



January 7, 2013

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>Fifth Offense.....</u>	<u>\$10,000</u>
<u>Subsequent Offenses.....</u>	<u>Referral to Business Conduct Committee</u>

(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>
<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>

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

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

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

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

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

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

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

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

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

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

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Mr. David Stawick

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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

A handwritten signature in black ink, appearing to read "James F. Lubin". The signature is stylized with a large initial 'J' and a cursive 'L'.

By: James F. Lubin
Managing Director

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