

June 23, 2022

VIA ELECTRONIC PORTAL

Assistant Secretary of the Commission for FOIA
Privacy and Sunshine Acts Compliance
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: SMFE 2022-013 – Freedom of Information Act (“FOIA”) Confidential Treatment Request
Pursuant to Commission Regulation 145.9

Dear Sir or Madam,

On this date, Small Exchange, Inc. (“Small Exchange”) has submitted to Christopher J. Kirkpatrick, Secretary of the Commodity Futures Trading Commission (the “Commission”), a certification, pursuant to CFTC Regulation 40.2(a), of an initial listing of the Small Equities 400 Index Futures Contracts (the “Certification”).

Pursuant to Commission Regulation 145.9, we hereby request confidential treatment of the attached Exhibits D, E, F and H of the Certification (the “Confidential Submission”). Confidential treatment is requested on the grounds that disclosure of such materials would reveal trade secrets and/or confidential commercial or financial information of Small Exchange. In addition to violating the exchanges’ proprietary rights, the disclosure of the Confidential Submission would grant competitors an unfair competitive advantage and/or compromise the competitive advantages possessed by Small Exchange.

Small Exchange requests that, if the Commission receives a FOIA request, pursuant 5 U.S.C. 552, for the Confidential Submission, such information not be disclosed. In accordance with Commission Regulation 145.9(d)(5), Small Exchange also hereby requests that the Confidential Submission be afforded confidential treatment in perpetuity.

Small Exchange further understands that, if the Commission receives a FOIA request for the Confidential Submission, Small Exchange will be notified of such request in accordance with the Commission’s regulations and be asked to submit, within ten business days, a detailed written justification for confidential treatment of the Confidential Submission. See Commission Regulation 149.5(e)(1); see also Executive Order 12600, 52 Fed. Reg. 23781 (June 23, 1987) (detailing pre-disclosure notification procedures under FOIA). In such an event, we request that Commission staff telephone or e-mail the undersigned rather than rely upon United States mail for such notice.

If the Commission or its staff transmits any of the Confidential Submission to another federal agency, we request that you forward a copy of this letter to any such agency with the Confidential Submission and further request that you advise any such agency that we requested that this material be accorded confidential treatment.

The requests set forth in the preceding paragraphs also apply to any memoranda, notes, transcripts or

other writings of any sort whatsoever that are made by, or at the request of, any employee of the Commission (or any other federal agency) and which: (i) incorporate, include or relate to any aspect of the Confidential Submission; or (ii) refer to any conference, meeting, or telephone conversation between the Small Exchange, their current or former employees, representatives, agents, auditors or counsel on the one hand and employees of the Commission (or any other government agency) on the other, relating to the Confidential Submission. Further, the Small Exchange requests that the Commission notify the undersigned at the provided contact information below upon receiving any FOIA request for any of the Confidential Information provided.

Finally, the Small Exchange requests that the Commission notify it in the event the Commission intends to disclose the Confidential Information provided to a federal or state governmental agency or department.

If you have any questions or require any further information please contact the undersigned at (312) 761-1660.

Sincerely,

/s/ Peter D. Santori
Chief Regulatory Officer and
Head of Legal

Exhibits