



October 15, 2008

Via Electronic Mail

Mr. David Stawick
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-2008-08

Dear Mr. Stawick:

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 under the Act, CBOE Futures Exchange, LLC ("CFE" or "Exchange") hereby submits this rule certification relating to CFE Rules 208, 209, 210 and 801 ("Certification"). Each of those rules incorporates by reference certain Chicago Board Options Exchange, Incorporated ("CBOE") Rules. Specifically, CFE Rule 208 (Business Conduct Committee), CFE 209 (Arbitration Committee) and Rule 210 (Appeals Committee) provide, in pertinent part, that the referenced committees shall be appointed pursuant to CBOE Rule 2.1(a). In addition, CFE Rule 801 (Matters Subject to Arbitration; Incorporation by Reference) expressly incorporates Chapter XVIII (Arbitration) of the CBOE Rules into Chapter 8 of CFE's Rules (with such changes as may be necessary or appropriate under the circumstances to make the provisions of that CBOE Rule chapter applicable to CFE). This Certification reflects amendments to CBOE Rule 2.1(a) and Chapter XVIII of the CBOE Rules so that these amendments are incorporated into CFE's Rules. No amendments to existing CFE rule text are being proposed by this Certification.

The Certification will become effective on October 17, 2008.

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

Appendix A is attached and is marked to show additions to CBOE rules in underlined text and deletions to CBOE rules in ~~stricken~~ text.

Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Jennifer Yeadon at (312) 786-7466. Please reference our submission number CFE-2008-08 in any related correspondence.

CBOE Futures Exchange, LLC

By: 

Andrew Lowenthal
Managing Director

cc: Riva Adriance (CFTC)
Bella Rozenberg (CFTC)
Edward Dasso (NFA)
The Options Clearing Corporation

Appendix A

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED RULES

Rule 2.1— Committees of the Exchange

RULE 2.1. (a) *Establishment of Committees.* In addition to committees specifically provided for in the Constitution, there shall be the following committees: Appeals, Arbitration, Business Conduct, ~~appropriate Floor Procedure Committees, Floor Officials, appropriate Market Performance Committees, Membership, Product Development~~ and such other committees as may be established in accordance with the Constitution. The President, with the approval of the Board, shall appoint the chairman and members of the Business Conduct Committee to serve for terms expiring at the first regular meeting of the Board of Directors of the next calendar year and until their successors are appointed or their earlier death, resignation or removal. The President may, at any time, with or without cause, remove any member of the Business Conduct Committee. Any vacancy occurring in the Business Conduct Committee shall be filled by the President for the remainder of the term. Except as may be otherwise provided in the Constitution or the Rules, the Vice Chairman of the Board, with the approval of the Board, shall appoint the chairmen and members of such other committees to serve for terms expiring at the first regular meeting of the Board ~~following of Directors of the next succeeding Annual Election Meeting or calendar year and~~ until their successors are appointed or their earlier death, resignation or removal. Consideration shall be given to continuity and to having, where appropriate, a cross section of the membership represented on each committee. Except as may be otherwise provided in the Constitution or the Rules, the Vice Chairman of the Board may, at any time, with or without cause, remove any member of such committees. Any vacancy occurring in one of these committees shall be filled by the Vice Chairman of the Board for the remainder of the term. Notwithstanding the foregoing, the Chairman of the Board, with the approval of the Board, shall appoint Directors to serve on the ~~Audit and Compensation Committees~~ Governance Committee and the Regulatory Oversight Committee, whose members shall not be subject to removal except by the Board. The Chairman of the Governance Committee and the Chairman of the Regulatory Oversight Committee shall be appointed by the Chairman of the Board. Whenever the Vice Chairman of the Board is, or has reason to believe he may become, a party to any proceeding of an Exchange committee, he shall not exercise his power to appoint or remove members of that committee, and the Chairman of the Board shall have such power.

(b) – (d) No change.

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Rule 18.10— Designation of Number of Arbitrators

RULE 18.10. (a) (1) In all arbitration matters involving public customers and non-members where the amount in controversy exceeds \$10,000 or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel that shall consist of no less than three (3) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer or non-member requests a panel consisting of at least a majority from the securities industry.

(2) An arbitrator will be deemed as being from the securities industry if he or she:

(i) is a person associated with a member, broker/dealer, government securities broker, government securities dealer, municipal securities dealer, or registered investment adviser; or

(ii) has been associated with any of the above within the past five (5) years; or

(iii) is retired from or spent a substantial part of his or her business career in any of the above; or

(iv) is an attorney, accountant or other professional who has devoted twenty (20) percent or more of his or her professional work effort to securities industry clients within the last two (2) years.

(v) is an individual who is registered under the Commodities Exchange Act or is a member of a registered futures association or any Commodities Exchange or is associated with any such person(s).

(3) An arbitrator who is not from the securities industry shall be deemed a public arbitrator. A person will not be classified as a public arbitrator if he or she has a spouse or other member of the household who is a person associated with a registered broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment adviser.

(b) Composition of Panels. The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of each panel.

(c) Arbitrator Restrictions. The following restrictions shall apply to persons who serve on the Arbitration Committee.

(i) No member of the Arbitration Committee shall represent a party as counsel in any dispute, claim or controversy submitted for CBOE arbitration ("CBOE Arbitration") while that member is serving on the Arbitration Committee and for a period of six months after the date on which that member ceases being a member of the Arbitration Committee and,

(ii) if a Committee member is appointed as an arbitrator in a pending CBOE Arbitration ("Pending CBOE Arbitration") and subsequently ceases being a member of the Committee, but continues to serve as an arbitrator in the Pending CBOE Arbitration, that person cannot represent a party as counsel in a separate CBOE Arbitration until he or she has ceased serving as an arbitrator in the Pending CBOE Arbitration.

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Rule 18.13— Disclosures Required of Arbitrators

RULE 18.13. (a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration.

(2) Any existing or past financial, business, professional, family or social relationships which are likely to affect impartiality or which might reasonably create an appearance of

partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships which they personally have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families or their current employers, partners or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in Paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances which might preclude an arbitrator from rendering an objective and impartial determination described in Subsection (a) hereof is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances which arise, or which are recalled or discovered.

(d) Removal by the Director.

(1) The Director of Arbitration may remove an arbitrator based on information that is required to be disclosed pursuant to the Rule.

Prior to (2) After the beginning of (A) the first pre-hearing conference or (B) the first hearing session, whichever is earlier, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this section. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section, if the arbitrator who disclosed the information is not removed not known to the parties when the arbitrator was selected.

(3) The Director of Arbitration will grant a party's request to disqualify an arbitrator if it is reasonable to infer, based on information known at the time of the request that the arbitrator is biased, lacks impartiality, or has an interest in the outcome of the arbitration. The interest or bias must be directed, definite, and capable of reasonable demonstration, rather than remote or speculative.

(4) The Director of Arbitration shall inform the parties to an arbitration proceeding of any information disclosed to the Director of Arbitration under this Rule unless either arbitrator who disclosed the information withdraws voluntarily as soon as the arbitrator learns of any interest, relationship, or circumstance described in paragraph (a) that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, or the Director of Arbitration removes the arbitrator.

Rule 18.14— Disqualification or Other Disability of Arbitrators

RULE 18.14. (a) Disqualification by Director of Arbitration Due to Conflict of Interest or Bias. After the appointment of an arbitrator and prior to the beginning of (A) the first pre-hearing conference or (B) the first hearing session, whichever is earlier, if the Director of Arbitration or a party objects, pursuant to Rule 18.12(b), to the continued service of an arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director of Arbitration determines that an arbitrator should be disqualified then the Director of Arbitration will notify both parties of the decision. The parties will have 5 days to retain the arbitrator, notwithstanding the Director of Arbitration's decision to disqualify the arbitrator. The parties must agree to retain the arbitrator unanimously and convey their decision to the Director of Arbitration in writing not later than 5 days after the Director of Arbitration's notice to disqualify.

(b) Removal by director. After the beginning of (A) the first pre-hearing conference or (B) the first hearing session, whichever is earlier, the Director of Arbitration may remove an arbitrator from an arbitration panel based on information that is required to be disclosed pursuant to Rule 18.13 and that was not previously disclosed.

(c) Standards for Deciding Challenges for Cause. The Director of Arbitration will grant a party's request to disqualify an arbitrator if it is reasonable to infer, based on information known at the time of the request, that the arbitrator is biased, lacks impartiality, or has an interest in the outcome of the arbitration. The interest or bias must be direct, definite, and capable of being reasonable of demonstration, rather than remote or speculative.

(d) Vacancies. In the event that any arbitrator, after the ~~commencement~~ beginning of the first hearing session and prior to the rendition of the award, should resign, die, withdraw, be disqualified or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) may continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within five (5) days of notification of such resignation, death, withdrawal, disqualification, or other inability. Upon objection, the Director of Arbitration shall appoint a new member to the panel to fill any vacancy. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator pursuant to Rule 18.11, as well as any other information disclosed pursuant to Rule 18.13. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the next scheduled hearing session or the five (5) day period provided under Rule 18.12, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 18.12.

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