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-2021-010

Dear Mr. Kirkpatrick:

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" or "Commission") under the Act, Cboe Futures Exchange, LLC ("CFE" or "Exchange") hereby submits a CFE rule amendment ("Amendment") to provide additional guidance regarding prohibited disruptive practices. 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 620 (Disruptive Practices) prohibits various disruptive practices and CFE Policy and Procedure XVIII (Disruptive Trading Practices) ("P&P XVIII") of the Policies and Procedures section of the CFE Rulebook lists various factors that CFE may consider in assessing whether conduct violates Rule 620. The Amendment makes the following clarifying updates in relation to these provisions.

- CFE is amending the provisions of Rule 620(b) in the following manner:
    - Rule 620(b)(iii) currently provides that no Person shall enter or cause to be entered an actionable or non-actionable message or messages with intent to overload, delay, or disrupt the systems of the Exchange or other market participants. The Amendment adds a new subparagraph (b)(iv) to Rule 620 to address disruption to the systems of the Exchange or market participants in this context and accordingly removes reference to disruption from Rule 620(b)(iii).
    - Specifically, revised Rule 620(b)(iii) provides that no Person shall enter or cause to be entered an actionable or non-actionable message(s) with intent to overload or delay the systems of the Exchange or other market participants.
    - New Rule 620(b)(iv) provides that no Person shall intentionally or recklessly submit or cause to be submitted an actionable or non-actionable message(s) that has the potential to disrupt the systems of the Exchange or other market participants.
    - The Amendment also makes the following two non-substantive changes to Rule 620(b):

        - The Amendment changes the numbering of current subparagraph (b)(iv) of Rule 620 to subparagraph (b)(v) of Rule 620 in order to account for the addition of new Rule 620(b)(iv).

        - The Amendment revises Rule 620(b)(ii), Rule 620(b)(iii), and renumbered Rule 620(b)(v) to use the same wording when referring to an actionable or non-actionable message(s) and thus to provide for consistent language in relation to these references throughout Rule 620(b).

- The Amendment revises Section A of P&P XVIII to specifically reference an additional factor that the Exchange may consider in assessing whether conduct violates Rule 620.

    - Section A of P&P XVIII enumerates a non-exclusive list of factors that the Exchange may consider in assessing whether conduct violates Rule 620.

    - The Amendment revises Section A of P&P XVIII to specifically provide that the Exchange may consider industry best practices regarding the design, testing, implementation, operation, change management, monitoring, and documentation of automated trading systems in assessing whether conduct violates Rule 620.

- The Amendment updates Section J of P&P XVIII to reference additional examples of non-actionable messages.

    - Section J of P&P XVIII currently lists a heartbeat message transmitted to CFE's trading system ("CFE System") as a non-actionable message.

    - The Amendment revises Section J of P&P XVIII to list the entry of Orders in test products and network packets that are incomplete, partial, corrupt, or otherwise unable to be processed by the Exchange as additional examples of non-actionable messages.

- CFE is adding new Section U to P&P XVIII to specifically reference two examples of practices that are prohibited by new Rule 620(b)(iv).

    - New Section U of P&P XVIII provides that:

        - Engaging in a pattern and practice of submitting partial messages for the purpose of seeking to reduce latency has the potential to disrupt the systems of the Exchange.

        - Purposefully corrupting or constructing malformed data packets also has the potential to disrupt the systems of the Exchange.

        - The Exchange considers any market participant engaging in either of these practices as part of a trading strategy to have recklessly disregarded the potential to disrupt the systems of the Exchange in violation of new Rule 620(b)(iv).

    - The addition of these provisions is intended to make clear that intentionally submitting partial order messages for the purpose of seeking to reduce latency only to complete the order message upon the happening of an event or trading signal is prohibited activity. Similarly, these provisions are intended to make clear that purposefully corrupting or constructing malformed data packets as part of a trading strategy to reduce latency is also prohibited activity. These strategies have the potential to impact the systems of the Exchange, and the Exchange believes they serve no useful purpose.

- CFE is adding new Section V to P&P XVIII to make clear that brokers and execution clerks are obligated to consider market conditions when executing an order on behalf of a customer or employer pursuant to their instructions and that the instructions of a customer or employer do not negate the obligation for brokers and execution clerks to comply with Rule 620.

- CFE is adding two examples of prohibited activity under Rule 620.

  - P&P XVIII includes a non-exhaustive list of various examples of conduct that may be found to violate Rule 620.

  - The additional examples provide specific illustrations of trading strategies that may violate Rule 620, including the provisions of new Rule 620(b)(iv), which involve purposefully corrupting or constructing malformed data packets.

  - The first example includes the following fact pattern: A market participant engages in a trading strategy where the market participant's trading system is designed to purposefully corrupt data sent across one or more physical connections to the Exchange. For example, prior to the occurrence of an event or signal, the market participant's trading system begins transmitting to the Exchange data necessary for an order message (e.g., Ethernet frame; Internet Protocol (IP) packet; Transmission Control Protocol (TCP) packet; etc.). The trading system is designed so that if the event or signal does not occur as expected, the trading system will corrupt the partially transmitted data, for instance by invalidating the Frame Check Sequence (FCS) checksum causing the packet or Ethernet frame to be dropped by a network switch or receiving device at the logical or physical entry point to the CFE System. If the event does occur as expected, the trading system will complete the partially transmitted data so that an order message from the trading system is able to reach the Exchange trading platform.

  - The second example includes the following fact pattern: A market participant engages in a trading strategy where the market participant's trading system is designed to purposefully send to the Exchange untradeable orders or orders that have no reasonable probability of trading. For example, prior to the occurrence of an event or signal, the market participant's trading system begins transmitting to the Exchange data necessary for an order message (e.g., Ethernet frame; TCP packet; etc.). The trading system is designed so that if the event or signal does not occur as expected, the trading system will complete the partially transmitted data and successfully submit an order message to the Exchange. However, because the event or signal did not occur as expected, the trading system is designed to render the completed order message untradeable or improbable of trading. This may be accomplished, for example, by submitting the order message as a fill or kill order type with a price or quantity that causes the order to immediately be cancelled by the trading platform. This may also be accomplished, for example, by submitting the order message at an off-market price, deep in the order book, and intending to cancel that order prior to execution.

The Amendment is consistent with similar updated guidance provided by other designated contract markets ("DCMs") regarding disruptive practices.[1]

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 DCM Core Principles 2 (Compliance with Rules), 4 (Prevention of Market Disruption), 7 (Availability of General Information), and 12 (Protection of Markets and Market Participants) in that the Amendment provides additional guidance regarding disruptive practices that violate CFE Rule 620. CFE considers the disruptive trading practices addressed by the Amendment to be prohibited by existing CFE rules, including current Rule 620, P&P XVIII, and CFE Rule 608 (Acts Detrimental to the Exchange, Acts Inconsistent with Just and Equitable Principles of Trade; Abusive Practices). CFE also considers the provisions being added to P&P XVIII relating to factors that the Exchange may consider in assessing whether conduct violates Rule 620 and relating to the obligation of brokers to consider market conditions when executing orders to be within the scope of existing CFE rules, including current Rule 620 and P&P XVIII. Although this is the case, CFE believes that it is beneficial to provide additional guidance to market participants through the inclusion of further detail in CFE's rules regarding prohibited disruptive practices. By further describing prohibited disruptive trading practices in CFE's rules and by providing additional guidance relating to the application of CFE's rule provisions with respect to disruptive trading practices, amended Rule 620 and P&P XVIII contribute to the protection of CFE's market and market participants from abusive practices; to the promotion of fair and equitable trading on CFE's market; and to precluding activity on CFE's market that is disruptive to the orderly execution of transactions and that may negatively impact the systems of the Exchange.

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/) 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-2021-010 in any related correspondence.

Cboe Futures Exchange, LLC

/s/ Michael Mollet

By: Michael Mollet
Managing Director

[1] These DCMs are Chicago Mercantile Exchange, Inc. ("CME"), The Board of Trade of the City of Chicago, Inc., New York Mercantile Exchange, Inc., and Commodity Exchange, Inc. Each submitted rule certification filings to the CFTC to effectuate their respective updated guidance. See, e.g., CME Submission No. 20-305 (July 24, 2020), which is available on the CFTC website.

**EXHIBIT 1**

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

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**Cboe Futures Exchange, LLC Rules**

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**620. Disruptive Practices**

(a) No Trading Privilege Holder, Related Party or Market Participant shall engage in any trading, practice or conduct on the Exchange or subject to the Rules of the Exchange that:

(i) Violates bids or offers;

(ii) Demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or

(iii) Is, is of the character of, or is commonly known to the trade as "spoofing" (bidding or offering with the intent to cancel the bid or offer before execution).

(b) All Orders must be entered for the purpose of executing bona fide transactions. Additionally, all non-actionable messages must be entered in good faith for legitimate purposes.

(i) No Person shall enter or cause to be entered an Order with the intent, at the time of entry, to cancel the Order before execution or to modify the Order to avoid execution;

(ii) No Person shall enter or cause to be entered an actionable or non-actionable ~~message or messages~~ message(s) with intent to mislead other market participants;

(iii) No Person shall enter or cause to be entered an actionable or non-actionable ~~message or messages~~ message(s) with intent to overload~~,~~ or delay~~, or disrupt~~ the systems of the Exchange or other market participants; ~~and~~

(iv) No Person shall intentionally or recklessly submit or cause to be submitted an actionable or non-actionable message(s) that has the potential to disrupt the systems of the Exchange or other market participants; and

(~~iv~~v) No Person shall enter or cause to be entered an actionable or non-actionable ~~message~~ message(s) with intent to disrupt, or with reckless disregard for the adverse impact on, the orderly conduct of trading or the fair execution of transactions.

The provisions of this Rule apply to all market states, including the pre-opening period, the closing period, and all trading sessions.

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**Cboe Futures Exchange, LLC**
**Policies and Procedures Section of Rulebook**

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## XVIII. Disruptive Trading Practices (Rule 620)

Rule 620 prohibits disruptive trading practices as described by the Rule. The following are a non-exclusive list of factors that the Exchange may consider in assessing whether conduct violates Rule 620.

### A. Factors the Exchange may consider in assessing whether conduct violates Rule 620

The Exchange may consider a variety of factors in assessing whether conduct violates Rule 620, including, but not limited to:

- whether the market participant's intent was to induce others to trade when they otherwise would not;
- whether the market participant's intent was to affect a price rather than to change the market participant's position;
- whether the market participant's intent was to create misleading market conditions;
- market conditions in the impacted market(s) and related markets;
- the effect on other market participants;
- the market participant's historical pattern of activity;
- the market participant's Order entry and cancellation activity;
- the size of the Order(s) relative to market conditions at the time the Order(s) was placed;
- the size of the Order(s) relative to the market participant's position and/or capitalization;
- the number of Orders;
- the ability of the market participant to manage the risk associated with the Order(s) if fully executed;
- the duration for which the Order(s) is exposed to the market;
- the duration between, and frequency of, non-actionable messages;
- the queue position or priority of the Order in the order book;

- the prices of preceding and succeeding bids, offers, and trades;

- the change in the best offer price, best bid price, or last sale price that results from the entry of the Order; ~~and~~

- the market participant's activity in related markets; and

- industry best practices regarding the design, testing, implementation, operation, change management, monitoring and documentation of automated trading systems.

**B. - I.** No changes.

**J. "Actionable" and "non-actionable messages in relation to Rule 620(b)(ii), (iii), and (iv)**

Actionable messages are messages that can be accepted by another party or lead to the execution of a trade or cancelation of an Order. An example of an actionable message is an Order message. Non-actionable messages are those messages submitted to the Exchange that relate to a non-actionable event. ~~An example~~ Examples of ~~a~~ non-actionable ~~message~~ messages ~~is~~ include ~~a~~ heartbeat ~~message~~ messages transmitted to the CFE System, the entry of Orders in test products, and network packets that are incomplete, partial, corrupt, or otherwise unable to be processed by the Exchange.

**K. - T.** No changes.

**U. Submission of partial messages to reduce latency or purposeful corruption of data packets**

Engaging in a pattern and practice of submitting partial messages for the purpose of seeking to reduce latency has the potential to disrupt the systems of the Exchange. Purposefully corrupting or constructing malformed data packets also has the potential to disrupt the systems of the Exchange. The Exchange considers any market participant engaging in either of these practices as part of a trading strategy to have recklessly disregarded the potential to disrupt the systems of the Exchange in violation of Rule 620(b)(iv).

**V. Consideration of market conditions when executing an Order on behalf of a customer or employer pursuant to their instructions**

Brokers and execution clerks are obligated to comply with Rule 620 and to consider market conditions when executing an Order on behalf of a customer or employer pursuant to their instructions. The instructions of a customer or employer do not negate the obligation for brokers and execution clerks to comply with Rule 620.

**~~U~~W. Direct and Indirect Prohibited Activity**

Prohibited activity encompassed by Rule 620 in relation to any Contract may occur directly through any trading, practice or conduct in the market for that Contract that is prohibited by Rule 620. Prohibited activity encompassed by Rule 620 in relation to any Contract may also occur indirectly through any trading, practice or conduct in the market of any commodity, security, index or benchmark underlying that Contract, regardless of the exchange on or market in which the underlying is transacted, that would be prohibited by Rule 620 if it were done in that Contract and that has an impact in relation to that Contract or the market in that Contract.

## ~~V~~X. Examples of Prohibited Activity

The following is a non-exhaustive list of various examples of conduct that may be found to violate Rule 620.

- A market participant enters one or more Orders to generate selling or buying interest in a specific contract. By entering the Orders, often in substantial size relative to the contract's overall pending order volume, the market participant creates a misleading and artificial appearance of buy- or sell-side pressure. The market participant places these large Orders at or near the best bid and offer prevailing in the market at the time. The market participant benefits from the market's reaction by either receiving an execution on an already resting Order on the opposite side of the book from the larger Order(s) or by obtaining an execution by entering an opposing side Order subsequent to the market's reaction. Once the smaller Orders are filled, the market participant cancels the large Orders that had been designed to create the false appearance of market activity. Placing a bona fide Order on one side of the market while entering Order(s) on the other side of the market without intention to trade those Orders violates Rule 620.

- A market participant places buy (or sell) Orders that the market participant intends to have executed, and then immediately enters numerous sell (or buy) Orders for the purpose of attracting interest to the resting Orders. The market participant placed these subsequent Orders to induce or trick other market participants to execute against the initial Order. Immediately after the execution against the resting Order, the market participant cancels the open Orders.

- A market participant enters one or more Orders in a particular market (Market A) to identify algorithmic activity in a related market (Market B). Knowing how the algorithm will react to order activity in Market A, the participant first enters an Order or Orders in Market B that the market participant anticipates would be filled opposite the algorithm when ignited. The participant then enters an Order or Orders in Market A for the purpose of igniting the algorithm and creating momentum in Market B. This results in the market participant's Order(s) in Market B being filled opposite the algorithm. This conduct violates Rule 620(b)(i), as the Orders in Market A were not intended to be executed, and Rule 620(b)(ii), as the Orders in Market A were intended to mislead participants in related markets. If the conduct resulted in a disruption to the orderly execution of transactions, it may also violate Rule 620(b)(iv).

- A market participant enters a large aggressor buy (sell) Order at the best offer (bid) price, trading opposite the resting sell (buy) Orders in the book, which results in the remainder of the original aggressor Order resting first in the queue at the new best bid (offer). As the market participant anticipated and intended, other participants join the market participant's best bid (offer) behind the market participant in the queue. The market participant then enters a large aggressor sell (buy) Order into the market participant's now resting buy (sell) Order at the top of the book. The market participant's use of the Exchange's match trade prevention functionality or other wash blocking functionality cancels the market participant's resting buy (sell) Order, such that market participant's aggressor sell (buy) Order then trades opposite the Orders that joined and were behind the market participant's best bid (offer) in the book.

- A market participant places large quantity Orders during the pre-opening period in an effort to artificially increase or decrease the EOP with the intent to attract other market participants.

Once others join the market participant's bid or offer, the market participant cancels the market participant's Orders shortly before the opening.

- During the pre-opening period, a market participant enters a large Order priced at a bid higher than the existing best bid or at an offer lower than the existing best offer, and continues to systematically enter successive Orders priced further through the book until it causes a movement in the best bid or best offer. These Orders are subsequently cancelled. The market participant continues to employ this strategy on both sides of the market for the purpose of determining the depth of support at a specific price level for the product before the market opens.

- A market participant enters a large number of messages for the purpose of overloading the quotation systems of other market participants with excessive market data messages to create "information arbitrage."

- A market participant enters messages for the purpose of creating latencies in the market or in information dissemination by the Exchange for the purpose of disrupting the orderly functioning of the market.

- A market participant engages in a trading strategy where the market participant's trading system is designed to purposefully corrupt data sent across one or more physical connections to the Exchange. For example, prior to the occurrence of an event or signal, the market participant's trading system begins transmitting to the Exchange data necessary for an Order message (e.g., Ethernet frame; Internet Protocol (IP) packet; Transmission Control Protocol (TCP) packet; etc.). The trading system is designed so that if the event or signal does not occur as expected, the trading system will corrupt the partially transmitted data, for instance by invalidating the Frame Check Sequence (FCS) checksum causing the packet or Ethernet frame to be dropped by a network switch or receiving device at the logical or physical entry point to the CFE System. If the event does occur as expected, the trading system will complete the partially transmitted data so that an Order message from the trading system is able to reach the Exchange trading platform. The practice of purposefully corrupting data packets submitted to the Exchange has the potential to disrupt the systems of the exchange and may violate Rule 620(b)(iv).

- A market participant engages in a trading strategy where the market participant's trading system is designed to purposefully send to the Exchange untradeable Orders or Orders that have no reasonable probability of trading. For example, prior to the occurrence of an event or signal, the market participant's trading system begins transmitting to the Exchange data necessary for an Order message (e.g., Ethernet frame; TCP packet; etc.). The trading system is designed so that if the event or signal does not occur as expected, the trading system will complete the partially transmitted data and successfully submit an Order message to the Exchange. However, because the event or signal did not occur as expected, the trading system is designed to render the completed Order message untradeable or improbable of trading. This may be accomplished, for example, by submitting the Order message as a Fill or Kill Order type with a price or quantity that causes the Order to immediately be cancelled by the trading platform. This may also be accomplished, for example, by submitting the Order message at an off-market price, deep in the order book, and intending to cancel that Order prior to execution. The practice of purposefully sending untradeable Orders or Orders that have no reasonable probability of trading may violate Rule 620(b)(iv). Further, it is a violation of Rule 620(b)(i) if the market participant intends, at the time of Order entry, to cancel the Order prior to execution.

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