



June 15, 2010

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-2010-05

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 this rule change ("Amendment") to implement changes related to the demutualization of Chicago Board Options Exchange, Incorporated ("CBOE").

The Amendment consists of the amendments to CFE's rules, policies and procedures, and fee schedule set forth in Exhibit A hereto and the amendments to CFE's Limited Liability Company Agreement which are shown in the marked copy of CFE's Fifth Amended and Restated Limited Liability Company Agreement set forth in Exhibit B hereto which shows the changes from CFE's current Limited Liability Company Agreement.

CBOE's demutualization will be consummated through a restructuring transaction that will be effectuated on or about June 18, 2010 ("Restructuring Transaction"). Currently and until the effectiveness of the Restructuring Transaction, CBOE is CFE's parent organization and the sole limited liability company member of CFE and CFE is a wholly-owned subsidiary of CBOE. As part of the Restructuring Transaction, both CBOE and CFE will become wholly-owned subsidiaries of a holding company called CBOE Holdings, Inc. ("CBOE Holdings"). Accordingly, as a result of the Restructuring Transaction, CBOE Holdings will become CFE's parent organization and the sole limited liability company member of CFE effective on or about June 18, 2010.

The CFE rule, policy and procedure, fee schedule, and Limited Liability Company Agreement changes related to CBOE's demutualization that are set forth in this Amendment consist of:

- (i) the inclusion in CFE's rules of a definition for CBOE Holdings;
- (ii) amendments to reflect that CBOE Holdings will be the sole limited liability company member of CFE and will be the party that elects CFE's directors;
- (iii) amendments to CFE's indemnification provisions to make them consistent with

the indemnification provisions of CBOE Holdings;

(iv) clarifications that any CFE officer may be a director, officer, or employee of CBOE Holdings as well as CBOE and that CFE's Board of Directors has the authority to review, affirm, modify, suspend, or overrule both actions and inactions of CFE committees, officers, employees, representatives, and agents;

(v) amendments to the transfer provisions relating to CFE Trading Privileges to make them consistent with the transfer provisions that will be applicable with respect to CBOE trading permits following the Restructuring Transaction; and

(vi) the replacement of the references in CFE's rules, policies and procedures, and fee schedule to CBOE memberships with references to CBOE trading permits or CBOE trading privileges due to the fact that CBOE will have trading permits instead of memberships following the Restructuring Transaction.

From a day-to-day operational perspective, CBOE will continue to have the same interaction with CFE that existed prior to the Restructuring Transaction. Thus, for example, the CBOE President will continue to act as the CFE President. Similarly, those CBOE employees who have acted as joint employees of CBOE and CFE will continue to do so and will continue to perform the same functions for CFE as they previously performed. In addition, the functions and responsibilities of the CFE Appeals Committee, Arbitration Committee, and Business Conduct Committee will continue to be performed by the CBOE appeals committee, arbitration committee, and business conduct committee, respectively.

From a regulatory perspective, the National Futures Association ("NFA") will continue to provide the same regulatory services to CFE under the existing Regulatory Services Agreement between NFA and CFE.

The Amendment will become effective on the date of effectiveness of the Restructuring Transaction.

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.

Questions regarding this submission may be directed to Arthur Reinstein at (312) 786-7570 or Jennifer Klebes at (312) 786-7466. Please reference our submission number CFE-2010-05 in any related correspondence.

CBOE Futures Exchange, LLC

By: 

Andrew Lowenthal
Managing Director

cc: Riva Adriance (CFTC)
Bella Rozenberg (CFTC)
National Futures Association
The Options Clearing Corporation

Exhibit A

(Amendments are shown with underlining for additions and [brackets] for deletions)

CFE Rulebook

* * * * *

Rule 114. CBOE Holdings

The term "CBOE Holdings" means CBOE Holdings, Inc., a Delaware corporation (including its successors).

Rule [114] 115. CBOE System

No changes to rule text.

Rule [115] 116. CBOE Workstation

No changes to rule text.

Rule [116] 117. CEA

No changes to rule text.

Rule [117] 118. Chairman of the Board

No changes to rule text.

Rule [118] 119. Class of Options

No changes to rule text.

Rule [119] 120. Clearing Corporation

No changes to rule text.

Rule [120] 121. Clearing Member

No changes to rule text.

Rule [121] 122. Commission

No changes to rule text.

Rule [122] 123. Commission Regulation

No changes to rule text.

Rule [123] 124. Commodity

No changes to rule text.

Rule [124] 125. Complainant

No changes to rule text.

Rule [125] 126. Constitutive Documents

No changes to rule text.

Rule [126] 127. Contract

No changes to rule text.

Rule [127] 128. Control

No changes to rule text.

Rule [128] 129. Customer

No changes to rule text.

Rule [129] 130. Delaware LLC Act

No changes to rule text.

Rule [130] 131. Director of Arbitration

No changes to rule text.

Rule [131] 132. Director of Enforcement

No changes to rule text.

Rule [132] 133. DPM

No changes to rule text.

Rule [133] 134. DPM Designee

No changes to rule text.

Rule [134] 135. Emergency

No changes to rule text.

Rule [135] 136. Exchange

No changes to rule text.

Rule [136] 137. Exchange Act

No changes to rule text.

Rule [137] 138. Exchange Act Regulation

No changes to rule text.

Rule [138] 139. Exchange of Contract for Related Position

No changes to rule text.

Rule [139] 140. Executive Committee

No changes to rule text.

Rule [140] 141. Exercise Price or Strike Price

No changes to rule text.

Rule [141] 142. Ex Parte Communication

No changes to rule text.

Rule [142] 143. Expiration Date

No changes to rule text.

Rule [143] 144. Expiration Month

No changes to rule text.

Rule [144] 145. FINRA

No changes to rule text.

Rule [145] 146. Future

No changes to rule text.

Rule [146] 147. Help Desk

No changes to rule text.

Rule [147] 148. Market Turner

No changes to rule text.

Rule [148] 149. Narrow-Based Stock Index Future

No changes to rule text.

Rule [149] 150. NFA

No changes to rule text.

Rule [150] 151. Option

No changes to rule text.

Rule [151] 152. Order

No changes to rule text.

Rule [152] 153. Passwords

No changes to rule text.

Rule [153] 154. Person

No changes to rule text.

Rule [154] 155. Premium

No changes to rule text.

Rule [155] 156. President

No changes to rule text.

Rule [156] 157. Public Director

No changes to rule text.

Rule [157] 158. Regulatory Oversight Committee

No changes to rule text.

Rule [158] 159. Related Party

No changes to rule text.

Rule [159] 160. Respondent

No changes to rule text.

Rule [160] 161. Responsible Trader

No changes to rule text.

Rule [161] 162. Rule of the Clearing Corporation

No changes to rule text.

Rule [162] 163. Rule of the Exchange

No changes to rule text.

Rule [163] 164. Secretary

No changes to rule text.

Rule [164] 165. Security Future

No changes to rule text.

Rule [165] 166. Series of Options

No changes to rule text.

Rule [166] 167. Single Stock Future

No changes to rule text.

Rule [167] 168. Specifications Supplement

No changes to rule text.

Rule [168] 169. Standing Committees

No changes to rule text.

Rule [169] 170. Subject

No changes to rule text.

Rule [170] 171. Trading Hours

No changes to rule text.

Rule [171] 172. Trading Privilege Holder

No changes to rule text.

Rule [172] 173. Trading Privileges

No changes to rule text.

Rule [173] 174. Treasurer

No changes to rule text.

Rule [174] 175. Vice President

No changes to rule text.

* * * * *

Rule 201. Management by the Board

(a) CBOE Holdings [CBOE], the sole limited liability company member of the Exchange, has vested the power to manage, operate and set policies for the Exchange exclusively in the Board. The Board shall consist of at least five individuals elected by CBOE Holdings [CBOE]. At least thirty-five percent of the directors on the Board shall be Public Directors. CBOE Holdings [CBOE] shall designate one of the directors on the Board to serve as Chairman of the Board. The individuals elected to the Board by CBOE Holdings [CBOE] and the director designated as Chairman of the Board by CBOE Holdings [CBOE] shall hold office for such term as may be determined by CBOE Holdings [CBOE] or until their respective successors are chosen. Members of the Board may be removed from, and substitute or additional members of the Board may be appointed to, the Board, at any time by CBOE Holdings [CBOE]. The Chairman of the Board may be removed from that position, and a different member of the Board may be designated as Chairman of the Board, at any time by CBOE Holdings [CBOE]. Each member of the Board is designated a "manager" of the Exchange within the meaning of the Delaware LLC Act.

(b) - (c) No change.

(d) Decisions of the Board shall require the approval of a majority of the members of the Board voting at a meeting; *provided* that should the Board be unable to render a decision due to a tie in the vote, then CBOE Holdings [CBOE], as the sole limited liability company member of the Exchange, may make the decision in lieu of the Board. The Board also may make decisions, without holding a meeting, in either of the following ways:

(i) - (ii) No change.

(d) - (e) No change.

Rule 202. Liability; Indemnification

(a) Except as otherwise provided by the Delaware LLC Act, neither [Neither] CBOE Holdings [the CBOE], solely by reason of being the sole limited liability company member of the Exchange, nor any director, [member of the Board or any] officer, employee or agent of the Exchange, solely by reason of acting in such capacity (including a Person having more than one such capacity), shall be personally liable for any expenses, liabilities, debts or obligations of the Exchange, whether arising in contract, tort or otherwise [except as otherwise provided by the Delaware LLC Act].

(b) The Exchange shall, to the fullest [full] extent permitted by applicable law as it presently exists or may hereafter be amended [Applicable Law], indemnify and hold harmless any Person who was or is made or is threatened to be[,] made a party [to any] or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that [such Person] he or she is or was a director [a limited liability company member of the Exchange, a member of the Board], officer[,] or member of a committee of the Board or the Exchange, or, while a director or

officer of the Exchange, is or was serving at the request of the Exchange as a director or officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise[, for, and hold each such Person harmless against, any and] or non-profit entity, including service with respect to employee benefit plans (collectively, a "Covered Person"), against all liability and loss suffered and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Covered Person in connection with a proceeding; provided, however, that no Covered Person shall be entitled to indemnification in connection with a proceeding (i) if that indemnification is impermissible under the CEA or the regulations thereunder, (ii) unless the Covered Person acted in good faith, not in a wanton and willful manner, and in a manner the Covered Person reasonably believed to be in or not opposed to the best interests of the Exchange, and (iii) with respect to any criminal proceeding, unless the Covered Person had no reasonable cause to believe the Covered Person's conduct was unlawful [him, her or it in connection with such action, suit or proceeding; provided that such indemnification shall not apply to any such Person if a court of competent jurisdiction has made a final determination that such claim resulted directly from the gross negligence, bad faith or willful misconduct of such Person]. Notwithstanding the preceding sentence, except as otherwise provided in paragraph (c) of this Rule 202, the Exchange shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board.

(c) Expenses (including attorneys' fees) incurred by a Covered Person in defending a proceeding, including appeals, shall, to the extent not prohibited by law, be paid by the Exchange in advance of the final disposition of such proceeding; provided, however, that the Exchange shall not be required to advance any expenses to a Person against whom the Exchange directly brings an action, suit or proceeding alleging that such Person (i) committed an act or omission not in good faith or (ii) committed an act of intentional misconduct or a knowing violation of law. Additionally, an advancement of expenses incurred by a Covered Person shall be made only upon delivery to the Exchange of an undertaking, by or on behalf of such Covered Person, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal or otherwise in accordance with Delaware law that such Covered Person is not entitled to be indemnified for such expenses under this Rule 202.

(d) If a claim for indemnification (following the final disposition of such action, suit or proceeding) or advancement of expenses under this Rule 202 is not paid in full within thirty days after a written claim therefor by the Covered Person has been received by the Exchange, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any action the Exchange shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

(e) The provisions of this Rule 202 shall be deemed to be a contract between the Exchange and each Covered Person who serves in any such capacity at any time while this Rule 202 is in effect, and any repeal or modification of any applicable law or of this Rule 202 shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

(f[c]) Persons not expressly covered by the foregoing provisions [paragraph (b)] of this Rule 202, such as those (i) who are or were employees or agents of the Exchange, or are or were

serving at the request of the Exchange as employees or agents of another corporation, partnership, joint venture, trust or other enterprise, or (ii) who are or were directors, officers, employees or agents of a constituent corporation absorbed in a consolidation or merger in which the Exchange was the resulting or surviving corporation, or who are or were serving at the request of such constituent corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified or advanced expenses to the extent authorized at any time or from time to time by the Board.

(g[d]) The rights conferred on any Covered Person [indemnification provided or permitted] by this Rule 202 shall not be deemed exclusive of any other rights to which such Covered Person [those indemnified] may be entitled by law [Applicable Law] or otherwise, and shall continue as to a Person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such Person.

[(e) The provisions of this Rule 202 shall be deemed to be a contract between the Exchange and each member of the Board, officer or member of a committee of the Board or the Exchange who serves in any such capacity at any time while this Rule 202 is in effect, and any repeal or modification of any Applicable Law or of this Rule 202 shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.]

(h) The Exchange's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit entity.

(i) Any repeal or modification of the foregoing provisions of this Rule 202 shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such repeal or modification.

(j) The Exchange may purchase and maintain insurance, at its expense, to protect itself and any director, manager, officer, trustee, employee or agent of the Exchange or another corporation, or of a partnership, limited liability company, joint venture, trust or other enterprise against any expense, liability or loss (as such terms are used in this Rule 202), whether or not the Exchange would have the power to indemnify such Person against such expense, liability or loss under the Delaware LLC Act.

* * * * *

Rule 205. Officers

The Board shall appoint a President, one or more Vice Presidents, a Secretary, a Treasurer, a Chief Regulatory Officer, a General Counsel and such other officers as it may deem necessary or appropriate from time to time, in each case for such term and on such other conditions as it sees fit. Any officer of the Exchange may be a director, officer or employee of CBOE Holdings or the CBOE.

* * * * *

Rule 213. Power of the Board to Review Exchange Decisions

The Board shall have the power and authority to call for review, and to affirm, modify, suspend or overrule, any and all decisions and actions or inactions of Standing Committees, Exchange committees and special committees of the Board formed pursuant to Rules 206 through 211; all officers of the Exchange appointed pursuant to Rule 205; and all other employees, representatives, or agents of the Exchange. Where applicable, this Board power and authority shall be subject to specific procedures set forth in the Rules of the Exchange.

* * * * *

Rule 302. Trading Privilege Holders

Each Trading Privilege Holder shall have the right to access the CBOE System, including the right to place Orders for each of its proprietary accounts and, if otherwise registered in any required capacity (if so required) to place Orders for the accounts of Customers.

Subject to the requirements and procedures set forth in this Chapter 3, Trading Privileges shall be offered to all applicants from time to time approved by the Exchange as eligible to be Trading Privilege Holders, subject to any limitations or restrictions from time to time imposed by the Exchange.

Trading Privileges are 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 Trading Privileges 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 [Trading Privileges acquired by virtue of any membership interest in the CBOE may be transferred, assigned, sold or leased together with such membership interest. Any transfer, assignment, sale or lease of any membership interest in the CBOE shall result in a simultaneous transfer, assignment, sale or lease, as applicable, of the Trading Privileges attached to such membership interest, subject to any requirements prescribed by the Exchange from time to time pursuant to Rule 304(a)].

By virtue of obtaining Trading Privileges, a Trading Privilege Holder shall not obtain any equity or other interest in the Exchange, including voting rights or rights to receive any dividends or other distributions, whether arising from a dissolution, merger or consolidation involving the Exchange or otherwise.

* * * * *

Rule 304. Eligibility for Trading Privileges

(a) Each trading permit holder [member] of CBOE with trading privileges on CBOE from time to time shall, by virtue of such trading permit [membership], be eligible to obtain Trading Privileges without any need to satisfy any additional criteria or requirements, except as may be otherwise prescribed by the Exchange from time to time; *provided* that (i) to the extent required by Applicable Law, such trading permit holder [member] is registered or otherwise permitted by the appropriate regulatory body or bodies to conduct business on the Exchange and

(ii) any such trading permit holder [member] that is not a Clearing Member shall be guaranteed by a Clearing Member in the manner described in Rule 1101.

Each Person that is not, at the time of application, a trading permit holder [member] of CBOE with trading privileges on CBOE and that wishes to have Trading Privileges in any Contracts must (i) be of good financial standing, (ii) to the extent required by Applicable Law, be registered or otherwise permitted by the appropriate regulatory body or bodies to conduct business on the Exchange, and (iii) if such Person is not a Clearing Member, such Person shall be guaranteed by a Clearing Member in the manner described in Rule 1101. In addition, in each such case, the Exchange may deny (or may condition) the grant of Trading Privileges, or may prevent a Person from becoming associated (or may condition an association) with a Trading Privilege Holder for the same reasons for which the NFA may deny or revoke registration of a futures commission merchant or if such Person:

(i) (A) has a net worth (excluding personal assets) below \$25,000 if such Person is an individual, (B) has a net worth (excluding personal assets) below \$50,000 if such Person is an organization, (C) has financial difficulties involving an amount that is more than 5% of such Person's net worth or (D) has a pattern of failure to pay just debts;

(ii) is unable satisfactorily to demonstrate a capacity to adhere to all applicable Rules of the Exchange, Rules of the Clearing Corporation, Commission Regulations (and, to the extent the Person applies for Trading Privileges with respect to Security Futures, applicable Exchange Act Regulations), including those concerning record-keeping, reporting, finance and trading procedures;

(iii) would bring the Exchange into disrepute; or

(iv) for such other cause as the Exchange reasonably may decide.

(b) - (d) No change.

Rule 305. Application for Trading Privileges

(a) - (c) No change.

(d) Each Trading Privilege Holder that is not registered or notice-registered with the NFA and that is not a CBOE trading permit holder [member] shall promptly update the following information on file with the Exchange through the submission of application materials by the Trading Privilege Holder and updates to those materials pursuant to this Rule 305(d) if that information becomes inaccurate or incomplete:

(i) disciplinary history information;

(ii) executive officer information; and

(iii) information regarding ownership interests in the Trading Privilege Holder.

* * * * *

CFE Policies and Procedures

* * * * *

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 [member] 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.

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.

[A TPH Permit is non-transferable and non-assignable, except in connection with a transfer, assignment, sale, or lease of a CBOE membership pursuant to Rule 302.] 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, 2010. 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.

* * * * *

CFE Fee Schedule
Effective [January 8, 2010] {Insert Date of Effectiveness of Restructuring Transaction},
2010

- | | | |
|------|--|--|
| 1.a. | Transaction Fees ^{1,2} in CBOE Volatility Index Futures,
[CBOE Russell 2000 Volatility Index Futures,] CBOE
S&P 500 3-Month Variance Futures and CBOE S&P 500
12-Month Variance Futures: | Per Contract Side |
| | A. <u>CFE TPH Permit Holder</u> | |
| | 1. CBOE <u>trading</u> [member] permit holder ³ | \$0.50 |
| | 2. Non-CBOE <u>trading permit holder</u> | \$1.00 |
| | B. CBOE [member] <u>trading permit holder</u> trading for
the <u>trading permit holder's</u> [member's] own account | \$0.50 |
| | [C. Non-CBOE member permit holder | \$1.00] |
| | <u>C.</u> [D.] Customer | \$1.00 |
| | <u>D.</u> [E.] Day Trade ⁴ | 50% of generally applicable transaction
fee |
| | <u>E.</u> [F.] Block Trade/Exchange of Contract
for Related Position Transaction (ECRP)
(Fee is in addition to other applicable transaction fees) | \$1.00 |
| | <u>E.</u> [G.] Position Transfers ⁵ | \$1.25 |
| 1.b. | Transaction Fees ² in Mini CBOE Volatility Index
Futures: | Per Contract Side |
| | A. <u>CFE TPH Permit Holder</u> | |
| | 1. CBOE <u>trading</u> [member] permit holder ³ | \$0.15 |
| | 2. Non-CBOE <u>trading permit holder</u> | \$0.25 |
| | B. CBOE [member] <u>trading permit holder</u> trading for
the <u>trading permit holder's</u> [member's] own account | \$0.15 |
| | [C. Non-CBOE member permit holder | \$0.25] |
| | <u>C.</u> [D.] Customer | \$0.25 |
| | <u>D.</u> [E.] ECRP Transaction | \$0.25 |
| | (Fee is in addition to other applicable transaction fees) | |
| | <u>E.</u> [F.] Position Transfers ⁵ | \$1.25 |

* * * * *

- | | | |
|----|---|--------|
| 3. | Application Fees: | Amount |
| | A. CBOE <u>trading permit holder</u> [member] | Waived |
| | B. Non-CBOE <u>trading permit holder</u> [member] | \$500 |

* * * * *

Remainder of Fee Schedule No change.

Footnotes to Fee Schedule Except Footnote 3 No change.

Footnote 3 to Fee Schedule: This rate is also assessed to any CFE TPH Permit holder that is not a CBOE trading permit holder but is [Including non-CBOE member permit holders that are] majority owned by a CBOE trading permit holder [member].

* * * * *

Exhibit B

(Amendments are shown with double-underlining for additions and ~~strike through~~ for deletions)

**FOURTH~~FIFTH~~ AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
CBOE FUTURES EXCHANGE, LLC**

~~THE UNDERSIGNED is executing this Fourth Amended and Restated Limited Liability Company Agreement (this "Agreement") for the purpose of amending and restating the Third Amended and Restated Limited Liability Company Agreement of~~WHEREAS, CBOE Futures Exchange, LLC, a Delaware limited liability company (the "Company"), dated as of February 18, 2005, was formed on July 16, 2002, pursuant to the provisions of the Delaware Limited Liability Company Act (6 Del.C. §§ 18-101, et seq.) (the "Act"), and;

WHEREAS, Chicago Board Options Exchange, Incorporated ("CBOE") was the sole member of the Company until the demutualization of CBOE;

WHEREAS, in connection with the demutualization of CBOE on _____, 2010, CBOE issued a dividend to CBOE Holdings, Inc. ("CBOE Holdings") that included all of CBOE's interest in the Company, and as a result the Company became a wholly-owned subsidiary of CBOE Holdings on that date;

WHEREAS, CBOE Holdings is executing this Fifth Amended and Restated Limited Liability Company Agreement (this "Agreement") for the purpose of amending and restating the Fourth Amended and Restated Limited Liability Company Agreement of the Company, dated as of April 26, 2010, to reflect that CBOE Holdings is now the sole member of the Company and to make other changes to the Agreement;

NOW THEREFORE, CBOE Holdings does hereby certify and agree as follows:

Section 1. Name. The name of the Company shall be "CBOE Futures Exchange, LLC" or such other name as the Board of Directors (as defined below) may from time to time hereafter designate.

Section 2. Purpose. The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.

Section 3. Offices. (a) The principal place of business and office of the Company shall be located at, and the Company's business shall be conducted from, such place or places as the Board of Directors may from time to time designate.

(b) The registered office of the Company in the State of Delaware shall be located at The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801. The name and address of the registered agent of the Company for service of process on the Company in the State of Delaware shall be The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

Section 4. Member. The sole Member ("Member") of the Company is ~~Chicago Board Options Exchange, Incorporated~~ CBOE Holdings.

Section 5. Term. The term of the Company commenced on the date of filing of the Certificate of Formation of the Company in accordance with the Act and shall continue until dissolution of the Company in accordance with the Act or Section 12 of this Agreement.

Section 6. Management of the Company. (a) The sole Member hereby exclusively vests the power to manage, operate and set policies for the Company in a management board (the "Board of Directors"). The Board of Directors of the Company shall consist of at least five individuals elected by the sole Member. At least thirty-five percent of the Directors on the Board of Directors shall be Public Directors. The sole Member shall designate one of the Directors on the Board to serve as Chairman of the Board of Directors. The individuals elected to the Board of Directors by the sole Member and the Director designated as Chairman of the Board of Directors by the sole Member shall hold office for such term as may be determined by the sole Member or until their respective successors are chosen. The current members of the Board of Directors and the current Chairman of the Board of Directors are listed in Schedule A, which shall automatically be amended as the individuals on the Board of Directors and the Director serving as Chairman of the Board of Directors change from time to time. Directors may be removed from, and substitute or additional Directors may be appointed to, the Board of Directors, at any time by the sole Member. The Chairman of the Board of Directors may be removed from that position, and a different member of the Board may be designated as Chairman of the Board, at any time by the sole Member. Each Director is designated a "manager" of the Company within the meaning of the Act.

(b) A "Public Director" is a member of the Board of Directors with the following qualifications:

(i) To qualify as a Public Director of the Company, an individual must first be found, by the Board of Directors, on the record, to have no relationship with the Company that reasonably could affect the independent judgment or decision making of the individual as a Public Director.

(ii) In addition, an individual shall not qualify as a Public Director if any of the following circumstances exist:

(A) The individual is, or was within the last year, an officer or employee of the Company or an officer or employee of any affiliate of the Company;

(B) The individual is, or was within the last year, a Trading Privilege Holder (as such term is defined by the rules of the Company promulgated in accordance with the Commodity Exchange Act and the regulations thereunder) or an officer or director of such a Trading Privilege Holder;

(C) The individual, or a firm with which the individual is an officer, director or partner, receives, or received within the last year, more than \$100,000 in combined annual payments from the Company, or any affiliate of the Company, for legal, accounting or consulting services. Compensation for services as a director of the Company or as a director of an affiliate of the Company does not count toward the \$100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned or revocable.

(D) Any of the above relationships in this paragraph (b)(ii) apply to a member of the Director's "immediate family," i.e., spouse, parents, children and siblings.

(iv) Public Directors of the Company may also serve as directors of Company affiliates if the individuals otherwise meet the definition of Public Director in this Section 6(b).

(v) For purposes of this Section 6(b), "affiliate" includes parents or subsidiaries of the Company or entities that share a common parent with the Company.

(vi) The Company shall disclose to the Commodity Futures Trading Commission which members of the Board of Directors are Public Directors, and the basis for those determinations.

(c) Meetings of the Board of Directors shall be held at the principal place of business of the Company or at any other place that the Chairman of the Board of Directors may determine from time to time. Members of the Board of Directors may participate in such meetings by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such a meeting. The presence of at least 50% of the Directors shall constitute a quorum for the transaction of business, provided that members of the Board that are recused with respect to a particular issue nevertheless shall be deemed present for the purpose of determining the existence of a quorum. Board meetings shall be held in accordance with the schedule established by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors, and shall be called by the Secretary of the Company upon the written request of any two Directors. The Secretary shall give at least one hour's notice of such meeting to each Director.

(d) Decisions of the Board of Directors shall require the approval of a majority of the Directors voting at a meeting; provided that should the Board of Directors be unable to render a decision due to a tie in the vote, then the sole Member may make the decision in lieu of the Board of Directors. The Board of Directors also may make decisions, without holding a meeting, in either of the following ways:

(i) The Board of Directors may make decisions by written consent of all of the Directors. Any such written consent may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts together constituting the same consent. Written consent also may be transmitted by means of "electronic transmission" as described in the Act.

(ii) The members of the Board of Directors may be individually polled to vote on issues (x) requiring prompt action or action prior to the next regularly scheduled Board meeting and (y) where the calling of a special Board meeting, in the opinion of the Chairman of the Board of Directors or the President of the Company, would be impractical. Any such poll may be conducted by telephone, by means of electronic transmission, and/or in person. An attempt shall be made to contact each Director in any such poll. A poll reaching at least 50% of the Directors shall be sufficient to constitute a quorum of the Board and the approval of a majority of the Directors voting in such a poll shall constitute requisite Board action, even if all Directors are not reached in connection with the poll. The results of any such poll shall be reported at the next physical meeting of the Board of Directors.

The Board of Directors may establish such other rules and procedures not inconsistent with the foregoing for its deliberations as it may deem necessary or desirable.

(e) The Executive Committee of the Company shall consist of the Chairman of the Board of Directors of the Company and one or more other members of the Board of Directors appointed by the Chairman of the Board of Directors with the approval of the Board of Directors. At least thirty-five percent of the Directors on the Executive Committee shall be Public Directors. The Chairman of the Board of Directors shall be the Chairperson of the Executive Committee. The Executive Committee shall have and may exercise all of the powers and authority of the Board of Directors in the management of the business and affairs of the Company, except that it shall not have any power or authority to amend the certificate of formation of the Company or this Agreement, each as amended or otherwise modified from time to time; adopt any agreement of merger or consolidation; approve the sale, lease or exchange of all or substantially all of the Exchange's property and assets; or approve the dissolution of the Company or a revocation of a dissolution.

(f) The Board of Directors shall have the power by itself or through agents, and shall be authorized and empowered on behalf and in the name of the Company, to carry out all of the objects and purposes of the Company and to perform all acts and enter into and perform all acts and other undertakings that it may in its discretion deem necessary or advisable in that regard, in each case in accordance with the provisions of this Agreement. A Director acting individually in his or her capacity shall have the power to act for or bind the Company to the extent authorized to do so by the Board of Directors. The Chairman of the Board of Directors, the President and the Secretary are each hereby designated as authorized persons, within the meaning of the Act, to execute and file any amendments to, or restatements of, the Certificate of Formation with the Secretary of State of the State of Delaware and any applicable filings as a foreign limited liability company in any State where such filings may be necessary or desirable. The Board of Directors may confer upon any officer of the Company elected in accordance with paragraph (f) below, any of the powers of the Board of Directors set forth in this Agreement.

(g) The President of the Company shall be the individual serving as the President of the sole Member from time to time. The Board of Directors shall have the power to elect such other officers of the Company as it may deem necessary or appropriate from time to time. All officers of the Company elected by the Board of Directors shall hold office for such term as may be determined by the Board of Directors or until their respective successors are chosen. Any officer, other than the Chairman of the Board of Directors and the President, may be removed from office at any time either with or without cause by the Chairman of the Board of Directors, the President or the affirmative vote of a majority of the Directors then in office. Each of the officers of the Company shall have the powers and duties prescribed by the Board of Directors and, unless otherwise prescribed by the Board of Directors, shall have such further powers and duties as ordinarily pertain to that office.

Section 7. Liability; Indemnification. (a) ~~The sole Member, any Director or~~ any ~~Except as otherwise provided by the Act, neither CBOE Holdings, solely by reason of being the sole Member of the Company, nor any director,~~ officer, employee or agent of the Company, solely by reason of acting in such capacity (including a person having more than one such capacity), shall ~~not~~ be personally liable for any expenses, liabilities, debts or obligations of the Company ~~solely by reason of acting in such capacity, except as otherwise provided by the Act, whether arising in contract, tort or otherwise.~~

(b) The Company shall, to the ~~full~~fullest extent permitted by ~~law~~applicable law as it presently exists or may hereafter be amended, indemnify and hold harmless any person who was or is made or is threatened to be; made a party ~~to any~~ or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that ~~such person~~he or she is or was the Member, a Director a director, officer, or member of a committee of the Board of Directors or the Company, or, while a director or officer of the Company, is or was serving at the request of the Company as a director or officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, ~~for, and hold each such person harmless against, any and or non-profit entity, including service with respect to employee benefit plans (collectively, a "Covered Person"), against all liability and loss suffered and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her~~such Covered Person in connection with such action, suit or proceeding; provided that such indemnification shall not apply to any such person if a court of competent jurisdiction has made a final determination that such claim resulted directly from the gross negligence, bad faith or willful misconduct of such person a proceeding; provided, however, that no Covered Person shall be entitled to indemnification in connection with a proceeding (i) if that indemnification is impermissible under the Commodity Exchange Act or the regulations thereunder, (ii) unless the Covered Person acted in good faith, not in a wanton and willful manner, and in a manner the Covered Person reasonably believed to be in or not opposed to the best interests of the Company, and (iii) with respect to any criminal proceeding, unless the Covered Person had no reasonable cause to believe the Covered Person's conduct was unlawful. Notwithstanding the preceding sentence, except as otherwise provided in Section (c) of this Section 7, the Company shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the Board of Directors of the Company.

(c) Expenses (including attorneys' fees) incurred by a Covered Person in defending a proceeding, including appeals, shall, to the extent not prohibited by law, be paid by the Company in advance of the final disposition of such proceeding; provided, however, that the Company shall not be required to advance any expenses to a person against whom the Company directly brings an action, suit or proceeding alleging that such person (i) committed an act or omission not in good faith or (ii) committed an act of intentional misconduct or a knowing violation of law. Additionally, an advancement of expenses incurred by a Covered Person shall be made only upon delivery to the Company of an undertaking, by or on behalf of such Covered Person, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal or otherwise in accordance with Delaware law that such Covered Person is not entitled to be indemnified for such expenses under this Section 7.

(d) If a claim for indemnification (following the final disposition of such action, suit or proceeding) or advancement of expenses under this Section 7 is not paid in full within thirty days after a written claim therefor by the Covered Person has been received by the Company, the Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any action the Company shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

(e) The provisions of this Section 7 shall be deemed to be a contract between the Company and each Covered Person who serves in any such capacity at any time while this Section 7 is in effect, and any repeal or modification of any applicable law or of this Section 7 shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

~~(e)(f)~~ Persons not expressly covered by paragraph (b) the foregoing provisions of this Section 7, such as those (i) who are or were employees or agents of the Company, or are or were serving at the request of the Company as employees or agents of another corporation, partnership, joint venture, trust or other enterprise, or (ii) who are or were directors, officers, employees or agents of a constituent corporation absorbed in a consolidation or merger in which the Company was the resulting or surviving corporation, or who are or were serving at the request of such constituent corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified or advanced expenses to the extent authorized at any time or from time to time by the Board of Directors.

~~(d) The indemnification provided or permitted~~ (g) The rights conferred on any Covered Person by this Section 7 shall not be deemed exclusive of any other rights to which those indemnified such Covered Person may be entitled by law or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

~~(e) The provisions of this Section 7 shall be deemed to be a contract between the Company and each Director, officer or member of a committee of the Board of Directors or the Company who serves in any such capacity at any time while this Section 7 is in effect, and any repeal or modification of any applicable law or of this Section 7 shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.~~

(h) The Company's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or non-profit entity.

(i) Any repeal or modification of the foregoing provisions of this Section 7 shall not adversely affect any right or protection hereunder of any Covered Person in respect of any act or omission occurring prior to the time of such repeal or modification.

(j) The Company may purchase and maintain insurance, at its expense, to protect itself and any director, manager, officer, trustee, employee or agent of the Company or another corporation, or of a partnership, limited liability company, joint venture, trust or other enterprise against any expense, liability or loss (as such terms are used in this Section 7), whether or not the Company would have the power to indemnify such person against such expense, liability or loss under the Act.

Section 8. Capital Contributions. The sole Member may make capital contributions to the Company in such amounts and at such times as it deems necessary or appropriate in its sole discretion.

Section 9. Assignment of Member's Interest. The sole Member may assign all, but not part, of its interest to any of its affiliates.

Section 10. Distributions. Distributions of cash or other assets of the Company shall be made at such time and in such amounts as the sole Member, by itself or through a power of attorney, or the Board of Directors may determine.

Section 11. Return of Capital. The sole Member has no right to receive, but the Board of Directors has absolute discretion to make, any distributions to the sole Member which include a return of all or any part of the sole Member's capital contribution; provided that upon the dissolution of the Company, the assets of the Company shall be distributed as provided in Section 18-804 of the Act.

Section 12. Dissolution. The Company shall be dissolved and its affairs wound up and terminated upon the determination of the Board of Directors or upon the consent of the sole Member to dissolve the Company. Such dissolution and winding up shall be carried out in accordance with the Act.

Section 13. Fiscal Year. The fiscal year of the Company shall be the twelve month period ending on December 31 of each year.

Section 14. Amendments. This Agreement may be amended only upon the written consent of the sole Member.

Section 15. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be subject to, and governed by, the laws of the State of Delaware.

IN WITNESS WHEREOF, the undersigned has duly executed this Fourth Amended and Restated Limited Liability Company Agreement as of ~~April 26,~~ _____, 2010.

~~Chicago Board Options Exchange, Incorporated,~~
CBOE Holdings, Inc.,
a Delaware ~~non-stock~~ corporation

By: _____
Edward J. Joyce
President and Chief Operating Officer

SCHEDULE A
BOARD OF DIRECTORS

Names

Edward Tilly, Chairman

Lawrence Blum

Michael Gorham

~~Gerald McNulty~~

Israel Nelken

Vacancy