalize the current rule text for ease of understanding, consistent with the changes made to CFTC Regulation 1.31. Specifically, the proposed changes to Rule 535 eliminate the requirement for a records entity to: (1) keep electronic regulatory records in their native file format; (2) retain any electronic record in a non-rewritable, non-erasable format; and (3) engage a third-party technical consultant.

2. Statutory Basis

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

- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade, 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 proposed rule change would align CFE's rules related to recordkeeping with the CFTC's amended recordkeeping requirements. The Exchange believes that the proposed rule change furthers the ability of the Exchange to regulate its market by providing for updated and enhanced recordkeeping requirements (which include, among other things, a requirement to keep electronic records readily accessible for a [sic] five years).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(7).

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 proposed rule change is consistent with the CFTC's amended recordkeeping requirements. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that the rule amendments included in the proposed rule change would apply equally to all CFE Trading Privilege Holders.

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 August 28, 2017. 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.⁸

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

⁸ 15 U.S.C. 78s(b)(1).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CFE-2017-002 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-2017-002. 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 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-2017-002, 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.⁹

Eduardo A. Aleman
Assistant Secretary

⁹ 17 CFR 200.30-3(a)(73).