

## **CFE Regulatory Circular RG11-22**

To: CFE Trading Privilege Holders (TPHs)

From: Regulatory Services Division

Date: July 6, 2011

Re: New SEC Rule 15c3-5 and Its Applicability to Security Futures

Limited Extension of Compliance Date

## Background

It is our understanding that recently adopted Securities and Exchange Commission (SEC) Rule 15c3-5 applies to a broker-dealer with market access to trading in any securities, including, among others, any security futures.

CBOE Futures Exchange, LLC (CFE) currently offers trading in one security future (the CBOE Gold ETF Volatility Index (GVZ) security future). Therefore, CFE TPHs that are broker-dealers and that trade in or submit orders for the GVZ security future are subject to Rule 15c3-5. Rule 15c3-5 is also applicable to any other security futures that CFE may list for trading in the future.

Rule 15c3-5 is not applicable to any futures contracts or options on futures contracts traded on CFE that are not security futures, such as the CBOE Volatility Index (VIX) future. It should also be noted that the Rule only applies to broker-dealers. Additionally, notice-registered security futures broker-dealers are exempt from Section 15 of the Securities Exchange Act of 1934 (Exchange Act), and therefore are not subject to Rule 15c3-5.

## Compliance Date

The purpose of this circular is to advise CFE TPHs that the SEC recently issued an order that granted a limited extension to the compliance date for SEC Rule 15c3-5. The limited extension provides, in pertinent part, that:

• The compliance date for <u>only the requirements of Rule 15c3-5(c)(1)(i)</u> for <u>all securities</u> has been extended to <u>November 30, 2011</u>. Rule 15c3-5(c)(1)(i) pertains to financial risk management controls and supervisory procedures that are reasonably designed to, "[p]revent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds[.]"

The compliance date for all provisions of Rule 15c3-5 not subject to the limited extension noted above and in footnote 1 below remains <u>July 14, 2011</u>. The SEC extension order can be viewed at the following link: <a href="http://www.sec.gov/rules/final/2011/34-64748.pdf">http://www.sec.gov/rules/final/2011/34-64748.pdf</a>.

<sup>&</sup>lt;sup>1</sup> The compliance date for <u>all</u> the requirements of Rule 15c3-5 for <u>fixed income securities</u> has also been extended to <u>November 30, 2011</u>.

## **Additional Information**

For additional information about SEC Rule 15c3-5, please refer to CFE Regulatory Circular RG11-17. Please note that these circulars contain a summary of Rule 15c3-5 and the actual rule text and SEC adopting release are controlling.<sup>2</sup> Therefore, TPHs should also review the adopting release on the SEC website at <a href="http://www.sec.gov/rules/final/2010/34-63241.pdf">http://www.sec.gov/rules/final/2010/34-63241.pdf</a>. The SEC has also made available a Small Entity Compliance Guide, which is located at <a href="http://www.sec.gov/rules/final/2010/34-63241-secg.htm">http://www.sec.gov/rules/final/2010/34-63241-secg.htm</a>. If you have questions regarding SEC Rule 15c3-5, you should speak with your firm's compliance or legal department. You may also contact the SEC. To the extent you have further questions, those inquiries may also be directed to the Regulatory Services Division at (312) 786-7730 or (312) 786-8460.

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<sup>&</sup>lt;sup>2</sup> Please note that, in the adopting release, the SEC indicated that a broker-dealer relying on risk management technology developed by third parties should perform appropriate due diligence to help assure the controls are reasonably designed, effective, and otherwise consistent with Rule 15c3-5. Mere reliance on representations of the third party technology developer – even if an exchange or other regulated entity – is insufficient to meet this due diligence standard.