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RECORDS SECTION

September 9, 2005

Electronic Mail

Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street NW  
Washington, D.C. 20581

COMMENT

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**SUBJECT: Proposed Clarifying Amendments for Exempt Markets, Derivatives Transaction Execution Facilities and Designated Contract Markets, and Procedural Changes for Derivatives Clearing Organization Registration Applications**

To Whom It May Concern:

The Minneapolis Grain Exchange ("MGEX" or "Exchange") would like to take this opportunity to respond to the Commodity Futures Trading Commission's ("CFTC" or "Commission") proposed rules on the above referenced matter published in the July 11, 2005 Federal Register.

In general, the Exchange supports the Commission's proposed amendments that are intended to clarify and codify acceptable practices for trading facilities, as well as make a number of technical and clarifying corrections and conforming amendments to enhance the consistency and clarity of the rules. The MGEX believes consistency and conformity among the rules governing the various trading facilities and application procedures is beneficial and promotes fairness.

As a Designated Contract Market ("DCM") and Derivatives Clearing Organization, the MGEX is particularly interested in the proposed amendments that may impact us. While the MGEX cannot practically comment on each of the numerous proposed rules, there are a few specific changes that we wish to respond.

1. The CFTC proposes to modify Part 38.5(b) to make it clear that DCM's are required to comply with the designated criteria and core principles on an ongoing basis. Further, Part 38.5(c) is proposed to be added to give the Division of Market Oversight ("DMO") authority to request additional information in reviewing a DCM's continued compliance.

The Exchange has always assumed that a DCM must remain in compliance with the designated criteria and core principles, and that the CFTC could request information to support compliance. However, the MGEX is concerned the added rule may have unintended ramifications. The MGEX has experienced extensive and protracted rule enforcement reviews, and has cooperated with the DMO during such reviews. The proposed amendment appears to indicate the MGEX or any other DCM can expect more frequent requests for information outside the routine review process. The MGEX does not want this proposal to be used as a type of supplemental review or end up becoming some other form of unnecessary regulatory burden.

2. The CFTC has proposed adding conforming language to Appendices A and B of Part 38 to make it clear that the enumerated acceptable practices under each core principle are neither the complete nor the exclusive requirements for meeting that core principle.

The MGEX supports such clarifying language as being consistent with the initial design and purpose of the Commodity Futures Modernization Act as well as Congressional intent to change the regulatory atmosphere from prescriptive based rules to broad based core principles. Each DCM is unique and the MGEX may have alternative means of satisfying the particular requirements listed under a core principle. In short, the Exchange is simply hoping that the standards for any alternative are not so high as to make meeting the core principle unattainable except by submitting to the practices and procedures followed by other DCM's.

3. The CFTC is proposing to add new subparagraph Part 40.2(b) to make it clear that a registered entity shall provide, if requested by Commission staff, additional evidence, information or data relating to whether a new contract submitted through the certification process meets Commission regulations. Further, the CFTC proposes to add similar language to Part 40.6(a) with respect to self-certification of rules by DCM's.

While the MGEX strives to conduct due diligence for compliance with core principles for new contracts as well as rule amendments prior to certification, and has responded to CFTC staff inquiries, the Exchange is concerned about the potential interference or even chilling effect this might have on DCM use of the self-certification process. The Exchange solidly supports the self-certification process as a timely and efficient means to make timely changes deemed essential to our contracts and rulebook. The potential changes appear to give CFTC staff power to second guess the submission and even delay implementation. Again, the MGEX supports consistency and clarity among the rules, but wishes to register its concern about any potential weakening of the use of the self-certification process. Therefore, rather than oppose the proposed amendments, the MGEX urges CFTC staff to reasonably and judiciously use the added powers. For example, DMO requests for additional information must be timely and provide DCM's adequate time to respond.

4. The CFTC is proposing rule changes to Part 40.6 that would essentially make it clear that certain routine changes described in Part 40.6(c)(2) and the overlapping list of non-material changes listed in Part 40.4(b) would not constitute material changes to an enumerated ag contract with open interest.

The Exchange supports such clarification as we have sometimes received contradictory comments from CFTC staff as to which rule governs when running into apparent conflicts of the definition of materiality.

5. Under Part 40.7, the CFTC has proposed adding new subsections (a)(3) and (b)(3) that would delegate to DMO the authority to notify a DCM that a rule change submitted for materiality determination is material and increase authority to approve rules regarding speculative position limits or position accountability.

Considering the lengthy process it took to obtain Commission approval for an expansion of the speculative position limits in the Part 150 listed ag contracts, the Exchange supports the delegation of authority to the DMO. The MGEX hopes such delegation will result in more timely responses to DCM requests.

The Exchange thanks the Commission again for the opportunity to comment. If there are any questions regarding these comments, please contact me at (612) 321-7169. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Layne G. Carlson".

Layne G. Carlson  
Corporate Secretary

cc: Mark G. Bagan  
President, MGEX