



March 17, 2022

CFTC FOIA Compliance Office
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581
FOIAsubmissions@cftc.gov

Re: FOIA Confidential Treatment Request:
Petition Pursuant to Regulation 145.9(d)

All:

Pursuant to § 145.9(d) of the regulations promulgated by the Commodity Futures Trading Commission (“Commission”) under the Commodity Exchange Act (“CEA”) and pursuant to the Freedom of Information Act (“FOIA”), Cboe SEF, LLC (“Cboe SEF”) hereby petitions the Commission for confidential treatment of Appendix D (Appendix D) to Cboe SEF Rule Certification Submission Cboe SEF-22-03 dated March 17, 2022 (“CBOESEF 22-03”).

CBOESEF 22-03, Appendix D, and this confidential treatment request and detailed written justification for confidential treatment have all been concurrently submitted to the Commission in accordance with Commission Regulation 40.8(c)(1). Appendix D has been segregated from CBOESEF 22-03 in accordance with Commission Regulation 40.8(c)(2). Additionally, in accordance with Commission Regulation 40.8(c)(3), CBOESEF 22-03 indicates that Appendix D to CBOESEF 22-03 have been segregated from that submission.

The information included in Appendix D (“Confidential Information”) should be afforded confidential treatment based on, among other things, § 145.9(d)(1)(iv) of the Commission’s regulations, which implements FOIA Exemption 7 of the Freedom of Information Act (5 U.S.C. § 552(b)(7)), because disclosure would reveal investigatory techniques and procedures. This request is also consistent with Section 8 of the CEA.

Exemption 7(E) protects “records or information compiled for a law enforcement purpose . . . to the extent that the production of such law enforcement records or information . . . would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.” 5 U.S.C. § 552(b)(7)(E). In this case, the market surveillance described in Appendix D is conducted in connection with Cboe SEF’s role as a self-regulatory organization and the regulation of Cboe SEF’s market. Appendix D discloses regulatory techniques and procedures utilized by Cboe SEF in performing those functions. Disclosure of the content of Appendix D could assist a market participant that desires to engage in behavior that violates Cboe SEF’s rules, Commission regulations, and/or the CEA in seeking to avoid detection of that behavior. Therefore, the Confidential Information is exempt from public disclosure under Exemption 7(E).

Cboe SEF hereby requests that the Appendixes be afforded confidential treatment in perpetuity.

Cboe SEF requests that the Commission notify Cboe SEF upon the receipt of any request by any party for any access under FOIA to the Covered Information or any court order, subpoena, or summons for disclosure of the Covered Information for the entire duration that the Commission retains the Covered Information. Cboe SEF further requests notification if the Commission intends to disclose the Covered Information in whole or in part to Congress or to any other governmental agency or unit pursuant to

Section 8 of the CEA. Cboe SEF does not waive its notification rights under Section 8(f) of the CEA with respect to any subpoena or summons for the Covered Information.

The address at which Cboe SEF can be reached is as follows:

17 State Street
New York, NY 10004
Attention: Chief Legal Officer

Please contact me at mmargolis@cboe.com or (312) 786-7153 if you have any questions regarding this request.

Cboe SEF, LLC

/s/ Michael H. Margolis

Michael H. Margolis
Assistant General Counsel