



March 18, 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-2009-10

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 an updated CFE Fee Schedule and an amendment to CFE Rule 420 ("Amendment"). The Amendment amends the CFE Fee Schedule to add a transfer of positions fee and to include for reference in the Fee Schedule a description of CFE's currently existing Integrated Billing System. The Amendment also revises Rule 420 to (i) clarify that transfers of positions pursuant to Rule 420 may occur on the books of the same or different Clearing Members and (ii) permit two additional prices at which transfers of positions may be effected. The Amendment is marked to show additions in underlined text and deletions in ~~stricken~~ text.

The Amendment will become effective on March 20, 2009, and the fees set forth in the updated CFE Fee Schedule will continue in effect until otherwise amended or modified by CFE.

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.

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-2009-10 in any related correspondence

CBOE Futures Exchange, LLC

By: 

Andrew Lowenthal  
Managing Director

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

**CFE Fee Schedule**  
**Effective March 9<sup>20</sup>, 2009**

1.	<u>Transaction Fees<sup>1,2</sup></u>	<u>Per Contract Side</u>
	A. CBOE member permit holder <sup>3</sup>	\$0.50
	B. CBOE member trading for the member's own account	\$0.50
	C. Non-CBOE member permit holder	\$1.00
	D. Customer	\$1.00
	E. Day Trade <sup>4</sup>	\$0.25
	F. Block Trade/Exchange of Contract for Related Position Transaction (ECRP)	\$0.75
	(Fee is in addition to other applicable transaction fees)	
	G. <u>Position Transfers<sup>5</sup></u>	<u>\$1.25</u>

Transaction fee questions may be directed to Don Patton at 312-786-7026 or [patton@cboe.com](mailto:patton@cboe.com)

2.	<u>Application Fees:</u>	<u>Amount</u>
	A. CBOE member	Waived
	B. Non-CBOE member	\$500
3.	<u>Data Line Fees:<sup>56</sup></u>	<u>Amount</u>
	A. 1 MB Service	
	i. Savvis	\$1,250/Line/month
	ii. SFTI <sup>67</sup>	\$850/Line/month
	B. 5 MB Service	
	i. Savvis	\$2,875/Line/month
	ii. SFTI <sup>67</sup>	\$875/Line/month
	C. Installation	No charge
4.	<u>Market Data Fees:</u>	
	A. <u>Vendor Connect Fees:<sup>78</sup></u>	<u>Amount</u>
	• All Vendors	\$1,200/year
	B. <u>Device/Authorized User Fees:<sup>89,910</sup></u>	<u>Amount</u>
	• Professional Subscriber (surface quote)	\$ 5/Device/Authorized User/month
	• Book Depth <sup>1011</sup> (including surface quote)	\$ 10/Device/Authorized User/month
	• Non-professional Subscriber <sup>1112</sup> (surface quote)	\$ 1/Device/Authorized User/month

Market Data fee questions may be directed to Tom Knorrington at 312-786-7363 or [knorrington@cboe.com](mailto:knorrington@cboe.com)

5. Integrated Billing System:  
Every Trading Privilege Holder must designate a Clearing Member for the payment of the Trading Privilege Holder's Exchange invoices and vendor invoices for Exchange-related services designated by the Exchange by means of the integrated billing system ("IBS"). The designated Clearing Member shall pay to the Exchange on a timely basis any amount that is not disputed pursuant to IBS procedures by the Trading Privilege Holder that is directly involved. Such payments shall be collected by the Exchange against the designated Clearing Member's account at the Clearing Corporation. The Clearing Corporation shall have no liability in connection with forwarding to the Exchange payments drafted pursuant to the IBS.



<sup>1</sup> The Transaction Fees listed in Section 1 of this Fee Schedule apply to all CFE products unless different Transaction Fees are specified for a particular product.

<sup>2</sup> Unless otherwise specified for a particular product, all Transaction fees for any new product that begins trading on CFE will be waived through the last day of the second calendar month in which the product is traded. (For example, if the new product begins trading on April 5th, the Transaction fees for the product would be waived through May 31st).

<sup>3</sup> Including non-CBOE member permit holders that are majority owned by a CBOE member.

<sup>4</sup> The Day Trade fee is in effect on a pilot basis through December 31, 2008. CFE will rebate market participants for the difference between the generally applicable transaction fees that are assessed to the market participant and the Day Trade fee at the end of the applicable trading month for those contract purchases and sales that qualify as Day Trades. A Day Trade consists of two or more transactions on CFE on the same trading day in which a market participant buys and sells, or sells and buys, a particular number of contracts in a particular CFE product for a particular contract month. For example, if a market participant bought 10 December VIX futures contracts and sold 10 December VIX futures contracts on the same trading day, those transactions would constitute a Day Trade and would entitle the market participant to receive a rebate equal to the difference between the applicable transaction fees and the Day Trade fee for all 20 contracts. Similarly, if a market participant sold 10 March VIX futures contracts and bought 15 March VIX futures contracts on the same trading day, those transactions would constitute a Day Trade with respect to the 10 contracts sold and with respect to 10 of the 15 contracts bought. In this example, the market participant would be entitled to receive a rebate equal to the difference between the applicable transaction fees and the Day Trade fee for 20 of the 25 contracts. In order to be eligible for the Day Trade fee, market participants are required to provide a one-time written notification to CFE in a form and manner prescribed by CFE that they intend to avail themselves of the Day Trade fee prior to the execution of Day Trades for which market participants will seek rebates. Market participants seeking rebates for Day Trades shall submit documentation to CFE in a form and manner prescribed by CFE on the business day that the Day Trades are executed reflecting those Day Trades. Market participants shall also provide any supplemental documentation requested by CFE to substantiate that contract purchases and sales qualify as Day Trades in order to receive Day Trade fee rebates.

<sup>5</sup> This fee is assessed to the transferor and to the transferee with respect to any transfer of positions pursuant to CFE Rule 420. CFE will rebate the transferor and the transferee the assessed fee if the transfer of positions occurred pursuant to CFE Rule 420(a)(ii) and the applicable party submits documentation to CFE requesting the rebate in a form and manner prescribed by the Exchange within 30 days of the date that the transfer of position occurred. This fee will not be rebated for any transfer of positions that occurred pursuant to CFE Rule 420(a)(i) or (iii) or Rule 420(b)(i) or (ii).

<sup>56</sup> Billed monthly. These fees are payable by all Trading Privilege Holders, Authorized Traders and Vendors (including Vendors that distribute only historical data) purchasing direct data feed connectivity from CFE. (These fees do not apply if adequate data line capacity between CBOEdirect and the server of a Trading Privilege Holder, Authorized Trader or Vendor is already in place.)

<sup>67</sup> SFTI assesses a per MB charge that is billed directly to each customer by SFTI and therefore is not reflected in this Fee Schedule.

<sup>78</sup> Billed annually. CFE bills all Vendors that either receive a data feed directly from CFE or receive data from a data feed from another CFE Vendor rather than directly from CFE. CFE Vendors that distribute only historical data are not obligated to pay Vendor Connect fees. In addition, these fees are waived with respect to any Trading Privilege Holder or Authorized Trader that is a Vendor solely by reason of distributing CFE market data to its Customers if it receives the market data directly from CFE (*i.e.*, not through a Vendor) and distributes the market data directly (*i.e.*, not through another Vendor) to its Customers. All Vendor Connect fees for any new Vendor that has not previously acted as a CFE Vendor will be waived through the end of the sixth calendar month following the last day of the month in which the Vendor begins to receive market data from CFE. (For example, if a Vendor receives market data from CFE

commencing on April 5th, Vendor Connect fees would be waived through October 31. Vendor Connect fees payable by the Vendor for the remainder of the year would be pro-rated.)

<sup>89</sup> Billed monthly. These fees are payable by each Vendor, based either on the number of Devices or the number of Authorized Users to which it disseminates CFE market data. Vendors that distribute only delayed data and/or historical data are not obligated to pay these fees. These fees are waived with respect to the Devices/Authorized Users of Trading Privilege Holders and Authorized Traders receiving CFE market data directly from CFE (*i.e.*, not through a Vendor), and are also waived with respect to the Devices/Authorized Users of any Customer of such a Trading Privilege Holder or Authorized Trader if the Trading Privilege Holder or Authorized Trader is a Vendor and the Customer receives the CFE market data directly (*i.e.*, not through another Vendor) from the Trading Privilege Holder or Authorized Trader. These fee waivers are available only to Trading Privilege Holders and Authorized Traders that comply with the reporting requirements of CFE Rule 408. See CFE Rule 126 for the definition of the term "Customer" and CFE Rule 408 for the definitions of the terms "Device" and "Authorized User".

<sup>910</sup> On a one-time basis for each of its Subscribers, a Vendor may make available real-time CFE market data to each such Subscriber for a trial period of 30 days without incurring any Device/Authorized User Fees, and without being subject to any reporting requirements, in connection with doing so. A Vendor is not required to have a Subscriber Agreement in place with a Subscriber for CFE market data in order to provide the Subscriber with real-time CFE market data during the 30 day trial period referenced above.

<sup>1011</sup> Book Depth provides the five price increments closest to the surface quote on each side of the market.

<sup>112</sup> CFE defines a Non-professional Subscriber as any Subscriber that: (1) is contracting to receive CFE Information in his or her individual capacity and not on behalf of any other person or any entity, (2) will use the Information solely in connection with his or her individual personal investment activities and not in connection with any trade or business activities, (3) is not a futures commission merchant, commodities introducing broker or commodity trading advisor, securities broker-dealer, investment advisor, member or trading privilege holder of a futures contract market or securities exchange or association, or an owner, partner, or associated person of any of the foregoing and (4) is not employed by a bank or an insurance company or an affiliate of either to perform functions related to commodity futures or securities investment or trading activity.

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## **Rule 420. Transfers of Positions**

(a) Existing trades may be transferred either on the books of A a Clearing Member or from one Clearing Member to another Clearing Member ~~may transfer a position on its books to:~~

(i) correct errors in an existing Contract, provided that the original trade documentation confirms the error;

(ii) transfer an existing Contract from one account to another ~~within the same Trading Privilege Holder~~ where no change in ownership is involved; or

~~(iii) transfer an existing Contract from one Clearing Member to another Clearing Member where no change in ownership occurs; or~~

~~(iv)~~ (iii) transfer an existing Contract through operation of law from death or bankruptcy.



(b) Upon written request, the Exchange may, in its sole discretion, allow the transfer of a position:

(i) as a result of a merger, asset purchase, consolidation, or similar non-recurring transaction for a Person; or

(ii) if the President or his designee determines that allowing the transfers would be in the interest of preserving an orderly market, the protection of market participants, or the best interest of the Exchange or is otherwise warranted due to unusual or extenuating circumstance.

(c) The transfer of positions pursuant to this Rule may be effected ~~Clearing Members must transfer positions pursuant to this Rule either~~ at the:

(i) original trade prices of the positions that appear on the books of the transferring Clearing Member, in which case the records of the transfer must indicate the original trade dates for the positions; ~~or~~

(ii) mark-to-market prices of the positions on the day of the transfer ;

(iii) mark-to-market prices of the positions on the trading day prior to the transfer; or

(iv) the then current market price of the positions.

Each Clearing Member that is a party to a transfer of positions must make and retain records stating the nature of the transaction ; the date of the transfer; the transfer prices and the date of those prices (including the "as of date," if applicable); the name of the counter-party Clearing Member ; and any other information required by the Clearing Corporation.