



March 9, 2005

**Via Electronic Mail**

Ms. Jean A. Webb  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

Re: CBOE Futures Exchange, LLC Rule Certification  
Submission Number CFE-2005-09

Dear Ms. Webb:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended ("Act"), and §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission ("CFTC") under the Act, CBOE Futures Exchange, LLC ("CFE" or "Exchange") hereby submits an amendment to CFE rules that clarifies the CFE rule provisions related to "exchange of future for physical" transactions on CFE and makes other conforming changes to CFE rules as a result of a new designation for these transactions under CFE's rules as "exchange of future for related position" transactions ("Amendment"). The Amendment will become effective on March 11, 2005.

CFE is not aware of any substantive opposing views to the Amendment. CFE hereby certifies that the Amendment complies with the Act and the regulations thereunder.

The Amendment, marked to show additions in underlined text and deletions in [bracketed] text, consists of the following:

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**Rule 136. Exchange of Future for [Physical] Related Position**

The term "Exchange of Future for [Physical] Related Position" means any transaction entered into in accordance with the Rules of the Exchange, a component of which is not executed on the Exchange and a component or all of which involves a Contract.

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**Rule 414. Exchange of Future for [Physical] Related Position**

(a) A *bona fide* Exchange of Future for [Physical] Related Position may be entered into with respect to any Contract in accordance with the applicable trading increments set forth in the rules governing such Contract, at a price mutually agreed upon by the parties to such transaction. Each Exchange of Future for [Physical] Related Position must contain the following three essential elements:

(i) A Futures transaction and a transaction in a related position [physical] or an option on the related position [physical] (known as the "Related Position [Physical]");

(ii) An exchange of Futures for the Related Position [Physical] that involves an actual transfer of ownership, which must include (x) possession, right of possession, or right to future possession of each leg prior to the exchange, (y) an ability to perform the Exchange of Future for Related Position, and (z) a transfer of title of the Future and Related Position upon consummation of the exchange; and

(iii) Separate parties, such that the accounts involved on each side of the Exchange of Future for Related Position [Physical] have different beneficial ownership or are under separate control, provided that separate profit centers of a futures commission merchant operating under separate control are deemed to be separate parties for purposes of this Rule 414.

(b) In every Exchange of Future for Related Position [Physical], one party must be the buyer of the Related Position [Physical] and the seller of the corresponding Futures and the other party must be the seller of the Related Position [Physical] and the buyer of the corresponding Futures. Further, the quantity of the [commodity] Related Position traded in an Exchange of Future for Related Position [Physical] must correlate to the quantity represented by [of the commodity represented by] the Futures portion of the transaction.

(c) [The trading day for] Exchange of Future for Related Position [Physical] transactions with respect to any Contract must occur during the Trading Hours [shall be as] set forth in the rules governing such Contract, unless otherwise specified in those rules.

(d) Each Exchange of Future for Related Position [Physical] shall be designated as such, and cleared through the Clearing Corporation as if it were a transaction executed through the CBOE System.

(e) Each Clearing Member involved in any Exchange of Future for Related Position [Physical] shall either maintain records evidencing compliance with the criteria set forth in this Rule 414 or be able to obtain such records from its Customer involved in the Exchange of Future for Related Position [Physical]. Upon request, each such Clearing Member shall provide to the Exchange documentation related to Exchange of Future for Related Position transactions [evidencing the underlying cash transaction to the Exchange].

(f) For purposes of this Rule 414, the term "Related Position" [Physical] shall include, but not be limited to, a security, [a group or basket of securities,] an option, [or] any commodity as that term is defined by the CEA, or a group or basket of any of the foregoing. The Related Position [Physical] being exchanged need not be the same as the underlying of the Futures transaction being exchanged, but the Related Position [Physical] must have a high degree of price correlation to the underlying of the Futures transaction so that the Futures

transaction would serve as an appropriate hedge for the Related Position [Physical].

(g) The seller of the Futures leg of an Exchange of Future for Related Position transaction is obligated to call the Help Desk after the transaction is negotiated to notify the Exchange of the terms of the transaction. This notification to the Help Desk shall occur without delay and in no event later than ten minutes after the transaction is negotiated. The notification to the Help Desk shall include (i) the identity, contract month, price or premium, quantity, and time of execution of the relevant Futures leg, (ii) the counterparty Clearing Member, and (iii) the identity, quantity and price of the Related Position. The Help Desk will provide the caller a Trade Identification ("Trade ID") for the Exchange of Future for Related Position transaction and report the Futures leg to the CBOE System. After reporting the Exchange of Future for Related Position transaction to the Help Desk, the buyer and seller of the Futures leg must each complete and transmit the prescribed Exchange of Future for Related Position Reporting Form via facsimile or e-mail to the Help Desk. Both sides must include the Trade ID given by the Help Desk to the seller of the Futures leg. It is the responsibility of the buying and selling parties to effect any subsequent allocations or necessary updates to non-critical matching fields utilizing a post-trade processing system designated by the Exchange.

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#### **Rule 611. Trading Against Customers' Orders**

No Trading Privilege Holder (including its Related Parties) shall enter into a transaction on behalf of a Customer in which such Trading Privilege Holder or Related Party or any Person trading for an account in which such Trading Privilege Holder or Related Party has a financial interest, intentionally assumes the opposite side of the transaction. The foregoing restriction shall not prohibit pre-execution discussions conducted in accordance with procedures established by the Exchange from time to time, and shall not apply to any Exchange of Future for Related Position [Physical], any Block Trade or any transaction meeting all of the following criteria (or such other criteria as may be established by the Exchange from time to time):

(a) – (e) No change.

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#### **Rule 1202. Contract Specifications**

(a) – (i) No change.

(j) *Exchange of Future for Related Position [Physical].* Exchange of Future for Related Position [Physical] transactions, as set forth in Rule 414, may not be entered into with respect to VIX futures contracts.

(k) – (n) No change.

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**Rule 1302. Contract Specifications**

(a) – (i) No change.

(j) *Exchange of Future for Related Position [Physical]*. Exchange of Future for Related Position [Physical] transactions, as set forth in Rule 414, may not be entered into with respect to CBOE S&P 500 Three-Month Variance futures contracts.

(k) – (n) No change.

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**Rule 1402. Contract Specifications**

(a) – (i) No change.

(j) *Exchange of Future for Related Position [Physical]*. Exchange of Future for Related Position [Physical] transactions, as set forth in Rule 414, may not be entered into with respect to CBOE China Index futures contracts.

(k) – (n) No change.

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Questions regarding this submission may be directed to David Doherty at (312) 786-7466. Please reference our submission number CFE-2005-09 in any related correspondence.

CBOE Futures Exchange, LLC

By: \_\_\_\_\_  
Edward J. Joyce  
President

cc: Mark Baumgardner (OCC)