



January 8, 2009

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-2009-01

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 ("Commission") under the Act, CBOE Futures Exchange, LLC ("CFE" or "Exchange") hereby submits this rule change ("Amendment") to amend CFE Rules 1202, 1302, 1502, 1602, 1702, 2002 and 2302 by adding a new subparagraph to each rule that specifies the Threshold Widths for each futures contract currently listed on the Exchange and provides that the minimum size of bids and offers to establish a Threshold Width is one contract. The Amendment also amends CFE Rule 418 regarding Emergencies and CFE Policy and Procedure V to allow the Threshold Width for a Contract to be temporarily increased in the event of an Emergency and to specify the individuals who have been delegated authority to temporarily increase the Threshold Width for a Contract in the event of an Emergency.

The Amendment will become effective on January 12, 2009.

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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CFE Rule 418. Emergencies

(a) General. If the President, or any individual designated by the President and approved by the Board, determines that an Emergency exists, the President or such designee, as the case may be, may take or place into immediate effect a temporary Emergency action or rule. Any such action or rule may provide for, or may authorize the Exchange, the Board or any committee thereof to undertake actions necessary or appropriate to respond to the Emergency, including such actions as:

- (i) limiting trading to liquidation only, in whole or in part;
- (ii) extending or shortening, as applicable, the Expiration Date or Expiration Month of any Contract;
- (iii) extending the time of delivery, changing delivery points or the means of delivery provided in the rules governing any Contract;
- (iv) imposing or modifying position or price limits with respect to any Contract;
- (v) ordering the liquidation of Contracts, the fixing of a settlement price or any reduction in positions;
- (vi) ordering the transfer of Contracts, and the money, securities, and property securing such Contracts, held on behalf of Customers by any Trading Privilege Holder to one or more other Trading Privilege Holders willing to assume such Contracts or obligated to do so;
- (vii) extending, limiting or changing hours of trading;
- (viii) declaring a fast market in a Contract;
- (ix) temporarily increasing the Threshold Width for a Contract;
- [(ix)] (x) suspending or curtailing trading in any or all Contracts or modifying circuit breakers;
- [(x)] (xi) requiring Clearing Members, Trading Privilege Holders or Customers to meet special margin requirements; or
- [(xi)] (xii) modifying or suspending any provision of the Rules of the Exchange or the Rules of the Clearing Corporation.

(b) Physical Emergency. If the President, or any individual designated by the President and approved by the Board, determines that the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a Physical Emergency (such as a fire or other casualty, bomb threats, terrorist acts, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns or transportation breakdowns), such Person may take any action that he or she may deem necessary or appropriate to respond to such Physical Emergency, including such actions as:

- (i) closing the Exchange;
- (ii) delaying the opening of trading in one or more Contracts; or
- (iii) suspending trading in or extending trading hours for one or more Contracts.

(c) In the event that any Emergency or Physical Emergency action has been taken pursuant to paragraph (a) or (b) above, any Person who is authorized to take such action may order the removal of any restriction previously imposed based upon a determination by such Person that the Emergency or Physical Emergency that gave rise to such restriction no longer exists or has sufficiently abated to permit the functions of the Exchange to continue in an orderly manner. Any Emergency or Physical Emergency action placed into effect in accordance with paragraph (a) or (b) above may be reviewed by the Board at any time and may be revoked, suspended or modified by the Board. Any rule placed into effect in accordance with paragraph (a) above may remain in effect for up to 30 Business Days, after which time it must be approved by the Board to remain in effect. Any such rule shall be reviewed by the Board as soon as practicable under the circumstances, and may be revoked, suspended or modified by the Board.

(d) Notification and Recording. The Exchange will telephonically notify the Commission of: (i) any rule placed into effect pursuant to paragraph (a) above as soon as practicable after the decision is made to implement the rule and (ii) any action taken in response to an Emergency or Physical Emergency pursuant to paragraphs (a) or (b) above (other than the declaration of a fast market in a Contract) as soon as practicable after the action is taken. The Exchange will submit to the Commission any rule placed into effect pursuant to paragraph (a) above in accordance with Commission Regulation § 40.6. The decision-making process with respect to, and the reasons for, any action taken pursuant to this Rule 418 will be recorded in writing.

(e) Conflicts of Interest. The conflict of interest provisions set forth in Rule 214(b) and the related documentation requirements set forth in Rule 214(c) shall apply, with any such modifications or adaptations as may be necessary or appropriate under the circumstances, to the taking of any action under this Rule 418 by the President, or his or her designee.

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CFE Rule 1202. CBOE Volatility Index Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the VIX futures contract are as follows:

<u>VIX Index Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Rule 1302. CBOE S&P 500 Three-Month Variance Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the CBOE S&P 500 Three-Month Variance futures contract are as follows:

<u>CBOE S&P 500 Three-Month Variance Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Rule 1602. CBOE Russell 2000 Volatility Index Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the RVX futures contract are as follows:

<u>RVX Index Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Rule 1702. CBOE DJIA Volatility Index Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the VXD futures contract are as follows:

<u>VXD Index Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Rule 2002. CBOE Nasdaq-100 Volatility Index Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the VXN futures contract are as follows:

<u>VXN Index Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Rule 2302. CBOE S&P 500 Twelve-Month Variance Futures Contract Specifications

(a) – (n) No change.

(o) Threshold Widths. For purposes of Policy and Procedure I and Policy and Procedure II, the Threshold Widths for the CBOE S&P 500 Twelve-Month Variance futures contract are as follows:

<u>CBOE S&P 500 Twelve-Month Variance Level</u>	<u>Threshold Width</u>
<u>1 – 100</u>	<u>20</u>
<u>100 – 200</u>	<u>50</u>
<u>200 – 10000</u>	<u>100</u>

The minimum size of bids and offers that establish a Threshold Width is one contract.

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CFE Policy and Procedure V.

Emergency and Physical Emergency Delegations and Procedures (Rules 132 and 418)

A. Specific Emergency and Physical Emergency Delegations

1. Emergency Delegations

Rule 132 defines the term “Emergency” and provides a non-exclusive list of circumstances that may constitute an Emergency.

Rule 418(a) grants the President the authority to determine the existence of an Emergency and the authority to take actions in response to an Emergency, including all of the actions listed below. The President may also order the removal of any restriction previously imposed based upon a determination that the Emergency no longer exists or has sufficiently abated to permit the function of the Exchange to continue in an orderly manner.

Pursuant to Rule 418(a), the President has designated and the Board has authorized the following additional individuals to determine the existence of an

Emergency and to take the actions specified in the delegations below in response to an Emergency. These additional individuals may also order the removal of any restriction that the applicable individual has been delegated the authority to impose based upon a determination by the applicable individual that the Emergency no longer exists or has sufficiently abated to permit the function of the Exchange to continue in an orderly manner.

Rule	Emergency Actions	Emergency Delegations
418(a)(i)	Limiting trading to liquidation only, in whole or in part	<ul style="list-style-type: none"> Managing Director
418(a)(ii)	Extending or shortening, as applicable, the Expiration Date or Expiration Month of any Contract	<ul style="list-style-type: none"> Managing Director
418(a)(iii)	Extending the time of delivery, changing delivery points or the means of delivery provided in the rules governing any Contract	<ul style="list-style-type: none"> Managing Director
418(a)(iv)	Imposing or modifying position or price limits with respect to any Contract	<ul style="list-style-type: none"> Managing Director
418(a)(v)	Ordering the liquidation of Contracts, the fixing of a settlement price or any reduction in positions	<ul style="list-style-type: none"> Managing Director
418(a)(vi)	Ordering the transfer of Contracts, and the money, securities, and property securing such Contracts, held on behalf of Customers by any Trading Privilege Holder to one or more other Trading Privilege Holders willing to assume such Contracts or obligated to do so	<ul style="list-style-type: none"> Managing Director
418(a)(vii)	Extending, limiting or changing hours of trading	<ul style="list-style-type: none"> Managing Director or Head of Trading Operations Division
418(a)(viii)	Declaring a fast market in a Contract	<ul style="list-style-type: none"> Managing Director or Head of Trading Operations Division or Senior Person in Charge of Help Desk

Rule	Emergency Actions	Emergency Delegations
418(a)(ix)	<u>Temporarily Increasing the Threshold Width for a Contract</u>	<ul style="list-style-type: none"> • <u>Managing Director or</u> • <u>Head of Trading Operations Division or</u> • <u>Senior Person in Charge of Help Desk</u>
418(a)[(ix)] (x)	Suspending or curtailing trading in any or all Contracts (<i>e.g.</i> , a trading halt)	<ul style="list-style-type: none"> • Managing Director or • Head of Trading Operations Division or • Senior Person in Charge of Help Desk
418(a)[(ix)] (x)	Modifying circuit breakers	<ul style="list-style-type: none"> • Managing Director
418(a)[(x)] (xi)	Requiring Clearing Members, Trading Privilege Holders or Customers to meet special margin requirements	<ul style="list-style-type: none"> • Managing Director or • Chief Regulatory Officer
418(a)[(xi)] (xii)	Suspending any provision of the Rules of the Exchange or the Rules of the Clearing Corporation	<ul style="list-style-type: none"> • Managing Director or • Chief Regulatory Officer
418(a)[(xi)] (xii)	Modifying any provisions of the Rules of the Exchange or the Rules of the Clearing Corporation	<ul style="list-style-type: none"> • Managing Director

2. *Physical Emergency Delegations*

Rule 418(b) governs emergencies affecting the physical functions of the Exchange and provides a non-exclusive list of circumstances that may constitute such a “Physical Emergency.”

Rule 418(b) grants the President the authority to determine the existence of a Physical Emergency and the authority to take actions in response to a Physical Emergency, including all of the actions listed below. The President may also order the removal of any restriction previously imposed based upon a determination that the Physical Emergency no longer exists or has sufficiently abated to permit the function of the Exchange to continue in an orderly manner.

Pursuant to Rule 418(b), the President has designated and the Board has authorized the following additional individuals to determine the existence of a Physical Emergency and to take the actions specified in the delegations below in response to a Physical Emergency. These additional individuals may also order the removal of any restriction that the applicable individual has been delegated the authority to impose based upon a determination by the applicable individual

that the Physical Emergency no longer exists or has sufficiently abated to permit the function of the Exchange to continue in an orderly manner.

Rule	Physical Emergency Actions	Physical Emergency Delegations
418(b)	Delaying the opening of trading in one or more Contracts	<ul style="list-style-type: none">• Managing Director or• Head of Trading Operations Division or• Senior Person in Charge of Help Desk
418(b)	Suspending trading in one or more Contracts (<i>e.g.</i> , a trading halt)	<ul style="list-style-type: none">• Managing Director or• Head of Trading Operations Division or• Senior Person in Charge of Help Desk
418(b)	Extending trading hours for one or more Contracts	<ul style="list-style-type: none">• Managing Director or• Head of Trading Operations Division
418(b)	Closing the Exchange	<ul style="list-style-type: none">• Managing Director

B. *Procedures for Exercise of Emergency and Physical Emergency Delegations*

In the event that action is taken by the President or other individual with delegated authority in response to an Emergency or Physical Emergency as provided for in Paragraph A, the Board shall be advised of (1) the circumstances that gave rise to the determination of the Emergency or Physical Emergency, (2) the action taken in response to the Emergency or Physical Emergency, and (3) the outcome of events relating to the Emergency or Physical Emergency. This notification shall be provided to the Board no later than its next meeting and shall be provided sooner to the extent required by Rule 418(c) or if the President or other individual with delegated authority with respect to the action taken determines that it would be advisable to do so under the circumstances.

In determining how soon the foregoing notification should be provided to the Board, the President or other individual with delegated authority with respect to the action taken should consider the significance of the action taken and of any continuing market impact resulting from that action. For example, the declaration of a fast market or the imposition a trading halt of limited duration are the types of actions that would not normally be expected to be immediately brought to the Board's attention. Conversely, the ordering of the transfer of Contracts, and the money, securities, and property securing such Contracts, held on behalf of a Customer by a Trading Privilege Holder to another Trading Privilege Holder who assumed such Contracts would normally be expected to be expeditiously brought to the Board's attention.

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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-2009-01 in any related correspondence.

CBOE Futures Exchange, LLC

By: 

Andrew Lowenthal
Managing Director

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