

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84601; File No. SR-CFE-2018-001)

November 15, 2018

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of Filing of a Proposed Rule Change Regarding Minor Rule Violations

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on October 31, 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”)² on October 31, 2018.

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

The Exchange proposes to amend its rules regarding the processing of minor rule violations. 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 714 (Imposition of Fines for Minor Rule Violations) provides for the issuance of letters of caution or summary fines for specified types of minor CFE rule violations instead of addressing these violations through formal disciplinary proceedings. Each violation type under Rule 714 has a summary fine schedule that includes increasing monetary fines for subsequent violations by a party during a specified rolling time period and a referral of that party to the CFE Business Conduct Committee once that party has committed a certain number of violations within that rolling time period. The referral to the BCC is so that a panel of the BCC (“BCC Panel”) may determine whether or not to authorize the issuance of a statement of charges against the party and proceed with a formal disciplinary proceeding with regard to the matter.

CFE is making amendments to Rule 714 in conjunction with other rule amendments being made by CFE to its disciplinary rules, including to Rule 714, that are not required to be submitted to the Commission pursuant to Section 19(b)(7) of the Act³ and thus are not included as part of this rule change. One of these other rule amendments is to vest in CFE’s Chief Regulatory Officer (“CRO”) instead of in a BCC Panel the authority to determine whether to issue a statement charges in a CFE disciplinary matter.

³ 15 U.S.C. 78s(b)(7).

Since BCC Panels will no longer be determining whether to issue statements of charges, the proposed rule change deletes referral to the BCC from each of the summary fine schedules under Rule 714 that addresses violations of CFE rule provisions related to recordkeeping and reporting requirements. These summary fine schedules include the summary fine schedules under the following subparagraphs of Rule 714(f) which have the following titles and relate back to the following CFE rule provisions referenced in those titles:

- (i) Rule 714(f)(i) relating to Failure to Include an Order Entry Operator ID with Order that is Submitted to the CFE System (CFE Rule 303A(a)), Improper Use of Order Entry Operator IDs (Rules 303A(b) and 303A(c)), and Failure to Comply with Issuance, Recordkeeping, and Reporting Requirements Related to Order Entry Operator IDs (Rule 303A(d));
- (ii) Rule 714(f)(ii) relating to Failure to Identify Correct Customer Type Indicator Code in Order (CFE Rule 403(a)(x));
- (iii) Rule 714(f)(iii) relating to Failure to Provide Correct Account Designation in Order (Rule 403(a)(xii));
- (iv) Rule 714(f)(iv) relating to Failure to Comply with Order Form Preparation and Recordkeeping Requirements Relating to Orders Which Cannot Be Immediately Entered into the CFE System (Rule 403(b)) and Failure to Maintain Front-End Audit Trail Information for All Electronic Orders Entered into the CFE System, Including Order Modifications and Cancellations (Rule 403(c));
- (v) Rule 714(f)(vi) relating to Failure to Comply with Notice Provisions for Position Accountability (CFE Rules 412A(c) and 412A(d));
- (vi) Rule 714(f)(vii) relating to Failure to Comply with Reporting Requirements for

Ownership and Control Reports and Reportable Positions (CFE Rules 412B(a), 412B(b), and 412B(c));

- (vii) Rule 714(f)(viii) relating to Failure to Comply with Order Marking Requirement for Exchange of Contract for Related Position Transactions (CFE Rule 414(g)) and Failure to Comply with Recordkeeping Requirement for Exchange of Contract for Related Position Transactions (Rule 414(h));
- (viii) Rule 714(f)(ix) relating to Failure to Comply with Exchange of Contract for Related Position Transaction Rule Provisions Relating to Authorized Reporter (Rule 414(i));
- (ix) Rule 714(f)(x) relating to Failure to Comply with Exchange of Contract for Related Position Transaction Reporting Requirements (Rules 414(k) and 414(l));
- (x) Rule 714(f)(xi) relating to Failure to Comply with Order Marking Requirement for Block Trades (CFE Rule 415(a)(i)(A)) and Failure to Comply with Recordkeeping Requirements for Block Trades (Rule 415(e));
- (xi) Rule 714(f)(xiii) relating to Failure to Comply with Block Trade Rule Provisions Relating to Authorized Reporter (Rule 415(f));
- (xii) Rule 714(f)(xiv) relating to Failure to Comply with Block Trade Reporting Requirements (Rules 415(h) and 415(i)); and
- (xiii) Rule 714(f)(xv) relating to Failure to Provide Books and Records Within Designated Time Frame (CFE Rule 502 and Other CFE Rules Allowing CFE to Request Books and Records).

Regulatory staff already has the ability to proceed with a formal disciplinary proceeding whenever regulatory staff determines that any violation covered by Rule 714 is intentional,

egregious, or otherwise not minor in nature. The proposed rule change also amends Rule 714(f) to clarify that regulatory staff may also proceed with a formal disciplinary proceeding if the number of recurring violations of a particular type covered by Rule 714 within the rolling time period for that type of violation warrants a formal disciplinary proceeding. Accordingly, with the proposed rule change, there will not be a need for a referral after a certain number of violations within the applicable rolling time period since regulatory staff may initiate a formal disciplinary proceeding for any violation covered by Rule 714 when circumstances warrant no matter the number of previous violations of that type.

2. Statutory Basis

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

- to prevent fraudulent and manipulative acts and practices;
- 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;
- to have rules that provide that Exchange members and persons associated with Exchange members shall be appropriately disciplined for violation of the Act, the rules and regulations thereunder, or the rules of the Exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction; and

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ 15 U.S.C. 78f(b)(6).

⁷ 15 U.S.C. 78f(b)(7).

- to provide a fair procedure for the disciplining of members and persons associated with members.

The proposed rule change is consistent with these provisions in that CFE believes that the proposed rule change provides an effective and efficient means of disciplining parties for certain types of minor rule violations that do not warrant formal disciplinary proceedings while also permitting regulatory staff to initiate formal disciplinary proceedings for these types of violations when circumstances warrant.

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 CFE's disciplinary process by providing greater flexibility to regulatory staff to determine when to initiate a formal disciplinary proceeding for any violation covered by Rule 714. Additionally, CFE believes that the proposed amendments are equitable and not unfairly discriminatory because the changes will apply equally to all 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 15, 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.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
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CFE-2018-001 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-2018-001. 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

⁸ 15 U.S.C. 78s(b)(1).

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-2018-001, 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.⁹

Eduardo A. Aleman
Assistant Secretary

⁹ 17 CFR 200.30-3(a)(73).