



Via Portal Submission

February 2, 2024
MGEXDCO Submission No. 24-01

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); Amendments to MGEX Bylaws

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, LLC (“MGEX” or “Exchange”) hereby certifies that the amendments to MGEX Bylaws 2.1., 2.2., 2.3., 2.4., 2.6., 2.7., 2.10., 2.12., 2.13., 2.14., 2.15., 2.16., 3.2., 5.1., 7.2., 7.3., 7.4., 7.5., 7.7., 7.8., 7.9., 7.13., 8.4., 10.2., 12.8., 12.10., and 12.13. as set forth in Exhibit A, comply with the CEAct and the Commission regulations promulgated thereunder (the “Proposed Amendments”). MGEX further certifies that the submission and pending changes to the MGEX Bylaws have been posted on the Exchange website at the following link: <https://www.miaxglobal.com/markets/us-futures/mgex/rule-filings>.

Overview of Bylaw Amendments

The Proposed Amendments to the above-referenced Bylaws clarify the structure of the MGEX Board of Directors (“Board”) and related requirements. Specifically, the Proposed Amendments update certain aspects regarding the composition of the Board and state that all Directors shall be elected on an annual basis to simplify Board administration. Additionally, the Proposed Amendments remove the Chairperson of the Board and President of the Exchange as ex officio, nonvoting members of all committees. Lastly, the Proposed Amendments contain a variety of necessary technical changes to align the Bylaws with current practice and CFTC regulations and guidance.

DCO Core Principles

MGEX has reviewed the Core Principles for derivatives clearing organizations (“DCO Core Principles”) and identified that the Proposed Amendments may impact the following DCO Core Principles:

- *DCO Core Principle A – Compliance with Core Principles*: The Proposed Amendments will enhance the clarity of the Bylaws surrounding Board and Committee requirements and administration, among other areas.
- *DCO Core Principle L – Public Information*: The Proposed Amendments have been disseminated on the MGEX website, and will be available in the MGEX Rulebook, which is accessible online.

- *DCO Core Principle O – Governance Fitness Standards:* The Proposed Amendments do not conflict with the establishment and enforcement of appropriate governance fitness standards.
- *DCO Core Principle P – Conflicts of Interest:* The Proposed Amendments' removal of language surrounding ex officio committee membership further minimizes the potential for conflicts of interest in the decision-making process of the Exchange.
- *DCO Core Principle Q – Composition of Governing Boards:* The governance arrangements under the Proposed Amendments, specifically the composition of the Board, continue to permit consideration of the views of market participants.

Pursuant to MGEX Bylaw 3.1., the Proposed Amendments were approved on February 1, 2024. There were no substantive opposing views expressed with respect to this filing. The Proposed Amendments are to be effective when incorporated into the MGEX Rulebook and posted on its website, which will be at least 10 business days following the date of this submission.

If there are any questions regarding this submission, please contact me at (612) 321-7176 or jkrause@miaxglobal.com. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'JK', is positioned below the word 'Sincerely,'.

James D. Krause
Associate Corporate Counsel, DCO & Int'l

Enclosure

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EXHIBIT A

The following MGEX Bylaws are to be amended. Additions are underlined while deletions are ~~strikethrough~~.

2.1. COMPOSITION OF THE BOARD.

Miami International Holdings, Inc. ("MIH") is the sole member of M 402 Holdings, LLC which in turn is the sole member of the Exchange (the "LLC Member"). The LLC Member has vested the power to manage, operate, and set policies for the Exchange exclusively in the Board of Directors. The number of Directors constituting the entire Board of Directors shall be a minimum of eight (8) five (5) Directors elected by the LLC Member, consisting of not less than four-thirty-five percent (435%) individuals who qualify as Public Directors, and not less than one (1) individual who is a Market Participant. ~~The Board of Directors shall be composed of at least fifty percent (50%) Public Directors.~~ The LLC Member shall designate one of the Directors to serve as Chairperson of the Board and may also designate one (1) or more Vice Chairpersons.

The number of Directors may be fixed from time to time by the LLC Member at any time in its sole and absolute discretion, upon notice to all Directors subject to the minimum number provided for in this Bylaw. No decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director.

~~All Directors elected to the Board by the LLC Member and the Director designated as Chairperson of the Board by the LLC Member shall hold office for such term as may be determined by the LLC Member or until their respective successors are chosen.~~

~~Board members may be removed from, and substitute or additional members of the Board may be appointed to, the Board, at any time by the LLC Member. The Chairperson of the Board may be removed from that position, and a different Board member may be designated as Chairperson of the Board, at any time by the LLC Member. The LLC Member, in its sole discretion, may add, remove, or substitute Board members at any time. The LLC Member, in its sole discretion, may remove or substitute the Chairperson and any Vice Chairpersons at any time.~~

2.2. ELECTION OF DIRECTORS: TERMS OF OFFICE.

~~The LLC Member's election of Directors shall occur each calendar year, unless stated otherwise. At each election occurring during an even year, the LLC Member shall elect a minimum of four (4) Directors for terms of two (2) years each, and at each election occurring during an odd year, the LLC Member shall elect a minimum of four (4) Directors for terms of two (2) years each, so that the total Directors are at least eight (8) in number. Each Director shall be elected annually by the LLC Member, unless stated otherwise. Each Director shall hold office until their successor is elected and qualified, or until their death, resignation, substitution, or removal.~~

2.3. POWERS OF THE BOARD.

The Board of Directors is the governing body of the Exchange and has the power to:

- A. Manage the business, affairs, and property of the Exchange;

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- B. Provide, acquire and maintain suitable Exchange quarters and facilities;
- C. Review and approve the creation of and all appointments to standing and special committees recommended by the Chairperson;
- D. Review and approve the appointment of a President;
- E. Review and approve the appointment, titles and responsibilities of all Exchange employees above the level of department head;
- ~~F. Approve all contracts to be executed on behalf of the Exchange by the Chairperson, President, or other designated officers;~~
- ~~G.F.~~ Designate and authorize specific appointed officers to act on behalf of the Board to execute contracts within specified limits;
- ~~H.G.~~ Appoint Counsel to the Board;
- ~~I.H.~~ Determine the commodities traded, the delivery months, Hours of Trading, the days of the contract month in which delivery may be made, and margin requirements;
- ~~J.I.~~ Declare any day to be a holiday, during which the Exchange shall not be open for business;
- ~~K.J.~~ Adopt, amend, or repeal the MGEX Charter, Bylaws, and Rules;
- ~~L.K.~~ Act in emergencies (See **Bylaw 2.4.**);
- ~~M.L.~~ Delegate any of its powers under these Bylaws to a Committee of the Board, Committee of the Exchange, or to any officer or employees of the Exchange, provided the delegation is not inconsistent with the Charter, Bylaws, Rules, customs, or usages of the Exchange.

Any authority or discretion by these Bylaws vested in the Chairperson, President, or other officers or any committee shall not be construed to deprive the Board of such authority or discretion and, in the event of a conflict, the determination of the matter by the Board shall prevail.

2.4. EMERGENCY POWERS.

When in the sole discretion of the Exchange an emergency exists, the Exchange shall have the power to:

- A. Close the Exchange;
- B. Suspend trading in any or all Futures or Options Contracts, including trading in settlement of any then existing Futures or Options Contracts;
- C. Prohibit trading in any or all Futures or Options Contracts at prices above or below such limits as are specified by the Exchange;

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- D. Limit the total amount of open speculative Futures or Options trades that any Market Participant may have at any one time in any or all commodities, and to increase, decrease or cancel such limitations as the Exchange deems advisable. The Exchange may require such reports and may make such MGEX Rules as it deems necessary to enforce such limitations;

PROVIDED, however, that the establishing of any such limit shall not be deemed to require that total amounts of such trades acquired before the effective date of such limitations be reduced to such limit; and

- E. Take other appropriate emergency action.

If and when the Exchange has acted under the authority granted by this Bylaw, it may adopt such MGEX Rules as the Exchange deems necessary and proper and for the best interests of all concerned. Notice of any action taken by the Exchange pursuant to the authority granted by this Bylaw shall be posted on the Bulletin Board Exchange's website. Such action shall become effective when, and for such period of time, as determined by the Exchange, but not prior to the time of the posting of notice thereof on the Bulletin Board Exchange's website.

2.6. VACANCIES.

~~All vacancies on the Board of Directors shall be filled for the unexpired term of the vacant seat.~~

~~A. Board of Directors' Officers: If a vacancy occurs in the office of Chairperson, other than by expiration of the term of office, the First Vice Chairperson, or if the First Vice Chairperson is unable to act, then the Second Vice Chairperson, shall assume all the duties and powers of the Chairperson until such time as the LLC Member designates a successor to fill the vacancy pursuant to **Bylaw 2.1**.~~

~~B.A. Board of Directors' Directors: In the event a Director vacancy occurs on the Board of Directors, the Nominations Committee LLC Member shall nominate to the LLC Member Nominations Committee up to two (2) any number of individuals persons to fill the vacancy ~~and each person must confirm acceptance of such nomination~~. The ~~nominee~~ individual elected by the LLC Member shall serve the unexpired term of the vacant seat.~~

2.7. REGULAR MEETINGS.

Regular meetings of the Board may be held, with or without notice, at such time or place as may from time to time be specified ~~in a resolution adopted~~ by the Board.

2.10. ACTION IN LIEU OF MEETING.

Unless otherwise restricted by statute, the Certificate of Formation, ~~the Certificate of Formation~~ or these Bylaws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all Board members or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing(s) or electronic transmission(s) are filed with the minutes of proceedings of the Board or the committee.

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2.12. PROCEDURE AT MEETINGS.

The Board of Directors may, from time to time, adopt rules, guidelines, or other criteria for its own government and the conduct of its meetings as are not contrary to Delaware Limited Liability Company Act, the ~~Charter~~Certificate of Formation, Bylaws, or Rules. Except as otherwise specifically provided in the aforementioned authority, meetings of the Board of Directors shall be conducted according to the established practices of Parliamentary Law and, in case of dispute, "Robert's Rules of Order" shall govern.

2.13. CHAIRPERSON.

The Chairperson of the Board of Directors shall be the senior officer of the Board and perform the usual duties incident to the office. Unless otherwise specified by Bylaw, the Chairperson shall recommend appointments to all Committees, any special Committees deemed necessary, and the Chairpersons thereof, subject to the approval of the Board. ~~Unless otherwise specified by Bylaw, the Chairperson shall be an ex officio, nonvoting member of all Committees.~~ The Chairperson shall preside at all meetings of the Board. ~~unless specified otherwise, shall see that all bonds of the employees of the Exchange required to give bond are properly executed and shall have the books of the Exchange audited at least once a year by a certified public accountant.~~ The Chairperson shall be a member of the Board of Directors.

2.14. VICE CHAIRPERSONS.

~~The~~ Vice Chairpersons may be designated by the Board and ~~shall be considered, respectively, the First and Second Vice Chairpersons and shall, in such order, shall~~ perform the duties of the Chairperson in the Chairperson's absence or disability, in such order as designated by the Chairperson. The Vice Chairpersons shall be members of the Board of Directors.

2.15. ACTING CHAIRPERSONS.

The LLC Member may appoint an acting Chairperson to perform the duties of the Chairperson during the absence or disability of the Chairperson and ~~both any~~ Vice Chairpersons. The acting Chairperson shall be a member of the Board of Directors.

2.16. APPOINTMENT OF EXCHANGE OFFICERS, OTHER OFFICERS, AND EMPLOYEES.

The Board of Directors shall from time to time elect or appoint Exchange Officers, including a President, Secretary, and Treasurer, as well as other officers, including a Chief Regulatory Officer, Chief Compliance Officer, Chief Risk Officer, and such other officers or employees as in its judgment may be necessary. The offices of Secretary and Treasurer may be held by the same person. The Board of Directors may assign any title to any of such other officers or employees as it deems advisable. The Board of Directors may prescribe the duties and fix the compensation of all such officers and employees, and all such officers and employees shall hold office or be employed during the will of the Board of Directors. ~~The Board of Directors may require a good and sufficient bond from any of such officers or employees for the faithful performance of their duties and trusts.~~

3.2. ADOPTION OR AMENDMENT OF BYLAWS AND RULES: DATE EFFECTIVE.

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Unless specifically provided otherwise by the Board of Directors or its designee, MGEX Bylaws and Rules shall become effective as of the first business day following the date that the Exchange publishes the amendment on its website (www.mgex.com).

5.1. PRESIDENT.

The Board may elect a President of the Exchange. The President shall be the Chief Executive Officer of the Exchange responsible to the Board for the management and administration of its business affairs. The President shall execute all contracts as authorized by the Board. All employees of the Exchange shall be under the President's supervision who shall establish the qualifications, duties and responsibilities of all subordinate administrative personnel. ~~Unless otherwise specified by Bylaw, the President shall be an ex officio, nonvoting member of all regular and special Committees and a nonvoting member of the Board of Directors.~~ By acceptance of the office of President, the President shall be deemed to have agreed to uphold the ~~Charter Certificate of Formation~~ and MGEX Bylaws and Rules. The Board may confer upon the President other responsibilities as warranted.

7.2. COMMITTEES OF THE BOARD OF DIRECTORS.

Committees of the Board of Directors shall be established by ~~Bylaw~~ the Board as set forth in these Bylaws and shall consist of at least three (3) individuals on the Board. ~~Unless otherwise specified by Bylaw, such Committees shall consist of an odd number of Directors, not including the Chairperson of the Board.~~ A majority of the Directors of a Committee shall constitute a quorum and a majority of the quorum shall be required to take action. A three-fourths (3/4) supermajority of a quorum of the Board shall be required to remove a Director who was appointed to a Committee. A majority of a quorum of the Board shall be required to revoke actions taken by a Committee. In addition to the enumerated duties and powers, each Committee shall exercise such authority and execute such actions as may be delegated to it by the Board of Directors, or by the Bylaws or Rules.

7.3. COMMITTEES OF THE EXCHANGE.

Committees of the Exchange shall be established by Bylaw or Rule and shall consist of at least three (3) individuals. Unless otherwise specified by Bylaw or Rule, a majority of the members of a Committee shall constitute a quorum and a majority of the quorum shall be required to take action. In addition to the duties and powers specified by Bylaw or Rule, Committees of the Exchange shall also have such duties and powers as may be specified by the Board of Directors.

7.4. EXECUTIVE COMMITTEE.

There shall be established a Committee of the Board of Directors to be known as the Executive Committee which shall be composed of five (5) ~~directors~~ Directors, including the Chairperson of the Board, ~~the First and Second Vice Chairpersons of the Board~~ and no less than two (2) Public Directors elected by the Board. Meetings of the Executive Committee shall be held at such time and place as may be designated by the Executive Committee. The Chairperson of the Board shall be the Chairperson of the Executive Committee and shall have voting privileges.

The Committee shall have the duty and power to act on behalf of the Board of Directors when an emergency exists or when the Board is otherwise unable to reach quorum or convene in a timely manner.

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7.5. AUDIT COMMITTEE.

There shall be established a Committee of the Board of Directors to be known as the Audit Committee which shall be composed of five (5) Directors including the Chairperson of the Board, ~~the President,~~ and three (3) Public Directors elected by the Board of Directors.

The Audit Committee shall perform the following primary functions, as well as such other functions as may be specified by the Board: (i) provide oversight over the Exchange's financial reporting process and the financial information that is provided to the LLC Member and others; (ii) provide oversight over the systems of internal controls established by management and the Board and the Exchange's legal and compliance process; and (iii) direct and oversee all the activities of the Exchange's internal audit function, including but not limited to management's responsiveness to internal audit recommendations.

7.7. REGULATORY OVERSIGHT COMMITTEE.

There shall be established a Committee of the Board of Directors to be known as the Regulatory Oversight Committee. It shall be composed of three (3) Directors, and all such Directors shall be Public Directors, elected by the Board. The Committee shall have the duties and powers as described and required under Core Principle 16 described in 17 CFR Part 38.

7.8. MGEX RISK MANAGEMENT COMMITTEE.

There shall be established a Committee of the Board of Directors to be known as the MGEX Risk Management Committee. ~~The Committee shall have the duties and powers as described and required in applicable CFTC Regulations and internal policies.~~ The Committee shall have the duties and powers as described in internal policies and permitted in applicable CFTC Regulations.

7.9. NOMINATIONS COMMITTEE.

There shall be established a Committee of the Board of Directors to be known as the Nominations Committee which shall be composed of five (5) ~~directors~~Directors, including the Chairperson of the Board and three (3) Public Directors. The Nominations Committee shall each be elected on an annual basis by vote of the LLC Member. The chair of the Nominations Committee shall be a Public Director. The Nominations Committee shall identify individuals qualified to serve on the Board and nominate candidates for election to the Board and all other vacant or new Director positions on the Board. The Nominations Committee, in making such nominations, is responsible for ensuring that candidates meet the compositional requirements of these Bylaws. The Nominations Committee shall meet in advance of the LLC Member's election of Directors, unless stated otherwise.

7.132. OTHER COMMITTEES, TASK FORCES AND PANELS.

The Board of Directors and the Executive Committee shall each have the authority to establish committees, task forces and panels as necessary for a duration not to extend past the next Annual Election. After election, the new Board of Directors and Executive Committee may re-authorize the committees, task forces and panels.

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The composition, qualifications, method of appointment, duties and powers of such committees, task forces and panels shall be determined by the respective Board of Directors and Executive Committee.

Such committees, task forces and panels shall not determine the policies of the Exchange, expend funds or enter into contracts on behalf of the Exchange, or otherwise conduct activities outside the purpose for which they were established, unless such actions are approved by the Board of Directors.

8.4. DISCIPLINARY COMMITTEE: DUTIES AND POWERS.

The Disciplinary Committee shall be charged with the duty and authority:

- A. To prevent manipulation of prices as provided in the ~~Commodity Exchange Act~~CEA.
- B. To review all investigation reports submitted to the Disciplinary Committee by the Department of Audits and Investigations in respect to all matters relating to activity conducted under the jurisdiction of MGEX and in respect to alleged violations of the MGEX Bylaws or Rules.
- C. To direct the Department of Audits and Investigations to conduct such further investigation in respect to any such report as the Disciplinary Committee deems appropriate or advisable.
- D. To promptly review and determine whether or not any or all charges included in the investigation report submitted to the Disciplinary Committee have, in its opinion, a reasonable foundation in fact.
- E. To dismiss any or all charges included in any investigation report submitted to the Disciplinary Committee that are, in its opinion, without reasonable foundation in fact.
- F. To authorize the issuance of a Notice of Charges against person(s) alleged to have committed such violations if the Disciplinary Committee has found that the investigation report shows a reasonable basis for a violation and that the matter should be adjudicated.

The Disciplinary Committee, in performing its duties, may request any Person or Market Participant to appear before the Disciplinary Committee in its investigations of matters set forth in the investigation report. The Disciplinary Committee may review the dealings and transactions of Persons or Market Participants, and it may examine their books, papers and records pertinent to such review. The Disciplinary Committee may employ such auditors, counsel or other assistants as it may deem necessary, and all expenses incident thereto shall be payable from the funds of the Exchange.

The Disciplinary Committee may invite a representative of the ~~Commodity Futures Trading Commission~~CFTC to attend any or all of its meetings.

In addition to possible violations of the MGEX Bylaws or Rules appropriately brought before the Disciplinary Committee pursuant to Paragraph B, above, the Disciplinary Committee also shall review any investigation report concerning a particular course of conduct by a Person or Market Participant which has produced or thereafter, in the opinion of the Disciplinary Committee, would produce a manipulation of prices or cornering of any commodity in violation of the MGEX Bylaws or Rules.

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No Person or Market Participant shall violate any order of the Disciplinary Committee after having been duly notified thereof. Nothing, however, herein contained shall in any way be construed as superseding the duties and authority that have been vested in the Board of Directors by the MGEX Bylaws and Rules. All directives of the Disciplinary Committee pertaining to price manipulations or corners and requiring a market position reduction shall be effective when issued.

No member of the Disciplinary Committee shall publish, divulge or make known in any manner, except when reporting to the Board of Directors or to a committee concerned with such information, or when called upon to testify in any judicial or administrative proceeding, any facts regarding the business of any Person, or any other confidential information that may come to the knowledge of such Disciplinary Committee member in the member's official capacity.

10.2. AUDITS AND INVESTIGATIONS.

There shall be established a department of the Exchange that conducts audits and investigations. Such department of the Exchange shall serve as an independent department and shall not include Market Participants whose interests conflict with their audit, investigation or enforcement duties.

The Exchange shall initiate and conduct investigations and audits at the direction of the CRO Chief Regulatory Officer, the Regulatory Oversight Committee and/or the appropriate committee. Such investigations shall be initiated promptly after receipt of a complaint or other indication of possible violation of the MGEX Rules.

The Exchange has the authority to collect information and documents on both a routine and non-routine basis, including, but not limited to, the authority to examine books and records kept by any Market Participant or Person under investigation or from whom information or cooperation has been requested. Failure to comply with any request made by the Exchange for information and/or documents may subject the Market Participant or Person under investigation or from whom information or cooperation has been requested to disciplinary procedures of the Exchange or fines pursuant to the MGEX Rules.

12.8. CONFLICTS OF INTEREST.

A member of the Board of Directors and certain other committees at the Exchange must abstain from deliberating and voting on matters when there is a potential personal or financial conflict of interest. This Bylaw describes how and when the conflict of interest will be determined. Additional and broader conflicts of interest provisions apply to the Disciplinary Committee and the Hearing Committee. (See **Bylaws 8.2** and **9.2**.)

- A. Definitions. For purposes of this Bylaw the following definitions shall apply:
1. The term "family relationship" of a person shall mean the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece, or in-law.
 2. The term "governing board" shall mean the Board of Directors, Committees of the Board of Directors and Committees of the Exchange authorized to take action or to recommend the taking of action on behalf of the Exchange.

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3. The term “member’s affiliated firm” shall mean a firm in which the member is an employee or a “principal,” as defined in CFTC Regulation 3.1(a).
4. The term “named party in interest” shall mean a person or entity that is identified by name as a primary subject of any material matter being considered by a governing board.
5. The term “significant action” shall mean any of the following types of actions or changes that are implemented without the Commission’s prior approval:
 - a. Any actions or changes which address an “emergency” as defined in CFTC Regulation 1.41(a)(4)(i) through (iv) and (vi) through (viii); and,
 - b. Any changes in margin levels that are designed to respond to extraordinary market conditions such as an actual or attempted corner, squeeze, congestion or undue concentration of positions, or that otherwise are likely to have a substantial effect on prices in any contract traded at the Exchange; but shall not include any Bylaw or MGEX Rule not submitted for prior CFTC approval because such Bylaw or MGEX Rule is unrelated to the terms and conditions of any contract traded at the Exchange.

B. Named Party in Interest Conflict

1. **Prohibition.** No member of a governing board shall knowingly participate in such body’s deliberations or voting in any matter involving a named party in interest where such member: (a) is a named party in interest; (b) is an employer, employee or fellow employee of a named party in interest; (c) is associated with a named party in interest through a broker association; (d) has a family relationship with a named party in interest; or, (e) has any other significant, ongoing business relationship with a named party in interest, excluding relationships limited to executing futures or option transactions opposite each other or to clearing futures or options transactions through the same Clearing Member.

If the member’s only relationship with a named party in interest is through a broker association not established for the purpose of sharing profits and losses, then the prohibition shall not apply. Furthermore, if a named party in interest is one or part of a group of similar persons or entities that is the subject for general deliberation and voting, such as approval for regularity or membership, and there is no material issue of dispute involving a named party in interest, then the prohibition shall not apply.

2. **Disclosure.** Prior to consideration of any matter involving a named party in interest, each member of the deliberating body who does not choose to abstain from deliberations and voting shall disclose to the Department of Audits and Investigations whether such member has one of the relationships listed in paragraph B.1. of this [Bylaw Section 12.8 of the Bylaws](#) with a named party in interest.

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3. Procedure and Determination. Exchange staff shall determine whether any member of the deliberating body is subject to a conflicts restriction under this paragraph B. Such determination shall be based upon a review of the following information:
 - a. information provided by the member pursuant to paragraph B.2. above, and
 - b. any other source of information that is held by and reasonably available to the Exchange.

C. Financial Interest in a Significant Action Conflict

1. Prohibition. No member of a governing board shall participate in such body's deliberations and voting on any significant action if such member knowingly has a direct and substantial financial interest in the result of the vote based upon either Exchange or non-Exchange positions that could reasonably be expected to be affected by the significant action under consideration, as determined pursuant to this Bylaw.
2. Disclosure. Prior to consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting shall disclose to the Department of Audits and Investigations position information that is known to such member, with respect to any particular month or months that are under consideration, and any other positions which the deliberating body reasonably expects could be affected by the significant action, as follows:
 - a. gross positions held at the Exchange in the member's personal accounts or "controlled accounts," as defined in CFTC Regulation 1.3(j);
 - b. gross positions held at the Exchange in proprietary accounts, as defined in CFTC Regulation 1.17(b)(3), at the member's affiliated firm;
 - c. gross positions held at the Exchange in accounts in which the member is a principal, as defined in CFTC Regulation 3.1(a);
 - d. net positions held at the Exchange in "customer" accounts, as defined in CFTC Regulation 1.17(b)(2), at the member's affiliated firm; and
 - e. any other types of positions, whether maintained at the Exchange or elsewhere, held in the member's personal accounts or the proprietary accounts of the member's affiliated firm, that reasonably could be affected by the significant action.
3. Procedure and Determination. Exchange staff shall determine whether any member of the deliberating body is subject to a conflicts restriction under this paragraph C. based upon a review of the most recent large trader reports and clearing records available to the Exchange, information provided by the member with respect to positions pursuant to paragraph C.2. of this Bylaw, and any other source of information that is held by and reasonably available to the Exchange, taking into consideration the exigency of the significant action being contemplated.

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- D. **Deliberation Exemption.**
1. Any member of a governing board who would otherwise be required to abstain from deliberations and voting pursuant to paragraph C. ~~hereof of this Section 12.8 of the Bylaws~~ may participate in deliberations, but not voting, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided, however, that before reaching any such determination the deliberating body shall fully consider the position information specified in paragraph C.2. and C.3. ~~above of this Section 12.8 of the Bylaws~~, which is the basis for such member's substantial financial interest in the significant action that is being contemplated.
 2. In making its determination, the deliberating body shall consider;
 - a. whether the member's participation in deliberations is necessary to achieve a quorum; and
 - b. whether the member has unique or special expertise, knowledge or experience in the matter being considered.
- E. **Documentation.** The minutes of any meeting to which the conflicts determination procedures set forth in this Bylaw apply, shall reflect the following information:
1. the names of all members who attended the meeting in person or who otherwise were present by electronic means;
 2. the name of any member who voluntarily recused himself or herself or was required to abstain from deliberations and/or voting on a matter and the reason for the refusal or abstention, if stated;
 3. information on the position information that was reviewed for each member if applicable and available; and
 4. the name of any member who participated in voting pursuant to paragraph D.3. of this Bylaw.

12.10. COMMODITY EXCHANGE ACT RULE.

- A. In order to comply with the CEA and CFTC Regulations, it is hereby provided that the MGEX Bylaws and Rules shall be construed with reference to, and shall be subject to and modified by, the provisions of said CEA and CFTC Regulations.
- B. The Exchange shall make and file such reports and keep such books, and records for such a period of time as may be required pursuant to authority set forth in the CEA and CFTC Regulations, including, but not limited to, the authority contained in subdivision (d) of Sec. 5 of the ~~Act~~CEA, and shall keep such books and records open to inspection by the CFTC or the United States Department of Justice.

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- C. Neither the Exchange, nor any Person shall disseminate any false, misleading, or knowingly inaccurate reports concerning crop or market information or conditions that affect, or tend to affect, the price of any commodity.
- D. No Person shall manipulate, or attempt to manipulate, prices of commodities traded on this Exchange, nor corner, nor attempt to corner, any of such commodities.
- E. Any Person, who or which has been deprived of the privilege of trading in contract markets under subdivision (b) of Sec. 6 of the CEA, shall be refused all privileges of trading on this Exchange for such period of time as specified in the Order of the CFTC against such Person.
- F. No Person shall accept or execute an order from any Person who or which has been deprived of the privilege of trading in contract markets under subdivision (b) of Sec. 6 of the CEA.

12.13. DISQUALIFIERS TO SERVE ON EXCHANGE DISCIPLINARY COMMITTEES, ARBITRATION PANELS, OR GOVERNING BOARDS UNDER CFTC REGULATION 1.63.

- A. In accordance with CFTC Regulation 1.63(b), as may be amended from time to time, a Person shall be ineligible to serve on Exchange disciplinary committees, arbitration panels or governing boards if such Person:
 - 1. Was found within the prior three (3) years by a final decision of a self-regulatory organization, and administrative law judge, a court of competent jurisdiction or the CFTC to have committed a disciplinary offense;
 - 2. Entered into a settlement agreement within the prior three (3) years in which any of the findings or, in the absence of such findings, any of the acts charged included a disciplinary offense;
 - 3. Currently is suspended from trading on any contract market, is suspended or expelled from membership with any self-regulatory organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:
 - a. A finding by a final decision of a self-regulatory organization, an administrative law judge, a court of competent jurisdiction or the CFTC that such person committed a disciplinary offense; or,
 - b. A settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged included a disciplinary offense.
 - 4. Currently is subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration with the CFTC or membership in any self-regulatory organization;

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5. Currently is subject to or has had imposed on ~~him~~ such Person within the prior three (3) years a CFTC registration revocation or suspension in any capacity for any reason, or has been convicted within the prior three (3) years of any of the felonies listed in section 8a(2)(D)(ii) through (iv) of the CEA;
 6. Currently is subject to a denial, suspension or disqualification from serving on the disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934.
- B. The terms "disciplinary committee", "arbitration panel", "disciplinary offense", "final decision", "settlement agreement", and "self-regulatory organization" shall be defined for purposes of paragraph A of this rule in accordance with the definitions detailed in CFTC Regulation 1.63(a).

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