



## MEMO

**TO:** MGEX Market Participants

**FROM:** Layne G. Carlson, Corporate Secretary

**DATE:** January 20, 2021

**SUBJECT:** Regulatory Relief Related to Open Outcry Suspension

In connection with the suspension of open outcry options trading, which was taken in response to the worldwide coronavirus/COVID-19 pandemic, MGEX previously had requested and received Commodity Futures Trading Commission (“CFTC”) approval to provide relief with respect to various Exchange rules concerning the solicitation and handling of customer orders, including by MGEX registered floor brokers (see MGEX’s March 18, 2020 Memo to Members). This temporary relief under Exchange rules was granted as a result of CFTC granting no-action relief to Designated Contract Markets (“DCMs”) and floor brokers. That relief expired January 15, 2021. However, the CFTC has extended limited parts of that relief. Specifically, no-action relief for oral communications recordkeeping requirements until **March 31, 2021** ([see CFTC No-Action Letter 21-04](#)) and partial extension of no-action relief for time-stamps, location requirements, and introducing broker registration until **April 15, 2021** ([see CFTC No-Action Letter 21-05](#)). There is no expectation that relief will be granted beyond these dates.

As a result of the CFTC’s targeted extension of no-action relief, action is being taken by the Exchange to allow registrants to continue to handle open outcry customer business from locations outside of the Exchange Room. To the extent a registrant has a duty to maintain oral communications under Exchange rules, it must ensure compliance with CFTC No-Action Letter 21-04 to comply with such requirement at the alternative work location and document order tickets in accordance with MGEX Rules. Time-stamp relief must adhere to CFTC No-Action Letter 21-05, and is not applicable to time-stamps for customer orders that are able to be entered into a trade-matching engine immediately upon receipt. The Exchange will continue to monitor all open outcry options activity for other violations regardless of the relief granted.

The relief extends to certain portions of the following MGEX Rules:

### **2.3.1. RECORDS OF TRANSACTIONS.**

Any Person subject to CFTC Regulation 1.35 shall keep full, complete, and systematic

records (including all pertinent data and memoranda) of all transactions relating to its business of dealing in commodity interests and any related cash or forward transactions. Such records may include, but are not limited to, records of electronic trading, all orders (filled, unfilled, or canceled), electronic audit trails, trading cards, signature cards, street books, journals, ledgers, wire transfer, canceled checks, copies of confirmations, and copies of statements of purchase and sale, and all other records which have been prepared in the course of business of dealing in commodity interests and any related cash or forward transactions.

Additionally, such Person is required to keep all oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in commodity interests and any related cash or forward transactions, whether transmitted by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media. The requirement to record oral communications does not apply to oral communications that lead solely to the execution of a related cash or forward transaction.

All records of oral communications must be retained for a period of not less than one year from the date of such communication in accordance with CFTC Regulation 1.31. All other records must be retained for a period of not less than five years from the date on which the record was created in accordance with CFTC Regulation 1.31. Additionally, all records must be produced for inspection to the Exchange and any representative of the CFTC or the United States Department of Justice.

### **2.3.2. RECORDING ORDERS.**

Each Clearing Member, FCM, and Person who is authorized to, and who receives an order from a customer which is not in the form of a written record showing the account identification, order number, and the date and time, to the nearest minute such order was transmitted or received, or cannot immediately be entered into the Electronic Trading System, must immediately upon receipt thereof prepare a written record of such order, including an account identification and order number and shall record thereon, by time-stamp, the date and time, to the nearest minute, the order is received. Further, all option orders reduced to writing must be time-stamped, to the nearest minute, upon transmittal to the Exchange Room for execution, and upon execution.

### **3.1.2. TIME AND PLACE FOR MAKING.**

Except in the case of non-competitive trades, all purchases and sales, and all offers to purchase or sell Futures and Options must be made electronically on the Electronic Trading System. However, purchases and sales, and offers to purchase or sell Hard Red Spring Wheat Options may also be made by open outcry in the Exchange Room during the Hours of Trading. Consequently, Market Participants are prohibited from assembling in any place, public or private, other than in the Exchange Room or designated area to form a market for the purpose of making purchases or sales, or offers to purchase or sell Futures or Options.

**742.01. CROSS TRADING-HANDLING BOTH BUYING AND SELLING ORDERS BY OPEN OUTCRY IN THE EXCHANGE ROOM.**

- A. If such orders are first offered openly and competitively by open outcry in the Exchange Room by both bidding and offering at the same price at least three times, and neither such bid nor offer is accepted;
- B. If such Market Participant executes such orders in the presence of an official representative of the Exchange designated to observe such transactions and the Market Participant themselves clearly identifies all such transactions on the orders and trading cards at the time of execution as a cross trade, and promptly presents said orders and trading cards to the official representative of the Exchange for stamping and signature;
- C. If the Market Participant receiving or executing such orders has no interest therein, directly or indirectly, except as a Futures Commission Merchant, or as a Broker; and
- D. Upon execution, such transaction(s) shall be made a matter of permanent record by the Exchange (See **Rule 2019.00.**).

If you have any questions, please contact Deborah Krump at 612-321-7194 or [dkrump@mgex.com](mailto:dkrump@mgex.com) or Layne G. Carlson at 612-321-7169 or [lcarlson@mgex.com](mailto:lcarlson@mgex.com).