



November 2, 2004

Via Electronic Mail

Ms. Jean A. Webb
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-2004-20

Dear Ms. Webb:

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 amendments to its rules as well as new rules ("Rule Changes") in response to comments received from the Futures Industry Association, which are intended to make CFE rules consistent with the rules of other designated contract markets and the rules and regulations of the CFTC.

The Rule Changes will become effective on November 4, 2004. CFE is not aware of any substantive opposing views to the Rule Changes.

CFE hereby certifies that the Rule Changes comply with the Act and the regulations thereunder.

The Rule Changes, marked to show additions in underlined text and deletions in [bracketed] text, consist of the following:

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Rule 115. CBOE Workstation

The term "CBOE Workstation" means any computer connected directly or indirectly to the CBOE System, including by means of CBOE's application program interface, for the purpose of trading Contracts.

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Rule 406. Execution of Orders by CBOE System

(a) – (d) No change

(e) *Bunched Orders.* Subject to compliance with Rule 605 and the sales practice rules referred to therein, each Trading Privilege Holder may enter, or permit its Related Parties to enter (as applicable), a bunched Order for more than one discretionary Customer account into the

CBOE System by using a designation specific to the allocation group and account controller rather than including each of the individual account numbers in such Order, provided such Trading Privilege Holder has filed or is filing an allocation scheme for such Order [in advance of or contemporaneously with such Order] in accordance with applicable NFA requirements.

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Rule 411. Errors of Trading Privilege Holders

(a) If a Trading Privilege Holder discovers an error in the handling of an Order for a Customer after the relevant trade is completed, and the Order cannot be executed in the market at a price which is better than or equal to that at which the Order should have been executed, such Trading Privilege Holder shall do one or more of the following:

(i) Execute the Order in the market and [adjust the Customer's trade price appropriately] provide a cash adjustment to the Customer such that the Customer effectively receives a price that is equal to or better than the price at which its Order should have been executed; or

(ii) No change

(b) No change

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Rule 414. Exchange of Future for Physical

(a) A *bona fide* Exchange of Future for Physical may be entered into with respect to any Contract in accordance with the applicable trading increments set forth in the rules governing such Contract, at a price mutually agreed upon by the parties to such transaction. Each Exchange of Future for Physical must contain the following three essential elements:

(i) – (ii) No change

(iii) Separate parties, such that the accounts involved on each side of the Exchange of Future for Physical have different beneficial ownership or are under separate control, provided that separate profit centers of a futures commission merchant operating under separate control are deemed to be separate parties for purposes of this Rule 414.

(b) – (d) No change

(e) Each Clearing Member involved in any Exchange of Future for Physical shall either maintain records evidencing compliance with the criteria set forth in this Rule 414 or be able to obtain such records from its Customer involved in the Exchange of Future for Physical. Upon request, each such Clearing Member shall provide documentation evidencing the underlying cash transaction to the Exchange.

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Rule 419. Transfers of Positions

(a) A Clearing Member may transfer a position on its books to:

(i) correct errors in an existing Contract, provided that the original trade documentation confirms the error;

(ii) transfer an existing Contract from one account to another within the same Trading Privilege Holder where no change in ownership is involved;

(iii) transfer an existing Contract from one Clearing Member to another Clearing Member where no change in ownership occurs; or

(iv) transfer an existing Contract through operation of law from death or bankruptcy.

(b) Upon written request, the Exchange may, in its sole discretion, allow the transfer of a position as a result of a merger, asset purchase, consolidation, or similar non-recurring transaction for a Person.

(c) Clearing Members must transfer positions pursuant to this Rule at the same prices that appear on the books of the transferring Clearing Member, and the transfer must indicate the date when the original trade was made. Each Clearing Member that is a party to a transfer of positions must make and retain records stating the nature of the transaction, the name of the counter-party Clearing Member, and any other information required by the Clearing Corporation.

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Rule 510. Risk Disclosure Statement

Prior to opening an account for any Customer other than an institutional customer as defined in Commission Regulation § 1.3(g), a Trading Privilege Holder or Clearing Member, as the case may be, shall provide such Customer with a written disclosure statement in the form approved by the Exchange for purposes of Commission Regulation § 1.55 or § 41.42(b), as applicable, and any other disclosure statement from time to time required by the Exchange.

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Policy and Procedure IV. Pre-Execution Discussions (Rule 613)

Any Trading Privilege Holder or Authorized Trader may engage in pre-execution discussions with respect to any Contract, in accordance with the principles set forth below, with any other Trading Privilege Holder or Authorized Trader, in order to discuss the possible execution of an Order for such Contract with one or more potential counterparties and thereby obtain some assurance that there will be a counterparty ready and willing to take the other side of such Order.

It is permissible for any Trading Privilege Holder or Authorized Trader, prior to entering any Order into the CBOE System, to agree with another Trading Privilege Holder or Authorized Trader that such other Person will take the other side of such Order after waiting a designated period of time after such Order is entered into the CBOE System by the first Person. The designated waiting period referenced in the immediately

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preceding sentence shall be prescribed by the rules governing the relevant Contract. Any agreement complying with the criteria set forth in this paragraph does not violate Rule 613 because the Order is exposed to other market participants, thus ensuring that the CBOE System remains an open and competitive trading system. If the Order in question is placed by a Trading Privilege Holder on behalf of a Customer, such Customer must consent in advance to such Trading Privilege Holder engaging in pre-execution discussions with respect to such Order. For purposes of this policy, pre-execution discussions shall not be deemed to include discussions between a Trading Privilege Holder or Authorized Trader and the Customer that placed the Order with such Trading Privilege Holder or Authorized Trader.

Questions regarding this submission may be directed to David Doherty at (312) 786-7466. Please reference our submission number CFE-2004-20 in any related correspondence.

CBOE Futures Exchange, LLC

By: 
Edward J. Joyce
President

cc: Mark Baumgardner (OCC)