



March 27, 2024

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

Re: Cboe Clear Digital, LLC Rule Certification  
Submission Number CCD-2024-02C

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Rule 40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (“CFTC” or “Commission”) under the Act, Cboe Clear Digital, LLC (“CCD” or “Clearinghouse”) hereby submits amendments to 1) the CCD rules to provide additional clarity within the rules in connection with the CCD guaranty fund and guaranty fund requirements, update CCD’s transfer trade rule, and make a minor clean up change, and 2) as a result of the amendment to the transfer trade rule, makes one update to the CCD Settlement Procedures, (the “Amendment”). The Amendment to the CCD Rulebook is set forth in **Exhibit A** and the Amendment to the CCD Settlement Procedures is set forth in **Exhibit B** and will become effective on April 11, 2024.

The Clearinghouse has adopted the CCD Default Management Plan (“DMP”), which governs the CCD procedures in the case of an FCM Clearing Member default. Among other things, the DMP defines the Clearinghouse’s guaranty fund and guaranty fund requirements applicable to FCM Clearing Members. While the CCD DMP has been self-certified with the Commission pursuant to CFTC Rule 40.6(a) and is made publicly available on the Cboe Digital website,<sup>1</sup> CCD is submitting the Amendment to provide a description of the FCM Clearing Member guaranty fund requirements, as well as definitions regarding the guaranty fund, within the CCD Rulebook. CCD believes such additions will provide additional clarity and enhanced understanding of the default management process and related requirements for its FCM Clearing Members within the CCD Rulebook.

Specifically, the Amendment updates Rule 504 (Guaranty Fund) and adds new Rule 505 (Guaranty Fund Contributions), Rule 506 (Authority of Clearinghouse) and Rule 507 (Assessments). In Rule 504, the Amendment clarifies the purpose and of the Guaranty Fund and scope of Guaranty Fund contributions, including that contributions remain FCM Clearing Member Property if and until a default. In new Rule 505, the Amendment adds provisions describing Guaranty Fund contribution requirements for FCM Clearing Members, including additional contributions, the Clearinghouse’s Minimum Guaranty Fund Requirement and the Exposure-Based Guaranty Fund Requirement, acceptable form of contributions, and the Clearinghouse’s and FCM

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<sup>1</sup> See <https://www.cboedigital.com/wp-content/uploads/CboeDigital/Cboe-Clear-Digital-Default-Management-Plan-Jan-2024-Cboe-Public.pdf>.

Clearing Members' rights in connection with contributions. In new Rule 506, the Amendment adds a provision describing the discretionary authority of the Clearinghouse during a default in connection with a defaulting FCM Clearing Member's accounts. In new Rule 507, the Amendment describes the process and requirements for assessments that the Clearinghouse may levy on FCM Clearing Members. Additionally, the Amendment adds the definitions for "Assessment Amount", "Exposure-Based Guaranty Fund Requirement", "Guaranty Fund", "Minimum Guaranty Fund Requirement" under CCD Rule 101 (Definitions). The Clearinghouse notes that the Amendment provides updates to the CCD Rules that are already provided for in the publicly-available CCD DMP; none of the updates to the rules are outside the scope of information currently detailed within the CCD DMP.

As indicated above, the Amendment also updates CCD Rule 408 (Transfer Trades). Specifically, the Amendment revises subparagraph (b) to CCD Rule 408 to provide that a transfer trade is recorded and carried on the books of the receiving Clearing Member at the closing settlement price on the trade date the transfer occurs (rather than at the original trade date and price). The Clearinghouse notes that this approach to transfer pricing is better suited to the Clearinghouse's technology and logistics for the purposes of transferring margined futures, which the Clearinghouse began clearing as of January 2024. Additionally, CCD understands that other DCOs allow transfer trades to be priced in this same manner. The Amendment also reflects this change in the CCD Settlement Procedures.

Finally, the Amendment makes a clean-up change to Rule 306 by removing a defunct email contact from the rule.<sup>2</sup>

### **Core Principle Compliance**

CCD believes that the Amendment is consistent with the DCO Core Principles under Section 5 of the Act. In particular, CCD believes the Amendment is consistent with Core Principle G (Default Rules and Procedures) and Core Principle L (Public Information) because the adoption of provisions in the CCD Rulebook describing the Guaranty Fund requirements and other DMP-related information will increase clarity in the CCD Rulebook regarding the role and obligations of the Clearinghouse and FCM Clearing Members in connection with default management. The Amendment ensures that information concerning CCD Rules generally as well as CCD's governing default procedures are available to market participants within the CCD Rulebook, in addition to the CCD website.

### **Public Information**

We have concurrently posted a notice and copy of this submission on the Clearinghouse'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**

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<sup>2</sup> CCD posts and circulates a notice of contact information for CCD to Clearing Members and, upon onboarding, each Clearing Member receives a list of contacts.

Cboe Clear Digital, LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in CFTC Rule 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**

Rebecca Tenuta  
Senior Counsel  
[rtenuta@cboe.com](mailto:rtenuta@cboe.com)  
(773) 485-7926

## EXHIBIT A

The Amendment, marked to show additions in underlined text and deletions in ~~stricken~~ text, consists of the following:

### Cboe Clear Digital, LLC Rulebook

\* \* \* \* \*

#### 101. Definitions.

Unless the context clearly requires otherwise, the following terms shall have the following meanings when used in these Rules:

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(f) **“Assessment Amount”** means the total assessment amount levied by the Clearinghouse at a single time upon all the FCM Clearing Members in order for the Clearinghouse to maintain an adequate Guaranty Fund.

(f)(g) **“Authorized Representative”** means an individual designated by a Clearing Member and listed with Cboe Clear Digital as having authority to act on behalf of the Clearing Member.

(g)(h) **“Board”** means the board of directors of Cboe Clear Digital, as set forth in the LLC Agreement.

(h)(i) **“Business Day”** means any day on which the Clearinghouse is open for clearing. References in these Rules to a “day” or “Business Day” shall, unless the context otherwise requires, mean the “Business Day” corresponding to the trading day of the Exchange.

(i)(j) **“Cboe Clear Digital”** means Cboe Clear Digital, LLC, a Delaware limited liability company.

(j)(k) **“Cboe Digital”** means Cboe Clear Digital and the Exchange collectively.

(k)(l) **“CEA”** means the Commodity Exchange Act, as it may be amended from time to time.

(l)(m) **“CFTC”** means the U.S. Commodity Futures Trading Commission.

(m)(n) **“CFTC Regulations”** means the rules, regulations and interpretations promulgated by the CFTC pursuant to the CEA, as in effect from time to time.

(n)(o) **“Clearinghouse”** means Cboe Clear Digital, LLC.

(o)(p) **“Clearing Member”** means an FCM Clearing Member or Direct Clearing Member who has executed a Clearing Member Agreement, and to whom the Clearinghouse has granted the right to clear contracts on the Clearinghouse.

(p)(q) **“Clearing Member Agreement”** means the agreement for clearing privileges between Cboe Clear Digital and a Clearing Member.

~~(q)~~(r) “**Collateral**” means U.S. dollars, U.S. Treasuries, other assets, including Virtual Currencies, that are allowed by the CEA, CFTC Regulations and Cboe Clear Digital to be accepted for deposit into clearing accounts and to meet Guaranty Fund Deposit requirements.

~~(t)~~(s) “**Committee**” means a committee established by the Board or otherwise, pursuant to the Rules.

~~(s)~~(t) “**Contract**” means, as context requires, any futures contract, options contract, swap contract, or spot contract, agreement, or transaction on a commodity (as such term is defined in the CEA or CFTC Regulations), which has been approved for clearing by Cboe Clear Digital pursuant to these Rules.

~~(t)~~(u) “**Customer**” shall have the meaning set forth in CFTC Regulation 1.3.

~~(u)~~(v) “**Customer Account**” means an account established by an FCM Clearing Member with Cboe Clear Digital in which the FCM Clearing Member maintains trades, positions and Margin solely for Customers.

~~(v)~~(w) “**Default**” shall have the meaning set forth in Rule 502 (a).

~~(w)~~(x) “**Default Loss**” means any loss to Cboe Clear Digital or Exchange associated with the Default of a Clearing Member resulting in any deficit balance in the Clearing Member account; resulting from costs associated with the Clearing Member’s liquidation, transfer, offset, settlement, delivery; Clearing Member’s collateral losses due to the failure or insolvency of a Clearing Member’s depository or settlement bank; and any other costs related to managing the Default of a Clearing Member.

~~(x)~~(y) “**Direct Clearing Member**” means a Person that submits fully funded trades for clearing at Cboe Clear Digital on behalf of its own account(s), has completed a Clearing Member Agreement and has been granted clearing privileges by the Clearinghouse excluding trading on margin.

~~(y)~~(z) “**Directors**” means members of the Board.

~~(z)~~(aa) “**Disciplinary Panel**” means a panel comprised of individuals appointed by the Board at the recommendation of the Chief Compliance Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in Chapter 6.

~~(aa)~~(bb) “**Eligible Delivery Member**” or “**EDM**” means (a) an FCM Clearing Member that has an FCM proprietary spot account with Cboe Clear Digital that has been authorized in writing by Cboe Clear Digital to participate in the physical delivery process to make or take delivery of digital assets futures products; or (b) an FCM Customer with a proprietary spot account with Cboe Clear Digital that has been authorized in writing by the FCM Clearing Member and by Cboe Clear Digital to participate in the physical delivery process to make or take delivery of digital assets futures products.

~~(bb)~~(cc) “**Emergency**” shall have the meaning set forth in Rule 207.

~~(ee)~~(dd) “**Exchange**” means Cboe Digital Exchange, LLC and its respective successors.

(ee) “**Exchange Committee**” includes the Regulatory Oversight, Exchange Member, or Exchange Practices Committees of the Exchange, and any other future or successor committee of the Exchange.

~~(dd)~~(ff) “**Exposure-Based Guaranty Fund Requirement**” means the additional contributions by each FCM Clearing Member required by the Clearinghouse, based upon the exposure of the Clearinghouse to such FCM Clearing Member as determined by the Clearinghouse, in light of any shortfall in the Guaranty Fund resulting from the Clearinghouse’s periodic specification of a Minimum Guaranty Fund Requirement.

~~(ee)~~(gg) “**FCM Clearing Member**” means a Person that is registered with the CFTC as a Futures Commission Merchant, has completed a Clearing Member Agreement and has been granted clearing privileges by the Clearinghouse, including clearing contracts that are not fully collateralized or fully funded.

~~(ff)~~(hh) “**FCM Customer**” means a Customer of an FCM.

~~(gg)~~(ii) “**Fully Collateralized or Fully Funded**” contract means a contract cleared by Cboe Clear Digital that requires Cboe Clear Digital to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract.

(jj) “**Futures Commission Merchant**” or “**FCM**” shall have the meaning set forth in CFTC Regulation 1.3.

~~(hh)~~(kk) “**Guaranty Fund**” refers to the fund comprised of contributions by FCM Clearing Members established by Cboe Clear Digital in accordance with Rule 504 as a guaranty of FCM Clearing Members obligations to Cboe Clear Digital.

~~(ii)~~(ll) “**Guaranty Fund Deposit**” means the amount required to be deposited with Cboe Clear Digital by the FCM Clearing Member as a guaranty of its obligations to Cboe Clear Digital.

~~(jj)~~(mm) “**Government Agency**” means the CFTC and/or any other governmental agency or department, including state agencies or departments for purposes of spot contracts, regulating the activities of a Clearing Member.

~~(kk)~~(nn) “**Initial Margin**” means generally, a factored amount over the Maintenance Margin requirement calculated by Cboe Clear Digital.

~~(ll)~~(oo) “**Insolvent**” and “**Insolvency**” means the Clearing Member has become the subject of a bankruptcy petition, receivership proceeding, or an equivalent proceeding.

~~(mm)~~(pp) “**LLC Agreement**” means the Limited Liability Company Agreement of Cboe Clear Digital, as amended or restated from time to time.

~~(nn)~~(qq) “**Margin**” means funds or the applicable amount of Collateral required to collateralize Contracts as set forth in Rule 403.

~~(oo)~~(rr) **“Maintenance Margin”** means the minimum amount of Margin equity calculated by Cboe Clear Digital required to be maintained in an account.

~~(ss)~~ **“Member Property Account”** means an account established by a Clearing Member with Cboe Clear Digital in which the Clearing Member maintains trades, positions and Margin solely on its own behalf.

~~(pp)~~(tt) **“Minimum Guaranty Fund Requirement”** means the base amount as established by the Clearinghouse from time to time to be deposited by all FCM Clearing Members as part of the Clearinghouse’s pre-funded financial resources for the purposes of managing FCM Clearing Members in Default.

~~(qq)~~(uu) **“Obligations”** means all financial obligations of a Clearing Member, however arising, whether absolute or contingent, direct or indirect, due or to become due, arising under these Rules or such Clearing Member’s agreements with Cboe Clear Digital.

~~(rr)~~(vv) **“Officer”** has the meaning set forth in Rule 204.

~~(ss)~~(ww) **“Person”** means an individual, sole proprietorship, partnership, limited liability company, association, firm, trust, corporation or other entity, as the context may require.

~~(tt)~~(xx) **“Regulations”** means rules, regulations, guidance, or advisories promulgated by the CFTC or any applicable state or federal agency.

~~(uu)~~(yy) **“Removal Event”** means (a) the termination of the Clearing Member Agreement; (b) a materially false or misleading representation or warranty made by the Clearing Member to Cboe Clear Digital under or in connection with any agreement between Cboe Clear Digital and the Clearing Member; (c) the breach by the Clearing Member of the Rules or any of the terms or provisions of any agreement between Cboe Clear Digital and the Clearing Member which is not remedied promptly after notice from Cboe Clear Digital; (d) a material violation of the rules of the Exchange, or (e) a Default by the Clearing Member.

~~(vv)~~(zz) **“Rule”** means a Rule of Cboe Clear Digital either contained in this Rulebook or in guidance or notices from Cboe Clear Digital.

~~(ww)~~(aaa) **“Self-Regulatory Organization”** shall mean any futures or securities exchange, derivatives clearing organization, securities clearing agency, or National Futures Association.

~~(xx)~~(bbb) **“Settlement Price”** has the meaning set forth in Rule 409.

~~(yy)~~(ccc) **“State Regulation”** means, with respect to states in which Cboe Clear Digital is licensed to operate as a money transmitter or otherwise permitted to engage in a virtual currency business, any regulation related thereto.

~~(zz)~~(ddd) **“Swap”** has the meaning set forth in CFTC Regulation 1.3.

~~(aaa)~~(eee) **“Transfer Trade”** has the meaning set forth in Rule 408.

~~(bbb)~~(fff) “UCC” means the Uniform Commercial Code as in effect in the State of Illinois.

~~(eee)~~(ggg) ”Virtual Currency” means any digital representation of value that functions as a medium of exchange, and any other digital unit of account that is used as a form of a currency (i.e., transferred from one party to another as a medium of exchange); may be manifested through units, tokens, or coins, among other things; and may be distributed by way of digital “smart contracts,” among other structures.

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### **306. Notices Required of Clearing Members.**

(a) Each Clearing Member, if applicable, shall immediately notify Cboe Clear Digital, ~~orally and~~ in writing ~~to [digital.rulebooknotifications@cboe.com],~~ of:

\* \* \* \* \*

(b) In addition to the requirements above, an FCM Clearing Member shall promptly provide written notice to Cboe Clear Digital ~~via email to [digital.rulebooknotifications@cboe.com] or the WinJammer service,~~ of:

### **408. Transfer Trades.**

\* \* \* \* \*

(b) Unless otherwise permitted by Cboe Clear Digital, a transfer that is permitted pursuant to this Rule 408 (a “Transfer Trade”) shall be recorded and carried on the books of the receiving Clearing Member at the ~~closing settlement price original on the trade dates and prices the transfer occurs.~~

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### **504. Scope of Guaranty Fund Deposits**

(a) The Clearinghouse shall establish and maintain a Guaranty Fund, for the purpose of remedying shortfalls that may arise in managing FCM Clearing Members in Default, in the amounts payable to the Clearinghouse by an FCM Clearing Member.

(b) The Guaranty Fund is comprised of contributions by FCM Clearing Members. Each FCM Clearing Member shall be required to contribute to the Guaranty Fund in accordance with the procedures as determined by Cboe Clear Digital.

(c) The form and amount of such Guaranty Fund Deposits will be determined by Cboe Clear Digital and will be reviewed periodically and communicated to the FCM Clearing Members. Guaranty Fund contributions may be applied by the Clearing House to mitigate a Default Loss.

(d) All contributions made by an FCM Clearing Member to the Guaranty Fund remain the property of the FCM Clearing Member making such contribution unless and until such time as the funds



may be needed to meet the FCM Clearing Member's or another FCM Clearing Member's shortfall to the Clearinghouse.

### **505. Guaranty Fund Contributions**

(a) All FCM Clearing Members must deposit and maintain with the Clearinghouse the Guaranty Fund Deposit requirement as stipulated by the Clearinghouse in accordance with Rules 504 through 507 and the procedures adopted by Cboe Clear Digital.

(b) Any shortfall in the Guaranty Fund resulting from the Clearinghouse's periodic specification of a Minimum Guaranty Fund Requirement may require an additional contributions by each FCM Clearing Member based upon the exposure of the Clearinghouse to such FCM Clearing Member, as determined from time to time by the Clearinghouse (the "Exposure-Based Guaranty Fund Requirement").

(c) The Clearinghouse shall establish the Minimum Guaranty Fund Requirement and the Exposure-Based Guaranty Fund Requirement, together with the Clearinghouse's own financial resources, sufficient to enable the Clearinghouse to meet its financial obligations to Clearing Members notwithstanding the default of the two Clearing Members (including any affiliated Clearing Members) creating the largest loss to the Clearinghouse in extreme but plausible market conditions, consistent with the requirements of CFTC Regulations.

(d) Deposits to the Guaranty Fund must be made in the form of cash (USD) -and subject to the limitations and minimum cash deposits, if any, adopted by the Clearinghouse, published by the Clearinghouse on its website from time to time.

(e) Guaranty Fund deposits shall be held in a settlement bank approved for the purpose by the Clearinghouse. Upon a shortfall, the Clearinghouse shall have the sole right to withdraw cash from such account(s) subject to the rights of any assignee, pledge or holder of a security interest in the Guaranty Fund or any cash therein.

(f) So long as any Person is an FCM Clearing Member and thereafter for the period until the Clearinghouse returns such Person's Guaranty Fund deposits, the Guaranty Fund deposits of such Person may be applied by the Clearinghouse in accordance with the Cboe Clear Digital Default Management Plan.

(g) Upon a shortfall, the Clearinghouse may assign, transfer, pledge, repledge or otherwise create a lien on or security interest in the cash and other property that may be acceptable to the Clearinghouse held in the Guaranty Fund.

### **506. Authority of the Clearinghouse**

The Clearinghouse may take any appropriate action, in its discretion, with respect to a Defaulting FCM Clearing Member's Member Property or Customer Accounts, including but not limited to the liquidation or transfer of positions, suspension, or revocation of clearing membership, in accordance with the default management plan adopted and in effect by the Clearinghouse from time to time.

### **507. Assessments**

(a) Payment of Assessment Amounts that replenish the Guaranty Fund shall be made by FCM Clearing Members on the basis of the same proportionality at the time of the Default that resulted in the assessment. The Clearinghouse may require greater amounts than indicated of the original proportional share of the Assessment Amount due to the failure, or the announced intention of failure, by one or more FCM Clearing Members to pay its assessment.

(b) Assessments are payable to the Clearinghouse according to the normal settlement procedures on the Business Day on which the notice of assessment is delivered to FCM Clearing Members.

(c) Any FCM Clearing Member that does not satisfy an assessment shall be in Default, and shall be responsible for any Default Loss that occurs.

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## EXHIBIT B

The Amendment, marked to show additions in underlined text and deletions in ~~stricken~~ text, consists of the following:

### CBOE CLEAR DIGITAL, LLC SETTLEMENT PROCEDURES

\* \* \* \* \*

#### Margin Eligible Futures

##### *Transfers*

All positions transferred shall take place at the current day's settlement price ~~or original trade price~~ of the contract; however, this requirement does not prohibit cash adjustments between the parties to the transfer.

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