

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97354; File No. SR–NYSE–2023–12]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Adopt New Section 303A.14 of the NYSE Listed Company Manual To Establish Listing Standards Related to Recovery of Erroneously Awarded Incentive-Based Executive Compensation

April 24, 2023.

On February 22, 2023, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to adopt new Section 303A.14 of the NYSE Listed Company Manual to require issuers to develop and implement a policy providing for the recovery of erroneously awarded incentive-based compensation received by current or former executive officers. The proposed rule change was published for comment in the **Federal Register** on March 13, 2023.<sup>3</sup>

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is April 27, 2023. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant

to section 19(b)(2) of the Act,<sup>5</sup> designates June 11, 2023, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2023–12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Sherry R. Haywood,

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97358; File No. SR–CFE–2023–002]

### Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Reporting Requirements for Exchange of Contract for Related Position Transactions and Block Trades

April 24, 2023.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on April 14, 2023 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 April 14, 2023.

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

The Exchange proposes to streamline the process to report an Exchange of Contract for Related Position (“ECRP”)

transaction<sup>3</sup> or Block Trade<sup>4</sup> when both parties to the transaction are utilizing the same Authorized Reporter to report the transaction to the Exchange. 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 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, Proposed Rule Change

###### 1. Purpose

CFE Rule 414 (Exchange of Contract for Related Position) includes provisions that govern the execution of ECRP transactions in CFE products, and CFE Rule 415 (Block Trades) includes provisions that govern the execution of Block Trades in CFE products. Rule 414(i) and Rule 415(f) require each CFE Trading Privilege Holder (“TPH”) that desires to execute ECRP transactions and Block Trades in CFE products to designate at least one Authorized Reporter that is pre-authorized by a CFE Clearing Member to report ECRP

<sup>3</sup> An ECRP transaction consists of a transaction in a Contract listed on CFE and a transaction in a related position that is negotiated off of CFE’s trading facility and is then reported to CFE which meets the parameters for an ECRP transaction under CFE’s rules. The related position must have a high degree of price correlation to the underlying of the Contract transaction so that the Contract transaction would serve as an appropriate hedge for the related position. In every ECRP transaction, one party is the buyer of (or the holder of the long market exposure associated with) the related position and the seller of the corresponding Contract and the other party is the seller of (or the holder of the short market exposure associated with) the related position and the buyer of the corresponding Contract.

<sup>4</sup> A Block Trade is a large transaction in a Contract listed on CFE that is negotiated off of CFE’s trading facility and is then reported to CFE which meets the parameters for a Block Trade under CFE’s rules.

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 97055 (March 7, 2023), 88 FR 15480. Comments received on the proposed rule change are available at: <https://www.sec.gov/comments/sr-nyse-2023-12/srnyse202312.htm>.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30–3(a)(31).

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

<sup>2</sup> 7 U.S.C. 7a–2(c).

transactions and Block Trades to the Exchange on behalf of the TPH.

Rule 414(l) and Rule 415(i) describe the process that Authorized Reporters must use to notify the Exchange of ECRP transactions and Block Trades. The current notification process includes three steps. First, the Authorized Reporter that is the initiator of a notification of an ECRP transaction or Block Trade enters information regarding the transaction into the CFE System. Second, the Authorized Reporter that is the initiator of the notification of the ECRP transaction or Block Trade provides a reference ID generated for the transaction by the CFE System to the Authorized Reporter for the contra side of the transaction. Third, the Authorized Reporter for the contra side of the ECRP transaction or Block Trade accepts the notification to the Exchange of the transaction as entered by the initiating Authorized Reporter and enters contra side information for the transaction.

As a result, an Authorized Reporter that is reporting an ECRP transaction or Block Trade to the Exchange on behalf of both parties to the transaction must go through these three steps in order to report the transaction to the Exchange. In practice, this means that the Authorized Reporter must enter information for one side of the transaction on one screen within a Block/ECRP reporting tool that is a component of the CFE System, receive an email with a reference ID for the transaction generated by the CFE System, and then use the reference ID to separately enter information for the other side of the transaction on another screen within the Block/ECRP reporting tool.

CFE is proposing to amend Rule 414(l) and Rule 415(i) to allow an Authorized Reporter that is reporting an ECRP transaction or Block Trade to the Exchange on behalf of both parties to the transaction to report the transaction in one step. In practice, this would mean that the Authorized Reporter may enter at one time all of the required information for both sides of the transaction on one screen within the Block/ECRP reporting tool. The Authorized Reporter would no longer need to receive an email with a reference ID for the transaction or to go to another screen within the Block/ECRP reporting tool to enter the information for the contra side of the transaction. The proposed rule change does not change the information that is required to be reported to the Exchange relating to ECRP transactions and Block Trades.

The proposed rule change revises Rule 414 and Rule 415 in the following manner in order to allow an Authorized Reporter that is reporting an ECRP transaction or Block Trade to the Exchange on behalf of both parties to the transaction to do so in one step.

The proposed rule change proposes to split both Rule 414(l) and Rule 415(i) into two primary subsections. The first subsection in both proposed new Rule 414(l)(i) and proposed new Rule 415(i)(i) describes the current reporting process that would continue to apply when the parties to an ECRP transaction or Block Trade are using different Authorized Reporters to report the transaction to the Exchange. The second subsection in both proposed new Rule 414(l)(ii) and proposed new Rule 415(i)(ii) provides that if the parties to an ECRP transaction or Block Trade are each utilizing the same Authorized Reporter to notify the Exchange of the terms of the transaction, the Authorized Reporter is able to enter all of the required information regarding both sides of the transaction into the CFE System and to fully report the transaction to the Exchange.

Similarly, the proposed rule change proposes to revise Rule 414(m) and Rule 415(j) to provide for two alternative ways in which an ECRP transaction or Block Trade would be deemed to have been fully reported to the Exchange for timing purposes in connection with measuring adherence to permissible reporting period and reporting deadline provisions within Rule 414 and Rule 415. Proposed New Rule 414(m)(i) and proposed new Rule 415(j)(i) retain the current provision that an ECRP transaction or Block Trade shall be deemed to have been fully reported to the Exchange when the full report of the transaction has been received by the CFE System matching engine following notification to the CFE System of required information relating to the transaction by the initiating Authorized Reporter and acceptance and notification to the CFE System of required information relating to the transaction by the contra side Authorized Reporter. Proposed new Rule 414(m)(ii) and proposed new Rule 415(j)(ii) provide that an ECRP transaction or Block Trade shall be deemed to have been fully reported to the Exchange when the full report of the transaction has been received by the CFE System matching engine following notification to the CFE System of required information relating to the transaction by a single Authorized Reporter for both parties to the transaction.

The proposed rule change also includes some non-substantive proposed wording and organizational changes to Rule 414(l), Rule 414(m), Rule 415(i), and Rule 415(j). For example, the Exchange proposes to include revised lead-in language in Rule 414(l) and Rule 415(i) indicating that the CFE System includes a mechanism, in a form and manner provided by the Exchange, for Authorized Reporters to enter required information regarding an ECRP transaction or Block Trade, as applicable. As proposed to be revised, Rules 414(l) and Rule 415(i) then include in separate subsections, as further described above, the reporting provisions relating to the scenario in which both parties to an ECRP transaction or Block Trade, as applicable, are utilizing the same Authorized Reporter and the reporting provisions relating to the scenario in which the parties to an ECRP transaction or Block Trade are not utilizing the same Authorized Reporter. As another example, the Exchange proposes to change the organization of Rule 414(l) and Rule 415(i) by breaking out the provisions into additional subparagraphs with new numbering and lettering for those subparagraphs.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of sections 6(b)(1)<sup>6</sup> and 6(b)(5)<sup>7</sup> in particular, in that it is designed:

- to contribute to the ability of the Exchange to enforce compliance by its TPHs and persons associated with its TPHs 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities,
- to remove impediments to and perfect the mechanism of a free and open market and a national market system,
- and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change contributes to the Exchange's ability to enforce compliance by its TPHs and persons associated with its TPHs with the

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(1).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

provisions of the rules of the Exchange and to carry out the Exchange's responsibilities as a self-regulatory organization in that the proposed rule change facilitates the collection of trade information that the Exchange may utilize in reviewing whether ECRP transactions and Block Trades comply with Exchange rules.

Additionally, the proposed rule change proposes to make clear to TPHs the reporting process for the submission of required information regarding an ECRP transaction or Block Trade when an Authorized Reporter is reporting the transaction to the Exchange on behalf of both parties to the transaction by describing that process in CFE's rules. The proposed rule change also contributes to facilitating compliance with CFE rules by making it easier for Authorized Reporters to provide information to the Exchange regarding ECRP transactions and Block Trades when an Authorized Reporter is reporting both sides of the transaction. Similarly, the proposed rule change improves the functioning of the reporting mechanism for ECRP transactions and Block Trades and thus CFE's market by making the process to report these types of transactions more efficient where the Authorized Reporter is reporting both sides of the transaction. The proposed rule change does not substantively change the existing reporting requirements for ECRP transactions or Block Trades and instead serves to simplify the reporting process in the scenario in which both parties to an ECRP transaction or Block Trade, as applicable, are utilizing the same Authorized Reporter.

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

CFE does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change will not burden intra-market competition because the proposed rule amendments will apply equally to all TPHs. The Exchange also believes that the proposed rule change will not burden inter-market competition because the proposed rule change contributes to the Exchange's ability to enforce compliance with its rules and to carry out its responsibilities as a self-regulatory organization by contributing to the Exchange's ability to obtain trade information that it may utilize in reviewing whether ECRP transactions and Block Trades comply with Rule 414 and 415.

#### *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 April 28, 2023. 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>8</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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CFE-2023-002 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-2023-002. This file number should be included on the subject line if email 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 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CFE-2023-002, and should be submitted on or before May 19, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Sherry R. Haywood,**  
*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

### **Sunshine Act Meetings**

**TIME AND DATE:** Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, May 3, 2023 at 10:00 a.m.

**PLACE:** The meeting will be webcast on the Commission's website at [www.sec.gov](http://www.sec.gov).

**STATUS:** This meeting will begin at 10:00 a.m. (ET) and will be open to the public via webcast on the Commission's website at [www.sec.gov](http://www.sec.gov).

#### **MATTERS TO BE CONSIDERED:**

1. The Commission will consider whether to adopt rule amendments that modernize and improve disclosure about repurchases of an issuer's equity securities that are registered under the Securities Exchange Act of 1934, including requiring issuers to present the disclosure using a structured data language.

2. The Commission will consider whether to adopt amendments to Form PF, the confidential reporting form for certain registered investment advisers to private funds, to require current reporting for certain private fund advisers, and revise certain other reporting requirements.

<sup>8</sup> 15 U.S.C. 78s(b)(1).

<sup>9</sup> 17 CFR 200.30-3(a)(73).