



March 15, 2021

Christopher J. Kirkpatrick  
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-2021-011

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Regulation 40.6(a) promulgated by the Commodity Futures Trading Commission (“CFTC” or “Commission”) under the Act, Cboe Futures Exchange, LLC (“CFE” or “Exchange”) hereby submits a CFE rule amendment (“Amendment”) to update CFE’s position limit rule provisions. Exhibit 1 to this submission sets forth the rule changes included in the Amendment. The Amendment will become effective on March 29, 2021.

CFE Rule 412 (Position Limits) governs CFE position limits and position limit exemptions. The CFTC recently amended its position limit regulations in Part 150 of the Commission Regulations.<sup>1</sup> CFE does not currently offer for trading any products that are subject to the requirements of revised Part 150 of the Commission Regulations. Instead, CFE offers for trading futures on excluded commodities, which are not within the scope of revised Part 150 of the Commission Regulations. Although the changes to Part 150 of the Commission Regulations do not apply to CFE’s products, CFE is making the following three updates to Rule 412 in light of the changes made by the CFTC to Part 150 of the Commission Regulations.

- Rule 412(b) currently provides that position limits shall be as established by the Exchange from time to time as permitted by Commission Regulations 150 and 41.25 as applicable. The reference in Rule 412(b) to Commission Regulation 150 is intended to refer to Part 150 of the Commission Regulations. Commission Regulation 41.25 governs position limits for security futures products. In addition to being able to establish position limits for products governed by Part 150 of the Commission Regulations as permitted by Part 150 and for security futures products as permitted by Commission Regulation 41.25, CFE is also able to establish position limits for other products as permitted by Commission Regulation 38.300. Commission Regulation 38.300 restates Designated Contract Market (“DCM”) Core Principle 5 (Position Limitations or Accountability) under Section 5 of the Act and applies to all products offered for trading by a DCM. Commission Regulation 38.300 provides, in relevant part, that to reduce the potential threat of market manipulation or congestion (especially during trading in the delivery month), a DCM shall adopt for each contract of the DCM, as is necessary and appropriate, position limitations or position accountability for speculators. In order to more

---

<sup>1</sup> See CFTC Final Rule Regarding Position Limits for Derivatives, 86 FR 3236 (January 14, 2021).

clearly reflect the reference to Part 150 of the Commission Regulations in Rule 412(b) and to also reference Commission Regulation 38.300 in Rule 412(b), the Amendment revises Rule 412(b) to provide that CFE position limits shall be as established by the Exchange from time to time as permitted by Commission Regulation 38.300, Part 150 of the Commission Regulations, and Commission Regulation 41.25, as applicable.

- The Amendment removes from Rule 412(c) and Rule 412(d)(i) references to prior Commission Regulation 1.3(z) which has been superseded by revisions to Part 150 of the Commission Regulations. Prior Commission Regulation 1.3(z) previously included a definition of the term “bona fide hedging transaction for excluded commodities” but no longer contains a definition for bona fide hedge transaction. In particular, the Amendment removes a reference to prior Commission Regulation 1.3(z) in current Rule 412(c) which provides that the term “bona fide hedge transaction” means any transaction or position in a particular contract based the requirements of Commission Regulation 1.3(z). The Amendment also removes references to prior Commission Regulation 1.3(z) in current Rule 412(d)(i) which requires representations in a position limit exemption request for a bona fide hedge transaction with respect to satisfaction of the requirements of Commission Regulation 1.3(z). The Amendment also revises Rule 412(c) and Rule 412(d)(i) to refer to a “bona fide hedge transaction or position” instead of to a “bona fide hedge transaction” consistent with how the CFTC now refers to this term.
- Finally, the Amendment revises Rule 412(c) to provide that to the extent that a contract is subject to federal position limits or otherwise subject to the provisions Part 150 of the Commission Regulations, the Exchange shall adhere to the applicable provisions Part 150 of the Commission Regulations, including any applicable definitions and requirements, in relation to any position limit exemption requests relating to that contract. Although CFE does not currently offer for trading any contract subject to federal position limits or otherwise subject to the provisions of Part 150 of the Commission Regulations, this provision makes clear that CFE will comply with the applicable provisions of Part 150 in the event that CFE were to list this type of contract for trading in the future. Additionally, this provision makes clear that CFE will apply the definitions included in Part 150 of the Commission Regulations to the extent that they are applicable. As a result, CFE is not including or cross-referencing those specific definitions in Rule 412.

CFE is making these three targeted updates to Rule 412 now so that its provisions are not out of date. CFE may make further updates to Rule 412 in the future if it were to ever list for trading any contract subject to the provisions of Part 150 of the Commission Regulations or in light of how other DCMs that offer trading in products not subject to the provisions of Part 150 of the Commission Regulations may amend their position limit rules in light of the revisions that the CFTC has made to its position limit regulations.

CFE believes that the Amendment is consistent with the Designated Contract Market (“DCM”) Core Principles under Section 5 of the Act. In particular, CFE believes that the Amendment is consistent with (i) DCM Core Principle 2 (Compliance with Rules) in that the rule updates included in the Amendment contribute to CFE’s ability to enforce CFE’s rule provisions regarding position limits and position limit exemptions; (ii) DCM Core Principle 5 (Position Limitations or Accountability) in that the rule updates included in the Amendment are consistent with the position limit regulations adopted by the Commission; and (iii) DCM Core Principle 7 (Availability of General Information) in that the rule updates included in the Amendment remove superseded references in CFE’s rules and provide additional clarity to CFE Trading Privilege Holders regarding the application of CFE’s rule provisions relating to position limits and position limit exemptions.

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 CFE has posted a notice of pending certification with the Commission and a copy of this submission on CFE's Web site ([http://markets.cboe.com/us/futures/regulation/rule\\_filings/cfe/](http://markets.cboe.com/us/futures/regulation/rule_filings/cfe/)) concurrent with the filing of this submission with the Commission.

Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Michael Margolis at (312) 786-7153. Please reference our submission number CFE-2021-011 in any related correspondence.

Cboe Futures Exchange, LLC

*/s/ Michael Mollet*

By: Michael Mollet  
Managing Director

## EXHIBIT 1

The Amendment, marked to show additions in underlined text and deletions in ~~stricken~~ text, consists of the following:

\* \* \* \* \*

### Cboe Futures Exchange, LLC Rules

\* \* \* \* \*

#### 412. Position Limits

(a) The Exchange shall designate for each Contract whether it is subject to position limits or to position accountability. This Rule 412 governs Contracts that are subject to position limits.

(b) Position limits shall be as established by the Exchange from time to time as permitted by Commission Regulation 38.300, Part 150 of the Commission Regulations ~~150~~ and Commission Regulation 41.25, as applicable. Such position limits may be specific to a particular Contract or contract expiration or may be established on an aggregate basis among Contracts or contract expiration. Except as specified in paragraphs (c) and (d) below, Trading Privilege Holders shall not control, or trade in, any number of Contracts that exceed any position limits so established by the Exchange. Once established, any such position limits shall be deemed to constitute a part of each Trading Privilege Holder's account and clearing agreement. Except as specified in paragraphs (c) and (d) below, no Trading Privilege Holder shall be permitted to enter, or place an Order to enter, into any transaction on the Exchange that would cause such Trading Privilege Holder to exceed any position limits.

(c) On the basis of an application to the Exchange in accordance with paragraph (d) below, and such supplemental information as the Exchange may request, the Exchange will determine whether to grant a position limit exemption for one or more bona fide hedge transactions or positions, risk management transactions or arbitrage or spread transactions. ~~For purposes of this Rule 412, the term "bona fide hedge transaction" means any transaction or position in a particular Contract based the requirements of Commission Regulation 1.3(z). To the extent that a Contract is subject to federal position limits or otherwise subject to the provisions Part 150 of the Commission Regulations, the Exchange shall adhere to the applicable provisions Part 150 of the Commission Regulations, including any applicable definitions and requirements, in relation to any position limit exemption requests relating to that Contract.~~

(d) Any application for a position limit exemption must be made by the relevant Trading Privilege Holder to the Exchange in such form, and within such time limits, as the Exchange may from time to time prescribe. Without limiting the generality of the foregoing, any such application must include the following:

(i) If a ~~qualified~~ bona fide hedge transaction or position, a representation that ~~such transaction or position satisfies the requirements of Commission Regulation 1.3(z), which representation shall also describe~~ describes how the transaction ~~would satisfy the requirements of Commission Regulation 1.3(z)~~ qualifies as a bona fide hedge transaction or position;

(ii) If a risk management transaction, a representation that the position

held by a Trading Privilege Holder that typically buys, sells or holds positions in the underlying cash market, a related cash market or a related over-the-counter market for which the underlying market has a high degree of demonstrated liquidity relative to the size of the positions and where there exist opportunities for arbitrage which provide a close linkage between the futures or options market and the underlying market;

(iii) If an arbitrage or spread transaction, an undertaking that the prospective arbitrageur or spreader will specify the extent of the Trading Privilege Holder's current or planned activity in the cash market underlying the Contract for which such exemption is requested;

(iv) A representation that the bona fide hedge, risk management, arbitrage or spread transaction will not be used in an attempt to violate or avoid any Rule of the Exchange;

(v) A representation that the positions involved shall be established and liquidated in an orderly manner based upon the characteristics of the market for which the exemption is sought;

(vi) A representation that such Trading Privilege Holder has complied with any applicable federal requirements, including compliance with all applicable Commission regulations relating to bona fide hedging, risk management, arbitrage or spread transactions;

(vii) A schedule of the maximum number of Contracts, long and short, that such Trading Privilege Holder intends to enter into for bona fide hedging, risk management, arbitrage or spread transaction purposes;

(viii) An agreement that such Trading Privilege Holder will comply with any terms, conditions or limitations imposed by the Exchange with respect to the exemption;

(ix) An agreement by such Trading Privilege Holder to promptly submit a supplemental statement explaining any change in circumstances that may affect the nature of its positions;

(x) An agreement by such Trading Privilege Holder to promptly notify the Exchange of any material change to the information provided in any application; and

(xi) A representation that the Exchange may, at any time, rescind, limit or condition any exemption.

(e) - (f) No changes.