



Via Electronic Portal

December 19, 2014
MGEX Submission No. 14-31

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

RE: Rule Certification Submission Pursuant to Regulation 40.6(a); Updates to MGEX Rulebook

Dear Mr. Kirkpatrick:

Pursuant to Commodity Exchange Act ("CEAct") Section 5c and Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 40.6(a), the Minneapolis Grain Exchange, Inc. ("MGEX" or "Exchange") hereby certifies that amendment of the attached definition, Rules, and Regulations of the MGEX Rules and Regulations complies with the CEAct and the Commission regulations promulgated thereunder. MGEX further certifies that the submission and pending changes to the MGEX Rules and Regulations have been posted on the Exchange website at the following link: <http://www.mgex.com/regulation.html>.

Amendments in Connection with Liquidity Event

The Commission established enhanced liquidity standards in CFTC Regulation 39.33. In order to comply with such standards and ensure that it is able to maintain sufficient qualifying liquidity resources, MGEX added certain "Liquidity Event" provisions to its Rulebook in Submission No. 13-27, which was submitted to the CFTC on December 30, 2013. In light of further discussions with Commission staff and MGEX's requirements under Subpart C of Part 39 of CFTC regulations, the Exchange has amended Regulations 2100.00., 2105.00., and 2105.01. to substitute the term "U.S. Government Securities Broker-Dealer" for "primary dealer" and make other changes related to the offset of Clearing House settlement variation obligations with U.S. Treasuries. MGEX also added a definition of U.S. Government Securities Broker-Dealer to provide further clarification.

Amendments in Connection with Default Rules and Procedures and Recovery and Wind-down Plans

Pursuant to CFTC Regulations 39.35 and 39.39, as a Subpart C derivatives clearing organization ("DCO"), MGEX must adopt explicit rules and procedures that fully address any loss arising from any individual or combined default relating to any Clearing Members' obligations, and it must maintain plans for the recovery and orderly wind-down of its operations necessitated by uncovered credit losses and liquidity shortfalls or by general business and operational risks. In

order to adopt such default rules and implement these recovery and wind-down plans, MGEX amended and added Regulations 2106.02., 2106.03., 2106.04., 2106.05., 2107.00., 2107.01., 2107.02., 2108.00., 2109.00., 2110.00., 2111.00., 2112.00., and 2113.00.

The Exchange amended Regulations 2106.02., 2106.03., 2106.04., 2106.05., 2108.00., 2109.00., 2110.00., 2112.00., and 2113.00. in order to allow MGEX to meet the financial and liquidity resource requirements necessary under CFTC Regulations to implement its recovery and wind-down plans and to specify how obligations will be managed and satisfied following a single or multiple Clearing Member default. Regulation 2111.00. further provides for a netting agreement that would apply in the event of MGEX's bankruptcy or failure to comply with an obligation for five business days (as such events are defined in the Regulation). In addition, as required by CFTC Regulation 39.35, new MGEX Regulations 2107.00., 2107.01., and 2107.02. specifically address how MGEX would allocate losses exceeding the financial resources available by defining a "Termination Event" and describing how the Exchange would conduct a final settlement cycle, including the procedure by which it would haircut amounts to be paid to Clearing Members if necessary and terminate all contracts. Lastly, the Exchange made general housekeeping updates to Rules 301.00. and 360.00. and Regulations 2106.00., 2106.01., and 2114.00 through 2120.00. to update references and the numbering of such Rules and Regulations.

DCO Core Principles

The Exchange has reviewed the core principles for DCOs and has determined that the attached amendments comply with and may impact the following core principles:

- *Core Principle A – Compliance:* Core Principle A requires a DCO to comply with the DCO core principles and any other requirements that the Commission imposes by rule or regulation. Implementation of the attached amendments is necessary for MGEX to ensure its compliance with CFTC Regulations 39.35 and 39.39.
- *Core Principle B – Financial Resources:* The amendments are designed to comply with CFTC Regulation 39.35 by describing how MGEX would conduct a settlement cycle, haircut positions, and then close out of contracts in the event that available financial resources are insufficient to cover a loss associated with a Clearing Member default. The amendments are also designed to comply with CFTC Regulation 39.39, which requires Subpart C DCOs to maintain sufficient liquid financial resources to implement its recovery and wind-down plans. The amendments enhance MGEX's existing risk management framework by providing additional methods by which the Exchange can ensure the sufficiency of its financial resources.
- *Core Principle D – Risk Management:* The amendments allow MGEX to access additional financial and liquidity resources following a default and enhance the Exchange's ability to manage the risks posed by its Clearing Members and associated with discharging its DCO responsibilities.
- *Core Principle E – Settlement Procedures:* If an uncovered credit loss or liquidity shortfall occurs as described in CFTC Regulation 39.35, the amendments describe how MGEX would conduct a final settlement cycle. Specifically, MGEX would collect mark-to-market funds from Clearing Members with net portfolio losses and would make mark-to-market payments to non-defaulting Clearing Members with net portfolio gains. MGEX's payments to non-defaulting Clearing Members will be haircutted as necessary to reflect the funds

actually collected by the Clearing House. After the final settlement cycle is conducted, MGEX would close out all contracts.

- *Core Principle G – Default Rules and Procedures:* The amendments address the actions the Exchange will take following the default of one or more Clearing Members, including how any uncovered credit losses or liquidity shortfalls would be allocated, and thus augment MGEX's default rules and procedures.
- *Core Principle L – Public Information:* Core Principle L requires DCOs to provide market participants with sufficient information to enable them to identify and evaluate accurately the risks and costs associated with using the services of the DCO and to have clear and comprehensive rules and procedures. The amendments enhance MGEX's default management procedures and will be incorporated into MGEX's publicly available Rulebook, thereby further enabling market participants to evaluate the impact of an uncovered credit loss or liquidity shortfall and the risks associated with using MGEX's services.
- *Core Principle R – Legal Risk:* The amendments comply with Core Principle R by clarifying the legal netting procedures that would occur in the event of MGEX's bankruptcy or failure to comply with an obligation.

Pursuant to the authority set forth in MGEX Rule 210.01., the MGEX Board of Directors unanimously approved the attached amendments to the MGEX Rulebook. There were no substantive opposing views expressed by the Board of Directors, nor is the Exchange aware of any substantive opposing views with respect to this filing.

The attached amendments are to be effective immediately after the 10th business day following the date of this submission. If there are any questions regarding this submission, please contact me at (612) 321-7143. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lindsay Hopkins".

Lindsay R. Hopkins
Clearing House Counsel

EXHIBIT A

The following MGEX Regulations are to be amended. Additions are underlined while deletions are ~~marked through~~.

U.S. GOVERNMENT SECURITIES BROKER-DEALER: a broker-dealer registered with the Securities and Exchange Commission that functions in the operation of markets for U.S. Treasuries. Such functions may include, but are not limited to: (i) acting as a channel for the U.S. Department of the Treasury and investors in primary market for U.S. Treasuries (for example, by participating in auctions); (ii) acting as providers of liquidity in primary and secondary markets for U.S. Treasuries; and (iii) acting as providers of asset transformation and market making services in the market for U.S. Treasuries.

301.00. MEMBERSHIP: ADMISSION TO.

If the terms and conditions set forth below have been complied with, the Board of Directors may approve an application for Membership:

- A. An application for Membership must have been made;
- B. The application must be reviewed by the Exchange. The Exchange may, at its discretion, require any applicant to produce additional documentation and/or meet in person prior to any action by the Board of Directors;
- C. A Request to Transfer and Record the Ownership of a Membership form must have been posted on the Official Bulletin Board for ten (10) consecutive days prior to such action;
- D. If an objection to the approval of such applicant to Membership has been duly filed by a Member of MGEX, it must have been heard by the Board of Directors and dismissed;
- E. All the requirements of MGEX Rules and Regulations for the transfer of a Membership to the applicant must have been complied with or the applicant must have obtained an original Membership under the provisions of Rule 360.00. or Regulation 2112.00.
- F. An application fee shall be collected by the Exchange at the time of the application. This fee, in an amount to be determined by the Exchange, shall not be refunded in the event that the applicant fails, for any reason, to become a Member.
- G. If the applicant does not own a Membership at the time its application is approved nor have a Delegation Agreement in place, the applicant shall have sixty (60) days to obtain a Membership.

360.00. ORIGINAL MEMBERSHIPS: GENERAL ISSUANCE OF.

The number of MGEX Memberships may be increased and the Exchange has the right to sell ~~Original~~ Memberships at a price to be determined by the Board of Directors. The person to

whom such Membership is to be issued must comply with all the terms and conditions of MGEX Rules and Regulations concerning admission to Membership and recording the ownership of a Membership. The number of outstanding Memberships shall not exceed six hundred (600) unless an increase is approved by a vote of the Ownership.

2100.00. REQUIREMENTS FOR CLEARING.

All Futures or Options transactions shall be submitted to the Clearing House to be cleared. Upon acceptance by the Clearing House of such transactions, the Exchange assumes the position of Buyer to the Seller and Seller to the Buyer in respect to such transactions, and the last settling price shall be considered as the contract price.

It shall be the duty of each Clearing Member initiating, accepting or executing a transaction for Futures or Options under MGEX Rules and Regulations to submit each such transaction using "TEMS" to the Clearing House. Transactions shall be submitted at times determined by the Exchange (see [Res. 2101.00.C.](#)). The transactions shall be in a format approved by the Exchange and shall contain, at a minimum, the following information:

- A. Date of transaction
- B. Clearing Member code (two-digit alpha as assigned by the Exchange)
- C. Type of account or origin (Regular (R) or Segregated (S))
- D. Customer type indicator (CTI) as defined below:
 - CTI 1. Transactions initiated and executed by an individual member for his own account, for an account he controls, or for an account in which he has ownership or financial interest.
 - CTI 2. Transactions executed for the proprietary account of a Clearing Member.
 - CTI 3. Transactions where an individual member or nonmember executes for the personal account of another individual member, for an account the other member controls or for an account in which the other individual member has ownership or financial interest.
 - CTI 4. Any transaction not meeting the definition of CTI 1, 2 or 3.
- E. Quantity, commodity, contract month or expiration month, price or premium, whether the transaction involved a put or a call, strike price, buy or sell.
- F. Both the buying and selling Market Participant's identifier (trader ID/Member mnemonic for electronic trades, Broker ID for open outcry trades) and the opposite Clearing Member's symbol.

- G. Transaction time to the minute.
- H. Indicators for the following types of transactions: (C) cash exchange; (T) office transfer*; (S) spread; (D) delivery; (E) exercise; (R) risk exchange.

*For office transfers, open and close information for the position (open (O), close (C)) must be submitted.
- I. Account number and identification. (For initial set-up and new accounts, provide a listing of account name, type, and position. This information will be available to the President and designated MGEX personnel only.)
- J. Any other information required by the Clearing House.

The Clearing House shall match the trades as submitted and shall list for each Clearing Member its cleared trades and unmatched trades. A recapitulation statement shall be produced, showing updated contract positions and settling all matched trades to the official MGEX settling prices. After completion of the clearing process, the Exchange shall notify each Clearing Member as to the net pay or collect amounts due by account (Regular and/or Segregated). Such amounts shall be submitted by wire transfer of funds or other acceptable method. Amounts due to the Exchange shall be submitted at times determined by the Exchange (see [Res. 2101.00.C.](#)). All clearing statements shall be disseminated by the Exchange to each Clearing Member's designated contact.

If the report of a trade by a Market Participant does not correspond to the report of the other party to the trade, the Clearing House shall reject the trade and notify both Clearing Members showing the discrepancy of the reports. The Clearing Members must thereafter submit corrections to the Clearing House at times determined by the Exchange (see [Res. 2101.00.C.](#)).

It shall be the primary responsibility of the Clearing Member to see that all trades are resolved. Each Clearing Member shall designate a person or persons to be available and responsible for reconciling the Clearing Member's unmatched trades. Failure to have a qualified representative available shall constitute negligence in the determination of responsibility for any unmatched trades.

If a Clearing Member, or one of its affiliated entities, has access to the Federal Reserve discount window, it shall notify the Clearing House if such access has been suspended, revoked, removed, terminated, or otherwise limited in any way as soon as practicable.

2105.006. LIQUIDITY EVENT.

In order to satisfy CFTC Regulations and prudential liquidity standards, the Exchange has established this Regulation.

In the event the Clearing House requires liquidity to enable it to promptly meet all of its payment obligations to Clearing Members for same day settlement, the Clearing House will first attempt to obtain liquidity through the asset sale of pledged collateral, followed by the application of any uncommitted funding arrangements, and then through the use of its committed lines of credit and any committed repurchase agreements. In the event the Clearing House is unable to obtain

sufficient funds and liquidity to promptly meet same day settlement and payment through such means, the Clearing House may declare the occurrence of a Liquidity Event. In such an event, the Clearing House has the authority in its sole discretion to take the following actions, in the order listed, to secure same day liquidity:

A. Substitution of Guaranty Fund Cash. The Clearing House may substitute the cash deposited by one or more Clearing Members in a guaranty fund with U.S. Treasuries deposited as performance bond by the Clearing Member(s) that is(are) the initiating cause of the Liquidity Event. The amount of cash substituted shall be equivalent to U.S. Treasuries at a haircutted market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party source). Any U.S. Treasuries transferred pursuant to this Regulation shall be applied as a guaranty fund deposit on behalf of any such Clearing Member whose cash was substituted and will be allocated pro rata among any Clearing Members with cash deposits who are not the initiating cause of the Liquidity Event. The substitution of U.S. Treasuries for the Clearing Member's guaranty fund deposit will be limited to the size of the Clearing Member's guaranty fund deposit at the time of the Liquidity Event. For any substitution of U.S. Treasuries for cash in a guaranty fund, the impacted Clearing Member may, within 24 hours of substitution, request that the Clearing House ~~will~~ replace the cash within 29 business days of the date of the substitution. Any Clearing Member requesting cash replacement will receive the exact value in cash received by the Clearing House upon liquidation of the U.S. Treasuries.

B. Substitution of Performance Bond Cash: The Clearing House may substitute the cash deposited by one or more Clearing Members as performance bond with U.S. Treasuries held as collateral by the Clearing House. The amount of cash substituted shall be equivalent to the U.S. Treasuries at a haircutted market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party source). Any U.S. Treasuries transferred pursuant to this Regulation shall be applied as a performance bond deposit on behalf of any such Clearing Member whose cash was substituted and will be allocated pro rata among any Clearing Members with cash deposits. The substitution of U.S. Treasuries for the Clearing Member's performance bond held by the Exchange will be limited to the size of the Clearing Member's performance bond at the time of the Liquidity Event. For any substitution of U.S. Treasuries for cash as performance bond, the impacted Clearing Member may, within 24 hours of substitution, request that the Clearing House ~~will~~ replace the cash within 29 business days of the date of the substitution. Any Clearing Member requesting cash replacement will receive the exact value in cash received by the Clearing House upon liquidation of the U.S. Treasuries.

In order to ensure the Clearing House can obtain sufficient cash from the above paragraphs, the Clearing House may notify any Clearing Member that is a U.S. Government Securities Broker-Dealer or has a U.S. Government Securities Broker-Dealer affiliate to replace its non-cash performance bond assets with cash within 60 minutes from the time of notification. To the extent that a Clearing Member(s) fails to provide cash within 60 minutes or the request occurs after 3:00 p.m. Central Time, the Clearing House may debit cash from that Clearing Member's settlement bank account in the amount of the clearing member's non-cash performance bond assets.

- C. **U.S. Treasury Sale to Meet Payment in Kind for Settlement Variation Obligations.** The Clearing House may ~~satisfy~~ offset its settlement variation obligations to any Clearing Member that is a U.S. Government Securities Broker-Dealer ~~primary dealer~~ or has a U.S. Government Securities Broker-Dealer ~~primary dealer~~ affiliate, up to the amount of such Clearing Member's guaranty fund contribution, by ~~selling with~~ U.S. Treasuries valued based on ~~held as collateral by the Clearing House at a haircutted market value (determined by the Clearing House as of~~ the prior day's closing prices with a haircutted value in exchange for U.S. dollar cash from the Clearing Member ~~e of business utilizing a recognized third party source)~~. The U.S. Dollar cash received by the Exchange from the Clearing Member shall be in the form of the variation margin obligation owed by MGEX, and the Exchange shall deliver the purchased U.S. Treasury securities to the U.S. Government Securities Broker-Dealer. ~~To the extent that the Clearing House pays its settlement variation obligations in U.S. Treasuries, if the receiving Clearing Member notifies the Clearing House the same day of the settlement that it will return the securities to the Clearing House on the next business day, then the Clearing House will pay cash equal to the original value of the Clearing House's settlement variation obligation on the next business day.~~
- D. **Transfer or Disbursement of Collateral as Compensation Payment in Kind for Portfolio Auction, Sale, or Transfer.** In lieu of satisfying a payment owed from any auction, sale, or transfer of an insolvent, defaulted, or suspended Clearing Member's or customer's portfolio in cash to an auction winner, purchaser, or transferee, the Clearing House may satisfy such payment owed to such persons by transferring Federal Reserve discount window eligible securities with a haircutted market value (determined by the Clearing House as of the prior day's close of business utilizing a recognized third party source) equal to the amount of such obligation.

2105.017. REQUIREMENT TO ESTABLISH UNCOMMITTED REPURCHASE AGREEMENT.

Each Clearing Member that is a U.S. Government Securities Broker-Dealer ~~primary dealer~~ or has a U.S. Government Securities Broker-Dealer ~~primary dealer~~ affiliate shall, if required by MGEX, enter into (or arrange for such affiliate to enter into) a master repurchase agreement with MGEX on terms substantially similar to those set forth by the Clearing House.

~~2105.08. FEDERAL RESERVE ACCESS.~~

~~Each Clearing Member will inform the Clearing House whether it, or one of its Affiliated Entities, has access to the Federal Reserve discount window and will notify the Clearing House if such access has been suspended, revoked, removed, terminated, or otherwise limited in any way as soon as practicable.~~

21065.00. PROTECTION OF CLEARING HOUSE: DEFAULT BY A CLEARING MEMBER.

If a Clearing Member fails promptly to discharge any obligation to MGEX, its security deposits, its margins and performance bonds on deposit with MGEX (but not those belonging to a non-defaulting customer), and any of its other assets available to the Exchange shall be applied by the Exchange to discharge the obligation. Further, the Exchange may make immediate demand

upon any Guarantor of the Clearing Member. ~~Such Guarantor shall promptly pay u~~ Upon demand and without waiting for application of all available assets of the Clearing Member or a formal accounting, such Guarantor shall pay the Exchange by the time and date set by MGEX. Upon a Clearing Member Default, the Exchange may act immediately to attempt to transfer to alternate Clearing Members all customer positions and associated collateral (collateral held by the Exchange on behalf of the Defaulting Clearing Member for its customer). However, if a customer account is in default on payment obligations or shortfall in required collateral to the Defaulting Clearing Member, then the Exchange shall apply identifiable segregated customer collateral belonging to the defaulting customer to any payment obligations or losses arising from the Clearing Member Default.

Customer funds or margins shall not be used to discharge the Clearing Member's obligation unless the customer is directly involved in a default. The Clearing Member shall immediately make up any deficiencies in its security deposit resulting from such application prior to the close of business on the next banking day. The Exchange shall be under no obligation to forward any variation pays or settlement funds to a Defaulting Clearing Member.

In addition to application of the available assets of the Defaulting Clearing Member (the priority of which is further described in Regulation 2106~~5.021~~.), the Exchange, President, Treasurer, Chief Risk Officer, or other designee may take any other actions that it determines necessary to protect MGEX or other Clearing Members. Such actions include, but are not limited to, actions authorized elsewhere within the MGEX Rules and Regulations, the suspension of clearing privileges until revoked or reinstated by the Board or its designee, pursuit of legal action, retention of variation pays, and request for additional security deposit and/or performance bonds. The detailed implementation of the process of finalizing losses with respect to a Clearing Member Default, including the liquidation, allocation, auction or sale of positions or assets of the Defaulting Clearing Member shall be conducted by the Exchange.

The Exchange, Board, and any Clearing Member authorized by the Exchange to act in the place of the Defaulting Clearing Member shall have no liability arising from a failure by a Clearing Member to discharge its liabilities; neither shall they be liable for actions taken pursuant to MGEX Rules and Regulations, procedures, or actions allowed by law.

The Exchange may establish such procedures as necessary which prescribe in detail how the protections under Regulation 2106~~5.00~~. and Chapter 21 will operate. Such procedures shall constitute part of MGEX Rules and Regulations. Furthermore, any documented information appropriate to assist the Clearing Members will be disseminated.

2106~~5.01~~4. CLEARING MEMBER INSOLVENCY.

If a Clearing Member becomes insolvent, the Clearing Member must immediately notify the Exchange of such insolvency. The insolvency shall be announced by the Exchange and thereupon such Clearing Member shall be deemed automatically Suspended, unless otherwise permitted by the Exchange to continue limited operation for the purpose of transferring or liquidating positions, or otherwise mitigating losses. If a Clearing Member becomes insolvent or for other reasons is Suspended, the officers, owners or partners who are Members of the Exchange may also be Suspended by the Exchange.

When a Clearing Member is Suspended for insolvency, the Exchange may exercise any or all of its rights under MGEX Rules and Regulations ~~2105.00. and 2105.01.~~

21065.021. LOSSES BORNE BY MGEX.

Should MGEX bear a loss resulting from the actions or a Default of a Clearing Member, including but not limited to the insufficiency of the security deposit, margins, bonds, guarantees or other assets of asuch Clearing Member to fully meet its obligations to MGEX; the Insolvency of a Clearing Member; or the insolvency of a depository or settlement bank; or larceny, embezzlement, or for any other cause, such loss shall be met and made good promptly by the use and application of funds from the following sources, in the order of priority hereafter listed, with each source of funds to be completely exhausted, to the extent practical, before the next following source is applied. While such application of funds shall be mandatory, the detailed implementation of this Regulation ~~2105.01~~ shall be the responsibility of the Exchange.

A. Excess funds of the Defaulting Clearing Member, including any partial payment amounts or settlement variation gains.

BA. Security deposits of the Defaulting Clearing Member.

CB. Margins and performance bonds of the Defaulting Clearing Member on deposit with MGEX, payments made by a guarantor of the Defaulting Clearing Member, and any other assets of the Defaulting Clearing Member.

CG. Such assets of the MGEX Clearing House Reserve Fund.

ED. Security deposits of non-defaulting Clearing Members shall be applied toward meeting a loss in direct proportion to the total security deposit requirement of each Clearing Member.

EE. Such surplus funds of the Exchange as may be in excess of funds necessary for normal business operations. No such surplus shall be assumed until approved by the Executive Committee or the Board.

~~F. The balance of the loss to MGEX remaining after application of the above funds shall be assessed against Clearing Members (excluding any Insolvent or Defaulting Clearing Member) in direct proportion to the Clearing Members' total security deposit requirement, except no Clearing Member shall be assessed in excess of 200 percent of such Clearing Member's total security deposit requirement.~~

~~G. A special assessment determined by the Board of Directors to be levied against Clearing Members.~~

~~Any assessment made pursuant to this Regulation shall be paid by wire or other acceptable method by each Clearing Member the same business day after notice of any such assessment has been delivered to each Clearing Member, provided wire transfer is open and operational. If wire transfer is not open, payment is due within one (1) hour the next business day after wire is open and operational.~~

~~A Clearing Member may withdraw from Membership by giving written notice to the Exchange; however, such Member shall continue to be liable for any assessments made pursuant to this rule to cover any default occurring prior to resignation.~~

The Exchange may borrow such funds or draw such funds as necessary against any line of credit at any time for such purposes under this Regulation to cover any obligations or losses of the Exchange. Any borrowing of funds shall not relieve any Clearing Member from their obligations under this Regulation, application of their security deposits, or from any assessments levied by MGEX pursuant to Regulations 2106.05. or 2112.00.

The Exchange may obtain and maintain any default insurance. Such insurance shall inure to and shall be for the sole benefit of the Exchange. Proceeds from any default insurance and the right to any proceeds shall be paid to and belong solely to the Exchange.

2106.032. RIGHTS OF EXCHANGE FOR RECOVERY OF LOSS.

If the security deposits, margins, performance bonds, guarantees and other assets of a Clearing Member (excluding customer performance bonds funds and margins unless directly involved in a liability) are insufficient to satisfy all of its obligations to MGEX, including all Claims against the Exchange by reason of its substitution for that Clearing Member pursuant to Rule 701.00., the Exchange shall nonetheless pay all such claims, which shall be deemed a loss (hereinafter "Loss") to it and which shall be a liability of the Defaulting Clearing Member to the Exchange, which the Exchange may collect from the assets of such Clearing Member available to it or by process of law.

If a Loss for which Clearing Members' or their security deposits or other assets have been assessed accessed by MGEX is afterward recovered by the Exchange, in whole or in part, the net amount of such recovery shall be credited to such persons or firms (whether or not they are Clearing Members at the time of recovery) in proportion to the amount of the security deposit or assets accessed by MGEX assessment.

2106.04. MANAGEMENT OF OBLIGATIONS FOR DEFAULT AND SUBSEQUENT CLEARING CYCLES.

As of the clearing cycle in which a default occurs, the Clearing House shall aggregate the following assets: any excess security deposits, any excess margins and performance bond from the prior clearing cycle, any partial payment by the Clearing Member for the default cycle, and any other available assets of the Clearing Member. Such assets shall be allocated first to any net settlement variation payment obligation of the Defaulting Clearing Member to the Clearing House. If the funds are not sufficient to satisfy the Clearing Member's settlement variation payment obligations for the default cycle, then the Clearing House shall apply the funds to such Clearing House obligations, pro rata relative to the size of such Clearing House obligations. If the Clearing House is unable to satisfy a settlement variation payment obligation from such assets, the deficiency shall be a Loss that the Clearing House shall satisfy pursuant to the procedures set forth in this Chapter 21. Any settlement variation gain to the Defaulting Clearing Member during subsequent clearing cycles shall be added to the available funds, and the Clearing House shall apply such collateral to the Defaulting Clearing Member's payment obligations. For the avoidance of doubt, the Clearing House shall not use customer funds and margins to satisfy a payment obligation to the Clearing House in respect of the Defaulting Clearing Member's proprietary account.

2106.05. SATISFACTION OF CLEARING HOUSE OBLIGATIONS.

Losses shall first be satisfied by applying the funds in the order of priority listed in Regulation 2106.02. The balance of any Losses remaining after the application of such funds shall be assessed against all Clearing Members (excluding any Insolvent or Defaulting Clearing

Members). Each Clearing Member (excluding any Insolvent or Defaulting Clearing Member) shall be subject to an assessment in direct proportion to the Clearing Members' total security deposit requirement up to an amount that does not exceed (i) a total of three (3) times such Clearing Member's total security deposit requirement at the time of the default with respect to Losses that are attributed to the default of a single Clearing Member and (ii) a total of six (6) times such Clearing Member's total security deposit requirement at the time of the default with respect to Losses that are attributed to the default of multiple Clearing Members during a Cooling Off Period (as defined below). Non-defaulting Clearing Members shall take no actions, including but not limited to, attempting to obtain a court order that would interfere with the ability of the Clearing House to collect and apply such assessments.

Each Clearing Member shall pay any assessment made pursuant to this Regulation by wire or other method acceptable to MGEX on the same business day as notice of the assessment has been delivered to Clearing Members. If a Clearing Member pays such assessment by wire and the wire transfer service is not open or operational, payment is due within one (1) hour on the next business day that wire is open and operational. Any Clearing Member that does not satisfy an assessment shall be in default, and any Loss that occurs as a result of such default shall itself be assessed by MGEX to non-defaulting Clearing Members.

If a Clearing Member has made payments of all assessed amounts and has replenished any deficiency in its security deposits in accordance with Regulation 2113.00., it may withdraw from Membership by giving written notice to and receiving approval from the Exchange.

2107.00. LIMITED RECOURSE AND TERMINATION EVENTS.

If one or more Clearing Members Default and the assets available to cover the default, including the funds described in Regulation 2106.02. and all assessments levied by the Exchange, are insufficient to satisfy the obligations of the Clearing House as a result of such default, the Clearing House shall discount its obligations as provided in Regulation 2107.01. Persons who have not been paid in full shall have no recourse to any other funds.

If at any time following a default, one or more of the following events (each, a "Termination Event") occur, MGEX shall comply with the procedures set forth below and in Regulation 2107.01. For purposes of this Regulation, a Termination Event shall occur when:

- A. The Clearing House is unable to cover a settlement variation payment obligation when due and has no expectation of accessing funds to permit it to cover such payment obligation;
- B. The Clearing House determines that the available funds will be insufficient to satisfy all Losses;
- C. MGEX is unable to comply with an obligation to pay money or deliver property to a Clearing Member that is properly due and owing in connection with a transaction cleared by the Exchange for a period of five (5) Business Days; or
- D. MGEX institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy.

Following a Termination Event, the Clearing House shall, as soon as reasonably practicable and in a manner consistent with the Commodity Exchange Act and the regulations adopted thereunder

(including, without limitation Part 190 of the Regulations, if applicable), fix a U.S. dollar amount to be paid to or received from the Clearing House in respect of all contracts to be terminated by conducting a Haircut Settlement Cycle (as defined below) to determine a final settlement price for all open contracts as described in Regulation 2107.01.

2107.01. HAIRCUT SETTLEMENT CYCLES AND TERMINATION OF CONTRACTS.

If a Termination Event occurs, the Clearing House shall notify the non-defaulted Clearing Members and conduct a settlement cycle for all MGEX contracts to determine settlement prices for all contracts and the portfolio gain or loss for each non-defaulted Clearing Member and its customers as follows (such settlement cycle, a "Haircut Settlement Cycle"):

- A. The net portfolio gain of a non-defaulted Clearing Member (a "collect"), or the net portfolio loss of a non-defaulted Clearing Member to the Clearing House (a "pay"), shall be determined separately for (i) its proprietary positions in MGEX contracts (a "Proprietary Collect" or a "Proprietary Pay"), and (ii) the positions of its customers in MGEX contracts (collectively, a "Customer Collect" or a "Customer Pay").
- B. The Clearing House shall determine and calculate the sum of (i) the amount of each non-defaulted Clearing Member's remaining payment obligations, if any, with respect to assessments levied by MGEX; (ii) any other remaining available funds or collateral, (iii) all Proprietary Pays to be received by MGEX, (iv) and all Customer Pays to be received by MGEX, and deduct the amount of any uncovered Loss (the resulting amount, the "Aggregate Available Funds").
- C. The Clearing House shall then notify each Clearing Member of the amount of its remaining assessments, Proprietary Pay, and Customer Pay, and each Clearing Member shall pay all such amounts no later than the time specified by the Clearing House in such notice. If a Clearing Member does not make such payment to the Clearing House, such Clearing Member will be in default and the Exchange may take any of the actions specified elsewhere in the MGEX Rulebook with respect to such Clearing Member and its customers.
- D. If the amount of Aggregate Available Funds received by the Clearing House exceeds the sum of all Proprietary Collects and Customer Collects, the Clearing House shall use the excess amount to calculate reimbursements of Clearing Member assessments previously paid to the Exchange. Such reimbursements will be distributed pro rata to Clearing Members.
- E. If the sum of all Proprietary Collects and Customer Collects exceeds the amount of Aggregate Available Funds received, the Clearing House shall haircut the amount of each Proprietary Collect and Customer Collect on a pro rata basis based on the amount of Aggregate Available Funds received relative to the Proprietary Collect and Customer Collect.
- F. For non-defaulted Clearing Members, the Clearing House shall pay (i) the Proprietary Collect or the haircut amount of such Proprietary Collect, as applicable, and (ii) the Customer Collect or the haircut amount of such Customer Collect, as applicable, as soon as practicable after receipt of the Aggregate Available Funds.

G. The Clearing Member shall allocate any haircut amount of Customer Collects pro rata among the Clearing Member's customers.

Upon the completion of payments, all MGEX contracts shall be extinguished, and the Clearing House shall have no further access to funds or collateral with respect to such contracts or clearing activity of a non-defaulting Clearing Member. Clearing Members, their affiliates, and their customers shall have no claim against the Exchange with respect to losses suffered as a result of the application of MGEX Rules and Regulations, nor shall any beneficial holder of an MGEX contract have any claim against its non-defaulting Clearing Member.

2107.02. NON-PETITION.

No Clearing Member and no customer of a Clearing Member shall institute against, or join any other person in instituting against, the Exchange any bankruptcy, reorganization, arrangement, insolvency, moratorium, liquidation or examinership proceedings, or other similar proceedings under U.S. federal or state bankruptcy laws or other applicable law arising out of any claimed default by the Clearing House on an MGEX contract as a result of the termination of such contract and related payments in accordance with these Regulations.

2108.00. DETAILS OF IMPLEMENTATION.

While adherence to the provisions of the above MGEX Regulations is mandatory, the detailed implementation of the process of finalizing Losses with respect to a default, including the liquidation, auction, or sale of positions or assets of the Defaulting Clearing Member, shall be conducted by the Clearing House or the MGEX Risk Team.

In order to ensure that the process for liquidating open contracts results in competitive pricing, to the extent feasible under market conditions at the time of liquidation, liquidation of open contracts held for a house account or customer account of a Defaulting Clearing Member may occur by one or more of the following methods: (i) book entry that offsets open contracts on the books of the Defaulting Clearing Member; (ii) liquidation in the open market; and/or (iii) one or more private auctions amongst qualified market participants invited by the Clearing House to submit confidential bids. The Clearing House shall have discretion to select the best bid submitted for any portfolio in an auction, based on the totality of the circumstances.

In the event that identical customer contracts are liquidated in the open market on the same date but cannot be liquidated at the same price, unless the Clearing House determines that it would be inappropriate, a weighted average of the liquidation prices for such contracts shall be used in determining the value of the liquidated contracts for each such customer. In the event that open contracts of multiple customers are liquidated in a bulk auction, the net proceeds of such auction shall be allocated on a pro rata basis amongst the affected customers based upon their applicable performance bond requirements for the clearing cycle immediately prior to the default.

2109.00. COOLING OFF PERIOD AND MULTIPLE DEFAULTS.

The provisions set forth in Regulations 2106.00. through 2108.00. apply with respect to each default by a Clearing Member. If more than one Clearing Member Default occurs at a time or in close sequence, including a default that occurs by reason of a Clearing Member's failure to satisfy an assessment demand, the Clearing House shall manage the defaults separately. Upon any default, non-defaulted Clearing Members shall be subject to a maximum obligation during the Cooling Off Period to pay assessments as set forth in Regulation 2106.05. This maximum shall

apply from the date of the original default until the later of (i) the fifth Business Day thereafter and (ii) if another Clearing Member defaults during the five (5) Business Days following the initial or any subsequent default, the fifth Business Day following the last such default (such period, the "Cooling Off Period"), regardless of the number of defaults that occur during such Cooling Off Period.

The aggregate maximum contribution for the Cooling Off Period shall be based upon each Clearing Member's total security deposit requirement in effect at the commencement of the Cooling Off Period. The maximum does not limit Clearing Members' obligations to restore their security deposit contributions as set forth in Regulation 2113.00. Following a Cooling Off Period, the Clearing House shall notify each Clearing Member of its security deposit obligation and its assessment exposure.

2110.00. NO ACTION; LIMITATION OF LIABILITY.

Non-defaulting Clearing Members shall take no actions, including but not limited to, attempting to obtain a court order that would interfere with the ability of the Clearing House to collect and apply assets and proceeds in accordance with any MGEX Regulations.

The liability of the Exchange shall be limited to losses resulting from the substitution of the Clearing House upon contracts between Clearing Members. The Exchange shall not be liable for any other obligations, including but not limited to, obligations of a non-Clearing Member, obligations of a Member, obligations of a Clearing Member to a non-Member, obligations of a Clearing Member to another Member of the Clearing House who is acting for him as broker, or obligations to a customer by a Clearing Member; nor shall the Exchange become liable to make deliveries to or accept deliveries from a customer of its Clearing Members.

2111.00. CLOSE-OUT NETTING AND OFFSET.

If at any time the Exchange (i) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition presented against it, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the Exchange's winding-up or liquidation, or (ii) approves resolutions authorizing any proceeding or petition described in clause (i) above (collectively, a "Bankruptcy Event"), all open positions in the Clearing House shall be closed promptly.

If at any time the Exchange fails to comply with an undisputed obligation to pay money or deliver property to a Clearing Member that is due and owing in connection with a transaction cleared by the Exchange, for a period of five (5) Business Days from the date that the Exchange receives notice from the Clearing Member of the past due obligation, the Clearing Member's open proprietary and customer positions at the Clearing House shall, at the election of that Clearing Member, be closed promptly.

At such time as a Clearing Member's positions are closed:

- A. The obligations of the Clearing House to such Clearing Member with respect to the Clearing Member's proprietary positions, accounts, collateral, and security deposits shall be netted against the obligations of such Clearing Member to the Clearing House and to the Exchange in respect of its proprietary positions.

accounts, collateral, guarantees of the performance of its customers, and any obligations to guarantee funds (“Proprietary Netting”); and

- B. The obligations of the Clearing House to the Clearing Member with respect to such Clearing Member's customers' futures positions, futures accounts, and futures collateral shall be netted against the obligations of the Clearing Member to the Clearing House with respect to the futures positions, futures accounts, and futures collateral of such customers (“Futures Customer Netting”).

Proprietary Netting and Futures Customer Netting shall be performed in accordance with the Bankruptcy Code and the Commodity Exchange Act and the regulations promulgated thereunder. This Regulation shall be deemed to be a master netting agreement for Proprietary Netting and a master netting agreement for Futures Customer Netting.

After a Bankruptcy Event occurs, the authority of the Clearing House, pursuant to Regulation 2106.05., to make new assessments or require a Clearing Member to cure a deficiency in its security deposit, arising after the Bankruptcy Event, shall terminate.

All positions open immediately before being closed in accordance with this Regulation shall be valued in accordance with the following procedures.

As promptly as reasonably practicable, but in any event within thirty days of the (i) Bankruptcy Event, or (ii) if a Clearing Member elects to have its open positions closed in a default as described above, the date of the election, the Exchange shall, in a manner that is consistent with the requirements of the Commodity Exchange Act and the regulations adopted thereunder (including, without limitation Part 190 of the Regulations), fix a U.S. dollar amount (the “Close-out Value”) to be paid to or received from the Exchange by each Clearing Member, after taking into account all applicable netting and offsetting pursuant to the provisions of this Regulation.

The Exchange shall value open positions subject to close-out by using the market prices at the moment that the positions were closed-out, assuming the markets were operating normally at such moment. If the markets were not operating normally at such moment, the Exchange shall exercise its discretion, acting in good faith and in a commercially reasonable manner, in adopting methods of valuation to produce reasonably accurate substitutes for the values that would have been obtained from the market if it had been operating normally at the moment that the positions were closed-out.

In determining a Close-out Value, the Exchange may consider any information that it deems relevant. If a Clearing Member has a negative Close-out Value, it shall promptly pay that amount to the Exchange.

2112.00. MEMBERSHIPS: ASSESSMENTS AND ISSUANCE.

Notwithstanding the provisions of Rule 221.01., in the event the Exchange requires additional funds to address any uncovered credit loss, liquidity shortfall, or capital inadequacy, MGEX may levy a special assessment against each and every Membership and may fix the dates upon which such assessments, in whole or in parts thereof, shall become due and payable.

In addition, and notwithstanding the provisions of Rule 360.00., in the event the Exchange requires additional funds to address any uncovered credit loss, liquidity shortfall, or capital inadequacy, the Exchange officers shall have the right to sell original Memberships. The sale

price shall be determined by the Exchange officers and shall be within the current bid and offer range for memberships, provided that the officers consider such price to be reasonable. The person to whom such Membership is to be issued must comply with all the terms and conditions of MGEX Rules and Regulations concerning admission to Membership and recording the ownership of a Membership. Pursuant to Rule 360.00., the number of outstanding Memberships shall not exceed six hundred (600) unless an increase is approved by a vote of the Record Owners.

211305.003. SECURITY DEPOSITS TO BE RESTORED.

In the event it shall become necessary as provided above to apply all or part of the security deposits to meet obligations to MGEX, the Clearing Member shall immediately make good any such deficiency in security deposits, by wire or other acceptable method, by established deadlines for current end of day variation cycle or sooner as may be required by the Exchange. In the event of the insolvency or default of a depository or settlement bank, Clearing Members shall comply with any further instructions provided by MGEX regarding the restoration of such security deposits.

211405.005. USE OF CUSTOMER GROSS MARGIN FILES.

[unchanged other than re-numbering]

211506.00. ACCEPTANCE OF GIVE-UP TRADES.

[unchanged other than re-numbering]

211607.00. CLEARING MEMBER FINANCIAL EMERGENCY.

[unchanged other than re-numbering]

211708.00. FINALITY OF SETTLEMENT.

[unchanged other than re-numbering]

211809.00. SETTLEMENT BANKS AVAILABLE FOR USE.

[unchanged other than re-numbering]

21190.00. PROTECTION OF CUSTOMER FUNDS.

[unchanged other than re-numbering]

212011.00. CLEARING MEMBER RISK MANAGEMENT.

[unchanged other than re-numbering]