

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-84561; File No. SR-CFE-2018-003)

November 9, 2018

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Block Trade and Exchange of Contract for Related Position Reporting Provisions

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on November 2, 2018 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 November 2, 2018.

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

The Exchange proposes to amend reporting provisions under CFE Rules 414, 415, and 714 relating to Block Trades and Exchange of Contract for Related Position (“ECRP”) transactions. 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.

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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

The proposed rule change revises the criteria for who can act as an Authorized Reporter for Exchange of Contract for Related Position (“ECRP”) transactions and Block Trades and to allow for the assessment of summary fines for violations of two comparable ECRP and Block Trade reporting provisions.

The first two changes provided for in the proposed rule change relate to who can act as an Authorized Reporter for ECRP transactions and Block Trades. CFE Rule 414 (Exchange of Contract for Related Position) governs ECRP transactions and CFE Rule 415 (Block Trades) governs Block Trades. Rule 414(i) and Rule 415(f) provide that each CFE Trading Privilege Holder (“TPH”) executing an ECRP transaction or Block Trade, as applicable, must have at least one designated individual that is either a TPH or a Related Party<sup>3</sup> of a TPH and that is pre-authorized by a Clearing Member to report ECRP transactions and Block Trades on behalf of the

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<sup>3</sup> Chapter 1 of CFE’s Rulebook provides that: The term “Related Party” means, with respect to any TPH: any partner, director, officer, branch manager, employee or agent of such TPH (or any Person occupying a similar status or performing similar functions); any Person directly or indirectly Controlling, Controlled by, or under common Control with, such TPH; or any Authorized Trader of such TPH.

TPH. An individual designated for this purpose is referred to as an Authorized Reporter. CFE is proposing to amend Rule 414(i) and Rule 415(f) to remove the requirement that an Authorized Reporter must be a TPH or a Related Party of a TPH. CFE is also proposing to amend Rule 414(i) and Rule 415(f) to make clear that, to the extent required by applicable law, an Authorized Reporter must be registered or otherwise permitted by the appropriate regulatory body or bodies to act in the capacity of an Authorized Reporter and to conduct related activities.

CFE understands from TPHs that there are service providers that perform reporting functions that are similar to ECRP transaction and Block Trade reporting and that there are TPHs that would like to utilize individuals from these service providers (who are not either a TPH or a Related Party of a TPH) to act as an Authorized Reporter for ECRP transactions and Block Trades involving CFE products. CFE also understands that these TPHs would find it easier to utilize individuals from these service providers to report ECRP transactions and Block Trades, such as because these TPHs already utilize these service providers to perform similar functions in other markets. Additionally, CFE understands that some TPHs that are active market participants find the requirement that an Authorized Reporter must be a TPH or a Related Party of a TPH to be cumbersome because the practical effect of this requirement is that those TPHs are doing their own ECRP transaction and Block Trade reporting. As a result, these TPHs need to take time away from their trading activities in order to go through the administrative steps to complete the reporting process. The proposed rule change will allow these TPHs to outsource this reporting to service providers and to focus on providing liquidity into the market which inures to the benefit of all market participants.

Accordingly, CFE believes that the elimination of the requirement that an Authorized Reporter be a TPH or Related Party of a TPH will improve the efficiency of CFE's reporting

mechanism for ECRP transactions and Block Trades and of CFE's market while still maintaining the key elements of the current ECRP transaction and Block Trade reporting provisions under Rule 414 and Rule 415. Among these elements are that an Authorized Reporter for a TPH will still need to be designated to act in that capacity by the TPH and will still need to be pre-authorized by a Clearing Member for the TPH to act in that capacity. In providing a pre-authorization for an Authorized Reporter, a Clearing Member will also still need to accept responsibility for all ECRP transactions and Block Trades reported to the Exchange by that Authorized Reporter on behalf of the applicable TPH. Additionally, Rule 414(i) and Rule 415(f) will continue to provide that both the parties to and Authorized Reporters for an ECRP transaction or Block Trade, as applicable, are obligated to comply with the requirements of Rule 414 and Rule 415, as applicable. Similarly, Rule 414(i) and Rule 415(f) will continue to provide that any of these parties or Authorized Reporters may be held responsible by the Exchange for noncompliance with those requirements.

Additionally, the proposed rule change makes clear that, to the extent required by applicable law, an Authorized Reporter must be registered or otherwise permitted by the appropriate regulatory body or bodies to act in the capacity of an Authorized Reporter and to conduct related activities. For example, an Authorized Reporter may be required to be registered with the CFTC through the National Futures Association as an Introducing Broker in order to act as an Authorized Reporter and to conduct related activities.

In implementing the proposed rule change, CFE will require an Authorized Reporter that is not a TPH or Related Party of a TPH to execute the form used to designate that party as an Authorized Reporter. CFE will also require the Authorized Reporter to agree in the form to abide by CFE rules applicable to Block Trades and ECRPs, to be subject to the jurisdiction of the

Exchange with respect to compliance with those provisions, and to acknowledge in the form that the Authorized Reporter must be registered or otherwise permitted by the appropriate regulatory body or bodies to act in the capacity of an Authorized Reporter and to conduct related activities if and to the extent required by applicable law.

The second two changes provided for in the proposed rule change revise CFE Rule 714 (Imposition of Fines for Minor Rule Violations) to include violations of Rule 414(j) and Rule 415(g) within the list of minor rule violations for which the Exchange may impose summary fines. Rule 414(j) and Rule 415(g) provide that each party to an ECRP transaction or Block Trade, as applicable, is obligated to have an Authorized Reporter notify the Exchange of the terms of the transaction after the transaction is agreed upon and that this notification must be made within a Permissible Reporting Period by no later than the Reporting Deadline (as further defined by Rule 414 and Rule 415, as applicable). Rule 714(f)(x) already provides for a summary fine schedule for violations of two other provisions of Rule 414 with reporting requirements applicable to ECRP transactions, and the proposed rule change makes this summary fine schedule also applicable to violations of Rule 414(j). Similarly, Rule 714(f)(xiv) already provides for a summary fine schedule for violations of two other provisions of Rule 415 with reporting requirements applicable to Block Trades, and the proposed rule change makes this summary fine schedule also applicable to violations of Rule 415(g).

The Exchange believes that the proposed rule change will benefit CFE market participants by allowing TPHs to focus on trading and providing liquidity to CFE's market by allowing them to utilize third party service providers to perform the administrative functions of reporting Block Trades and ECRPs. This reporting process involves logging into a portal to CFE's systems, inputting information, and providing to or receiving from the other party a

reference ID. Allowing TPHs to focus on trading and providing liquidity in turn inures to the benefit of CFE's market. Additionally, including violations of additional Block Trade and ECRP reporting requirements under CFE's minor rule violation rule is consistent with the current inclusion of similar Block Trade and ECRP reporting requirements under the rule and improves the efficiency of CFE's disciplinary process.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(1)<sup>5</sup>, 6(b)(5)<sup>6</sup>, and 6(b)(7)<sup>7</sup> in particular, in that it is designed:

- to enable the Exchange to enforce compliance by its TPHs and persons associated with its TPHs with the provisions of the rules of the Exchange,
- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- 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, and
- to provide a fair procedure for the disciplining of TPHs and persons associated with TPHs.

The Exchange believes that the proposed rule change will improve the efficiency and functioning of the reporting mechanism for ECRP transactions and Block Trades and thus CFE's market by providing TPHs with greater flexibility as to who can act as an Authorized

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(1).

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

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

Reporter for these transactions. Also, CFE believes that the application of summary fine schedules for violations of Rule 414(j) and Rule 415(g) will provide motivation and incentive for TPHs and Authorized Reporters to comply with the ECRP transaction and Block Trade reporting requirements under those provisions in order to avoid summary fines and provides an effective and efficient means of disciplining for reporting infractions that do not warrant a regular disciplinary proceeding.

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 will improve the efficiency and functioning of the reporting mechanism for ECRP transactions and Block Trades and thus CFE's market. 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 market participants.

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 November 19, 2018. 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>8</sup>

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<sup>8</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-CFE-2018-003 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-2018-003. 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.



Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CFE-2018-003, 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>9</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(73).