



December 7, 2011

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-2011-27

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 under the Act, CBOE Futures Exchange, LLC ("CFE" or "Exchange") hereby submits an amendment ("Amendment") to CFE Policy and Procedure VI, which sets forth CFE's Trading Privilege Holder Permit Program ("Program"). The Amendment also includes changes to the CFE Fee Schedule. The Amendment will become effective on January 1, 2012.

As to the Program, the Amendment revises CFE Policy and Procedure VI to establish two different types of trading permits that CFE will now issue to CFE Trading Privilege Holders. In addition, the Amendment extends the Program for an additional year so that all new trading permits issued under the Program will now expire on December 31, 2012. All current CFE trading permits issued to CFE Trading Privilege Holders under the current Program will expire at the end of the day on December 31, 2011 and CFE Trading Privilege Holders will need to obtain one or more of the new CFE trading permits to continue to have CFE trading access and effective Trading Privilege Holder status. As was the case previously, CFE may subsequently determine to further extend the Program or allow the new permits issued under the Program to expire and replace the Program with a different permit program.

As to the CFE Fee Schedule, CFE's fees have been generally revised for 2012. CFE is establishing an annual trading permit fee for the new types of trading permits, which will be assessed at the beginning of each calendar year. Trading permits obtained after that time will be assessed a prorated fee. CFE is also establishing a regulatory fee to help partially recoup costs and expenses associated with the regulatory functions of the Exchange. In addition, the Day Trade Fee Program is being extended for an additional year through December 31, 2012 and is being revised to establish a minimum trading volume threshold in each product that is eligible for the Day Trade fee which must be met before Day Trade transactions in that product may qualify for the Day Trade Fee.


The Amendment is attached and is marked to show additions in double underlined text and deletions in ~~stricken~~ text.

CFE believes that the impact of the Amendment will be beneficial to the public and market participants. 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. CFE further certifies that it has posted a notice of pending certification with the Commission and a copy of this submission on CFE's Web site (<http://cfe.cboe.com/aboutcfe/rules.aspx>) concurrent with the filing of this submission with the Commission.

Questions regarding Amendment may be directed to Arthur Reinstein at (312) 786-7570 or Jennifer Klebes at (312) 786-7466. Please reference our submission number CFE-2011-27 in any related correspondence.

CBOE Futures Exchange, LLC

By: 
Andrew Lowenthal
Managing Director

cc: Riva Adriance (CFTC)
Nancy Markowitz (CFTC)
National Futures Association
The Options Clearing Corporation

CBOE Futures Exchange, LLC Policies and Procedures

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Policy and Procedure VI. Trading Privilege Holder Permit Program

Any Person that desires to become a Trading Privilege Holder is required to obtain a Trading Privilege Holder permit ("TPH Permit").

Initially, the Exchange will make available 2,500 TPH Permits. The Exchange may subsequently make available additional TPH Permits if the initial supply of 2,500 TPH Permits is exhausted.

TPH Permits may be obtained by any Person that is a trading permit holder of CBOE with CBOE trading privileges and any other Person that satisfies the requirements set forth in Rule 304(a).

Each Person desiring to obtain a TPH Permit must submit an application to the Exchange in a form and manner prescribed by the Exchange pursuant to Rule 305 and become approved by the Exchange as a Trading Privilege Holder. Each Trading Privilege Holder may permit one or more individuals to act as its Authorized Traders pursuant to Rule 303.

Any organization that desires to become a Clearing Member of the Exchange is required to become a Trading Privilege Holder and to obtain a TPH Permit. Additionally, in order to be an Exchange Clearing Member, an organization is required to be a member of the Clearing Corporation that is authorized under the rules of the Clearing Corporation to clear trades in Contracts traded on the Exchange.

~~Each TPH Permit entitles its holder to access the CBOE System through one login code. To the extent that a Trading Privilege Holder desires to use more than one login code, the Trading Privilege Holder must obtain additional TPH Permits from the Exchange.~~

~~The Exchange may from time to time determine to limit the amount of CFE bandwidth that may be utilized through each TPH Permit.~~

CFE issues two different types of TPH Permits. The first type of TPH Permit is the Order Entry Trading Permit that provides an order entry bandwidth allowance, up to three logins to the CBOE System and Trading Privilege Holder status. The second type of TPH Permit is the Quoting and Order Entry Trading Permit that provides a quoting and order entry bandwidth allowance, up to three logins to the CBOE System and Trading Privilege Holder status. If additional logins and/or bandwidth are required, Trading Privilege Holders must obtain one or more additional TPH Permits, as applicable.

TPH Permit holders shall have all of the rights and obligations of Trading Privilege Holders under the Rules of the Exchange except to the extent otherwise provided under this Policy and the Rules of the Exchange.

Any recipient of a TPH Permit as permitted by Rule 302 is required to provide the Exchange with the appropriate application materials and to be approved as a Trading Privilege Holder pursuant to Rule 304 before the recipient will be permitted to act as a Trading Privilege Holder.

A TPH Permit is non-transferable, non-assignable and may not be sold or leased, except that a Trading Privilege Holder may, with the prior written consent of the Exchange, transfer a TPH Permit to a Trading Privilege Holder organization or organization approved to be a Trading Privilege Holder: (i) which is an Affiliate; or (ii) which continues substantially the same business without regard to the form of the transaction used to achieve such continuation, e.g., merger, sale of substantially all assets, reincorporation, reorganization or the like.

All TPH Permits shall expire on December 31, ~~2011~~ 2012. The Exchange may determine to extend the term of TPH Permits or allow TPH Permits to expire and replace the TPH Permit program with a different permit program.

All Exchange fees applicable to TPH Permit holders and all other Exchange fees will be as set forth in a separate Exchange fee schedule.

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CFE Fee Schedule
Effective ~~October 27, 2011~~ January 1, 2012

1.a.	<u>Transaction Fees¹ in CBOE Volatility Index Futures, CBOE GOLD ETF Volatility Index (GVZ) Security Futures, CBOE S&P 500 3-Month Variance Futures, CBOE S&P 500 Variance Futures and Radar Logic 28-Day Real Estate Index (RPX) Futures:</u>	<u>Per Contract Side</u>
	A. CFE TPH Permit Holder	
	1. CBOE trading permit holder ²	\$0.50 <u>\$0.60</u>
	2. Non-CBOE trading permit holder	\$1.00
	B. CBOE trading permit holder trading for the trading permit holder's own account	\$0.50
	C. Customer	\$1.00 <u>\$1.10</u>
	D. Day Trade³	50% of generally applicable transaction fee
	E. Block Trade/Exchange of Contract for Related Position Transaction (ECRP) (Fee is in addition to other applicable transaction fees)	\$1.00
	F. Position Transfers⁴	\$1.25
	<u>F. Regulatory Fee</u>	<u>\$0.02</u>
1.b.	<u>Transaction Fees¹ in Mini CBOE Volatility Index (Mini VIX) Futures and Weekly Options on Mini VIX Futures:</u>	<u>Per Contract Side</u>
	A. CFE TPH Permit Holder	
	1. CBOE trading permit holder ²	\$0.15 <u>\$0.10</u>
	2. Non-CBOE trading permit holder	\$0.25 <u>\$0.15</u>
	B. CBOE trading permit holder trading for the trading permit holder's own account	\$0.15
	C. Customer	\$0.25 <u>\$0.20</u>
	D. ECRP Transaction (Fee is in addition to other applicable transaction fees)	\$0.25
	E. Position Transfers⁴	\$1.25
	<u>E. Regulatory Fee</u>	<u>\$0.02</u>

Transaction fee questions may be directed to Don Patton at 312-786-7026 or patton@cboe.com or John Mavindidze at 312-786-7689 or mavindidze@cboe.com,

2.	<u>Annual Trading Permit Fees:⁵</u>	<u>Amount</u>
	<u>A. Order Entry Trading Permit</u>	<u>\$1,200/year</u>
	<u>B. Quoting and Order Entry Trading Permit</u>	<u>\$1,200/year</u>

2- 3. <u>Applications Fees:</u>	<u>Amount</u>
A. CBOE trading permit holder	Waived
B. Non- CBOE trading permit holder	\$500

Annual Trading Permit fee and Application fee questions may be directed to the Stan Leimer at 312-786-7299 or Leimer@cboe.com.

3- 4. <u>Direct Data Feed Connectivity Fee:</u> ^{5,6 6,7}	<u>Amount</u>
CFE data ^{7 8}	\$600/Line/month

~~Transaction fee questions may be directed to Don Patton at 312-786-7026 or patton@cboe.com or John Mavindidze at 312-786-7689 or mavindidze@cboe.com.~~

4- 5. <u>Market Data Fees:</u>	
A. <u>Vendor Connect Fees:</u> ^{8 9}	<u>Amount</u>
• All Vendors	\$1,200/year
B. <u>CFE Basic Market Data Fees:</u> ^{9, 10 10, 11}	<u>Amount</u>
• Professional Subscriber (surface quote)	\$ 5/Device/Authorized User/month
• Book Depth ^{11 12} (including surface quote)	\$ 10/Device/Authorized User/month
• Non-professional Subscriber ^{12 13} (surface quote)	\$ 1/Device/Authorized User/month
C. <u>CFE Enhanced Market Data Fees:</u> ^{10, 13 11, 14}	<u>Amount</u>
• Any Subscriber (surface quote)	\$ 7.50/Device/Authorized User/month
• Book Depth ^{11 12} (including Surface quote)	\$12.50/Device/Authorized User/month

Direct Date Fee Connectivity fee and Market Data fee questions may be directed to Tom Knorring at 312-786-7363 or knorring@cboe.com

- ~~5- 6.~~ Integrated Billing System:
Every Trading Privilege Holder must designate a Clearing Member for the payment of the Trading Privilege Holder's Exchange invoices and vendor invoices for Exchange-related services designated by the Exchange by means of the integrated billing system ("IBS"). The designated Clearing Member shall pay to the Exchange on a timely basis any amount that is not disputed pursuant to IBS procedures by the Trading Privilege Holder that is directly involved. Such payments shall be collected by the Exchange against the designated Clearing Member's account at the Clearing Corporation. The Clearing Corporation shall have no liability in connection with forwarding to the Exchange payments drafted pursuant to the IBS.

¹ The Transaction Fees listed in Section 1 of this Fee Schedule apply to all CFE products unless different Transaction Fees are specified for a particular product.

² This rate is also assessed to any CFE TPH Permit holder that is not a CBOE trading permit holder but is majority owned by a CBOE trading permit holder.

³ The Day Trade fee is in effect on a pilot basis through December 31, 2011 2012. In order for the Day Trade fee to be applicable with respect to transactions by or on behalf of an ultimate account holder for a particular trading month in a CFE product eligible for the Day Trade fee, the ultimate account holder must meet a monthly trading volume threshold of 10,000 contracts in that product in the applicable trading month. For those transactions in that product in excess of the monthly trading volume threshold, CFE will rebate 50% of the generally applicable transaction fees that are assessed for those contract purchases and

sales by or on behalf of a ~~market participant~~ the ultimate account holder that qualify as Day Trades. Transactions in Mini CBOE Volatility Index Futures, GVZ Security Futures, Weekly Options on Mini VIX Index Futures and RPX Futures do not qualify as Day Trades. The rebate shall occur at the end of the applicable trading month for those Day Trades that qualify for the rebate during the applicable trading month.

A Day Trade consists of two or more transactions on CFE on the same trading day in which a market participant buys and sells, or sells and buys, a particular number of contracts in a particular CFE product for a particular contract month. For example, if a market participant bought 10 December VIX futures contracts and sold 10 December VIX futures contracts on the same trading day, those transactions would constitute a Day Trade and would result in a rebate equal to 50% of the generally applicable transaction fee for all 20 contracts. Similarly, if a market participant sold 10 March VIX futures contracts and bought 15 March VIX futures contracts on the same trading day, those transactions would constitute a Day Trade with respect to the 10 contracts sold and with respect to 10 of the 15 contracts bought. In this example, the rebate would be equal to 50% of the generally applicable transaction fee for 20 of the 25 contracts.

Determination of the monthly trading volume threshold and Day Trade fee rebates are made with respect to transactions by or on behalf of an ultimate account holder and transactions by or on behalf of different ultimate account holders may not be aggregated for purposes of meeting the monthly trading volume threshold or receiving Day Trade fee rebates. Day Trade fee rebates are made to the Trading Privilege Holder that is originally assessed the generally applicable transaction fees for the Day Trade transactions at the time they occur through payment of the rebates to that Trading Privilege Holder's designated IBS Clearing Member. In order to be eligible for the Day Trade fee, market participants are required to provide a one-time written notification to CFE in a form and manner prescribed by CFE that they intend to have the Day Trade fee apply to transactions by or on their behalf. This notification must be provided prior to the execution of Day Trades for which rebates are sought. Market participants shall also provide any supplemental documentation requested by CFE to substantiate that contract purchases and sales qualify as Day Trades in order for Day Trade fee rebates to apply to those transactions. Failure to provide prompt notice of information requested by CFE in order for Day Trade fee rebates to be made, including account number changes, may result in ineligibility for the applicable rebates.

⁴ This fee is assessed to the transferor and to the transferee with respect to any transfer of positions pursuant to CFE Rule 420. CFE will rebate the transferor and the transferee the assessed fee if the transfer of positions occurred pursuant to CFE Rule 420(a)(i) and CFE Rule 420(a)(ii) and the applicable party submits documentation to CFE requesting the rebate in a form and manner prescribed by the Exchange within 30 days of the date that the transfer of position occurred. This fee will not be rebated for any transfer of positions that occurred pursuant to CFE Rule 420(a)(iii) or Rule 420(b)(i) or (ii).

⁵ The annual Trading Permit fees are assessed at the beginning of each calendar year. If a Trading Permit is obtained during a calendar year, the annual Trading Permit fee will be assessed at the prorated amount of \$100 per month for all months remaining in the calendar year and will be assessed beginning with the month in which the Trading Permit is obtained. The annual Trading Permit fees are nonrefundable, including in the event that a Trading Privilege Holder relinquishes a Trading Permit during a calendar year.

⁵ ⁶ Billed quarterly. This fee is payable by all Trading Privilege Holders, Authorized Traders and Vendors (including Vendors that distribute only historical data) that receive CFE data through a direct connection to CFE or through a connection to CFE provided by an approved extranet service provider. If this connectivity service is received during any portion of a month, the fee for the entire month will be billed.

⁶ ⁷ If a connection is through an approved extranet service provider, the provider assesses a per MB charge that is billed directly by the provider and therefore is not reflected in this Fee Schedule.

⁷ ⁸ If a Trading Privilege Holder, Authorized Trader or Vendor (a) receives index data (MDI) from CFE affiliate Market Data Express, the fee to receive MDI and CFE data is \$600 per line per month, or (b) receives OneChicago data and CFE data (regardless of whether MDI data is also received), the fee to receive that data is \$725 per line per month.

^{8 9} Billed annually. CFE bills all Vendors that either receive a data feed directly from CFE or receive data from a data feed from another CFE Vendor rather than directly from CFE. CFE Vendors that distribute only historical data are not obligated to pay Vendor Connect fees. In addition, these fees are waived with respect to any Trading Privilege Holder or Authorized Trader that is a Vendor solely by reason of distributing Basic Market Data to its Customers if it receives the market data directly from CFE (*i.e.*, not through a Vendor) and distributes the market data directly (*i.e.*, not through another Vendor) to its Customers. This fee waiver is not applicable with respect to a Trading Privilege Holder or Authorized Trader that distributes CFE Enhanced Market Data to its Customers. All Vendor Connect fees for any new Vendor that has not previously acted as a CFE Vendor will be waived through the end of the sixth calendar month following the last day of the month in which the Vendor begins to receive market data from CFE. (For example, if a Vendor receives market data from CFE commencing on April 5th, Vendor Connect fees would be waived through October 31. Vendor Connect fees payable by the Vendor for the remainder of the year would be pro-rated.)

^{9 10} Billed monthly. These fees are payable by each Vendor, based either on the number of Devices or the number of Authorized Users to which it disseminates CFE Basic Market Data. Vendors that distribute only delayed data and/or historical data are not obligated to pay these fees. These fees are waived with respect to the Devices/Authorized Users of Trading Privilege Holders and Authorized Traders receiving CFE Basic Market Data directly from CFE (*i.e.*, not through a Vendor), and are also waived with respect to the Devices/Authorized Users of any Customer of such a Trading Privilege Holder or Authorized Trader if the Trading Privilege Holder or Authorized Trader is a Vendor and the Customer receives the CFE Basic Market Data directly (*i.e.*, not through another Vendor) from the Trading Privilege Holder or Authorized Trader. These fee waivers are available only to Trading Privilege Holders and Authorized Traders that comply with the reporting requirements of CFE Rule 408. See CFE Rule 126 for the definition of the term "Customer" and CFE Rule 408 for the definitions of the terms "Device" and "Authorized User".

^{40 11} On a one-time basis for each of its Subscribers, a Vendor may make available real-time CFE market data to each such Subscriber for a trial period of 30 days without incurring any Device/Authorized User Fees, and without being subject to any reporting requirements, in connection with doing so. A Vendor is not required to have a Subscriber Agreement in place with a Subscriber for CFE market data in order to provide the Subscriber with real-time CFE market data during the 30 day trial period referenced above.

^{44 12} Book Depth provides the five price increments closest to the surface quote on each side of the market.

^{42 13} CFE defines a Non-professional Subscriber as any Subscriber that: (1) is contracting to receive CFE Information in his or her individual capacity and not on behalf of any other person or any entity, (2) will use the Information solely in connection with his or her individual personal investment activities and not in connection with any trade or business activities, (3) is not a futures commission merchant, commodities introducing broker or commodity trading advisor, securities broker-dealer, investment advisor, member or trading privilege holder of a futures contract market or securities exchange or association, or an owner, partner, or associated person of any of the foregoing and (4) is not employed by a bank or an insurance company or an affiliate of either to perform functions related to commodity futures or securities investment or trading activity.

^{43 14} CFE Enhanced Market Data is a multi-cast market data service that includes, among other things, the surface quote with contingency (all or none) quantity and the surface quote for spreads. CFE Enhanced Market Data does not include index values (e.g., CBOE Volatility Index (VIX) values). The fees for CFE Enhanced Market Data are billed monthly and are payable by each Vendor, based either on the number of Devices or the number of Authorized Users to which it disseminates CFE Enhanced Market Data. Vendors that distribute only delayed data and/or historical data are not obligated to pay these fees. The fee waivers that are applicable to CFE Basic Market Data which are described in Footnote 10 above are not applicable with respect to CFE Enhanced Market Data. See CFE Rule 126 for the definition of the term "Customer" and CFE Rule 408 for the definitions of the terms "Device" and "Authorized User".