



August 16, 2024

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-2024-09E

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Regulation 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 updates to its existing Futures Market Maker Incentive Program (“Program”). The Program, including marked changes, is set forth in a segregated confidential **Exhibit A** to this submission. The updates to the Program (the “Amendment”) will become effective upon the close of trading on August 30, 2024.

### **Program Description**

Under the current Program, the Exchange makes available a cash incentive pool to be allocated pro-rata based on each eligible Program Participant’s volume, if they meet certain market making performance metrics each month in the Exchange’s margined futures product offerings.<sup>1</sup> The monthly performance metrics include specific two-sided quoting requirements for certain size, spread, and time in the market per contract expiration. The Program is designed to encourage CDE’s Trading Privilege Holders to make tight, liquid markets in futures products listed on the Exchange. Participation in the Program will strengthen the quality of price discovery and depth of the order book and increase liquidity in margined futures contracts listed on the Exchange.

### **Amendment Description**

The Amendment makes certain updates to the monthly market making performance metrics under the Program.<sup>2</sup> Specifically, the Amendment (i) reduces the number of contracts that need to be quoted on a monthly basis, (ii) modifies the time in market requirement from 85% to 80% during US hours for listed contracts, and (ii) amends the quoting requirements by (a) clarifying that time in the market is not measured at all times, but will be calculated only when a quote is meeting the Key Performance Indicators (“KPIs”), (b) revising the applicable KPI metrics, both size and width, and (c) updating the KPI requirements so that a set of “Front Month Metrics” apply to the front

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<sup>1</sup> CDE currently lists financially-settled margin futures on bitcoin (“FBT”) and on Ether (“FET”).

<sup>2</sup> The monthly market making performance metrics are provided in Appendix A to the Program.

month contract until the three trading days before expiration. Three days prior to expiration, a separate set of “Expiry Metrics” will apply to the expiring front month contract the “Front Month Metrics” will begin to apply to the next front month contract.

The Amendment updates the amount of the Program Incentive Pool available to be earned by qualified participants on a monthly basis and divides the pool to include both a fixed allocation, divided equally across qualified participants, as well as a volume-based pro-rata allocation, which is currently set forth in the Program. The Exchange believes that the changes to the Program Incentives will continue to support the Program’s design and the quality of price discovery and depth of the order book and increasing liquidity in margined futures contracts listed on the Exchange.

The Amendment also makes certain clarifying updates, including removal of references to products that are not currently listed, nor intended to be listed, on CDE, specifically: (i) physically-settled margined futures on bitcoin (BTC) and (ii) physically-settled margined futures on Ether (ETH).

The Exchange has received feedback from its market participants regarding capital costs associated with the Program as well as recent price movements in the underlying markets, and believes that the Amendment to the monthly market making performance metrics and program incentives will allow Market Makers under the Program to use their capital more effectively.

### **Core Principle Compliance**

CDE believes that the Programs are consistent with the Designated Contract Market (“DCM”) Core Principles under Section 5 of the Act. In particular, CDE believes that the Program is consistent with:

- DCM Core Principle 2 (Compliance with Rules) for the following reasons:
  - All Trading Privilege Holders, including all eligible Program Participants, are obligated by CDE Rule 314 (Application of Rules and Consent to Exchange Jurisdiction) to comply with Exchange Rules. Exchange Rules include prohibitions against fraudulent, non-competitive, unfair, and abusive trading practices, and the Exchange monitors trading in all futures contracts for violative activity such as wash trading, manipulative trading, and market abuse; and
  - The Program is open to all Trading Privilege Holders to apply to participate as a Program Participant and offers the same pro-rata cash pool incentive structure for meeting the same monthly market making performance metrics, including as amended, for all eligible Trading Privilege Holders.
- DCM Core Principle 4 (Prevention of Market Disruption) because CDE Rules prohibit participants, including all eligible Program Participants, from manipulating the market in, disrupting the orderly functioning of the market in, or creating a condition in which prices do not or will not reflect fair market values in CDE futures contracts, and CDE enforces compliance with such CDE Rules;
- DCM Core Principle 9 (Execution of Transactions) because the Program does not impact order execution priority or otherwise give any Program Participant an execution advantage. All CDE futures contracts are listed for trading in the open and competitive market, and

the incentives under the Program will not adversely impact price discovery in the centralized market;

- DCM Core Principle 12 (Protection of Markets and Market Participants) because the CDE Rules include prohibitions against abusive practices, including abusive practices committed by a party acting as an agent for a participant, and promote fair and equitable trading, all of which apply in relation to all activity in participation in the Program.
- Core Principle 16 (Conflicts of Interest) because CDE has policies and procedures in place that are designed to minimize conflicts of interest and establish a process for resolving conflicts of interest, and CDE enforces such policies and procedures. Specifically, the policies and procedures ensure that all CDE Trading Privilege Holders, including all Program Participants, are treated in the same manner; are subject to the same access requirements and fees, and receive or have access to the same information. CDE may not and does not share confidential information with any Program Participant about planned initiatives that would provide a Program Participant with an advantage or inside information in relation to other TPHs or market participants, and as such, Program Participants are not involved in any part of the implementation of or selection process for the Program.

The Program will continue to provide meaningful incentives and market making metrics to eligible Program Participants to engage on CDE's futures markets and will continue to facilitate and accelerate the growth of such markets. The Exchange believes that the Program enhances the price discovery process by promoting increased trading volume and liquidity in futures products traded on CDE's centralized market, thereby encouraging participation and growing quality markets on the Exchange. Accordingly, CDE believes that the impact of the Program is beneficial to the public and market participants.

### **Public Information**

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

Cboe Digital Exchange, LLC hereby certifies to the Commodity Futures Trading Commission, pursuant to the procedures set forth in Commission regulation §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  
Assistant General Counsel  
[rtenuta@cboe.com](mailto:rtenuta@cboe.com)

**EXHIBIT A**  
**[CONFIDENTIAL TREATMENT REQUESTED]**