

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 27	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-7	File No.* SR - 2013 - * 001 Amendment No. (req. for Amendments *)
Proposed Rule Change by * CBOE Futures Exchange Pursuant to Rule 19b-7 under the Securities Exchange Act of 1934		
Initial *	Amendment *	Withdrawal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>	
<b>Description</b> Provide a brief description of the proposed rule change (limit 250 characters, required when Initial is checked *). Proposed Rule Change Regarding Minor Rule Violations.		
<b>Contact Information</b> Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change. First Name * Jenny Last Name * Golding Title * Assistant Secretary E-mail * golding@cboe.com Telephone * (312) 786-7466 Fax (312) 786-7919		
<b>SRO Governing Body Action</b> Describe action on the proposed rule change taken by the members or board of directors or other governing body of the SRO (limit 250 characters, required *). CFE's Managing Director approve the proposed rule change pursuant to delegated authority on January 4, 2013.		
<b>Signature</b> Pursuant to the requirements of the Securities Exchange Act of 1934,  has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer. Date 01/07/2013 Assistant Secretary By Arthur Reinstein (Name *) (Title *)  NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed. Arthur Reinstein, reinstei@cboe.com		

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-7 instructions please refer to the EFFF website.

**Exhibit 1- Notice of Proposed Rule Change (required when Initial)**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal.

The Notice section of this Form 19b-7 must comply with the guidelines for publication in the Federal Register, as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC and CFTC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases and Commodities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change. If such documents cannot be filed electronically in accordance with Instruction E, they shall be filed in accordance with Instruction F.

Exhibit Sent As Paper Document

**Exhibit 4 - Proposed Rule Text**

Add Remove View

The self-regulatory organization must attach as Exhibit 4 proposed changes to rule text. Exhibit 4 shall be considered part of the proposed rule change.

**Exhibit 5 - Date of Effectiveness of Proposed Rule Change (required when Initial)**

- CFTC Certification  
 CFTC Request that Review of Proposed Rule Change is not Necessary  
 Request for CFTC Approval of Proposed Rule Change  
 CFTC Determination that Review of Proposed Rule Change is not Necessary  
 Indication of CFTC Approval of Proposed Rule Change

CFTC Certification: Attach a copy of the certification submitted to the CFTC pursuant to section 5c(c) of the Commodity Exchange Act.

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Exhibit Sent As Paper Document

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission staff's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

Exhibit 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-CFE-2013-001)

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Proposed Rule Change  
Regarding Minor Rule Violations

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

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

CFE Rule 714 currently provides that there are no types of Exchange rule violations that are considered minor rule violations for purposes of CFE Rule 714. The rule change would (i) identify ten categories of rules which primarily involve reporting and recordkeeping for which the Exchange may impose summary fines for violations of the applicable rule(s), (ii) enumerate the specific rule(s) within each category, (iii) set forth a summary fine schedule for violations of the rule(s) within each category; and (iv) provides examples of when the Exchange may aggregate violations as a single offense for purposes of CFE Rule 714. The rule change would apply to conduct in relation to all

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

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

contracts listed and traded on the Exchange, including both security futures and non-security futures. 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 attached as Exhibit 4.

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, Proposed Rule Change

1. Purpose

The purpose of this proposal is to amend CFE Rule 714 (Imposition of Fines for Minor Rule Violations), referred to herein sometimes as "Minor Rule Violation Rule." CFE Rule 714 currently provides that there are no types of Exchange rule violations that are considered minor rule violations for purposes of CFE Rule 714. This Amendment would (i) identify ten categories of rules which primarily involve reporting and recordkeeping for which the Exchange may impose summary fines for violations of the applicable rule(s), (ii) enumerate the specific rule(s) within each category, (iii) set forth a

summary fine schedule for violations of the rule(s) within each category<sup>3</sup>, and (iv) provide examples of when the Exchange may aggregate violations as a single offense for purposes of CFE Rule 714. Below are general descriptions of areas covered by the ten categories:

- Order Entry Operator ID Designation and Recordkeeping
- Account Type Identification
- Front-End Audit Trail Information
- Exchange of Contract for Related Position Transaction Recordkeeping and Authorized Reporter Designation
- Block Trade Recordkeeping and Authorized Reporter Designation
- Responsible Trader Designation

The Exchange will have the ability to impose fines for violations of the rules covered in the Minor Rule Violation Rule both for matters that are currently pending for which a statement of charges has not yet been issued under CFE Rule 704(b) (Charges) and for future matters. The Exchange believes that these violations are suitable for incorporation into the Exchange's Minor Rule Violation Rule because they are generally technical in nature. Further, CFE will be able to carry out its regulatory responsibility more quickly and efficiently by incorporating these violations into its Minor Rule Violation Rule. CFE may, whenever it determines that any violation of a rule covered in the Minor Rule Violation Rule is intentional, egregious or otherwise not minor in nature, proceed under the Exchange's formal disciplinary rules.<sup>4</sup>

CFE is proposing to make the following modifications to CFE Rule 714 with the number of offenses being calculated on a rolling twelve (12) month period:

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<sup>3</sup> The proposed number of offenses leading up to a CFE Business Conduct Committee referral and the proposed fine amounts vary depending on the nature of the underlying violative conduct. This is because CFE regards violations of certain rule provisions under the Minor Rule Violation Rule to be more serious relative to violations of other rule provisions under the Minor Rule Violation Rule.

<sup>4</sup> See CFE Rule 714(d).

Order Entry Operator ID Designation and Recordkeeping

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of Order Entry Operator ID Designation and Recordkeeping requirements.

First, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 303A(a) to the Minor Rule Violation Rule, which requires that each Trading Privilege Holder (“TPH”) include an Order Entry Operator ID with every order and quote from that TPH this is submitted to the CBOE System (i.e., CFE’s trading system). A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE’s Business Conduct Committee.<sup>5</sup>

Second, the Exchange is proposing to modify CFE Rule 714 to add CFE Rules 303A(b) and 303A(c) to the Minor Rule Violation Rule, which require that every order and quote from a TPH that is submitted to the CBOE system include an Order Entry Operator ID that represents:

- the natural person physically responsible for entering an order or quote into the CBOE System (if a natural person entered the order or quote into the CBOE System); or
- the natural person physically responsible for entering the order or quote directly or indirectly into a system of or used by a TPH that interfaces with the CBOE System (if no natural person entered the order or quote into the CBOE System and instead a natural person entered the order or quote directly or

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<sup>5</sup> A referral to CFE’s Business Conduct Committee would result in the initiation of a regular disciplinary proceeding.

indirectly into a system of or used by a THP that interfaces with the CBOE System); or

- the Automated Trading System (which is a system that automates the generation and routing of orders or quotes) that generated the order and quote.

CFE Rules 303(A)(b) and 303A(c) also require that: (i) an Order Entry Operator ID issued for a natural person may only be used by that natural person; (ii) an Order Entry Operator ID issued for a natural person may not be used by any other natural person or entity and may not be used as the Order Entry Operator ID for an Automated Trading System; (iii) an Order Entry Operator ID issued for an Automated Trading System may only be used for that Automated Trading System; and (iv) an Order Entry Operator ID issued for an Automated Trading System may not be used for any other Automated Trading System and may not be used as the Order Entry Operator ID for any natural person or entity.

A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to the Business Conduct Committee.

Third, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 303A(d) to the Minor Rule Violation Rule, which sets forth issuance, recordkeeping and reporting requirements related to Order Entry Operator IDs. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE's Business Conduct Committee.

Account Type Identification

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of Account Type Identification requirements. Specifically, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 403(a)(vii) to the Minor Rule Violation Rule, which requires that each Order must contain information about account type. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$5,000 fine. The fourth offense will be subject to a \$7,500 fine. The fifth offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE's Business Conduct Committee.

Front-End Audit Trail Information

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of Front-End Audit Trail Information requirements. Specifically, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 403(c) to the Minor Rule Violation Rule, which requires that each TPH maintain front-end audit trail information for all electronic orders entered into the CBOE System, including order modifications and cancellations. The audit trail must contain all order entry, modification, cancellation and response receipt time(s) as well as Financial Information Exchange interface (FIX) tag information and fields or CBOE Market Interface (CMi) order structure, as applicable. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to the Business Conduct Committee.

Exchange of Contract for Related Position (“ECRP”) Transaction Recordkeeping and Authorized Reporter Designation

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of ECRP Transactions Recordkeeping and Authorized Reporter Designation requirements.

First, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 414(g) to the Minor Rule Violation Rule, which sets forth record keeping requirements relating to a TPH’s compliance with CFE Rule 414 (which governs ECRP transactions) or ability to obtain such records from its customer involved in the ECRP. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE’s Business Conduct Committee.

Second, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 414(h) to the Minor Rule Violation Rule, which requires each TPH executing an ECRP transaction to have at least one designated Person that is either a TPH or a Related Party of a TPH and is pre-authorized by a Clearing Member to report ECRP transactions on behalf of the TPH. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE’s Business Conduct Committee.

Block Trade Recordkeeping and Authorized Reporter Designation

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of Block Trade Recordkeeping and Authorized Reporter Designation requirements.

First, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 415(e) to the Minor Rule Violation Rule, which sets forth order ticket requirements for Block Trades and recordkeeping requirements evidencing a TPH’s compliance with CFE Rule

415 (which governs Block Trades). A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$2,500 fine. The third offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE's Business Conduct Committee.

Second, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 415(f) to the Minor Rule Violation Rule, which requires each TPH executing a side of a Block Trade to have at least one designated Person that is either a TPH or a Related Party of a TPH and is pre-authorized by a Clearing Member to report Block Trades on behalf of the TPH. A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE's Business Conduct Committee.

#### Responsible Trader Designation

CFE is proposing to modify its Minor Rule Violation Rule to cover violations of Account Responsible Trader Designation requirements. Specifically, the Exchange is proposing to modify CFE Rule 714 to add CFE Rule 513(a) to the Minor Rule Violation Rule, which requires that each TPH have at all times at least one employee or agent ("Responsible Trader") designated by its administrator with respect to the use of the CBOE System by such TPH (including its Authorized Traders).<sup>6</sup> A first offense will result in the issuance of a letter of caution. The second offense will be subject to a \$10,000 fine. Subsequent offenses will be referred to CFE's Business Conduct Committee.

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<sup>6</sup> CFE Rule 105 defines "Authorized Trader" to mean any natural person who is a TPH or who is authorized by a TPH to access the CBOE System on behalf of the TPH.

### Reorganization of Aggregation Provisions and Examples

Current CFE Rule 714(a), among other things, currently permits the Exchange to aggregate individual violations of particular CFE rules that are covered by the Minor Rule Violation Rule to and treat those violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or the violations resulted from a single problem or cause that has been corrected.

CFE is proposing to bolster the aggregation provisions of CFE Rule 714 by setting forth two additional examples of when aggregation may be appropriate. Specifically, the Exchange proposes to amend CFE Rule 714 to state that the Exchange may aggregate all similar violations found in an audit trail exam and may separately aggregate all similar violations found in a single review of exception report output. The Exchange proposes to reorganize the existing aggregation provisions in CFE Rule 714(a) and restate them, along with the above aggregation examples, in new subparagraph (e) to CFE Rule 714.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Sections 6(b)(5)<sup>8</sup> and 6(b)(6)<sup>9</sup> in particular in that it is designed:

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78f(b)(6).

- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- 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, and
- to provide a fair procedure for the disciplining of members.

The Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization by adding violations to its Minor Rule Violation Rule. CFE also believes that these changes will serve as an effective deterrent to future violative conduct and as an effective and efficient means of disciplining for infractions that do not warrant a regular disciplinary proceeding. CFE additionally believes that the proposed changes will promote consistent application of sanctions by the Exchange for minor rule violations, establish a fair procedure for the disciplining of TPHs for minor rule violations and reinforce its surveillance and enforcement functions. Finally, the Exchange believes that the reorganization of the aggregation provisions of CFE Rule 714 and the addition of examples in which minor rule violations may be aggregated will benefit market participants because those provisions will now be contained in a single subparagraph for easier reference and those provisions will also substantively improve market participants' understanding of how the aggregation provisions of the Minor Rule Violation Rule will operate and be applied.

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.<sup>10</sup>

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 effective on January 23, 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>11</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-2013-001 on the subject line.

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<sup>10</sup> 15 U.S.C. 78a *et seq.*

<sup>11</sup> 15 U.S.C. 78s(b)(1).

Paper comments:

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

All submissions should refer to File Number SR-CFE-2013-001. 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 comments on the Commission's Internet Web site (<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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of CBOE Futures Exchange, LLC. 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-2013-001 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>12</sup>

Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(73).

Exhibit 4

Set forth below are proposed changes to the rule text, with additions represented by underscoring and deletions represented by [bracketing].

**CBOE Futures Exchange, LLC Rules**

\* \* \* \* \*

**714. Imposition of Fines for Minor Rule Violations**

(a) Notwithstanding any other provision of this Chapter 7 to the contrary, the Exchange may, subject to the requirements set forth herein, impose a fine, not to exceed \$15,000, on any Trading Privilege Holder or Related Party of a Trading Privilege Holder with respect to any violation of the Rules of the Exchange relating to the timely submission of accurate records required for clearing or verifying each day's transactions, decorum or other similar activities. [For purposes of imposing fines pursuant to this Rule 714, the Exchange may aggregate individual violations of particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or the violations resulted from a single problem or cause that has been corrected.] Actions taken pursuant to this Rule 714 shall be processed in accordance with the procedures set forth in this Rule 714 rather than the procedures set forth in the remainder of this Chapter 7 unless otherwise indicated.

(b) In any action taken by the Exchange pursuant to this Rule 714, any Person against whom a fine is imposed shall be served with a written statement, prepared by the Exchange, setting forth: (i) the provision of the Rules of the Exchange allegedly violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine must be paid or contested as provided below, which date shall be not less than 30 days after the date of service of such written statement. The issuance of a fine, a member's failure to contest the fine, or a member's submission or the Exchange's acceptance of an offer of settlement in connection with this Rule 714 do not constitute an admission of the violation in question.

(c) (i) Any Person against whom a fine is imposed pursuant to this Rule 714 may contest the Exchange's determination by filing with the office of the Secretary, on or before the date specified pursuant to clause (b)(iv) of this Rule 714, a written answer in accordance with Rule 705 (which shall apply with such changes as may be appropriate under the circumstances), at which point the matter shall become subject to review by a BCC Panel. The filing must include a request for a hearing, if a hearing is desired. Hearings shall be conducted in accordance with the provisions of Rule 706 (which shall apply with such changes as may be appropriate under the

circumstances). If a hearing is not requested, the review shall be based on written submissions and shall be conducted in a manner to be determined by the BCC Panel.

(ii) If after a hearing or review based on written submissions pursuant to clause (i) above the BCC Panel determines that the conduct serving as the basis for the action under review is in violation of that provision of the Rules of the Exchange the violation of which has been charged, the BCC Panel (A) may impose any one or more of the disciplinary sanctions authorized by the Rules of the Exchange and (B) shall impose a forum fee against the Person charged in the amount of one hundred dollars (\$100) if the determination was reached without a hearing, or in the amount of three hundred dollars (\$300) if a hearing was conducted. Notwithstanding the foregoing, in the event that the BCC Panel determines that the Person charged committed one or more violations of Rules of the Exchange and the sole disciplinary sanction imposed by the BCC Panel for such violations is a fine which is less than the total fine initially imposed by the Exchange pursuant to this Rule 714, the BCC Panel shall have discretion to waive the imposition of a forum fee.

(iii) The committee or department of the Exchange that commenced any action under this Rule 714, the Person charged and any member of the Board may require a review by the Board of any determination by a BCC Panel under this Rule 714 by proceeding in accordance with Rule 710 (which shall apply with such changes as may be appropriate under the circumstances). In connection with such review the committee or department of the Exchange that commenced the action under this Rule 714 shall have the same rights as a Respondent under Rule 710.

(iv) In the event that a fine imposed pursuant to this Rule 714 is upheld by a BCC Panel or, if applicable, on review by the Board, such fine, plus interest thereon, at a rate from time to time specified by the Exchange for such purpose, from and including the date specified in clause (b)(iv) of this Rule 714, shall be immediately due and payable.

(d) The Exchange shall specify in clause (e) of this Rule 714 the types of violations of Rules of the Exchange that will be considered minor rule violations for purposes of this Rule 714 and a fine schedule for such violations. Any fine schedule may allow for warning letters to be issued for first-time violations or violators and shall provide for progressively larger fines for recurring violations. Nothing in this Rule 714 shall require the Exchange to impose a fine pursuant to this Rule 714 with respect to the violation of any provision of the Rules of the Exchange included in any listing of minor rule violations. In addition, the Exchange may, whenever it determines that any violation is intentional, egregious or otherwise not minor in nature, proceed under the Exchange's formal disciplinary rules as set forth in Rules 702 through 713, rather than under this Rule 714.

(e) [There are currently no types of violations of Rules of the Exchange that will be considered minor rule violations for purposes of this Rule 714.] For purposes of imposing fines pursuant to this Rule 714, the Exchange may aggregate individual

violations of particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. For example, the Exchange may aggregate all similar violations found in an audit trail exam and separately aggregate all similar violations found in a single review of exception report output. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or the violations resulted from a single problem or cause that has been corrected.

(f) The following is a list of the rule violations subject to, and the applicable fines that may be imposed by the Exchange pursuant, this Rule 714:

**(i) Failure to Include an Order Entry Operator ID with Order or Quote that is Submitted to the CBOE System. (Rule 303A(a))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(ii) Improper Use of Order Entry Operator IDs. (Rules 303A(b) and 303A(c))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(iii) Failure to Comply with Issuance, Recordkeeping and Reporting Requirements Related to Order Entry Operator IDs. (Rules 303A(d))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>



**(viii) Failure to Comply with Recordkeeping Requirements for Block Trades. (Rule 415(e))**

<i><u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u></i>	<i><u>Fine Amount</u></i>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(ix) Failure to Comply with Block Trade Rule Provisions Relating to Authorized Reporter. (Rule 415(f))**

<i><u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u></i>	<i><u>Fine Amount</u></i>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(x) Failure to Comply with Rule Provisions Relating to Responsible Trader. (Rule 513(a))**

<i><u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u></i>	<i><u>Fine Amount</u></i>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

\* \* \* \* \*

Exhibit 5

A copy of the certification submitted to the CFTC pursuant to Section 5c(c) of the Commodity Exchange Act with respect to the proposed rule change.



January 7, 2012

**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-2013-02

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 (“CFTC”) under the Act, CBOE Futures Exchange, LLC (“CFE” or “Exchange”) hereby submits an amendment (“Amendment”) to amend CFE Rule 714 (Imposition of Fines for Minor Rule Violations). The Amendment will become effective on January 23, 2013.

CFE Rule 714 currently provides that there are no types of Exchange rule violations that are considered minor rule violations for purposes of Rule 714. This Amendment (i) identifies ten categories of rules which primarily involve reporting and recordkeeping for which the Exchange may impose summary fines for violations of the applicable rule(s), (ii) enumerates the specific rule(s) within each category, (iii) sets forth a summary fine schedule for violations of the rule(s) within each category, and (iv) provides examples of when the Exchange may aggregate violations as a single offense for purposes of Rule 714.

Below are general descriptions of areas covered by the ten categories:

- Order Entry Operator ID Designation and Recordkeeping
- Account Type Identification
- Front-End Audit Trail Information
- Exchange of Contract for Related Position Transaction Recordkeeping and Authorized Reporter Designation
- Block Trade Recordkeeping and Authorized Reporter Designation
- Responsible Trader Designation

The Exchange will have the ability to impose fines for violations of the rules covered in Rule 714 both for matters that are currently pending for which a statement of charges has not yet been issued under CFE Rule 704(b) (Charges) and for future matters.

CFE believes that the Amendment is consistent with Designated Contract Market Core Principle 2 (Compliance with Rules) under Section 5 the Act because the Amendment provides motivation and incentive for compliance with CFE Rules in order to avoid the repercussions under the summary fine schedules for violations of the rules covered by Rule 714 and provides an effective and efficient means of disciplining for infractions that do not warrant a regular disciplinary proceeding.

CFE believes that the impact of the Amendment will be beneficial to the public and market participants. 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. CFE further certifies that it has posted a notice of pending certification with the Commission and a copy of this submission on CFE's Web site (<http://cfe.cboe.com/aboutcfe/rules.aspx>) concurrent with the filing of this submission with the Commission.

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

### **CBOE Futures Exchange, LLC Rules**

\* \* \* \* \*

#### **714. Imposition of Fines for Minor Rule Violations**

(a) Notwithstanding any other provision of this Chapter 7 to the contrary, the Exchange may, subject to the requirements set forth herein, impose a fine, not to exceed \$15,000, on any Trading Privilege Holder or Related Party of a Trading Privilege Holder with respect to any violation of the Rules of the Exchange relating to the timely submission of accurate records required for clearing or verifying each day's transactions, decorum or other similar activities. [For purposes of imposing fines pursuant to this Rule 714, the Exchange may aggregate individual violations of particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or the violations resulted from a single problem or cause that has been corrected.] Actions taken pursuant to this Rule 714 shall be processed in accordance with the procedures set forth in this Rule 714 rather than the procedures set forth in the remainder of this Chapter 7 unless otherwise indicated.

(b) In any action taken by the Exchange pursuant to this Rule 714, any Person against whom a fine is imposed shall be served with a written statement, prepared by the Exchange, setting forth: (i) the provision of the Rules of the Exchange allegedly violated; (ii) the act or omission constituting each such violation; (iii) the fine imposed for each violation; and (iv) the date by which such determination becomes final and such fine must be paid or contested as provided below, which date shall be not less than 30 days after the date of service of such written statement. The issuance of a fine, a member's failure to contest the fine, or a member's submission or the Exchange's acceptance of an offer of settlement in connection with this Rule 714 do not constitute an admission of the violation in question.

(c) (i) Any Person against whom a fine is imposed pursuant to this Rule 714 may contest the Exchange's determination by filing with the office of the Secretary, on or before the date

specified pursuant to clause (b)(iv) of this Rule 714, a written answer in accordance with Rule 705 (which shall apply with such changes as may be appropriate under the circumstances), at which point the matter shall become subject to review by a BCC Panel. The filing must include a request for a hearing, if a hearing is desired. Hearings shall be conducted in accordance with the provisions of Rule 706 (which shall apply with such changes as may be appropriate under the circumstances). If a hearing is not requested, the review shall be based on written submissions and shall be conducted in a manner to be determined by the BCC Panel.

(ii) If after a hearing or review based on written submissions pursuant to clause (i) above the BCC Panel determines that the conduct serving as the basis for the action under review is in violation of that provision of the Rules of the Exchange the violation of which has been charged, the BCC Panel (A) may impose any one or more of the disciplinary sanctions authorized by the Rules of the Exchange and (B) shall impose a forum fee against the Person charged in the amount of one hundred dollars (\$100) if the determination was reached without a hearing, or in the amount of three hundred dollars (\$300) if a hearing was conducted. Notwithstanding the foregoing, in the event that the BCC Panel determines that the Person charged committed one or more violations of Rules of the Exchange and the sole disciplinary sanction imposed by the BCC Panel for such violations is a fine which is less than the total fine initially imposed by the Exchange pursuant to this Rule 714, the BCC Panel shall have discretion to waive the imposition of a forum fee.

(iii) The committee or department of the Exchange that commenced any action under this Rule 714, the Person charged and any member of the Board may require a review by the Board of any determination by a BCC Panel under this Rule 714 by proceeding in accordance with Rule 710 (which shall apply with such changes as may be appropriate under the circumstances). In connection with such review the committee or department of the Exchange that commenced the action under this Rule 714 shall have the same rights as a Respondent under Rule 710.

(iv) In the event that a fine imposed pursuant to this Rule 714 is upheld by a BCC Panel or, if applicable, on review by the Board, such fine, plus interest thereon, at a rate from time to time specified by the Exchange for such purpose, from and including the date specified in clause (b)(iv) of this Rule 714, shall be immediately due and payable.

(d) The Exchange shall specify in clause (e) of this Rule 714 the types of violations of Rules of the Exchange that will be considered minor rule violations for purposes of this Rule 714 and a fine schedule for such violations. Any fine schedule may allow for warning letters to be issued for first-time violations or violators and shall provide for progressively larger fines for recurring violations. Nothing in this Rule 714 shall require the Exchange to impose a fine pursuant to this Rule 714 with respect to the violation of any provision of the Rules of the Exchange included in any listing of minor rule violations. In addition, the Exchange may, whenever it determines that any violation is intentional, egregious or otherwise not minor in nature, proceed under the Exchange's formal disciplinary rules as set forth in Rules 702 through 713, rather than under this Rule 714.

(e) [There are currently no types of violations of Rules of the Exchange that will be considered minor rule violations for purposes of this Rule 714.] For purposes of imposing fines pursuant to this Rule 714, the Exchange may aggregate individual violations of

particular Rules of the Exchange and treat such violations as a single offense. In other instances, the Exchange may, if no exceptional circumstances are present, impose a fine based upon a determination that there exists a pattern or practice of violative conduct. For example, the Exchange may aggregate all similar violations found in an audit trail exam and separately aggregate all similar violations found in a single review of exception report output. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors or the violations resulted from a single problem or cause that has been corrected.

(f) The following is a list of the rule violations subject to, and the applicable fines that may be imposed by the Exchange pursuant, this Rule 714:

**(i) Failure to Include an Order Entry Operator ID with Order or Quote that is Submitted to the CBOE System. (Rule 303A(a))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(ii) Improper Use of Order Entry Operator IDs. (Rules 303A(b) and 303A(c))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(iii) Failure to Comply with Issuance, Recordkeeping and Reporting Requirements Related to Order Entry Operator IDs. (Rules 303A(d))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(iv) Failure to Identify Correct Account Type in Order. (Rule 403(a)(vii))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$2,500</u>
<u>Third Offense.....</u>	<u>\$5,000</u>
<u>Fourth Offense.....</u>	<u>\$7,500</u>

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
Fifth Offense.....	\$10,000
Subsequent Offenses.....	Referral to Business Conduct Committee

**(v) Failure to Maintain Front-End Audit Trail Information for All Electronic Orders Entered into the CBOE System, Including Order Modifications and Cancellations. (Rule 403(c))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
First Offense.....	Letter of Caution
Second Offense.....	\$2,500
Third Offense.....	\$10,000
Subsequent Offenses.....	Referral to Business Conduct Committee

**(vi) Failure to Comply with Recordkeeping Requirements for Exchange of Contract for Related Position Transactions. (Rule 414(g))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
First Offense.....	Letter of Caution
Second Offense.....	\$2,500
Third Offense.....	\$10,000
Subsequent Offenses.....	Referral to Business Conduct Committee

**(vii) Failure to Comply with Exchange of Contract for Related Position Transaction Rule Provisions Relating to Authorized Reporter. (Rule 414(h))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
First Offense.....	Letter of Caution
Second Offense.....	\$10,000
Subsequent Offenses.....	Referral to Business Conduct Committee

**(viii) Failure to Comply with Recordkeeping Requirements for Block Trades. (Rule 415(e))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
First Offense.....	Letter of Caution
Second Offense.....	\$2,500
Third Offense.....	\$10,000
Subsequent Offenses.....	Referral to Business Conduct Committee

**(ix) Failure to Comply with Block Trade Rule Provisions Relating to Authorized Reporter. (Rule 415(f))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

**(x) Failure to Comply with Rule Provisions Relating to Responsible Trader. (Rule 513(a))**

<u>Number of Cumulative Violations in Any Twelve (12) Month Rolling Period</u>	<u>Fine Amount</u>
<u>First Offense.....</u>	<u>Letter of Caution</u>
<u>Second Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

\* \* \* \* \*

Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Jenny Golding at (312) 786-7466. Please reference our submission number CFE-2013-02 in any related correspondence.

CBOE Futures Exchange, LLC



By: James F. Lubin  
Managing Director

cc: Rachel Berdansky (CFTC)  
Nancy Markowitz (CFTC)  
National Futures Association  
The Options Clearing Corporation