



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and Risk

December 19, 2022

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Director of Market Operations, Clearing & IT
Minneapolis Grain Exchange, Inc.

Jennifer Baum
Chief Compliance Officer
Options Clearing Corporation

**Re: Extension of No-Action Letter Regarding the Reporting Requirements in
Commission Regulation 39.19(c)(1)**

Dear Mses. Dutta and Baum, and Messrs. Byron, Downey, and Facente:

By letter dated December 31, 2020 (CFTC Letter No. 21-01), the Division of Clearing and Risk (“Division”) of the Commodity Futures Trading Commission (“Commission”) confirmed that it would not recommend that the Commission take enforcement action against any derivatives clearing organization (“DCO”) for failing to comply with the requirements in Regulation 39.19(c)(1)(i)(B) and (C) as amended, so long as that DCO continues to comply with the prior version of Regulation 39.19(c)(1)(i)(B) and (C). The letter was extended once (CFTC Letter No. 21-31), and is set to expire on January 27, 2023.¹ The Division is hereby extending

¹ In CFTC Letter No. 21-31, DCOs were given until: (1) June 27, 2022 to comply with the amended daily reporting requirements in Regulation 39.19(c)(1), to give the Division time to revise the DCO reporting guidebook to address these new requirements (*See* The U.S. Commodity Futures Trading Commission Guidebook for Part 39 Daily Reports, v.1.0.1, Dec. 10, 2021); and (2) January 27, 2023 to comply with the requirements in Regulation 39.19(c)(1)(i)(B) and (C), to give the Commission time to consider the issues raised with

the deadline until the earlier of: one year from the issuance of this letter, or the date on which the Commission finalizes a proposed rule addressing this matter, as discussed below.

I. Background

Regulation 39.19 implements section 5b(c)(2)(J) of the Commodity Exchange Act, which requires each DCO to provide the Commission with all information that the Commission determines to be necessary to conduct oversight of the DCO. Specifically, Regulation 39.19 sets forth certain daily, periodic, and event-based reporting requirements. As relevant here, Regulation 39.19(c)(1)(i) previously required a DCO to report to the Commission on a daily basis initial margin, variation margin, cash flow, and position information for each clearing member, by house origin and by each customer origin.

In 2020, the Commission amended Regulation 39.19(c)(1)(i) to add the new requirement that a DCO report on a daily basis initial margin, variation margin, cash flow, and position information by individual customer account, in addition to the existing requirement that a DCO report this information by house origin and individual customer origin.² By letter dated November 6, 2020 (“Letter”), a group of DCOs, along with the Futures Industry Association, requested relief from the new requirement in Regulation 39.19(c)(1)(i)(B) and (C) that DCOs report variation margin and cash flows by individual customer account.³ The Letter described certain operational and technological issues that DCOs and market participants identified regarding DCOs’ ability to comply with the amended requirements in Regulation 39.19(c)(1)(i)(B) and (C). To give the Commission time to consider the issues raised in the Letter, the Division issued CFTC Letter 21-01, delaying compliance with the daily reporting requirements of Regulation 39.19(c)(1)(i)(B) and (C) as amended, so long as DCOs continue to comply with the prior version of Regulation 39.19(c)(1)(i)(B) and (C). In December 2021, the Division extended this time to January 27, 2023.⁴

On December 15, 2022, the Commission issued a proposed rule to amend, among other things, Regulation 39.19(c)(1)(i)(B) and (C) to remove the requirement that a DCO report daily variation margin and cash flows by individual customer account, as requested in the Letter.⁵

respect to these provisions. *See* CFTC Letter No. 21-31 (Dec. 22, 2021). Given that the time under track (1) has expired, the extension of time provided in this letter applies only to track (2).

² Derivatives Clearing Organization General Provisions and Core Principles, 85 Fed. Reg. 4,800 (Jan. 27, 2020) (amending Regulation 39.19(c)(1), along with other provisions in Part 39 of the Commission’s regulations).

³ The request was made on behalf of Chicago Mercantile Exchange Inc., ICE Clear Credit LLC, ICE Clear Europe Limited, ICE Clear US, Inc., ICE NGX Canada Inc., Minneapolis Grain Exchange, Inc., Options Clearing Corporation, and similarly situated DCOs.

⁴ CFTC Letter No. 21-31 (Dec. 22, 2021).

⁵ Reporting and Information Requirements for Derivatives Clearing Organizations, 87 Fed. Reg. 76,698 (Dec. 15, 2022).

II. No-Action Position

Based on the facts summarized above, the Division will not recommend that the Commission take enforcement action against any DCO for failing to comply with the requirements in Regulation 39.19(c)(1)(B) and (C) as amended in 2020, so long as that DCO continues to comply with the prior version of Regulation 39.19(c)(1)(B) and (C). This letter shall expire on the earlier of: one year from the date of issuance, or the date on which the Commission finalizes the proposed rule addressing this matter.

III. Conclusion

This letter, and the positions taken herein, represent the views of the Division only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The staff positions taken in this letter do not excuse persons relying on it from compliance with any other applicable requirements contained in the Commodity Exchange Act or in Commission regulations. Further, this letter, and the positions taken herein, are based upon the facts and circumstances presented to the Divisions. Any different, changed, or omitted material facts or circumstances might render the staff positions taken in this letter void.

Should you have any questions, please do not hesitate to contact August A. Imholtz III, Special Counsel, at aimholtz@cftc.gov.

Sincerely,

Clark Hutchison
Director