

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-91333; File No. SR-CFE-2021-005)

March 16, 2021

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change to Update Regulatory Independence Policies

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on March 8, 2021 Cboe Futures Exchange, LLC (“CFE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (“CFTC”). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (“CEA”)<sup>2</sup> on March 8, 2021.

I. Self-Regulatory Organization’s Description of the Proposed Rule Change

CFE is proposing to update CFE Policy and Procedure XIII (Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Regulatory Group Personnel) (“P&P XIII”) and CFE Policy and Procedure XIV (Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Non-Regulatory Group Personnel) (“P&P XIV”) (collectively, “Regulatory Independence Policies”).

The scope of this filing is limited solely to the application of the proposed rule change to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future. The text of the proposed

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<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 7 U.S.C. 7a-2(c).

rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CFE is a subsidiary of Cboe Global Markets, Inc. ("CGM"). CGM and its exchange subsidiaries previously adopted the Regulatory Independence Policies and make updates to the Regulatory Independence Policies from time to time. The Regulatory Independence Policies are incorporated into the Policies and Procedures Section of the CFE Rulebook in P&P XIII and P&P XIV.

CFE previously had a regulatory services agreement ("RSA") in place with National Futures Association ("NFA") under which NFA acted as a regulatory services provider to CFE. The Regulatory Independence Policies provide, in relevant part, that they apply with respect to employees of a regulatory services provider that provides regulatory services to a Cboe Company (as defined in the Regulatory Independence Policies) in the same manner that they apply with respect to regulatory employees of a Cboe Company. The Regulatory Independence Policies also make clear that notwithstanding that a Cboe Company has entered into an RSA

with a regulatory services provider, the Cboe Company retains ultimate legal responsibility for, and control of, its self-regulatory responsibilities. The current Regulatory Independence Policies reference the RSA between CFE and NFA in relation to these provisions of the Regulatory Independence Policies.

The RSA between CFE and NFA expired at the end of 2020. Accordingly, CGM and CFE are making updates to the Regulatory Independence Policies to remove references to the RSA and to NFA's previous status as a regulatory services provider to CFE. The proposed rule change proposes to revise P&P XIII and P&P XIV to reflect these updates that CGM and CFE are making to the Regulatory Independence Policies.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>3</sup> in general, and furthers the objectives of Sections 6(b)(1)<sup>4</sup> and 6(b)(5)<sup>5</sup> in particular, in that it is designed:

- to enable the Exchange to enforce compliance by its Trading Privilege Holders and persons associated with its Trading Privilege Holders with the provisions of the rules of the Exchange,
- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- to remove impediments to and perfect the mechanism of a free and open market and a national market system,

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<sup>3</sup> 15 U.S.C. § 78f(b).

<sup>4</sup> 15 U.S.C. § 78f(b)(1).

<sup>5</sup> 15 U.S.C. § 78f(b)(5).

- and in general, to protect investors and the public interest.

The proposed rule change retains the current substantive provisions of the Regulatory Independence Policies within CFE's rules while updating the Regulatory Independence Policies to remove reference to a regulatory service provider that no longer performs regulatory services for CFE. By retaining the current substantive provisions of the Regulatory Independence Policies within CFE's rules, the proposed rule change contributes to minimizing conflicts of interest in the decision making process of CFE and to the preservation of the independence of the Exchange's regulatory group as it performs regulatory functions for the Exchange. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that the Regulatory Independence Policies apply equally in relation to all CFE Trading Privilege Holders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the proposed rule change contributes to CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change will not impose any undue burden on competition because the Regulatory Independence Policies apply equally in relation to all CFE Trading Privilege Holders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become operative on March 22, 2021. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after

consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>6</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CFE-2021-005 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CFE-2021-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

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<sup>6</sup> 15 U.S.C. § 78s(b)(1).

available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CFE-2021-005, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(73).