



November 20, 2012

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-2012-29

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 (“Commission”) under the Act, CBOE Futures Exchange, LLC (“CFE” or “Exchange”) hereby submits a CFE rule amendment (“Amendment”) to amend CFE Rules 412 (Position Limits) and 412A (Position Accountability). The Amendment will become effective on December 6, 2012.

The purpose of the Amendment is to clarify and make more specific the position limit and position accountability provisions set forth in CFE Rules 412 and 412A. CFE believes the Amendment is consistent with Designated Contract Market Core Principle 5 (Position Limitations and Accountability) in that it provides additional clarity and guidance to CFE Trading Privilege Holders with respect to CFE position limits and position accountability levels.

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:

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Rule 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 Regulations [§] 150 and 41.25 [and other] as applicable [Commission Regulations]. Such position limits may be specific to a particular Contract or [delivery] contract month or may

be established on an aggregate basis among Contracts or [delivery] contract months. 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 [(e)] (d) below, and such supplemental information as the Exchange may request, the Exchange will determine whether to grant a position limit exemption for [a qualified hedge transaction or series of qualified hedge] one or more bona fide hedge transactions, risk management transactions or arbitrage or spread transactions. For purposes of this Rule 412, the term "[qualified] bona fide hedge transaction" [shall include] means any transaction or position in a particular Contract that [represents a substitute for transactions to be made or positions to be taken at a later time in the commodity underlying such Contract or in other underlying or related instruments, provided the transaction(s) entered into or position(s) taken on the Exchange are economically appropriate to reduce risks arising from:

(i) any potential change in the value of assets that a Person owns, produces, manufactures, processes or merchandises or anticipates owning, producing, manufacturing, processing or merchandising;

(ii) any potential change in the amount of liabilities that a Person owes or anticipates incurring;

(iii) any potential change in the value of services that a Person provides, purchases or anticipates providing or purchasing; or

(iv) any other good cause shown, as determined by the Exchange in its sole discretion] satisfies the requirements of Commission Regulation 1.3(z).

[(d) On the basis of an application to the Exchange in accordance with paragraph (e) below, and such supplemental information as the Exchange may request, the Exchange will determine whether to grant a position limit exemption for a particular arbitrage transaction or spread transaction or series of arbitrage or spread transactions.]

[(e)] (d) Any application for a position limit exemption [for a qualified hedge transaction, arbitrage transaction or spread transaction, or series of qualified hedge, arbitrage or spread transactions,] 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, [an arbitrage transaction or a spread transaction,] a representation that such transaction or position [constitutes a qualified hedge transaction, an arbitrage or a spread transaction, as the case may be, and is not used in an attempt to violate or avoid any Rule of the Exchange] satisfies the requirements of Commission Regulation 1.3(z), which representation shall also describe how the transaction would satisfy the requirements of Commission Regulation 1.3(z);

(ii) If a [qualified hedge] risk management transaction, a representation that [such transaction or position is necessary or advisable as an integral part of the business of such] the position held by a Trading Privilege Holder [, which representation shall also include a description of such business] 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) If an arbitrage or spread transaction, a representation that the positions involved are moved in an orderly manner and not initiated or liquidated in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes;]

(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;

[(v)] (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[, as the case may be 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)] (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[, as the case may be];

[(vii)] (viii) An agreement that such Trading Privilege Holder will comply with any [additional limits on its trading as the Exchange may from time to time impose] terms, conditions or limitations imposed by the Exchange with respect to the exemption; [and]

[(viii)] (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.

[(f)] (e) In determining whether any Trading Privilege Holder has exceeded or seeks to exceed the position limits established by the Exchange, all positions in accounts for which such Trading

Privilege Holder, by power of attorney or otherwise, directly or indirectly controls trading (as set forth in Commission Regulation 1.3(j) and Commission Regulation 150.5(g)), whether on a proprietary basis or on behalf of Customers)], shall be included. Position limits shall apply to positions held by two or more Trading Privilege Holders acting pursuant to an express or implied agreement or understanding in the same manner as if such positions were held by a single Person.

[(g)] (f) The application for a position limit exemption must be submitted to and approved by the Exchange before execution of any transaction for which the exemption is requested. In granting any position limit exemption, the Exchange may impose such limitations or conditions upon the grant of the exemption as it may deem necessary or appropriate. Factors to be taken into account by the Exchange in determining whether to limit or condition a position limit exemption may include, among others, the liquidity of the markets involved, sound commercial practices and the Trading Privilege Holder's financial condition and business circumstances. Any position limit exemption granted by the Exchange for a [qualified] bona fide hedge transaction, risk management transaction or arbitrage [transaction] or spread transaction [, or series of qualified hedge, arbitrage or spread transactions,] shall remain in effect for the time period designated by the Exchange, unless the exemption is earlier rescinded by the Exchange. The time period for which a position limit exemption may be granted by the Exchange may be up to two years. The Exchange shall have the authority, at any time and in its sole discretion, to review and rescind, limit or condition any position limit exemption granted by it [at any time in its sole discretion]. A Trading Privilege Holder shall promptly submit to the Exchange upon request such supplemental information requested by the Exchange in connection with the review of a position limit exemption granted to the Trading Privilege Holder. A Trading Privilege Holder that has received a position limit exemption must annually file an updated position limit application not later than one year following the approval date of the most recent application. Failure to file an updated application will result in expiration of the exemption.

(h) For purposes of paragraph (f) above, "control" exists when the Trading Privilege Holder or Authorized Trader in question makes investment decisions for the account or accounts in question or materially influences, directly or indirectly, the actions of any Person who makes such investment decisions. In addition, "control" will be presumed to exist in the following circumstances:

(i) Among all parties to a joint account who have authority to act on behalf of such account;

(ii) Among all general partners to a partnership account;

(iii) If a Person (A) holds an ownership interest of 10 percent or more in the Person holding the account or accounts in question, or (B) shares in 10 percent or more of the profits or losses related to such account or accounts;

(iv) If the Persons holding the account or accounts in question have common directors or management; or

(v) If a Person has the authority to execute transactions in the account or accounts in question.

Any presumption of control on the basis of the foregoing circumstances can be rebutted by proving that such circumstances do not exist or by showing other circumstances which negate

the presumption of control. Initial determinations of “control” shall be made by the Chief Regulatory Officer or his or her designee.]

Rule 412A. Position Accountability

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

(b) A Trading Privilege Holder that controls aggregate positions in a Contract in excess of the position accountability levels designated by the Exchange for that Contract shall be subject to the following provisions with respect to position accountability:

(i) The Trading Privilege Holder shall [promptly supply] provide to the Exchange, prior to or within one business day of exceeding a position accountability level, and at any time upon request by the Exchange, such information as the Exchange may request pertaining to: the nature and size of the positions, the trading strategy employed with respect to the positions [and] , the Trading Privilege Holder’s intentions with respect to the positions, any hedging [requirements and] activities relating to the positions and any other information relating to the positions or the Trading Privilege Holder’s intentions with respect to the positions as the Exchange may request;

(ii) The Exchange may, in its sole discretion, require the Trading Privilege Holder (a) not to further increase any positions that are above the applicable position accountability levels, (b) to reduce any positions that are above the applicable position accountability levels, or (c) to comply with any prospective levels or limits prescribed by the Exchange which exceed the size of the positions controlled by the Trading Privilege Holder; [and]

(iii) The Trading Privilege Holder shall hold all positions in excess of the applicable position accountability levels in an account or accounts designated in writing to the Exchange and shall not transfer or move the positions to another account absent advance written notice to and approval by the Exchange; and

[(iii)] (iv) Any positions in excess of the applicable position accountability levels [must] shall be initiated and liquidated in an orderly manner.

(c) In determining whether any Trading Privilege Holder has exceeded the position accountability levels established by the Exchange, all positions in accounts for which such Trading Privilege Holder, by power of attorney or otherwise, directly or indirectly controls trading (as set forth in Commission Regulation §1.3(j) and Commission Regulation §150.5(g), whether on a proprietary basis or on behalf of Customers[]), shall be included. Position accountability levels shall apply to positions held by two or more Trading Privilege Holders acting pursuant to an express or implied agreement or understanding in the same manner as if such positions were held by a single Person.

(d) If a Trading Privilege Holder exceeds a position accountability level as a result of maintaining positions at more than one Clearing Member, the Trading Privilege Holder will be deemed to have waived the confidentiality of its positions and the identity of the Clearing Members at which the positions are maintained. [For purposes of paragraph (c) above, "control" exists when the Trading Privilege Holder or Authorized Trader in question makes investment decisions for the account or accounts in question or materially influences, directly or indirectly,

the actions of any Person who makes such investment decisions. In addition, "control" will be presumed to exist in the following circumstances:

(i) Among all parties to a joint account who have authority to act on behalf of such account;

(ii) Among all general partners to a partnership account;

(iii) If a Person (A) holds an ownership interest of 10 percent or more in the Person holding the account or accounts in question, or (B) shares in 10 percent or more of the profits or losses related to such account or accounts;

(v) If a person has the authority to execute transactions in the account or accounts in question.]

(e) To the extent that a Trading Privilege Holder does not comply with any written or verbal instruction issued by the Exchange with respect to position accountability levels, such non-compliance may constitute a violation of this Rule 412A.

[Any presumption of control on the basis of the foregoing circumstances can be rebutted by proving that such circumstances do not exist or by showing other circumstances which negate the presumption of control. Initial determinations of "control" shall be made by the Chief Regulatory Officer or his or her designee.]

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Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Jenny Klebes-Golding at (312) 786-7466. Please reference our submission number CFE-2012-29 in any related correspondence.

CBOE Futures Exchange, LLC



By: James F. Lubin
Managing Director

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