CFE
CBOE FUTURES EXCHANGE

February 26. 2009

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-2009-04

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 ("Commission") under the Act, CBOE Futures Exchange, LLC ("CFE" or "Exchange") hereby submits an amendment ("Amendment") that allows the Exchange to reduce the Market Turner priority overlay to a percentage of each Order that is executable against the Market Turner.

The Amendment will become effective on March 2, 2009.

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

The Amendment, marked to show additions in underlined text and deletions in [bracketed] text, consists of the following:

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CFE Rule 406. Execution of Orders by CBOE System

(a)   General. At the discretion of the Exchange, any of the following base allocation methods shall apply to the execution of Orders (other than Spread Orders) for any Contract by the CBOE System:

(i)   *Price-Time Priority.* Under this method, Orders for any Contract are prioritized according to price and time. If at any time there are two or more such Orders at the best price then available, such Orders are executed in the order in which they were received by the CBOE System.

(ii)   *Pro Rata Priority.* Under this method, Orders for any Contract are prioritized according to price. If at any time there are two or more such Orders at the best price then available, the executable quantity of Contracts is allocated to such Orders on

a pro rata basis, taking into account the relative sizes of such Orders; provided that if such pro rata method would result in a fraction of a Contract being allocated to any Order, such fraction shall be rounded up (if such fraction is equal to or greater than one-half) or down (if such fraction is less than one-half); provided, further, that if rounding in accordance with the immediately preceding proviso would result in a number of Contracts in excess of the executable quantity, the quantity allocated to the Order that was last received by the CBOE System shall be reduced accordingly.

(b)   Priority Overlays. In addition to the base allocation methods set forth in paragraph (a) above, the Exchange may determine that any or all of the following priority overlays shall apply, in a sequence determined by the Exchange, to the execution of Orders (other than Spread Orders) for any Contract by the CBOE System:

(i)   *Public Customer Priority.* If this priority overlay is in effect with respect to any Contract, the highest bid and lowest offer available at any time shall have priority, except that Orders placed by or on behalf of public Customers shall have priority over Orders at the same price placed by or on behalf of non-public Customers. If there are two or more Orders placed by or on behalf of public Customers at the same price, such Orders shall be executed in the order in which they were received by the CBOE System, even if pro rata priority is the chosen base allocation method.

(ii)   *Market Turner Priority.* If this priority overlay is in effect with respect to any Contract, each Market Turner shall have priority at the highest bid or lowest offer made by it. At any given price, such priority shall remain with the Market Turner for such price. For example, if the market first moves in the same direction as an Order previously placed by a Marker Turner, and then moves back to the price previously bid or offered by such Market Turner, then such Market Turner retains its priority at such price.

The Exchange may determine to reduce the Market Turner priority to a percentage of each Order that that is executable against the Market Turner. In such cases, the Market Turner may participate in the balance of an Order, pursuant to the base allocation method in effect under paragraph (a) of this Rule 406, after the Market Turner priority has been applied. To the extent the Market Turner Order bid or offer is not fully exhausted, it shall retain Market Turner priority for subsequent Orders until the conclusion of the trading session.

(iii)   *Trade Participation Right Priority.* DPMs may be granted trade participation rights in accordance with any program adopted pursuant to Rule 515, which rights may provide for priority of Orders placed, or quotes made, by such market makers over other Orders or quotes, up to the applicable participation right percentage. In granting trade participation rights to DPMs, the following principles shall be followed:

(A) – (D)   No change.

(c) – (e)   No change.

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Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Jennifer Yeadon at (312) 786-7466. Please reference our submission number CFE-2009-04 in any related correspondence.

CBOE Futures Exchange, LLC

By: _____

Andrew Lowenthal
Managing Director

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