

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69122; File No. SR-CFE-2013-003)

March 12, 2013

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing of a Proposed Rule Change Regarding Reportable Position Reporting of Security Futures by Non-Trading Privilege Holders

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on March 1, 2013 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 II and III 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 March 1, 2013.

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

CFE proposes to add new subparagraph (b) to CFE Rule 412B (Reportable Positions) to make clear that Persons<sup>3</sup> that are not CFE Trading Privilege Holders (“TPHs”) and that are required by CFTC regulations to report to the CFTC reportable positions and related information relating to CFE security futures contracts are obligated to also report the foregoing reportable positions and related information to CFE in a form and manner prescribed by CFE. CFE also proposes to amend subparagraph (d) to CFE Rule 308 (Consent to Exchange Jurisdiction) by adding CFE Rule 412B(b) to the list of CFE Rules that are applicable to non-TPHs.

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

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

<sup>3</sup> CFE Rule 155 defines the term “Person” to mean any natural person, association, partnership, limited liability company, joint venture, trust or corporation.

The scope of this filing is limited solely to the application of the rule changes 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 ("Volatility Index") security futures.

The text of the proposed rule change is available on the Exchange's website at <http://www.cfe.cboe.com>, on the Commission's website at <http://www.sec.gov>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 purpose of the proposal is to add new subparagraph (b) to CFE Rule 412B (Reportable Positions) to make clear that Persons that are not CFE TPHs and that are required by CFTC regulations to report to the CFTC reportable positions and related information relating to CFE security futures contracts are obligated to also report the foregoing reportable positions and related information to CFE in a form and manner prescribed by CFE. CFE also proposes to amend subparagraph (d) to CFE Rule 308 (Consent to Exchange Jurisdiction) by including a citation to CFE Rule 412B(b) in the list of CFE Rules that are applicable to non-TPHs.

Under the CFTC's large trader reporting system ("LTRS"), futures commission merchants and others are required to file daily reports with the CFTC under Part 17 of the CFTC's regulations.<sup>4</sup> There are two components to the LTRS for all futures accounts. The first component is a reporting of futures and options on futures positions of traders with positions at or above specific reporting levels. The second component is the filing of CFTC Form 102 (Identification of Special Accounts) which is used to identify each new account that acquires a reportable position.

CFE Rule 412B already provides that TPHs are required to report to CFE in a form and manner prescribed by CFE reportable positions and related information relating to CFE contracts that TPHs are obligated to report to the CFTC pursuant to CFTC regulations. However, CFE Rule 412B does not currently explicitly state that this requirement is applicable to non-TPHs, such as foreign brokers, that are required to report to the CFTC reportable security futures positions and related information concerning to CFE contracts. The purpose of this proposal is to make clear that this requirement would be applicable to those parties.

To affect this change, CFE proposes to add below new paragraph (b) to CFE Rule 412B:

(b) Any Person that is not a Trading Privilege Holder and that is required to report to the [CFTC] pursuant to [CFTC] regulations reportable positions and related information relating to Exchange Contracts shall report the foregoing reportable positions and related information to the Exchange in a form and manner prescribed by the Exchange.

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<sup>4</sup> 17 U.S.C. 15.03(b).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>6</sup> in particular in that it is designed 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 would strengthen its ability to carry out its self-regulatory obligations. Specifically, CFE needs to receive reportable positions and related 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. The proposal will facilitate CFE's ability to receive reportable positions and related information related to CFE security futures contracts in this manner from non-TPHs that are required to report this information to the CFTC.

### 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. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because it makes clear that Persons that are not CFE TPHs and that are required by CFTC regulations to report to the CFTC reportable positions and related information relating to CFE contracts are obligated to also report the foregoing reportable positions and related information to CFE in a form and manner prescribed by CFE. This is the same reporting requirement that applies that CFE TPHs.

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

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

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 March 18, 2013.

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>7</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-2013-003 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CFE-2013-003. 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

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

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-2013-003, 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>8</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).