



June 3, 2011

Via Electronic Submission

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Supplemental Comment Letter on Proposed Rulemaking Relating to
Core Principles and Other Requirements for Designated Contract Markets;
RIN 3038-AD09, 75 FR 80572 (December 22, 2010)

Dear Mr. Stawick:

CBOE Futures Exchange, LLC ("CFE") appreciates the opportunity to provide this supplemental comment letter to the Commodity Futures Trading Commission ("CFTC") with respect to the CFTC's proposals in the above-referenced release ("Release"). The Release proposes to implement certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") by setting forth proposed new rules and amended guidance and acceptable practices for designated contract markets ("DCMs"). This letter supplements the comment letter regarding the Release that CFE previously submitted to the CFTC on February 22, 2011 ("February Comment Letter").

One of the rules proposed by the Release on which CFE commented in the February Comment Letter is Proposed § 38.502. Proposed § 38.502 requires that in order for a DCM to be able to continue to list a contract, an average of 85% or greater of the total volume of the contract must be traded on the DCM's centralized market over a 12 month period. CFE included a number of comments regarding Proposed § 38.502 in the February Comment Letter and reasserts those comments again here by reference to its February Comment Letter. Additionally, CFE has signed and supports the comments made along with other DCMs in a joint DCM comment letter that was submitted to the CFTC on June 3, 2011 ("Joint Comment Letter").

CFE also wishes to provide further information in support of one of its comments regarding Proposed § 38.502. In the February Comment Letter, CFE stated its belief that the test in Proposed § 38.502 is far too stringent. In particular, CFE stated that establishing a percentage test that is too high (as is the case with the 85% test in Proposed § 38.502) risks disqualifying a large number of futures contracts from trading on a DCM after only a year of trading, including those futures contracts which start out with minimal trading volume and ultimately become successful products with robust trading volume on a DCM's centralized market after they have been offered for a few years. Following the submission of the February Comment Letter, CFTC staff asked CFE if it was able to identify an example of a futures contract that would have been disqualified under the proposed test if it had been applicable and which ultimately became a successful product with robust trading volume on a DCM's centralized market after a few years. The staff also asked if CFE was able to provide trade data reflecting that this had occurred in

relation to that product.

In response to that request, CFE believes that the CBOE Volatility Index (VIX) futures contract traded on CFE is just such a product, and CFE has provided with this letter trade data for VIX futures which reflects this.¹

The VIX is based on real-time prices of options on the Standard & Poor's 500 Composite Stock Price Index ("S&P 500") listed on Chicago Board Options Exchange, Incorporated ("CBOE") and is designed to reflect investors' consensus view of future (30-day) expected market volatility of the S&P 500. Since the time that CFE launched trading in VIX futures on March 26, 2004, VIX has emerged as the world's most widely followed market gauge of investor sentiment. Total trading volume in VIX futures in 2010 was 4,392,796 contracts, and 2011 trading volume in VIX futures has already surpassed that total with 4,459,749 VIX futures contracts traded through May 2011.

However, none of this happened overnight or for that matter within one year of the launch of trading in VIX futures. In fact, as the attached trade data reflects, it was not until 2010 that trading volume in VIX futures on CFE's centralized market exceeded 85% of total VIX futures trading volume. This was the seventh year after the product launched, and this data reflects that it can take a long period of time over a number of years to build enough liquidity and volume in a futures contract to satisfy the excessively high standard set forth in Proposed § 38.502.

Specifically, the percentage of VIX futures trading volume in block trades and exchange of contract for related position transactions (ECRPs) combined was in excess of 15% of the total trading volume in VIX futures in the years 2004 through 2009 and did not drop below 15% until 2010 and 2011. In particular, the combined percentage of VIX futures block trade and ECRP volume was 36% in 2004, 26% in 2005, 49% in 2006, 28% in 2007, 17% in 2008, 24% in 2009, 9% in 2010, and 3% in 2011 through May 2011.²

CFE also does not believe that the percentage of VIX futures trading volume done off of CFE's centralized market was attributable to the block trade size being set too low. To the contrary, CFE believes that the VIX futures block trade size has been set over the life of the VIX futures contract at levels that have been larger than the size at which a single buy or sell order has been customarily able to be filled in its entirety in CFE's centralized market without incurring a

¹CFE notes that it believes that the data it has provided is materially accurate. In compiling the data, CFE sought to the extent possible to exclude from the data instances such as busted trades and reversals of error trades. If and to the extent the data reflects any such instances, CFE does not believe that it would have any material impact on the data.

²The above percentages do not include transfers of VIX futures positions under CFE Rule 420 because it is CFE's understanding that these types of transfers would not be considered by the CFTC to be trades done off of the centralized market for purposes of Proposed § 38.502. CFE believes that this is the correct approach because transfers under CFE Rule 420 are not trades. Instead, they are transfers of positions on the books of a clearing member or from one clearing member to another to address issues such as the correction of errors; the transfer of positions between accounts with no change of ownership; transfers through operation of law from death or bankruptcy; and transfers from a merger, asset purchase, consolidation, or similar non-recurring transaction.

significant price concession (consistent with the acceptable practices proposed by the Release under DCM Core Principle 9). This is also evidenced by the extremely small percentage of block trades and ECRPs that have been transacted in VIX futures in relation to the total number of VIX futures trades (and thus in relation to the number of VIX futures trades on CFE's centralized market), as reflected in the attached data. In fact, the total number of block trades and ECRP transactions combined in VIX futures never exceeded 1% of the total number of VIX futures trades in any year. Therefore, as VIX futures demonstrate, there can be a very high percentage of trades taking place in a DCM's centralized market for a product, and Proposed § 38.502 would still unfairly disqualify the product from trading on the DCM.

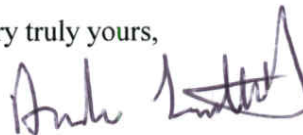
It would be completely contrary to the interest of the marketplace and market participants if CFE would have been required to de-list VIX futures after only a year of trading had Proposed § 38.502 been in effect at the time due to the fact that less than 85% of the trading volume in VIX futures was executed off of CFE's centralized market. The VIX future was the first exchange-traded product in the new, important, and growing volatility product asset class. Market participants use VIX futures every day as part of their financial portfolios and trading strategies, including as a hedge in relation to the S&P 500 and the equity and other markets. The existence of VIX futures as a pricing vehicle has been important in facilitating CBOE's ability to offer trading in VIX options starting in 2006. VIX options trading volume was 62,452,232 contracts in 2010, and 2011 VIX options trading volume is already 39,133,688 contracts through May 2011. Additionally, there is now approximately \$2 billion invested in exchange-traded funds and exchange-traded notes that are based on VIX futures. All of this would not have been possible had Proposed § 38.502 been in place.

Accordingly, it is imperative that the CFTC take into consideration CFE's comments regarding Proposed § 38.502 in the February Comment Letter as well as the comments of multiple DCMs in the Joint Comment Letter so the marketplace is not deprived of the next "VIX future", whatever that may be, and is not denied access to many other products offered for trading by DCMs that may not reach the same level of success as the VIX future, but are nonetheless important and have beneficial uses to the market participants that trade them.

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CFE is available to provide any further input desired by the CFTC regarding these issues and to work cooperatively with the CFTC to address them. Please contact Arthur Reinstein in our Legal Division at (312) 786-7570 if you have any questions regarding our comments.

Very truly yours,



Andrew Lowenthal
Managing Director
CBOE Futures Exchange, LLC

Attachment

VIX Futures Trade Data
Yearly Data

Year	Based on Volume			Based on Number of Trades				
	Block Trade Volume	ECRP Volume	Total Volume	Percent of Total Volume	Number of Block Trades	Number of ECRPs	Total Trades	Percent of Total Trades
2004	32,054	0	89,622	36%	66	0	12,622	0.52%
2005	33,990	0	128,977	26%	73	0	15,553	0.47%
2006	211,617	600	434,478	49%	333	2	34,254	0.98%
2007	294,145	3,893	1,046,473	28%	575	134	159,835	0.44%
2008	181,901	3,612	1,088,105	17%	340	132	344,804	0.14%
2009	258,766	20,403	1,144,885	24%	460	220	457,568	0.15%
2010	341,421	43,096	4,392,796	9%	473	314	1,501,095	0.05%
2011	116,425	29,063	4,459,749	3%	263	185	1,222,362	0.04%

VIX Futures Trade Data - Monthly Data

Year	Month	Based on Volume			Based on Number of Trades			
		Block Trade Volume	ECRP Volume	Total Volume	Number of Block Trades	Number of ECRPs	Total Trades	Percent of Total Trades
1	2004	500	0	1,369	3	0	395	0.76%
2	2004	4,250	0	8,131	9	0	970	0.93%
3	2004	3,602	0	8,332	10	0	1,177	0.85%
4	2004	4,250	0	10,917	8	0	1,205	0.66%
5	2004	3,370	0	8,686	6	0	1,197	0.50%
6	2004	2,359	0	9,885	5	0	1,740	0.29%
7	2004	4,965	0	14,201	9	0	1,704	0.53%
8	2004	2,500	0	10,577	4	0	1,642	0.24%
9	2004	5,458	0	12,752	10	0	1,711	0.58%
10	2004	800	0	4,772	2	0	881	0.23%
11	2005	3,650	0	8,057	11	0	928	1.19%
12	2005	4,290	0	13,733	8	0	1,623	0.49%
13	2005	3,836	0	11,586	8	0	1,384	0.58%
14	2005	4,416	0	12,932	11	0	1,588	0.69%
15	2005	4,262	0	17,101	4	0	2,059	0.19%
16	2005	1,002	0	9,874	3	0	1,493	0.20%
17	2005	2,126	0	6,744	2	0	925	0.22%
18	2005	5,200	0	14,810	14	0	1,284	1.09%
19	2005	200	0	4,387	1	0	677	0.15%
20	2005	1,300	0	12,052	2	0	1,457	0.14%
21	2005	3,708	0	13,064	9	0	1,183	0.76%
22	2005	0	0	4,637	0	0	952	0.00%
23	2006	8,376	0	21,502	13	0	1,556	0.84%
24	2006	6,112	0	17,720	8	0	1,242	0.64%
25	2006	15,610	0	21,366	19	0	1,245	1.53%
26	2006	8,173	0	15,733	9	0	1,324	0.68%
27	2006	14,641	0	50,478	32	0	3,423	0.93%
28	2006	18,307	0	39,807	27	0	3,301	0.82%
29	2006	12,810	0	24,938	20	0	1,740	1.15%
30	2006	28,394	0	48,134	45	0	2,890	1.56%
31	2006	13,817	0	31,915	13	0	3,340	0.39%
32	2006	53,138	0	79,187	82	0	5,111	1.60%
33	2006	12,662	600	42,959	33	2	5,552	0.63%

VIX Futures Trade Data - Monthly Data

Year	Month	Based on Volume				Based on Number of Trades			
		Block Trade Volume	ECRP Volume	Total Volume	Percent of Total Volume	Number of Block Trades	Number of ECRPs	Total Trades	Percent of Total Trades
34	2006	19,577	0	40,739	48%	32	0	3,530	0.91%
35	2007	23,476	75	44,927	52%	50	1	3,986	1.28%
36	2007	6,290	0	42,918	15%	11	0	4,646	0.24%
37	2007	20,967	0	54,020	39%	35	0	5,890	0.59%
38	2007	16,150	61	38,262	42%	41	5	3,809	1.21%
39	2007	38,101	0	78,702	48%	74	0	6,593	1.12%
40	2007	21,557	80	78,676	28%	52	7	10,966	0.54%
41	2007	20,915	310	111,814	19%	42	10	18,407	0.28%
42	2007	41,580	692	163,080	26%	86	30	21,958	0.53%
43	2007	7,560	125	76,870	10%	14	2	17,571	0.09%
44	2007	15,196	740	97,775	16%	18	43	22,253	0.27%
45	2007	51,280	1,578	173,864	30%	100	15	28,206	0.41%
46	2007	31,073	232	85,565	37%	52	21	15,550	0.47%
47	2008	6,063	389	85,731	8%	10	37	25,100	0.19%
48	2008	9,509	394	71,891	14%	20	20	22,104	0.18%
49	2008	27,485	3	98,351	28%	63	1	24,216	0.26%
50	2008	15,520	376	96,434	16%	23	15	24,038	0.16%
51	2008	18,764	90	113,443	17%	37	6	32,957	0.13%
52	2008	16,446	41	93,110	18%	45	5	33,627	0.15%
53	2008	6,438	430	85,931	8%	14	13	36,136	0.07%
54	2008	23,358	0	85,591	27%	42	0	26,871	0.16%
55	2008	35,048	100	143,315	25%	50	6	40,388	0.14%
56	2008	9,402	1,632	120,286	9%	18	17	41,751	0.08%
57	2008	3,038	137	52,335	6%	5	7	21,975	0.05%
58	2008	10,830	20	41,687	26%	13	5	15,641	0.12%
59	2009	1,566	141	40,913	4%	7	17	23,204	0.10%
60	2009	3,536	4	40,973	9%	16	2	26,529	0.07%
61	2009	2,980	2,832	47,446	12%	7	10	29,529	0.06%
62	2009	3,080	2,273	45,198	12%	6	24	24,707	0.12%
63	2009	6,375	701	55,052	13%	24	15	31,005	0.13%
64	2009	10,815	1,922	65,041	20%	33	16	33,221	0.15%
65	2009	14,319	3,032	88,941	20%	34	40	43,469	0.17%
66	2009	24,912	2,308	104,861	26%	63	28	41,590	0.22%
67	2009	29,390	1,164	144,071	21%	65	8	51,106	0.14%

VIX Futures Trade Data - Monthly Data

	Year	Month	Based on Volume				Based on Number of Trades			
			Block Trade Volume	ECRP Volume	Total Volume	Percent of Total Volume	Number of Block Trades	Number of ECRPs	Total Trades	Percent of Total Trades
68	2009	10	55,055	2,303	187,628	31%	72	18	56,846	0.16%
69	2009	11	57,094	1,527	183,978	32%	78	18	56,218	0.17%
70	2009	12	49,644	2,196	140,783	37%	55	24	40,144	0.20%
71	2010	1	33,842	3,507	220,226	17%	47	20	66,661	0.10%
72	2010	2	16,395	1,908	187,725	10%	35	10	75,895	0.06%
73	2010	3	30,426	7	216,800	14%	46	1	66,238	0.07%
74	2010	4	24,018	399	295,483	8%	33	7	99,055	0.04%
75	2010	5	27,013	16,662	479,717	9%	35	118	223,339	0.07%
76	2010	6	23,867	611	260,621	9%	30	14	126,608	0.03%
77	2010	7	17,725	440	269,374	7%	29	10	127,670	0.03%
78	2010	8	10,800	549	290,995	4%	17	31	119,257	0.04%
79	2010	9	34,072	1,864	386,969	9%	75	27	116,395	0.09%
80	2010	10	35,749	755	478,326	8%	42	11	150,903	0.04%
81	2010	11	51,864	13,429	751,004	9%	57	42	186,721	0.05%
82	2010	12	35,650	2,965	555,556	7%	27	23	142,353	0.04%
83	2011	1	44,950	2,283	777,366	6%	63	23	195,579	0.04%
84	2011	2	13,701	1,319	788,908	2%	42	21	212,132	0.03%
85	2011	3	14,595	5,986	1,065,375	2%	33	35	343,935	0.02%
86	2011	4	26,530	10,995	834,110	4%	77	62	229,321	0.06%
87	2011	5	16,649	8,480	993,990	3%	48	44	241,395	0.04%