



December 20, 2023

Christopher J. Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

Re: Cboe Digital Exchange, LLC Rule Certification  
Submission Number CDE-2023-18E

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Regulation 40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (“CFTC” or “Commission”) under the Act, Cboe Digital Exchange, LLC (“CDE” or “Exchange”) hereby submits updates to certain terms of its Futures Commission Merchant (“FCM”) Build Out Incentive Program (“Build Out Program” or the “Program”), previously self-certified with the Commission pursuant to Regulation 40.6(a) (CDE-2023-02E). The Build Out Program, including as revised, is set forth in a segregated confidential **Exhibit A-1** and **Exhibit A-2** (marked changes) to this submission. The updates to the Build Out Program (the “Amendment”) will become effective on January 5, 2023.

### **Program Description**

The Build Out Program provides a one-time incentive for FCMs to become a Clearing Member of the Exchange to connect to and provide access to Cboe Clear Digital, LLC (“Cboe Clear”) <sup>1</sup> in advance of CDE’s launch of physically- and financially- settled margined futures contracts in late 2023. A Clearing Member of the Exchange is an entity that is approved for clearing membership at Cboe Clear and is authorized pursuant to the Cboe Clear rules to clear trades in CDE contracts, and meets CDE membership qualifications. In order to become a Clearing Member of the Exchange, connect to Cboe Clear, and provide clearing services for Exchange participants, FCMs need to incur costs and spend internal resources to build out their systems and complete testing required to establish the connection. The Program is intended to incentivize FCMs to become Clearing Members of the Exchange and offer clearing services through Cboe Clear Digital for margin futures contracts listed and traded on CDE in light of these costs and the requisite resource commitment to expend the effort to do so.

### **Amendment Description**

The Program Term of the current Build Out Program has elapsed; therefore, the Amendment makes the following updates to the Build Out Program in connection with renewing the Program Term, as well as additional updates for clarity:

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<sup>1</sup> The Exchange notes that in order to become a Clearing Member of the Exchange, a participant must become a Clearing Member of Cboe Clear. See CDE Rule 902(a).

- updates the Program Term to run from January 5, 2024 through January 11, 2024;
- removes elapsed timeframes reflected within the terms of the Program;
- makes clear that an applicant may already be a Clearing Member of the Exchange to be eligible to participate in the Program (and still may apply to become one if not already);
- clarifies that upon the renewed Program commencement date, the Exchange will select and notify Program Participants; and
- clarifies that Program Participants must complete the required Participation Criteria by the end of the Program Term in order to receive the Program Incentive Payment.

The Amendment does not make any substantive changes to the Participation Criteria or Program Incentive Payment under the Program or the general purpose or function of the Program.

### **Core Principle Compliance**

CDE believes that the Program is consistent with Designated Contract Market Core Principles 2 (Compliance with Rules), 9 (Execution of Transactions), and 12 (Protection of Markets and Market Participants) under Section 5 of the Act. CDE has made the Program available to FCMs for legitimate business purposes in connection with its efforts to incentivize FCMs to connect to Cboe Clear and become Clearing Members of the Exchange to enable FCM customers to access Cboe Digital margin products. Such an incentive program will also enable CDE and Cboe Clear to expand marketability and visibility to other FCMs, which will spur interest in both the margin products and CDE broadly. The Program treats all parties eligible for the Program equally. CDE believes that the Program will contribute to the provision of a competitive, open, and efficient market by attracting more FCMs to provide access and clearing services to customers, which will encourage more customers to participate on the Exchange through FCMs, increasing overall participation and liquidity on the Exchange.

### **Public Information**

We have concurrently posted a notice and copy of this submission on the Exchange's website at <https://www.cboedigital.com/regulation/exchange-notices/> under "CFTC Submissions."

### **Opposing Views**

We are not aware of any opposing views to this self-certification.

### **Certification**

Cboe Digital Exchange, LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in Commission regulation §40.6, that this submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated thereunder.

If you have any questions regarding this submission, please contact the undersigned at the information below.

Sincerely,

**/s/ Rebecca Tenuta**

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