



December 15, 2023

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-2023-16E

Dear Mr. Kirkpatrick:

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 (“CFTC” or “Commission”) under the Act, Cboe Digital Exchange, LLC (“CDE” or “Exchange”) hereby submits a rule amendment (“Amendment”) to make certain clean-up changes to certain CDE Rules to provide additional clarity and accuracy within the CDE Rules. **Exhibit A** to this submission sets forth the rule changes included in the Amendment. The Amendment will become effective on January 2, 2024.

The Amendment updates the definition of Contract in CDE Rule 101 (Definitions) to clarify that a single leg Futures expiration and each single leg Options series¹ is a separate Contract, and to better align the definition with that of the definition of Contract in the rulebook of its affiliated designated contract market (“DCM”), Cboe Futures Exchange, LLC (“CFE”).

The Amendment removes subparagraph (a)(14) from CDE Rule 401 (Duties and Responsibilities of Trading Privilege Holders) because this provision is duplicative. The requirements in subparagraph (a)(14) are already governed by CDE Rules 403(b) and 409. The Exchange notes that pursuant to CDE Rule 401(a)(4), all Trading Privilege Holders (“TPHs”) are required to comply with all CDE Rules, which includes CDE Rules 401 and 409.

The Amendment updates paragraphs (b), (c) and (d) of Rule 524 (Recordkeeping Requirements for Entering Orders into the Cboe Digital Trading System) to remove the requirement that Orders, Cancel Orders, and Cancel Replace/Modify Orders must contain a manual Order indicator. The current Financial Information Exchange (“FIX”) protocol for interfacing with the CDE Trading System does not include a manual Order indicator. CDE prior submitted a rule certification (CDE-2023-03E, which became effective on October 16, 2023) to align and harmonize certain CDE Rules with CFE Rules, including CDE Rule 524. Upon harmonizing CDE Rule 524 with corresponding CFE Rule 403 (Order Entry and Maintenance of Front-End Audit Trail Information), CDE inadvertently added manual Order indicator to the requirements under Rule 524. As such, the Amendment corrects CDE Rule 524 to more accurately reflect the current FIX framework by removing manual Order indicator as a required field.

The Amendment updates subparagraph (a)(1) of Rule 532 (Reports of Large Positions and Ownership and Control Reporting) to clarify that any Person subject to large trader reporting pursuant to

¹ The Exchange notes that it is approved for trading options on futures but currently does not list any options products.

CFTC regulations, not only TPHs and Clearing Members that are subject to such CFTC requirements, must submit large trader reports to CDE. The Amendment clarifies in CDE Rule 532(a)(1) that the Reportable Futures Level applies on a per Contract basis, and that an account, rather than a person, may be in reportable status for a Contract. The Amendment adds that the Exchange will prescribe the form and manner for which reports should be submitted pursuant to subparagraph (a)(1) and (b)(1), as well as a time element to the reporting requirements in subparagraphs (a)(1) and (b)(1) by including the word “concurrently”. These updates provide additional clarity as to how and when copies of reportable positions that are submitted to the CFTC should be submitted to the Exchange, and are also intended to make CDE Rule 532 more consistent with CFR Rule 412B (Ownership and Control Reports and Reportable Positions), which reflects the same “form and manner” and “concurrently” language in connection with submission of the same reports. The Amendment removes subparagraph (b)(2), as the requirement therein that a TPH submit reports of special accounts is already required by subparagraph (b)(1)—special accounts are reported in CFTC Form 10A. The Amendment also makes other minor, non-substantive clean up changes throughout Rule 532.

The Amendment revises CDE Rule 540 (Risk Controls) for accuracy and clarity. It removes the reference to FIRM code in CDE Rule 540(b) and replaces it with Customer Account Reference (“CAR”), as risk controls may be set by CAR rather than FIRM code. A TPH’s CAR is linked to its Clearing Member. The Amendment also clarifies and makes explicit that risk controls may be set by product. The Amendment also removes match capacity allocation as a risk control setting parameter. This parameter was inadvertently copied from corresponding CFE Rule 513A (Risk Controls) in the prior rule certification referenced herein (CDE-2023-03E); however, such risk control setting is not currently available to CDE Clearing Members. The Amendment also adds language to make it clear in Rule CDE 540(b) that: Clearing Members are required to obtain access to and utilize the risk control mechanisms that the Exchange makes available for use by Clearing Members; and risk control mechanisms that enable TPHs to set risk control parameters within the parameters set by their Clearing Member may be made available to TPHs.

Finally, the Amendment specifies in subparagraph (d)(2) of CDE Rule 603 (Timing and Reporting Requirements for Privately Negotiated Trades) that a notification to the Exchange of an EDRP transaction must contain the identity, quantity and price or premium of the Related Position. In the prior rule certification referenced herein (CDE-2023-03E), CDE adopted the same reporting requirements for EDRPs on the Exchange as for ECRPs on CFE pursuant to CFE Rule 414. The rule change to CDE Rule 603(d)(2) made in the prior rule certification inadvertently omitted the requirement currently in CFE Rule 414(g) that a notification contain information related to the Related Position.

Core Principle Compliance

CDE believes that the Amendment is consistent with the DCM Core Principles under Section 5 of the Act. In particular, CDE believes that the Amendment is consistent with the following DCM Core Principles:

- DCM Core Principle 2 (Compliance with Rules) because the Amendment updates the CDE Rules for additional clarity and accuracy, facilitating market participants’ understanding of and compliance with CDE Rules;
- DCM Core Principle 4 (Prevention of Market Disruption) in that by updating the CDE rules related to risk controls and risk control mechanisms available to participants to provide for additional clarity and accuracy, the Amendment contributes to the prevention of manipulation, price distortion, and disruption of settlement process;
- DCM Core Principle 7 (Availability of General Information) in that the Amendment further clarifies the applicability of CDE Rules, and enhances CDE Rules in a manner that provides

additional clarity and specificity throughout to facilitate increased understanding of CDE Rules by market participants;

- DCM Core Principle 9 (Execution of Transactions) in that the Amendment makes clear the reporting requirements for EDRPs, thus improving CDE's market by enhancing the transaction requirements and reporting process for privately negotiated transactions, and increasing transparency of such requirements in the Rules;
- DCM Core Principle 10 (Trade Information) in that by updating the audit trail requirement to more accurately reflect the current FIX framework for interfacing with the CDE Trading System, the Amendment will facilitate market participant compliance with audit trail requirements and help CDE to administer an efficient and effective audit trail program to prevent and detect customer and market abuse; and
- DCM Core Principle 18 (Recordkeeping) in that the Amendment updates CDE Rules related to books and records and recordkeeping requirements to remove redundancies, providing additional clarity in the rules regarding the Exchange's maintenance of records of activities related its business.

Certification

CDE believes that the impact of the Amendment will be beneficial to the public and market participants. CDE is not aware of any substantive opposing views to the Amendment. CDE hereby certifies that the Amendment complies with the Act and the regulations thereunder. CDE further certifies that it has posted a notice of pending certification with the Commission and a copy of this submission on the Cboe Digital website (<https://www.cboedigital.com/regulation/exchange-notices/>) concurrent with the filing of this submission with the Commission.

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

Sincerely,

[/s/ Rebecca Tenuta](#)

Rebecca Tenuta
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Exhibit A

Amendments to the Cboe Digital Exchange Rulebook

(All deletions are struck-through and all additions are underlined)

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RULE 101. Definitions

When used in this Rulebook the following terms shall have the respective meanings as follows:

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“Contract” means any Future, Option, Swap or Digital Asset ~~contract, agreement, or transaction~~ approved for trading on the Exchange or through the Cboe Digital Trading System, and pursuant to the Rules. Each single leg Futures expiration and each single leg Options series is a separate Contract.

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RULE 401. Duties and Responsibilities of Trading Privilege Holders

(a) Each Trading Privilege Holder shall (and shall cause all of its Authorized Traders and Related Parties):

- (1) use the Cboe Digital Trading System in a responsible manner and not for any improper purpose;
- (2) use the Cboe Digital Trading System only to conduct Exchange Activity;
- (3) conduct all Exchange Activity in a manner consistent with the Cboe Digital Exchange Rules and Obligations, and Applicable Law;
- (4) comply with all Cboe Digital Exchange Rules and Obligations and act in a manner consistent with the Cboe Digital Exchange Rules and Obligations;
- (5) comply with all Clearing House Rules, to the extent applicable to it, and act in a manner consistent with the Clearing House Rules, to the extent applicable;

(6) comply with all NFA Rules, to the extent applicable to it, and act in a manner consistent with the NFA Rules, to the extent applicable;

(7) observe high standards of integrity, market conduct, commercial honor, fair dealing, and just and equitable principles of trade while conducting or attempting to conduct any Exchange Activity, or any aspect of any business connected with or concerning the Exchange;

(8) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the Exchange or in response to any Exchange Proceeding;

(9) keep any User IDs, account numbers and passwords related to the Cboe Digital Trading System confidential;

(10) be fully liable for: all trading losses, all Orders, all transactions in Contracts effected by Trading Privilege Holder, all transactions effected on Cboe Digital Exchange and for any use of the Cboe Digital Trading System made by Trading Privilege Holder or Trading Privilege Holder's Authorized Traders, and all trades even if the Orders received via the Cboe Digital Trading System: (1) were entered as a result of a failure in the security controls and/or credit controls, other than due to the gross negligence of Cboe Digital Exchange, or (2) were entered by an unknown or unauthorized user;

(11) use the Exchange's pre-trade controls that enable the Clearing Member to implement appropriate risk limits for Trading Privilege Holders ;

(12) employ practices to monitor and enforce compliance with risk limits;

(13) be responsible for promptly informing the Exchange of any material changes to the information provided to the Exchange by the Trading Privilege Holder pursuant to Rule 301; and;

~~(14) keep, or cause to be kept, complete and accurate books and records, including, without limitation, trading records in underlying commodity and derivatives markets related to the Cboe Digital Contract, records and documents related to data submitted by the Trading Privilege Holder or Affiliate to an instrument or index to which an Exchange contract settles, all books and records required to be maintained pursuant to the CEA, the CFTC Regulations or the Cboe Digital Exchange Rules, and Applicable Law, for at least five (5) years, and make such books and records readily accessible for inspection by a representative of the Exchange, the CFTC or the United States Department of Justice during the first two (2) years of such five-year period; and~~

(145) prevent, detect, and mitigate market disruptions or system anomalies associated with the Trading Privilege Holder's electronic trading on the Exchange.

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RULE 524. Recordkeeping Requirements for Entering Orders into the Cboe Digital Trading System

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(b) Each single Order other than a Cancel Order or Cancel Replace/Modify Order must contain the following information: (i) whether such Order is a buy or sell Order; (ii) Order type; (iii) price or premium (if the Order is not a Market Order); (iv) quantity; (v) in the case of Orders for Futures, Contract identifier or product and contract expiration(s); (vi) in the case of Orders for Options, either Contract identifier or each of strike price(s), type(s) of option(s) (put or call), expiration(s) and underlying Futures Contract(s); (vii) Client Order ID; (viii) FIRM code (i.e., Clearing FIRM code and Trading Privilege Holder FIRM code); (ix) Order Entry Operator ID; (x) Clearing House origin code (C for Customer or F for Firm); (xi) Customer Type Indicator code; (xii) ~~manual Order indicator~~; (xiii) ~~account designation~~ (which shall be the account number of the account of the party for which the Order was placed, except that a different account designation may be included in the case of a bunched Order processed in accordance with Rule 524(h) and 511 or in the case of an Order for which there will be a post-trade allocation of the resulting trade(s) to a different clearing member); and (xiv) such additional information as may be prescribed from time to time by the Exchange.

(c) Each Cancel Order must contain the following information: (i) Client Order ID of Order to be canceled; (ii) FIRM code (i.e., Clearing FIRM code and Trading Privilege Holder FIRM code); (iii) Order Entry Operator ID; (iv) ~~manual Order indicator~~; and (iv) such additional information as may be prescribed from time to time by the Exchange.

(d) Each Cancel Replace/Modify Order must contain the following information: (i) Client Order ID; (ii) Client Order ID of Order to be canceled; (iii) FIRM code (i.e., Clearing FIRM code and Trading Privilege Holder FIRM code); (iv) Order Entry Operator ID; (v) ~~manual Order indicator~~; (vi) Order type; (vii) price or premium; (viii) quantity; and (viii) such additional information as may be prescribed from time to time by the Exchange.

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RULE 532. Reports of Large Positions and Ownership and Control Reporting

(a) Large Trader Reporting

(1) Each Trading Privilege Holder, including Clearing Members, and any other Person, that is subject to large trader reporting pursuant to CFTC regulations relating to Exchange Contracts, shall, in a form and manner prescribed by the Exchange, concurrently submit to the Exchange a copy daily report of all reportable positions at or above the Reportable Futures Level as set forth in the Table in Rule 533 ("Large Trader Report") that such Trading Privilege Holder or Person is required to report to the Commission pursuant to CFTC regulations. Positions at or above the Reportable Futures Level in a Contract in a discrete Commodity Code (pursuant to the Table in Rule 533) trigger reportable status. For an person account in reportable status in a Contract in a discrete Commodity Code, all Contract positions, regardless of size, in the same discrete Commodity Code must be reported.

(2) All Large Trader Reports shall be submitted in a manner and form acceptable to the Exchange. The Exchange may require that more than one Large Trader Report be submitted daily. The Regulatory Oversight Committee or the Exchange may require reports from any Trading Privilege Holder, including any Clearing Member, on a lesser number of positions than reflected in the Table in Rule 533.

(b) Ownership and Control Reporting

(1) Each Trading Privilege Holder, including Clearing Members, and any Trading Privilege Holder and any other Person, that is required pursuant to CFTC regulations to submit to the CFTC Form 102 (including CFTC Form 102A and CFTC Form 102B) relating to Exchange Contracts, must, in a form and manner prescribed by the Exchange, concurrently provide submit to the Exchange with a copy of the required Form 102 (including CFTC Form 102A and CFTC Form 102B) identifying the owner, any controlling parties and any additional required information for each reportable account.

~~(2) Each Trading Privilege Holder that is not a Clearing Member must report to the Exchange the same information regarding the identification and reporting of special accounts relating to Exchange Contracts that each a Clearing Member is required to report to the CFTC pursuant to CFTC regulations for reportable accounts.~~

~~(23) A reportable account for the purposes of Rule 532(b)(1) and (b)(2) is an account at or above the Reportable Futures Level and/or the Volume Threshold Reportable Level as identified in the Table in Rule 533.~~

~~(32) The applicable Large Trader Report, Form 102A and Form 102B must be submitted to the Exchange no later than 9:00 am Eastern-Central Time on the Business Day following the date on which the account becomes reportable. Additionally, Trading Privilege Holders must submit a revised ~~form~~ Form 102A and~~

Form 102B reflecting any material changes to the information previously provided to the Exchange within three Business Days of such changes becoming effective. In the absence of any material changes, the Exchange may require electronic submission of a new Form 102A or Form 102B on an annual basis for the maintenance of accurate records.

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RULE 540. Risk Controls

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(b) Risk control mechanisms may be set by ~~FIRM code~~ Customer Account Reference (CAR), product, and/or Contract ~~and/or match capacity allocation~~ depending upon the applicable risk control. Risk control settings applicable to a ~~Contract~~ product apply to all expirations or series, as applicable.

(c) ~~The Exchange will make available to Clearing Members risk control mechanisms made available to Clearing Members shall that~~ enable a Clearing Member to set risk control parameters for Trading Privilege Holders in relation to Orders submitted to the Cboe Digital Trading System with FIRM codes that are linked to a clearing number for that Clearing Member. Clearing Members are required to obtain access to and utilize the risk control mechanisms that the Exchange makes available for use by Clearing Members. The Exchange may make available to Trading Privilege Holders risk control mechanisms that enable the Trading Privilege Holder to set risk control parameters within the parameters that may be set by the Trading Privilege Holder's Clearing Member.

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RULE 603. Timing and Reporting Requirements for Privately Negotiated Trades

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(d) Reporting.

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(2) The notification to the Exchange of a Privately Negotiated Trade shall include (i) whether the Block Trade or the component of the EDRP transaction in a Contract is a single leg transaction or a transaction in a multi-leg transaction; (ii) the Contract identifier (or product and contract expiration for a future or product, expiration, strike price and type of option (put or call) in the case of an option), price (or premium for an option) and quantity of the Block Trade or the Contract leg of an EDRP, as applicable, and whether the Block Trade or the Contract leg of an EDRP, as applicable, is buy or sell; (iii) the time of execution (i.e., the time at which the parties agreed to the transaction); (iv) the arrangement time, if any (i.e., the time at which the

parties agreed to enter into the transaction at a later time); (v) Order Entry Operator ID; (vi) FIRM code (i.e., Clearing FIRM code and Trading Privilege Holder FIRM code); (vii) account; (viii) Customer Type Indicator code; (ix) the identity, quantity and price or premium of the Related Position (including the expiration, strike price, type of option (put or call) and delta in the case of an option), applicable only to EDRP transactions; and (ix) any other information required by the Exchange.