



December 5, 2008

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**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-2008-10

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 under the Act, CBOE Futures Exchange, LLC ("CFE") hereby submits an updated CFE Fee Schedule to extend the term of CFE's Day Trade fee pilot program ("Program") for an additional year through December 31, 2009. As was the case previously, CFE may determine to further extend the term of its Day Trade fee, allow the Day Trade fee to expire, or replace or modify the Day Trade fee at any time. The updated CFE Fee Schedule will become effective on December 9, 2008 and will continue in effect until otherwise amended or modified by CFE.

The updated CFE Fee Schedule is marked to show changes from the current CFE Fee Schedule (additions are underlined and deletions are ~~stricken~~).

CFE is not aware of any substantive opposing views to the updated CFE Fee Schedule. CFE hereby certifies that the updated CFE Fee Schedule complies with the Act and the regulations thereunder.

Questions regarding the updated CFE Fee Schedule may be directed to Arthur Reinstein at (312) 786-7570 or Jennifer Yeadon at (312) 786-7466. Please reference our submission number CFE-2008-10 in any related correspondence

CBOE Futures Exchange, LLC

By: 

Andrew Lowenthal  
Managing Director

cc: Riva Adriance (CFTC)  
Edward Dasso (NFA)  
The Options Clearing Corporation

**CFE Fee Schedule**  
**Effective April 3, 2008 ~~December 9, 2008~~**

<u>1. Transaction Fees<sup>1,2</sup></u>	<u>Per Contract Side</u>
A. CBOE member permit holder <sup>3</sup>	\$0.50
B. CBOE member trading for the member's own account	\$0.50
C. Non-CBOE member permit holder	\$1.00
D. Customer	\$1.00
E. Day Trade <sup>4</sup>	\$0.25
F. Block Trade/Exchange of Future for Related Position Transaction (EFRP) (Fee is in addition to other applicable transaction fees)	\$0.75

Transaction fee questions may be directed to Don Patton at 312-786-7026 or [patton@cboe.com](mailto:patton@cboe.com)

<u>2. Application Fees:</u>	<u>Amount</u>
A. CBOE member	Waived
B. Non-CBOE member	\$500
<u>3. Data Line Fees:<sup>5</sup></u>	<u>Amount</u>
A. 1 MB Service	
i. Savvis	\$1,250/Line/month
ii. SFTI <sup>6</sup>	\$850/Line/month
B. 5 MB Service	
i. Savvis	\$2,875/Line/month
ii. SFTI <sup>4</sup>	\$875/Line/month
C. Installation	No charge
<u>4. Market Data Fees:</u>	
A. <u>Vendor Connect Fees:<sup>7</sup></u>	<u>Amount</u>
• All Vendors	\$1,200/year
B. <u>Device/Authorized User Fees:<sup>8, 9</sup></u>	<u>Amount</u>
• Professional Subscriber (surface quote)	\$ 5/Device/Authorized User/month
• Book Depth <sup>10</sup> (including surface quote)	\$ 5/Device/Authorized User/month
• Non-professional Subscriber <sup>11</sup> (surface quote)	\$ 1/Device/Authorized User/month

Market Data fee questions may be directed to Tom Knorrning at 312-786-7363 or [knorrning@cboe.com](mailto:knorrning@cboe.com)

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<sup>1</sup> The Transaction Fees listed in Section 1 of this Fee Schedule apply to all CFE products unless different Transaction Fees are specified for a particular product.

<sup>2</sup> Unless otherwise specified for a particular product, all Transaction fees for any new product that begins trading on CFE will be waived through the last day of the second calendar month in which the product is traded. (For example, if the new product begins trading on April 5th, the Transaction fees for the product would be waived through May 31st).

<sup>3</sup> Including non-CBOE member permit holders that are majority owned by a CBOE member.

<sup>4</sup> The Day Trade fee is in effect on a pilot basis through December 31, 2008 ~~2009~~. CFE will rebate market participants for the difference between the generally applicable transaction fees that are assessed to the

market participant and the Day Trade fee at the end of the applicable trading month for those contract purchases and sales that qualify as Day Trades. A Day Trade consists of two or more transactions on CFE on the same trading day in which a market participant buys and sells, or sells and buys, a particular number of contracts in a particular CFE product for a particular contract month. For example, if a market participant bought 10 December VIX futures contracts and sold 10 December VIX futures contracts on the same trading day, those transactions would constitute a Day Trade and would entitle the market participant to receive a rebate equal to the difference between the applicable transaction fees and the Day Trade fee for all 20 contracts. Similarly, if a market participant sold 10 March VIX futures contracts and bought 15 March VIX futures contracts on the same trading day, those transactions would constitute a Day Trade with respect to the 10 contracts sold and with respect to 10 of the 15 contracts bought. In this example, the market participant would be entitled to receive a rebate equal to the difference between the applicable transaction fees and the Day Trade fee for 20 of the 25 contracts. In order to be eligible for the Day Trade fee, market participants are required to provide a one-time written notification to CFE in a form and manner prescribed by CFE that they intend to avail themselves of the Day Trade fee prior to the execution of Day Trades for which market participants will seek rebates. Market participants seeking rebates for Day Trades shall submit documentation to CFE in a form and manner prescribed by CFE on the business day that the Day Trades are executed reflecting those Day Trades. Market participants shall also provide any supplemental documentation requested by CFE to substantiate that contract purchases and sales qualify as Day Trades in order to receive Day Trade fee rebates.

<sup>5</sup> Billed monthly. These fees are payable by all Trading Privilege Holders, Authorized Traders and Vendors (including Vendors that distribute only historical data) purchasing direct data feed connectivity from CFE. (These fees do not apply if adequate data line capacity between CBOEdirect and the server of a Trading Privilege Holder, Authorized Trader or Vendor is already in place.)

<sup>6</sup> SFTI assesses a per MB charge that is billed directly to each customer by SFTI and therefore is not reflected in this Fee Schedule.

<sup>7</sup> Billed annually. CFE bills all Vendors that either receive a data feed directly from CFE or receive data from a data feed from another CFE Vendor rather than directly from CFE. CFE Vendors that distribute only historical data are not obligated to pay Vendor Connect fees. In addition, these fees are waived with respect to any Trading Privilege Holder or Authorized Trader that is a Vendor solely by reason of distributing CFE market data to its Customers if it receives the market data directly from CFE (*i.e.*, not through a Vendor) and distributes the market data directly (*i.e.*, not through another Vendor) to its Customers. All Vendor Connect fees for any new Vendor that has not previously acted as a CFE Vendor will be waived through the end of the sixth calendar month following the last day of the month in which the Vendor begins to receive market data from CFE. (For example, if a Vendor receives market data from CFE commencing on April 5th, Vendor Connect fees would be waived through October 31. Vendor Connect fees payable by the Vendor for the remainder of the year would be pro-rated.)

<sup>8</sup> Billed monthly. These fees are payable by each Vendor, based either on the number of Devices or the number of Authorized Users to which it disseminates CFE market data. Vendors that distribute only delayed data and/or historical data are not obligated to pay these fees. These fees are waived with respect to the Devices/Authorized Users of Trading Privilege Holders and Authorized Traders receiving CFE market data directly from CFE (*i.e.*, not through a Vendor), and are also waived with respect to the Devices/Authorized Users of any Customer of such a Trading Privilege Holder or Authorized Trader if the Trading Privilege Holder or Authorized Trader is a Vendor and the Customer receives the CFE market data directly (*i.e.*, not through another Vendor) from the Trading Privilege Holder or Authorized Trader. These fee waivers are available only to Trading Privilege Holders and Authorized Traders that comply with the reporting requirements of CFE Rule 408. See CFE Rule 126 for the definition of the term "Customer" and CFE Rule 408 for the definitions of the terms "Device" and "Authorized User".

<sup>9</sup> On a one-time basis for each of its Subscribers, a Vendor may make available real-time CFE market data to each such Subscriber for a trial period of 30 days without incurring any Device/Authorized User Fees, and without being subject to any reporting requirements, in connection with doing so. A Vendor is not required to have a Subscriber Agreement in place with a Subscriber for CFE market data in order to provide the Subscriber with real-time CFE market data during the 30 day trial period referenced above.

<sup>10</sup> Book Depth provides the five price increments closest to the surface quote on each side of the market.

<sup>11</sup> CFE defines a Non-professional Subscriber as any Subscriber that: (1) is contracting to receive CFE Information in his or her individual capacity and not on behalf of any other person or any entity, (2) will use the Information solely in connection with his or her individual personal investment activities and not in connection with any trade or business activities, (3) is not a futures commission merchant, commodities introducing broker or commodity trading advisor, securities broker-dealer, investment advisor, member or trading privilege holder of a futures contract market or securities exchange or association, or an owner, partner, or associated person of any of the foregoing and (4) is not employed by a bank or an insurance company or an affiliate of either to perform functions related to commodity futures or securities investment or trading activity.