

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 20-468

Organization: NEX SEF Limited ("NEX SEF")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): 11/04/20 Filing Description: Adoption of New Rule 318 ("Post-Trade Anonymity")

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers: See filing.

**New Product**

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Official Product Name:

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected:

Rule Numbers: see filing.

November 4, 2020

**VIA ELECTRONIC PORTAL**

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

**RE: CFTC Regulation 40.6(a) Certification. Notification Regarding the Adoption of New Rule 318 (“Post-Trade Anonymity”). NEX SEF Submission No. 20-468**

Dear Mr. Kirkpatrick:

NEX SEF Limited (“NEX SEF”) is certifying to the Commodity Futures Trading Commission (“CFTC” or “Commission”) the adoption of new Rule 318 (“Post-Trade Anonymity”) to include a prohibition against certain post-trade name give up practices (the “Rule Amendment”) effective -----for trade date -----, 2020, as more specifically described below.

Attached as Appendix A is a new NEX SEF Rule 318, which reflects the Rule Amendment.

NEX SEF reviewed the Swap Execution Facility (“SEF”) core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the Rule Amendment may have some bearing on the following Core Principle:

- **Compliance with Rules:** CEA Section 5h(f)(2)(B) requires a SEF to establish and enforce trading, trade processing, and participation rules that provide market participants with “impartial access” to the market, and the CFTC has implemented this statutory requirement by adopting CFTC Regulation 37.202, which requires a SEF to provide market participants with impartial access to its market(s), including, among other things, criteria governing such access that are impartial, transparent and applied in a fair and non-discriminatory manner.

As the Commission noted in the release adopting CFTC Regulation 37.9(d),<sup>1</sup> the practice of post-trade name give-up for transactions that are intended to be cleared undermines the policy goals of the impartial access requirement. As a result, the CFTC adopted Regulation 37.9(d) to generally prohibit this practice and to require SEFs to codify this prohibition in their rules. The purpose of the Rule Amendment is to effectuate this requirement.

Pursuant to Section 5c(c) of the Act and CFTC Regulation 40.6, NEX SEF hereby certifies that the Rule Amendment complies with the Act, including the regulations under the Act. There were no substantive opposing views to the proposal.

NEX SEF certifies that this submission has been concurrently posted on its website at <http://www.nexset.com>.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2200 or [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

<sup>1</sup> See 85 Fed. Reg. 44693 (July 24, 2020).

Sincerely,



Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Appendix A: NEX SEF Rule 318 ("Post-Trade Anonymity")

## **Appendix A**

### **NEX SEF Rulebook**

(additions underscored)

#### **Rule 318 - Post-Trade Anonymity**

(a) Pursuant to the Commission issuing final rule 37.9(d), neither NEX SEF nor any person that is subject to its rules may, directly or indirectly, including through a third-party service provider, disclose the identity of a counterparty for swaps that are executed, pre-arranged or pre-negotiated anonymously on or pursuant to the rules of NEX SEF and that are intended to be submitted for clearing contemporaneously with execution.

(b) The foregoing prohibition shall not apply to package transactions that include a component transaction that is not a swap that is intended to be submitted for clearing contemporaneously with execution.

(c) The compliance date for this Rule for swaps that are subject to the trade execution requirement under section 2(h)(8) of the Act is November 1, 2020. The compliance date for this Rule for swaps that are not subject to the trade execution requirement under section 2(h)(8) of the Act is July 5, 2021.