



January 24, 2024

Christopher J. Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

Re: Cboe Digital Exchange, LLC Rule Certification  
Submission Number CDE-2024-02E

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Regulation 40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (“CFTC” or “Commission”) under the Act, Cboe Digital Exchange, LLC (“CDE” or “Exchange”) hereby submits updates to Futures Market Maker Incentive Program (“Program”), previously self-certified with the Commission pursuant to Regulation 40.6(a) (CDE-2023-19E). The Program is set forth in a segregated confidential **Exhibit A-1** and **Exhibit A-2** (marked changes) to this submission. The updates to the Program (the “Amendment”) will become effective February 7, 2024.

### **Program Description**

Under the Program, the Exchange makes available a cash incentive pool to be allocated pro-rata based on each eligible Program Participant’s volume, if they meet certain market making performance metrics each month in the Exchange’s margined futures product offerings.<sup>1</sup> The monthly performance metrics include specific two-sided quoting requirements for certain size, spread, and time in the market per contract expiration. The Program is designed to encourage CDE’s Trading Privilege Holders to make tight, liquid markets in new products recently launched on the Exchange. Participation in the Program will strengthen the quality of price discovery and depth of the order book and increase liquidity in margined futures contracts listed on the Exchange.

### **Amendment Description**

The Amendment makes the following updates to the Program:

- Under the current Program, CDE will select three, four, or five TPH applicants to participate in the Program that submit an application to the Exchange and, in the Exchange’s judgement, meet certain qualification criteria. The Amendment adds

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<sup>1</sup> CDE launched physically-settled margin futures on bitcoin (“FBT”) and on Ether (“FET”) on January 11, 2024.

- language to clarify that if there are less than three TPH applicants eligible to participate in the Program, the Exchange may select fewer TPHs to participate;
- Under the current Program, the time in market requirement for Program Participants differs based on US Hours (8:00 am CT to 4:00 pm CT) and Non-US Hours (4:00 pm CT to 8:00 am CT). Currently, under the Program, CDE will disregard up to 2 days per calendar month in which a Program Participant's time in market was less than the required percentage of time in the market. The Amendment makes clear that this includes days in which a Program Participant's time in market is less than the percentage of time in market required during US Hours or less than the percentage of time in market required during Non-US Hours; and
  - The Amendment makes it explicit that the Exchange will determine and apply a FIX session throttle limit, applicable to all Program Participants, that allows Program Participants to adequately meet the minimum Exchange quoting metrics under the Program. Pursuant to CDE Rule 540, the Exchange may set risk control mechanisms, which includes throttle limits, in a form and manner prescribed and provided by the Exchange.

The Amendment does not make any substantive changes to the Program Participant eligibility criteria or the Program Incentives offered under the Program or the general purpose or function of the Program.

### **Core Principle Compliance**

CDE believes that the Programs are consistent with the Designated Contract Market ("DCM") Core Principles under Section 5 of the Act. In particular, CDE believes that the Program is consistent with:

- DCM Core Principle 2 (Compliance with Rules) for the following reasons:
  - All Trading Privilege Holders, including all eligible Program Participants, are obligated by CDE Rule 314 (Application of Rules and Consent to Exchange Jurisdiction) to comply with Exchange Rules. Exchange Rules include prohibitions against fraudulent, non-competitive, unfair, and abusive trading practices, and the Exchange monitors trading in all futures contracts for violative activity such as wash trading, manipulative trading, and market abuse;
  - The Program will be open to all Trading Privilege Holders to apply to participate as a Program Participant and will offer the same pro-rata cash pool incentive structure for eligible Trading Privilege Holders; and
  - The same throttle limits will apply to all Program Participants to enable them to adequately meet the minimum Exchange quoting metrics under the Program.
- DCM Core Principle 4 (Prevention of Market Disruption) because CDE Rules prohibit participants, including all eligible Program Participants, from manipulating the market in, disrupting the orderly functioning of the market in, or creating a condition in which prices do not or will not reflect fair market values in CDE futures contracts, and CDE enforces compliance with such CDE Rules;

- DCM Core Principle 7 (Availability of General Information) because, pursuant to CDE Rule 540, the Exchange will make available to TPHs risk control mechanisms, including applicable throttle limits, in a form and manner provided by the Exchange.
- DCM Core Principle 9 (Execution of Transactions) because the Program will not impact order execution priority or otherwise give any Program Participant an execution advantage. All CDE futures contracts are listed for trading in the open and competitive market, and the incentives under the Program will not adversely impact price discovery in the centralized market;
- DCM Core Principle 12 (Protection of Markets and Market Participants) because the CDE Rules include prohibitions against abusive practices, including abusive practices committed by a party acting as an agent for a participant, and promote fair and equitable trading, all of which will apply in relation to all activity in participation in the Program. The Exchange believes the throttle limits applicable to Program Participants will function to protect the integrity of the CDE Trading System while allowing Program Participants to adequately meet the market making requirements under the Program.
- Core Principle 16 (Conflicts of Interest) because CDE has policies and procedures in place that are designed to minimize conflicts of interest and establish a process for resolving conflicts of interest, and enforces such policies and procedures. Specifically, the policies and procedures ensure that all CDE Trading Privilege Holders, including all Program Participants, are treated in the same manner; subject to the same access requirements and fees, and receive or have access to the same information. CDE may not and does not share confidential information with any Program Participant about planned initiatives that would provide a Program Participant with an advantage or inside information in relation to other TPHs or market participants, and as such, Program Participants are not involved in any part of the implementation of or selection process for the Program.

The Program will continue to provide meaningful incentives to eligible Program Participants to engage on CDE's futures markets and will facilitate and accelerate the growth of such markets. The Exchange believes that the Program will enhance the price discovery process by promoting increased trading volume and liquidity in futures products traded on CDE's centralized market, thereby encouraging participation and growing quality markets on the Exchange, particularly as the Exchange introduces additional products. Accordingly, CDE believes that the impact of the Program will be beneficial to the public and market participants.

### **Public Information**

We have concurrently posted a notice and copy of this submission on the Exchange's website at <https://www.cboedigital.com/regulation/exchange-notices/> under "CFTC Submissions."

### **Opposing Views**

We are not aware of any opposing views to this self-certification.

### **Certification**

Cboe Digital Exchange, LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in Commission regulation §40.6, that this submission complies with the Commodity Exchange Act, as amended, and the regulations

promulgated thereunder.

If you have any questions regarding this submission, please contact the undersigned at the information below.

Sincerely,

**/s/ Rebecca Tenuta**

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