



## CFE Regulatory Circular RG19-002

**Date:** May 23, 2019

**To:** Trading Privilege Holders

**From:** Regulatory Division

**RE:** Account Aggregation Exemptions for Position Limits and Position Accountability

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Cboe Futures Exchange, LLC (“CFE” or the “Exchange”) is issuing this Regulatory Circular to inform CFE Trading Privilege Holders (“TPHs”) of CFE Rule Certification Filing [CFE-2019-006](#), which, among other things, amends CFE Rules 412 and 412A to permit TPHs to disaggregate positions for the purposes of CFE position limits and CFE position accountability levels under certain circumstances. The rule amendments in [CFE-2019-006](#) will become effective on **May 24, 2019**. TPHs are required to submit a request to the Exchange and receive approval from the Exchange prior to disaggregating positions. The exemption request procedures are described in further detail below.

### Position Aggregation Requirements and Exemptions

Pursuant to CFE Rules 412(e)(i) and 412A(f)(i), for the purposes of applying position limits and position accountability levels established by the Exchange, all positions in accounts for which any Person,<sup>1</sup> by power of attorney or otherwise, directly or indirectly controls trading or holds a 10 percent or greater ownership or equity interest must be aggregated with the positions held and trading done by that Person unless an exemption applies. For the purpose of determining the positions in accounts for which any Person controls trading or holds a 10 percent or greater ownership or equity interest, positions or ownership or equity interests held by, and trading done or controlled by, two or more Persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions or ownership or equity interests were held by, or the trading were done or controlled by, a single Person.

Under CFE Rules 412(e)(iii) and 412A(f)(iii), the aggregation requirements of CFE Rules 412(e)(i) and 412A(f)(i), respectively, shall not apply if and to the extent: (1) an exemption to the aggregation of positions recognized by the Commodity Futures Trading Commission (“CFTC”) under CFTC Regulation [150.4\(b\)](#) is applicable, as those exemptions are applied by CFE to positions in CFE contracts;<sup>2</sup> and (2) a TPH has received approval from the Exchange to apply that exemption.<sup>3</sup>

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<sup>1</sup> The term “Person” is defined in Chapter 1 of the CFE Rulebook as “any natural person, association, partnership, limited liability company, joint venture, trust or corporation.”

<sup>2</sup> See CFE Rules 412(e)(iii)(A)(1) and 412A(f)(iii)(A)(1). The provisions of CFTC Regulation 150.4(b), which actually apply to certain commodities, have been incorporated by reference into CFE Rules 412(e)(iii) and 412A(f)(iii) and are applicable to positions in CFE Contracts under the CFE Rules.

<sup>3</sup> See CFE Rules 412(e)(iii)(A)(2) and 412A(f)(iii)(A)(2).

Notwithstanding the exemption provisions of CFE Rules 412(e)(iii) and 412A(f)(iii), for the purpose of applying position limits and position accountability levels established by the Exchange, any Person that, by power of attorney or otherwise, holds or controls the trading of positions in more than one account or pool with substantially identical trading strategies, must aggregate all such positions (determined pro rata) with all other positions held and trading done by that Person and the positions in accounts which the Person must aggregate pursuant to CFE Rules Rule 412(e)(i) and 412A(f)(i).<sup>4</sup>

### **Aggregation Exemption Requests**

TPHs seeking an aggregation exemption from the Exchange pursuant to CFE Rules 412(e)(iii) and/or 412A(f)(iii) under any of the aggregation exemption provisions provided for in CFTC Regulation [150.4\(b\)](#) must file an exemption request with the Exchange in a form and manner prescribed by the Exchange, regardless of whether or not a notice is required to be filed with the CFTC pursuant to CFTC Regulation [150.4\(b\)](#).<sup>5</sup>

TPHs must file aggregation exemption requests with CFE Regulation via e-mail at [cfereg@cboe.com](mailto:cfereg@cboe.com). Pursuant to CFE Rules 412(e)(iii)(C) and 412A(f)(iii)(C), aggregation exemption requests must include:

1. Identification of the aggregation exemption under CFTC Regulation [150.4\(b\)](#) pursuant to which the disaggregation is requested;
2. A description of the relevant circumstances that warrant disaggregation;
3. A statement of a senior officer or representative of the TPH certifying that the conditions set forth in the applicable aggregation exemption provision have been met; and
4. Any other information as may be required by the Exchange.

Upon Exchange request, any TPH that is seeking an aggregation exemption or that has received an aggregation exemption under CFE Rules 412(e)(iii) and/or 412A(f)(iii) shall provide any information requested by the Exchange in order to demonstrate that the TPH meets or continues to meet the requirements of the exemption.<sup>6</sup> Additionally, in the event of a material change to the information provided in the aggregation exemption request, an updated or amended aggregation exemption request detailing the material change shall promptly be filed with the Exchange via e-mail at [cfereg@cboe.com](mailto:cfereg@cboe.com).<sup>7</sup>

Aggregation exemptions pursuant to Rules 412(e)(iii) and 412A(f)(iii) will not become effective until the TPH has submitted an aggregation exemption request complying with the above requirements and the aggregation exemption request has been approved by the Exchange.<sup>8</sup> Failure to receive Exchange approval prior to exceeding any Exchange established position limit or position accountability level may be considered a violation of CFE Rules 412 and/or 412A and may result in disciplinary action.

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<sup>4</sup> See CFE Rules 412(e)(ii) and 412A(f)(ii).

<sup>5</sup> See CFE Rules 412(e)(iii)(B) and 412A(f)(iii)(B).

<sup>6</sup> See CFE Rules 412(e)(iii)(E) and 412A(f)(iii)(E).

<sup>7</sup> See CFE Rules 412(e)(iii)(F) and 412A(f)(iii)(F).

<sup>8</sup> See CFE Rules 412(e)(iii)(D) and 412A(f)(iii)(D).

### **Additional Information**

This regulatory circular is not intended to provide a comprehensive description of position aggregation requirements and position aggregation exemptions under CFE rules. TPHs should refer to [CFE-2019-006](#), CFE Rules 412 and 412A, and CFTC Regulation 150.4(b) (as and to the extent incorporated into those Rules) for additional detail.

For questions, please contact CFE Regulatory Interpretations at (312) 786-7229 or [CFERegInterps@cboe.com](mailto:CFERegInterps@cboe.com).