



Via Portal Submission

May 27, 2016
MGEX Submission No. 16-13

Mr. Christopher J. 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 CFTC Regulation 40.6(a); Update to MGEX Rules

Dear Mr. Kirkpatrick:

Pursuant to Section 5c(c) of the Commodity Exchange Act (“CEAct”) and Commodity Futures Trading Commission (“CFTC”) Regulation 40.6(a), the Minneapolis Grain Exchange, Inc. (“MGEX”) hereby certifies that MGEX Rules 400.00.-444.00. and 500.00.-5436.00., as set forth in the attached Exhibit A, complies with the CEAct and the CFTC Regulations promulgated thereunder (collectively the “Proposed Amendments”). MGEX further certifies that the submission and pending changes to the MGEX Bylaws and Rules have been posted on the MGEX website at the following link: <http://www.mgex.com/regulation.html>.

I. AMENDMENTS TO MGEX RULES

MGEX continually evaluates its Rules to ensure compliance with CFTC regulations as well as general principles of law. MGEX has had a dispute resolution mechanism as part of its rulebook. In order to enhance clarity and avoid unnecessary or confusing duplication, MGEX has decided to streamline its dispute resolution approach.

MGEX has removed the previous dispute resolution rules outlined in Chapters 4 and 5 of the MGEX Rules. MGEX has then inserted new language into Chapter 4 that collectively constitute the Proposed Amendments. The Proposed Amendments include arbitration and dispute resolution best practices and standards.

II. COMPLIANCE WITH CORE PRINCIPLES

MGEX has reviewed the core principles for designated contract markets (“DCM Core Principles”) and identified that the Proposed Amendments may impact the following DCM Core Principles:

- *DCM Core Principle 2, Compliance with Rules:* The Proposed Amendments streamline the dispute resolution mechanism offered by the MGEX Rules to better facilitate members or customers bringing claims for resolution by MGEX.

- *DCM Core Principle 14, Dispute Resolution*: The Proposed Amendments provide a mechanism whereby members or customers can seek enforcement of MGEX Rules. The Proposed Amendments facilitate an alternative dispute resolution forum for both customers and members.

Pursuant to the authority set forth in MGEX Bylaw 210.01., the MGEX Board of Directors unanimously approved the Proposed Amendments at its meeting held on April 26, 2016. There were no substantive opposing views expressed by the Board of Directors, nor is MGEX aware of any substantive opposing views with respect to this filing.

These amendments are intended to become effective ten (10) business days from the date of this submission. If there are any questions regarding this submission, please contact me at (612) 321-7188. Thank you for your attention to this matter.

Best regards,

A handwritten signature in blue ink that reads "Emily Spott". The signature is written in a cursive style with a large initial "E" and a small "Spott" at the end.

Emily M Spott
Associate Corporate Counsel

Exhibit A

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CHAPTER 4
ARBITRATION – CASH TRADES OR
MEMBERS' FUTURES (OPTIONS)

400.00.—ARBITRATION POOL.

The Arbitration Pool shall consist of twenty (20) or more persons, all of whom shall be Members of the Corporation. The Chairman of the Corporation shall recommend persons to serve during his term of office. Only persons serving on the Arbitration Pool shall be eligible to serve on a Board of Arbitration. Upon appointment each person will complete the Arbitrator Profile Form (see **Form 4-00.00**) submitting the same to the Secretary of the Corporation.

401.00.—BOARD OF ARBITRATION.

Following the filing of a complaint with the Secretary of the Corporation, the President or Secretary of the Corporation shall select five (5) persons from the Arbitration Pool, who shall hear and decide the dispute between the parties. The five (5) persons thus selected shall constitute the Board of Arbitration for that matter and shall have all the powers and duties as are set forth in these Rules. Each Board of Arbitration Member once appointed must submit to the Secretary of the Corporation an Impartiality Form (see **Form 4-01.00**).

401.01.—CODE OF ETHICS.

All Arbitrators shall receive and be responsible for understanding and following the "Code of Ethics for Arbitrators in Commercial Disputes," as published by the American Bar Association/American Arbitration Association. This will be provided by the Exchange at the time of Arbitrator selection.

402.00.—BOARD OF ARBITRATION: DUTIES AND POWERS.

All disputes that arise out of trades, contracts, agreements or other transactions that are governed by or made subject to the Charter, Rules, Regulations, customs or usages of the Corporation, shall be settled by arbitration before a Board of Arbitration unless the parties to such trades, contracts, agreement or other transactions expressly agree otherwise.

No Board of Arbitration shall have jurisdiction to hear and decide any disputes governed by Chapter 5.

Refusal by a Member or Market Participant to submit any such dispute to arbitration (upon demand by the opposite party) shall constitute a violation of the MGEX Rules and Regulations.

403.00.—BOARD OF ARBITRATION: DISQUALIFICATION OF MEMBERS.

No person shall serve as a member of a Board of Arbitration when any dispute or difference in which he has a financial, personal or prejudicial interest or concern is before such Board for hearing and decision. For the purpose of this Rule, a financial interest shall include not only that of the member himself but also that of a partner, a dependent, a firm of which he is a copartner or employee or a corporation of which he is an officer, stockholder, director or employee. The other members of the particular Board of Arbitration involved shall determine whether any member has such financial, personal or prejudicial interest.

After selecting the arbitrators to hear a dispute or difference, the President or Secretary of the Corporation shall notify each party in writing of the names and company affiliations of the arbitrators who will hear said case. The Arbitrator Profile Form (see **Form 4-00.00**) and the Impartiality Form (See **Form 4-01.00**), will additionally be provided at this time. Upon receipt of such notice, either party to the case may challenge the appointment of a member for prejudicial or other causes within ten (10) business days of receipt of said

notice. Upon the determination that such a challenge is valid, the President or Secretary shall replace such member in accordance with **Rule 404.00**, and shall inform both parties.

~~404.00. BOARD OF ARBITRATION: APPOINTMENT OF ALTERNATES.~~

~~If a Board of Arbitration determines that it is improper for certain of its members to serve during the hearing or decision of a dispute, or if any of its members shall be unable to serve during a hearing or decision, the President or Secretary of the Corporation, upon request of that Board of Arbitration or the parties to the dispute, shall appoint to the Board of Arbitration from the Arbitration Pool as many persons as are necessary to take the places of persons who may not or cannot serve on that particular Board of Arbitration. When so appointed, such persons shall have all the powers and duties of the members of the Board of Arbitration whom they replaced.~~

~~405.00. BOARD OF ARBITRATION: QUORUM.~~

~~Three (3) members of the Board of Arbitration appointed to hear and decide a particular dispute shall constitute a quorum for the transaction of business. The majority decision of a quorum shall constitute the decision of the Board of Arbitration in any matter. PROVIDED, however, that no dispute shall be heard before and decided by any Board of Arbitration upon which fewer than five (5) members are sitting, without the written consent of all parties to such dispute.~~

~~406.00. BOARD OF ARBITRATION: FAILURE OF MEMBER OF BOARD TO ATTEND MEETINGS.~~

~~Members of a Board of Arbitration that is appointed to hear and decide a particular dispute failing to attend any duly scheduled hearing of that Board of Arbitration shall be fined by the other members of that Board of Arbitration a sum of monies not to exceed two hundred fifty dollars (\$250.00), (for use by the Corporation) for each time that member fails to appear, unless an excuse satisfactory to the other members of the Board be made.~~

~~410.00. BOARD OF ARBITRATION: FORM OF COMPLAINT.~~

~~Any Person desiring to submit a dispute to a Board of Arbitration appointed pursuant to these Rules shall file a written Complaint, (see **Form 4-10.00**), or Petition for Joint Arbitration (see **Form 4-10.01**) made under oath and in duplicate, with the Exchange, the introductory part of which shall be substantially as in **Form 4-10.00** or **4-10.01**.~~

~~410.01. TIME OF COMPLAINT.~~

~~Such complaint or petition, as described in **Rule 410.00**, shall be filed within two (2) years after the date of the transaction from which the dispute arose.~~

~~411.00. BOARD OF ARBITRATION: SERVICE OF COMPLAINT.~~

~~A copy of the Complaint or Petition, referred to in **Rule 410.00**, shall be served on the Respondent as provided in **Rule 218.02**. In no event shall such service be delayed beyond five (5) business days from receipt thereof.~~

~~412.00. BOARD OF ARBITRATION: ANSWER AND REPLY.~~

~~The Respondent shall file a written Answer, made under oath and in duplicate, with the Secretary of the Corporation within ten (10) business days from the day on which the copy of the Complaint was served on him. In cases between Members and nonmembers where a counterclaim has been asserted in the Answer, the Complainant may thereupon file a written reply, made under oath and in duplicate, with the~~

~~Secretary of the Corporation within ten (10) business days from the day on which the copy of the Answer was served upon him. If the Complainant does not file a reply within said ten (10) business days, issue shall be deemed joined and the allegations of the Answer shall stand denied. The Board of Arbitration may, however, grant further time for the filing of such Answer or Reply upon reasonable cause being shown. A copy of such Answer and/or Reply shall be served on the Complainant or Respondent, as the case may be, as soon as is practicable.~~

~~**413.00.— BOARD OF ARBITRATION: FAILURE OF RESPONDENT TO ANSWER.**~~

~~If the Respondent fails to answer within the time provided and has not been granted further time, the Board of Arbitration shall, upon the filing of proof of the service of the Complaint on such Respondent, proceed to hear and decide the Complaint on the basis of the evidence and testimony available under the circumstances.~~

~~**414.00.— BOARD OF ARBITRATION: FORM OF ANSWERS.**~~

~~If the Respondent shall desire to make defense or to present for arbitration other matters of dispute between the parties, Complainant and Respondent, proper to be considered by said Board of Arbitration as offsets or counterclaim or otherwise, he shall file an Answer in writing, under oath and in duplicate, with the Secretary, to be signed by him or them, the introductory part of which shall be substantially as in "Respondents Answer" (see **Form 4-14.00**).~~

~~And in the case of a Counter Claim, substantially as in the "Statement of Counter Claim Form" (see **Form 4-15.00**).~~

~~**415.00.— BOARD OF ARBITRATION: OFFSETS AND COUNTERCLAIMS.**~~

~~In the hearing on any dispute between a Member, Clearing Member, or an entity having trading privileges and another Member, Clearing Member, or entity having trading privileges, the Board of Arbitration shall not hear or consider any matters of dispute between the parties as offsets or counterclaims or otherwise unless such matters are directly connected with the matter set forth in the Complaint.~~

~~In the hearing on any dispute between a Member, Clearing Member, or an entity having trading privileges and a nonmember, the Board of Arbitration shall also hear and decide any matters of dispute between the parties proper to be considered by the Board as offsets or counterclaims or otherwise that have been submitted for arbitration in the Complaint or Answer, and evidence and testimony relative to such matters may be introduced before the Board.~~

~~**416.00.— DISMISSAL OF PROCEEDINGS.**~~

~~At any time during the course of an arbitration, the arbitrators may, at the joint request of the parties involved, dismiss the proceeding and refer the parties to the remedies provided by law.~~

~~**417.00.— PRE-HEARING EXCHANGE OF DOCUMENTS AND WRITTEN INFORMATION.**~~

~~The parties shall cooperate, without resort to issuance of subpoenas, in all voluntary exchange of material and relevant documents and written information which may serve to facilitate a fair, equitable and expeditious hearing.~~

~~The Exchange shall make available to the parties any documents or written information in its possession that might bear on the case, which would otherwise not be available to the parties or the board.~~

~~Arbitrators shall have the right to subpoena documents when necessary and may apply reasonable sanctions for noncompliance with such orders.~~

~~The names of all witnesses shall be furnished to the Board of Arbitration and be made available to all parties through this forum.~~

~~**418.00. PRE-HEARING MEETING.**~~

~~The Board of Arbitration may schedule a pre-hearing meeting to select a chairman from among its members, determine appropriate hearing dates and address any other issues deemed to be appropriate.~~

~~**420.00. BOARD OF ARBITRATION: DATE OF HEARING.**~~

~~The Board of Arbitration shall set a date for hearing the matter at as early a date as is practicable, and notice of the date, time and place of such hearing shall be served upon the parties. The parties shall cooperate with the Secretary of the Corporation in the process of the hearing. All relevant documentation and information must be presented through the Secretary of the Corporation at least ten (10) business days prior to the date of the hearing. In any case where witnesses are unable to attend a hearing, the Board of Arbitration, upon the request of the parties involved, may permit the use of telephonic participation. It will be the responsibility of each party to inform the Secretary of the Corporation of the inability of their witness to attend the hearing and to provide reasonable advance notice to accommodate such telephonic participation.~~

~~**421.00. BOARD OF ARBITRATION: NONAPPEARANCE OF PARTY AT A HEARING.**~~

~~If a party to a dispute shall fail to appear for the hearing thereon, the Board of Arbitration may, upon the filing of proof of service of notice of the hearing, and, if such party is the Respondent, of service of the Complaint, proceed to hear and decide the dispute and make its Decision and Award on the basis of the evidence and testimony adduced at the hearing.~~

~~**422.00. BOARD OF ARBITRATION: POSTPONEMENT OF HEARING.**~~

~~If a party to a dispute in arbitration makes a request in writing to the Board of Arbitration seeking a delay in the date of the hearing, the Board may, at its sole discretion, postpone the hearing of the matter to some later date.~~

~~**423.00. BOARD OF ARBITRATION: STATEMENTS AND TESTIMONY BEFORE.**~~

~~In each case before the Board of Arbitration the statements and testimony of the parties and witnesses shall be made under oath (or affirmation), the form of which shall be as follows:~~

~~You do solemnly swear that the evidence you shall give in the matter of dispute between _____, as Complainant, and _____ as Respondent, now on hearing, shall be the truth, the whole truth, and nothing but the truth, so help you God.~~

~~**424.00. BOARD OF ARBITRATION: APPEARANCE BY ATTORNEYS.**~~

~~Any party to a dispute in arbitration may be represented by an attorney provided that party has filed written notice of his intention to be represented by an attorney, with the Secretary of the Corporation, at least ten (10) business days prior to any hearing before the Board of Arbitration. A complaint or response filed by an attorney shall constitute notification of either party's intention to be represented by an attorney to the~~

~~Secretary of the Corporation and parties to the arbitration. This notice of intention may be waived by the Board of Arbitration, but such waiver may result in a delay of the hearing date.~~

~~425.00. BOARD OF ARBITRATION: WITNESSES, CITATIONS.~~

~~The Chairman of the Board of Arbitration may issue notices of citations requiring any Member or Market Participant to appear before it and to answer any question that is proper and pertinent to the matter under investigation and to submit to it for examination any of his or its books, papers, records or other documents that are pertinent to the matter under investigation. It is hereby provided, however, that no witness shall be required to answer any question if the answer would incriminate him. The Board may exclude any evidence or testimony it deems incompetent, irrelevant or immaterial.~~

~~Any party to a dispute in arbitration may apply to the Clerk of any Court of record for a subpoena to compel the attendance of any witness or the production of books or papers before any Board of Arbitration, as provided by law.~~

~~426.00. BOARD OF ARBITRATION: PROCEDURE OF MEETINGS.~~

~~There shall be administered to the members of the Board of Arbitration an oath in the following form:~~

~~You, and each of you, do solemnly swear that in the hearing and determination of the matter of dispute submitted to you by _____, as Complainant, and by _____, as Respondent, will well, truly and faithfully perform your duty as arbitrators, and an honest and conscientious Award make between the parties, so help you God.~~

~~The case shall then proceed in the following manner:~~

- ~~A. Reading of the Complaint and Answer;~~
- ~~B. Presentation of the case and witnesses, if any, by Complainant;~~
- ~~C. Cross-examination of witnesses, if any, by Respondent;~~
- ~~D. Questioning of witnesses by Members of the Board;~~
- ~~E. Presentation of the case and witnesses, if any, by Respondent;~~
- ~~F. Cross-examination of witnesses, if any, by Complainant;~~
- ~~G. Questioning of witnesses by Members of the Board;~~
- ~~H. Rebuttal or surrebuttal testimony, if any;~~
- ~~I. Case declared closed;~~
- ~~J. Presentation of arguments by Complainant and Respondent, the Respondent to have the closing argument.~~

~~430.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS, FORM OF.~~

~~The Decisions and Awards of a Board of Arbitration need not be in any particular form, but shall be made in writing as soon as practicable after the hearing, and shall be conclusively presumed to include and determine all matters submitted by the parties, unless the contrary shall appear affirmatively upon the face of the Board of Arbitration Decision.~~

All Decisions and Awards of the Board of Arbitration shall begin in substantially the following form:

IN ARBITRATION
IN THE MATTER OF

_____, Complainant
vs.

_____, Respondent

The Board of Arbitration, after due consideration of all matters submitted to it in the dispute above entitled, does hereby make the following Decisions and Awards: Decisions and Awards shall be accompanied by such explanations or statements as the Board of Arbitration, in its discretion, deems necessary to fully advise the parties of the reasons or bases for its Decisions and Awards.

~~431.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS TO BE BASED ON EVIDENCE.~~

~~The Board of Arbitration selected to hear and decide a particular dispute shall decide the same in accordance with the facts disclosed by competent evidence and pursuant to the Charter, Rules, Regulations, usages and customs of the Corporation. Ex parte contacts by any of the parties to the arbitration with members of the Arbitration Panel shall not be permitted.~~

~~432.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS, WHEN FINAL.~~

~~There shall be no right to an appeal from any Decision or Award of any Board of Arbitration. The Decisions and Awards of any Board of Arbitration shall be final and conclusive upon the parties as to the matters decided by that Board of Arbitration.~~

~~433.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS, SIGNING OF.~~

~~Any Decisions and Awards of a Board of Arbitration shall be signed by those of its members who made or concurred with such Decisions and Awards and shall be further signed by the Secretary of the Corporation who shall affix the seal of the Corporation thereto.~~

~~Members of any Board of Arbitration not concurring in a Decision or Award of the majority of that Board may prepare a dissenting opinion that shall be signed by them.~~

~~434.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS, FILING AND SERVICE OF.~~

~~Decisions and Awards of any Board of Arbitration and any dissenting opinions shall be filed with the Secretary of the Corporation, who shall serve a copy thereof upon each of the parties as soon as practicable. Decisions and Awards and dissenting opinions shall remain in the permanent records of the Corporation and may be inspected by any Member of the Corporation upon his application to the Secretary of the Corporation.~~

~~435.00. BOARD OF ARBITRATION: DECISIONS AND AWARDS, FAILURE TO COMPLY WITH.~~

~~Any party against whom a Decision or Award has been rendered by a Board of Arbitration shall comply with that Decision or Award as soon as practicable, and in every case, within ten (10) business days after a copy of that Decision or Award is served upon him. In case of failure to do so, the party in whose favor such Decision or Award has been made may:~~

- A. ~~Apply to the Secretary of the Corporation, who shall thereupon deliver to him a certified transcript of such Decision or Award to be filed with the Clerk of the District Court in and for the county in which the party against whom such Decision or Award has been made resides or has its principal office, or elsewhere, in accordance with law; or,~~
- B. ~~If the opposite party to the dispute is a Member, Clearing Member, or an entity having trading privileges, he may file charges against such opposite party for violation of the MGEX Rules and Regulations; or,~~
- C. ~~He may do both at his election.~~

~~440.00. BOARD OF ARBITRATION: REPORT OF PROCEEDINGS.~~

~~In all cases before a Board of Arbitration, the testimony and proceedings shall be reported by a court reporter, the cost of which reporting shall be assessed by the Board of Arbitration in the same manner as other fees and costs in the case. Either party can request a transcript of the proceedings at his own expense. The use of a court reporter may be waived by the consent of both parties.~~

~~440.01. REVIEW OF PROCEEDINGS.~~

~~It shall be the responsibility of the Board of Arbitration to cooperate with the Secretary of the Corporation to maintain, track, log and retain a complete record of the entire arbitration proceedings. Any substantive points or issues resolved during the hearing will be listed and shall appear in a Summary of the Proceedings prepared by the Board of Arbitration and the Secretary of the Corporation. Such document shall be made available to the public upon reasonable request.~~

~~441.00. BOARD OF ARBITRATION: FEES.~~

~~The fees for each hearing brought before a Board of Arbitration shall in an amount the Board of Directors of the Grain Exchange may from time to time determine.~~

~~The amount involved shall be based on the amount asked in the Complaint; and, in cases in which the payment of money is neither asked in the Complaint nor awarded, the fees shall be at the discretion of the Board of Arbitration, but in no case more than the maximum set by regulation (see **Regulation 2054.00.**).~~

~~All fees shall be paid in advance to the Corporation in each case, and such fees shall be retained by the Corporation whether the case is heard or not. Fees are not to be applied against costs of hearing any case.~~

~~442.00. BOARD OF ARBITRATION: COSTS, DEPOSIT REQUIRED.~~

~~A Board of Arbitration may at its sole discretion require a Complainant to deposit with the Secretary of the Corporation an amount determined by it to apply against costs incurred or that might be incurred in connection with a dispute in arbitration.~~

~~443.00. BOARD OF ARBITRATION: FEES AND COSTS, AWARDING OF.~~

~~Any fees and costs referred to in these Rules incurred in connection with the hearing of any case brought before a Board of Arbitration shall be assessed to those of the parties as that Board of Arbitration shall determine, and those fees and costs so assessed shall be included in that Board of Arbitration's Award.~~

~~444.00.—BOARD OF ARBITRATION: FEES AND COSTS, PAYMENT OF.~~

~~The Secretary of the Corporation, under the provisions of this Chapter, shall pay out of the funds deposited for such purpose the fees and costs that have accrued. When a Decision or Award of a Board of Arbitration has been rendered, the fees and costs included in such Decision or Award shall be paid to the Secretary by the party against whom they were assessed. The Secretary of the Corporation shall distribute such payment and adjust or refund the amounts previously deposited so that all the costs and fees involved shall be paid in accordance with the terms of such final Award.~~

CHAPTER 5 ARBITRATION CUSTOMERS' FUTURES AND OPTIONS

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503.00.—Customer Claims Arbitration Panel: Election of Public Members, Notice

504.00.—Arbitration Panel: Disqualification of Members

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520.00.—Date of Hearing

521.00.—Nonappearance of Party at a Hearing

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CHAPTER 5
CUSTOMER CLAIM'S ARBITRATION
CUSTOMERS' FUTURES AND OPTIONS

500.00.—DEFINITIONS.

When used in Chapter 5 of these Regulations:

- A.—~~The term "Claim or Grievance" shall mean any dispute that arises out of any transaction for the purchase or sale of any commodity for future delivery on or subject to the MGEX Rules and Regulations executed by or effected through any Member or Clearing Member or employee thereof, which dispute does not require for adjudication the presence of essential witnesses or third parties over whom the Corporation does not have jurisdiction and who are not otherwise available;~~
- B.—~~The terms "Customer" and "Customers" shall mean any Person with a Claim or Grievance against a Member, Clearing Member, or employee thereof; PROVIDED, however, that "Customer" and "Customers" do not include such Members or Clearing Members of the Corporation.~~

501.00.—CUSTOMER CLAIMS ARBITRATION PANEL: DUTIES AND POWERS.

~~The Customer Claims Arbitration Panel shall have jurisdiction to hear and decide all Customer Claims and Grievances involving an amount in controversy and any counterclaim that is properly submitted to it pursuant to the provisions of **Rule 512.00**.~~

~~Refusal by a Member or Clearing Member to submit any such Claim or Grievance to arbitration (upon demand by any Customer) shall constitute a violation of the MGEX Rules and Regulations.~~

~~The Customer Claims Arbitration Panel shall decide any Claim or Grievance submitted to it in accordance with the facts disclosed by competent evidence and pursuant to the Charter, Rules Regulations, usages and customs of this Corporation. Ex parte contacts by any of the parties with members of any panel shall not be permitted.~~

501.01.—CODE OF ETHICS.

~~All Arbitrators shall receive and be responsible for understanding and following the "Code of Ethics for Arbitrators in Commercial Disputes," as published by the American Bar Association/American Arbitration Association. This will be provided by the Exchange at the time of Arbitrator selection.~~

502.00.—CUSTOMER CLAIMS ARBITRATION PANEL: COMPOSITION.

~~Except as provided in **Rules 503.00**, and **504.00**, the Customer Claims Arbitration Panel shall consist of three (3) members, all of whom are Members of the Corporation, whose principal business activity is related to futures and options trading. A Customer Claims Arbitration Panel shall be appointed by the President or Secretary of the Corporation to hear each individual case submitted for arbitration pursuant to this Chapter. Each Customer Claims Arbitration Panel Member once appointed must submit to the Secretary of the Corporation an Impartiality Form (see **Form 5-02.00**.)~~

503.00.—CUSTOMER CLAIMS ARBITRATION PANEL: ELECTION OF PUBLIC MEMBERS, NOTICE.

~~Upon receipt of a written Complaint as directed to the Secretary of the Corporation shall inform the Complainant in writing:~~

- ~~A. That he has a right to demand that the Panel be comprised of a majority of persons who are not Members, and who are not associated with any Members or Clearing Members or employees thereof, and who are not otherwise associated with the Corporation;~~
- ~~B. That such right must be exercised by written demand to be sent to the Secretary of the Corporation within ten (10) business days after the date upon which the Secretary's notice is received by Complainant;~~
- ~~C. Of the nature and amount of any other fees or costs that may be assessed against him if a dispute is submitted for arbitration pursuant to this Chapter. The Complainant shall bear no additional costs for choosing a mixed panel, unless the arbitrators in a particular proceeding determine that the customer has acted in bad faith in initiating or conducting that proceeding.~~

~~Upon receipt of a demand for a panel comprised of a majority of public members, in accordance with this Rule, the Secretary of the Corporation shall select two (2) persons from the public who meet the qualifications of this Rule, and the Panel, which thereafter hears and decides the particular Claim or Grievance, shall be comprised of such persons, together with one (1) other member appointed by the President or Secretary of the Corporation as provided in **Rule 502.00**.; PROVIDED that no member may serve on any Customer Claims Arbitration Panel if he is disqualified from hearing or deciding the Claim or Grievance under the provisions of **Rule 504.00**.~~

~~**504.00. ARBITRATION PANEL: DISQUALIFICATION OF MEMBERS.**~~

~~No person shall serve as a member of the Customer Claims Arbitration Panel when any Claim or Grievance in which he has a financial, personal or prejudicial interest or concern is before such Panel for hearing and decision. For the purpose of this Rule, a financial interest shall include not only that of the member himself, but also that of a partner, a dependent, a firm of which he is a copartner or employee or a corporation of which he is an officer, stockholder, director or employee.~~

~~**504.01. ARBITRATION PANEL SELECTION: CHALLENGES.**~~

~~Upon the selection of a Customer Claims Arbitration Panel, the Secretary of the Corporation shall inform the Complainant and Respondent in writing of the panel members selected. The Arbitrator Profile Forms (see **Form 4-00.00**) and the Impartiality Form (see **Form 5-02.00**), will additionally be provided at this time. The parties shall have ten (10) business days, including the date of receipt of the documents, to exercise their right to challenge particular arbitrators. If the right to challenge is exercised, the President or Secretary of the Corporation shall promptly replace the arbitrator and inform both parties.~~

~~**505.00. ARBITRATION PANEL: QUORUM.**~~

~~No Claim or Grievance shall be heard before and decided by the Customer Claims Arbitration Panel unless all three (3) members are sitting, without written consent of all parties to such Claim or Grievance.~~

~~**510.00. FORM OF COMPLAINT.**~~

~~Any Customer desiring to submit a Claim or Grievance to the Customer Claims Arbitration Panel shall file a written Complaint, made under oath and in duplicate, with the Secretary of the Corporation, the commencement or introductory part of which shall be substantially as in "Statement of Claim" (see **Form 5-10.00**).~~

~~510.01. TIME OF COMPLAINT.~~

~~Such complaint, as described in Rule 510.00., shall be filed within two (2) years after the date of the transaction from which the dispute arose.~~

~~511.00. SERVICE OF COMPLAINT.~~

~~A copy of the Complaint, referred to in Rule 510.00., shall be served on the Respondent as provided in Rule 218.02.~~

~~512.00. CUSTOMER ARBITRATION: ANSWER AND REPLY.~~

~~The Respondent shall file a written Answer, made under oath and in duplicate, with the Secretary of the Corporation within ten (10) business days from the day on which the copy of the Complaint was served upon him. In cases where a counterclaim has been asserted in the Answer, the Complainant may thereupon file a written Reply, made under oath and in duplicate, with the Secretary of the Corporation within ten (10) business days from the day on which the copy of the Answer was served upon him. If the Complainant does not file a Reply within ten (10) business days, issue shall be deemed joined and the allegations of the Answer shall stand denied. The Customer Claims Arbitration Panel may, however, grant further time for the filing of such Answer or Reply, upon reasonable cause being shown. A copy of such Answer and/or Reply shall be served on the Complainant or Respondent, as the case may be, as soon as is practicable.~~

~~513.00. FAILURE OF RESPONDENT TO ANSWER.~~

~~If the Respondent fails to answer within the time provided and has not been granted further time, the Customer Claims Arbitration Panel shall, upon the filing of proof of the service of the Complaint on such Respondent, proceed to hear and decide the Complaint on the basis of the evidence and testimony available under the circumstances.~~

~~514.00. FORM OF ANSWERS.~~

~~If the Respondent shall desire to make defense or to present for arbitration a counterclaim that may properly be considered by the Customer Claims Arbitration Panel, he shall file an Answer in writing, under oath and in duplicate, with the Secretary of the Corporation, the commencement or introductory part of which shall be in "Respondents Answer" (see Form 5-14.00.)~~

~~And in the case of a Counter Claim, substantially as in the "Statement of Counter Claim" (see Form 5-15.00.)~~

~~515.00. COUNTERCLAIMS.~~

~~In hearing any Claim or Grievance, the Customer Claims Arbitration Panel shall not hear or consider any matters of dispute or difference between the parties as offsets or counterclaims unless (see Form 5-15.00.):~~

- ~~A. The amount of the offset or counterclaim is capable of calculation; and~~
- ~~B. The offset or counterclaim arises out of the transaction or occurrence that is the subject of the Customer's Claim or Grievance and does not require for adjudication the presence of essential witnesses, parties or third persons over whom the Corporation does not have jurisdiction.~~

~~516.00. DISMISSAL OF PROCEEDINGS.~~

~~At any time during the course of an arbitration, the arbitrators may, at the joint request of the parties involved, dismiss the proceeding and refer the parties to the remedies provided by law.~~

~~**517.00. PRE-HEARING EXCHANGE OF DOCUMENTS AND WRITTEN INFORMATION.**~~

~~The parties shall cooperate, without resort to issuance of subpoenas, in the voluntary exchange of material and relevant documents and written information which may serve to facilitate a fair, equitable and expeditious hearing.~~

~~The Exchange shall make available to the parties any documents or written information in its possession that might bear on the case, which would otherwise not be available to the parties or the panel.~~

~~Arbitrators shall have the right to subpoena documents when necessary and may apply reasonable sanctions for noncompliance with such subpoena orders or any other reasonable requests or orders to provide documents.~~

~~The names of all witnesses shall be furnished to the Customer Claims Arbitration Panel and be made available to all parties through this forum.~~

~~**518.00. PRE-HEARING MEETING.**~~

~~The Customer Claims Arbitration Panel shall schedule a pre-hearing meeting to select a chairman from among its members, determine appropriate hearing dates and address any other issues deemed to be appropriate.~~

~~**520.00. DATE OF HEARING.**~~

~~The Customer Claims Arbitration Panel shall set a date for the hearing of any Claim or Grievance at as early a date as practicable, and notice of the date, time and place for such hearing shall be served on the Complainant and Respondent. The parties shall cooperate with the Secretary of the Corporation in the process of the hearing. All relevant documentation and information must be presented through the Secretary of the Corporation at least ten (10) business days prior to the date of the hearing.~~

~~In any case where witnesses are unable to attend a hearing, the Panel, upon the request of the parties involved, may permit the use of telephonic participation. It will be the responsibility of each party to inform the Secretary of the Corporation of the inability of their witness to attend the hearing and to provide reasonable advance notice to accommodate such telephonic participation.~~

~~**521.00. NONAPPEARANCE OF PARTY AT A HEARING.**~~

~~If either party to a Claim or Grievance before the Customer Claims Arbitration Panel shall fail to appear at the time and place set for the hearing thereon, such Panel may, upon the filing of proof of service of the notice of the time and place for such hearing on such party, and if such party is the Respondent of the service of the Complaint on such party, proceed to hear and decide such Claim or Grievance on the basis of the evidence and testimony available under such circumstances.~~

~~**522.00. POSTPONEMENT OF HEARING.**~~

~~If either party to a Claim or Grievance before the Customer Claims Arbitration Panel shall make a written request for a postponement, the Panel may grant such postponement at its discretion. Arbitrators shall have the right to assess reasonable fees against the party granted such continuance.~~

~~**523.00. STATEMENTS AND TESTIMONY.**~~

~~In each case before the Customer Claims Arbitration Panel, the statements and testimony of the parties and witnesses shall be made under oath (or affirmation), the form of which shall be as follows:~~

~~You do solemnly swear that the evidence that you shall give in the matter of difference between as Complainant, and, as Respondent, now on hearing, shall be the truth, the whole truth, and nothing but the truth, so help you God.~~

~~**524.00.—RIGHT TO COUNSEL.**~~

~~Any party to a Claim or Grievance before the Customer Claims Arbitration Panel may be represented by an attorney, PROVIDED such party has filed written notice of his intention to be represented by an attorney with the Secretary of the Corporation at least ten (10) business days prior to the hearing. A complaint or response filed by an attorney shall constitute notification of either party's intention to be represented by an attorney to the Secretary of the Corporation and parties to the arbitration. This notice of intention may be waived by the Arbitration Panel and may result in a delay of the hearing date.~~

~~**525.00.—WITNESSES, CITATIONS.**~~

~~The Customer Claims Arbitration Panel may issue notices or citations requiring any Member or Clearing Member to appear before it and to answer any question that is proper and pertinent to the matter under arbitration and to submit to it for examination any of his or its books, papers, records or other documents that are pertinent to the matter under arbitration; PROVIDED, however, that no witness shall be required to answer any question if the answer would incriminate him. The Panel may exclude any evidence or testimony it deems incompetent, irrelevant or immaterial, and all findings must be based on competent evidence.~~

~~Any party to an arbitration before the Customer Claims Arbitration Panel may apply to the Clerk of any Court of record for a subpoena for the attendance of any witness or witnesses and the production of books or papers before said Panel, as provided by law.~~

~~**526.00.—HEARING PROCEDURES.**~~

~~There shall be administered to the members of the Customer Claims Arbitration Panel, prior to the commencement of any hearing, an oath in the following form:~~

~~You, and each of you, do solemnly swear that in hearing and determination of the matter submitted to you by, as Complainant, and by, as Respondent, you will well, truly and faithfully perform your duty as arbitrators, and an honest and conscientious Award make between the parties, so help you God.~~

~~The hearing shall then proceed in the following manner:~~

- ~~A.—Reading of the Complaint and Answer;~~
- ~~B.—Presentation of the case and witnesses, if any, by Complainant;~~
- ~~C.—Cross-examination of witnesses, if any, by Respondent;~~
- ~~D.—Questioning of witnesses by members of the Panel;~~
- ~~E.—Presentation of the case and witnesses, if any, by Respondent;~~
- ~~F.—Cross-examination of witnesses, if any, by Complainant;~~
- ~~G.—Questioning of witnesses by members of the Panel;~~
- ~~H.—Rebuttal or surrebuttal testimony, if any;~~

~~I. Case declared closed;~~

~~J. Presentation of arguments by Complainant and Respondent, the Respondent to have the closing argument.~~

~~530.00. DECISIONS AND AWARDS, FORM OF.~~

~~The Decisions and Awards of the Customer Claims Arbitration Panel need not be in any particular form, but shall be made in writing as soon as practicable after the hearing and shall be conclusively presumed to include and determine all matters submitted by the parties, unless the contrary shall appear affirmatively upon the face of such Decisions. All such Decisions and Awards may be accompanied by such explanation or statements as the Panel feels is necessary and advisable to make in order that the contending parties shall fully understand the reason or basis for the Decision or Award. All Decisions and Awards of the Panel shall be signed by the members of the Panel who rendered such Decisions and Awards, and by the Secretary of the Corporation, and shall have the seal of the Corporation affixed thereto. Members of the Panel who did not concur in a Decision or Award may prepare a dissenting opinion in writing, signed by such members.~~

~~531.00. DECISIONS AND AWARDS, FILING AND SERVICE OF.~~

~~Decisions and Awards of the Customer Claims Arbitration Panel and dissenting opinions thereto, if any, shall be filed with the Secretary and a copy thereof served on the Complainant and on the Respondent as soon as practicable. Such Decisions and Awards shall remain in the permanent records of the Corporation and shall be a matter of public record.~~

~~532.00. DECISIONS AND AWARDS TO BE FINAL.~~

~~The Decisions and Awards of the Customer Claims Arbitration Panel shall be final and conclusive upon the parties to the Claim or Grievance submitted. There shall be no right of appeal except as provided under applicable law.~~

~~532.01. JUDICIAL REVIEW.~~

~~If an Exchange member party to a Customer Claims Arbitration either seeks or gains knowledge that other parties have sought legal recourse to review the arbitration in question, it shall be the member party's obligation under this Rule to inform the Exchange of such proceedings.~~

~~533.00. REPORT OF PROCEEDINGS.~~

~~In all cases before the Customer Claims Arbitration Panel the testimony and proceedings shall be reported by a stenographer, and the cost of the reporting shall be assessed by the Panel in the same manner as other fees and costs in the case.~~

~~533.01. REVIEW OF PROCEEDINGS.~~

~~It shall be the responsibility of the Customer Claims Arbitration Panel to cooperate with the Secretary of the Corporation to maintain, track, log and retain a complete record of the arbitration proceedings. Any substantive points or issues resolved during the hearing will be listed and shall appear in a Summary of the Proceedings prepared by the Customer Claims Arbitration Panel and the Secretary of the Corporation. Such document shall be made available to the public upon reasonable request.~~

~~**535.00.— FEES AND COSTS, AWARDING OF.**~~

~~The fees for each hearing brought before a Customer Claims Arbitration Panel shall be the amount that the Board of Directors of the Grain Exchange may, from time to time, determine by regulation.~~

~~The amount involved shall be based on the amount asked in the Complaint; and, in cases in which the payment of money is neither asked in the Complaint nor awarded, the fees shall be at the discretion of the Customer Claims Arbitration Panel, but in no case more than the maximum set by Regulation (see **Regulation 2054.01.**)~~

~~All fees referred to in **Regulation 2054.01.** shall be paid in advance to the Corporation in each case, and such fees shall be retained by the Corporation whether the case is heard or not. Fees are not to be applied against costs of hearing any case. Any costs assessed, pursuant to **Regulation 503.00.**, Subsection C., and all additional costs that may be incurred in the hearing of any case before the Customer Claims Arbitration Panel, shall be assessed to either of the parties to the Claim or Grievance as may be decided by the Panel hearing the case and shall be included in its Award.~~

~~**536.00.— FAILURE TO PAY.**~~

~~Failure to pay the full amount of the award and/or assessment of costs to the Exchange, as escrow agent, within thirty (30) days of notice of the award and/or assessment of costs, shall be deemed to be a failure to perform an Exchange contract in accordance with Exchange **Rule 827.00.**~~

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CHAPTER 4 ARBITRATION

JURISDICTION

400.00. JURISDICTION OVER MEMBER DISPUTES.

All disputes involving Members, Clearing Members, or entities with cash trading privileges that arise out of or are related to a trade, contract, agreement or other transaction that is governed by, made subject to, or arises out of an alleged violation of the MGEX Bylaws or Rules, will be settled by arbitration before a Board of Arbitration unless the parties expressly agree otherwise.

Refusal by a Member, Clearing Member, or entity with cash trading privileges to submit any such dispute to arbitration upon demand by the opposite party will constitute a violation of the MGEX Rules.

401.00. JURISDICTION OVER CUSTOMER DISPUTES.

All disputes between a Customer and any Person subject to, or consenting to, the Exchange's jurisdiction that arise out of or are related to trades, contracts, agreements, or other transactions that are governed by, made subject to, or arising out of an alleged violation of the MGEX Bylaws or Rules, may be settled by arbitration before a Board of Arbitration if demanded by the Customer. Refusal by any Person subject to, or consenting to, the Exchange's jurisdiction to submit to arbitration, upon demand by a Customer, will constitute a violation of the MGEX Rules.

For purposes of Chapter 4, "Customer" means any Person that is not a Member or Clearing Member, and is involved in a dispute with any Person subject to, or consenting to, the Exchange's jurisdiction arising from a trade, contract, agreement or other transaction that is governed by, made subject to, or arising out of an alleged violation of the MGEX Bylaws or Rules.

402.00. WAIVER OF OBJECTION TO JURISDICTION.

By submitting a Complaint for arbitration or counter claim pursuant to this chapter, any Person consents to the jurisdiction of the Board of Arbitration to hear and finally determine the claim and any counter claim that is properly submitted pursuant to **Rule 408.00**.

INITIATING A CLAIM

403.00. FORM OF COMPLAINT.

Any Claimant desiring to submit a dispute pursuant to these Rules must file a written Complaint (see **Form 4-10.00**) or Petition for Joint Arbitration (see **Form 4-10.01**) made under oath and in duplicate with the Secretary. Such Complaint must be accompanied with the applicable filing fee provided in **Rule 436.00** or **437.00**.

404.00. TIME OF COMPLAINT.

Such Complaint or Petition, as described in **Rule 403.00**, must be filed within two (2) years after the date of the transaction from which the dispute arose.

405.00. SERVICE OF COMPLAINT.

A copy of the Complaint or Petition, referred to in **Rule 403.00**, must be served on the Respondent as provided in **Bylaw 218.02**.

406.00. ANSWER.

If the Respondent desires to defend against or otherwise contest allegations made in a Complaint, the Respondent must file a written Answer (see **Form 4-10.01**) made under oath and in duplicate with the Secretary within ten (10) business days from the day the Complaint was served.

In the event that the Respondent files a counter claim, the Claimant must file a written Answer, made under oath and in duplicate with the Secretary within ten (10) business days from the day the Statement of Counter Claim Form (see **Form 4-15.00**) was served.

The Secretary may grant further time for the filing of such Answer upon reasonable cause. A copy of such Answer must be served on the Claimant or Respondent within the time allotted by the Exchange.

407.00. FAILURE TO ANSWER.

If the Respondent or the Claimant fails to answer within the time provided and has not been granted further time by the Secretary, the Board of Arbitration will, upon the filing of proof of service of the Complaint or Statement of Counter Claim Form (see **Form 4-15.00**), consider the allegations contained in the forms admitted and proceed to hear and decide the matter on the basis of the evidence and testimony available under the circumstances.

408.00. COUNTER CLAIMS.

In the hearing on any dispute, the Board of Arbitration may hear or consider any matters of dispute between the parties as counter claims if such matters are within the jurisdiction of the Board of Arbitration, directly connected with the matter set forth in the Complaint or arise under the same set of operative facts, and are properly raised by the Respondent in a Statement of Counter Claim Form (see **Form 4-15.00**). If the Respondent desires to present a counter claim, the Respondent must file a written Statement of Counter Claim Form made under oath and in duplicate with the Secretary at the same time as its Answer.

If party to a dispute fails to raise a counter claim that would otherwise be under the Board of Arbitration's jurisdiction, the party waives all rights to, and is barred from, raising the dispute that is the subject of the counter claim in any other proceeding or venue.

BOARD OF ARBITRATION**409.00. ARBITRATION POOL.**

Only persons serving on the Arbitration Pool are eligible to serve on a Board of Arbitration. The Arbitration Pool consists of twenty (20) or more persons, all of whom must be Members of the Exchange. The Chairperson will recommend persons to serve during their term of office.

410.00. BOARD OF ARBITRATION.

Following the filing of a Complaint or Petition with the Secretary, the Secretary will constitute the Board of Arbitration by selecting three (3) persons from the Arbitration Pool, who will hear and decide the dispute between the parties (each known as an "Arbitrator"). The Board of Arbitration has all the powers and duties set forth in these Rules. Once appointed, each Arbitrator must submit an Impartiality Form (see **Form 4-01.00**.) to the Exchange. Each Arbitrator must be available for the Board of Arbitration to hear or decide any dispute.

In any dispute brought by a Customer against a Member or Clearing Member, upon receipt of a Complaint, the Exchange will inform the Claimant in writing:

Of the nature and amount of any other fees or costs that may be assessed against the party if a dispute is submitted for arbitration pursuant to this Chapter. The Claimant will bear no additional costs for choosing a mixed panel, unless the Arbitrators in a particular proceeding determine that the Claimant has acted in bad faith in initiating or conducting that proceeding.

411.00. CODE OF ETHICS.

At the time of their appointment to any Board of Arbitration, each Arbitrator will receive and be responsible for understanding and following the American Arbitration Association's "Code of Ethics for Arbitrators in Commercial Disputes" then in effect.

412.00. INDEPENDENCE AND IMPARTIALITY OF ARBITRATORS.

The Board of Arbitration will be fully independent and impartial to the dispute. No Arbitrator will serve in any dispute in which they have a financial, personal, or prejudicial interest or concern is before such Board of Arbitration. For the purpose of this Rule, a financial interest includes not only that of the person themselves, but also that of a partner, a dependent, a firm of which they are a copartner or employee or a corporation of which they are an officer, majority stockholder, director, or employee. Each Arbitrator has an affirmative duty to report any such financial, personal, or prejudicial interest or concern to the Secretary, and upon appointment to the Board of Arbitration, each Arbitrator will complete the Arbitrator Profile Form (see **Form 4-00.00**) and submit the same to the Secretary.

If an Arbitrator discloses a financial, personal, or prejudicial interest or concern, the disinterested Arbitrators involved will determine whether any person has such financial, personal, or prejudicial interest. If the disinterested Arbitrators determine that an Arbitrator is not fully independent and impartial, that Arbitrator will be dismissed, and the Secretary shall replace such Arbitrator in accordance with **Rule 414.00**, and shall inform both parties.

413.00. CHALLENGE TO ARBITRATORS.

After selecting the Arbitrators to hear a dispute or difference, the Secretary will notify each party in writing of the names and company affiliations of the Arbitrators who will hear said dispute. The Arbitrator Profile Form (see **Form 4-00.00**) and the Impartiality Form (See **Form 4-01.00**), will additionally be provided at this time. Upon receipt of such notice, either party may challenge the appointment of an Arbitrator for prejudice or other good cause within ten (10) business days of receipt of said notice. Upon the determination that such a challenge is valid, the Secretary shall replace such Arbitrator in accordance with **Rule 414.00**, and will inform both parties.

414.00. APPOINTMENT OF ALTERNATES.

The Secretary will appoint to the Board of Arbitration, from the Arbitration Pool, as many Arbitrators as necessary to take the places of Arbitrators who may not or cannot serve on the particular Board of Arbitration due to the following reasons:

- A. The Board of Arbitration determines that it is improper for an Arbitrator to serve during the hearing or decision of a dispute; or
- B. An Arbitrator is unable to serve during a hearing or decision.

When so appointed, such Arbitrators will have all the powers and duties of the members of the Board of Arbitration whom they replaced.

415.00. FAILURE OF ARBITRATOR TO ATTEND MEETINGS.

An Arbitrator that fails to attend any duly scheduled hearing of that Board of Arbitration will be fined two-hundred fifty dollars (\$250.00), (for use by the Exchange) for each time that an Arbitrator fails to appear, unless an excuse satisfactory is made to the other Arbitrators.

416.00. DISMISSAL OF PROCEEDINGS.

At any time during the course of an Arbitration, the Board of Arbitration may, at the joint request of the parties involved, dismiss the proceeding and refer the parties to the remedies provided by law.

417.00. ROLE OF THE SECRETARY.

The Secretary may act as administrator of any arbitrations brought pursuant to this chapter. The Secretary may assist the Board of Arbitration as requested, but in no event will the Secretary be involved substantively in deciding any claim or counter claim, nor will the Secretary affect in any way the impartiality of the Arbitrators.

PRE-HEARING PROCEDURES**418.00. PRE-HEARING EXCHANGE OF DOCUMENTS AND WRITTEN INFORMATION.**

The parties will cooperate in all voluntary exchange of material and relevant documents and written information which may serve to facilitate a fair, equitable and expeditious hearing.

The Exchange will make available to the parties, upon request, any documents or written information in its possession that might bear on the case, which would otherwise not be available to the parties or the Board of Arbitration.

The Board of Arbitration may subpoena documents when necessary and may apply reasonable sanctions for noncompliance with such subpoena orders or any other reasonable requests or orders to provide documents.

The names of all witnesses must be furnished to the Board of Arbitration and be made available to all parties.

In the event that a party refuses to comply with any subpoena of the Board of Arbitration, the opposing party may apply to a court of appropriate jurisdiction to enforce such subpoena to compel the production of books or papers before any Board of Arbitration.

419.00. PRE-HEARING MEETING.

The Board of Arbitration will schedule one or more pre-hearing meetings as early as is practicable to select a chairperson from among its Arbitrators, determine appropriate hearing dates and address any other issues deemed to be appropriate or raised by the parties.

HEARINGS**420.00. HEARING.**

Either party may request an oral hearing by written request to the Secretary on or before the date that is five (5) business days after the date that Respondent's Answer is due. If neither party requests an oral

hearing, the Board of Arbitration may proceed to decide the matter on the basis of the materials submitted by the parties.

If an oral hearing is requested, the Board of Arbitration will set a date for hearing at a pre-hearing meeting, and notice of the date, time and place of such hearing will be served upon the parties in accordance with **Bylaw 218.02**. All hearings must be held at the Exchange's offices in Minneapolis, Minnesota. The parties will cooperate with the Secretary in the process of preparing for the hearing, and must submit all relevant documentation and information to the Secretary at least ten (10) business days prior to the date of the hearing. The parties bear the responsibility to provide the Secretary reasonable advance notice of the inability of any witness to attend the hearing. In any case where witnesses are unable to attend a hearing, the Board of Arbitration, upon the request of the parties involved, may permit the use of electronic participation.

421.00. NONAPPEARANCE OF PARTY AT A HEARING.

If a party to a dispute fails to appear for the hearing, the Board of Arbitration may, upon the filing of proof of service of notice of the hearing on such party, proceed to hear and decide the dispute and make its Decision and Award on the basis of the evidence and testimony adduced at the hearing.

422.00. POSTPONEMENT OF HEARING.

The Board of Arbitration may grant a postponement of the hearing at its sole discretion if a party makes a request in writing to the Board of Arbitration at least five (5) business days prior to the date of the hearing.

423.00. STATEMENTS AND TESTIMONY BEFORE THE BOARD OF ARBITRATION.

In each case before the Board of Arbitration the statements and testimony of the parties and witnesses must be made under oath (or affirmation), the form of which will be as follows:

You do solemnly swear that the evidence you give in the matter of dispute between _____, as Claimant, and _____ as Respondent, now on hearing, shall be the truth, the whole truth, and nothing but the truth, so help you God.

424.00. RIGHT TO COUNSEL.

Any party to a dispute before the Board of Arbitration may be represented by counsel at their own expense, provided that party has filed written notice of his intention to be represented by counsel with the Secretary at least ten (10) business days prior to any hearing. A Complaint, Answer, or other document filed by an attorney constitutes notification of either party's intention to be represented by counsel. This notice of intention may be waived by the Board of Arbitration, but such waiver may result in a delay of the hearing date.

425.00. WITNESSES AND CITATIONS.

The Board of Arbitration may issue a notice of citation requiring any Person to appear before it and to answer any question that is proper and pertinent to the matter under investigation and to submit to it for examination any books, papers, records, or other documents that are pertinent to the matter under investigation. . In the event that a Person refuses to comply with any citation of the Board of Arbitration, the opposing party may apply to a court of appropriate jurisdiction to enforce such citation to compel the appearance of any Person and to submit for examination any requested documents before any Board of Arbitration. No witness will be required to answer any question if the answer would incriminate them. The Board of Arbitration may exclude any evidence or testimony it deems incompetent, irrelevant, or immaterial.

426.00. HEARING PROCEDURES.

Prior to the commencement of any hearing, the Secretary will administer an oath in the following form to the Arbitrators:

You, and each of you, do solemnly swear that in the hearing and determination of the matter of dispute submitted to you by _____, as Claimant, and by _____, as Respondent, will well, truly and faithfully perform your duty as arbitrators, and an honest and conscientious Award make between the parties.

The case will proceed in the following manner:

- A. Reading or presentation of the Complaint, any Counter Claim, and Answer;
- B. Presentation of the case and witnesses, if any, by Claimant;
- C. Cross-examination of witnesses, if any, by Respondent;
- D. Questioning of witnesses by the Arbitrators;
- E. Presentation of the case and witnesses, if any, by Respondent;
- F. Cross-examination of witnesses, if any, by Claimant;
- G. Questioning of witnesses, if any, by the Arbitrators;
- H. Rebuttal or sur-rebuttal testimony, if any;
- I. Case declared closed;
- J. Presentation of arguments by Claimant and Respondent, the Respondent to have the closing argument.

427.00. REPORT OF PROCEEDINGS.

In any dispute before a Board of Arbitration, unless expressly waived by the parties, the testimony and proceedings taken during any hearing will be transcribed by a court reporter, the cost of which will be assessed by the Board of Arbitration in the same manner as other fees and costs in the case. Either party may request a transcript of the proceedings at their own expense.

DECISIONS AND AWARDS

428.00. THE DECISION AND AWARD TO BE BASED ON EVIDENCE.

The Board of Arbitration selected to hear and decide a particular dispute must decide the same in accordance with the facts disclosed by competent evidence and pursuant to the Charter, MGEX Bylaws and Rules,, and usages and customs of the Exchange. Ex parte contacts by any of the parties to the arbitration with members of the Board of Arbitration is prohibited.

429.00. FORM OF THE DECISION AND AWARD.

The Decision and Award of a Board of Arbitration must be made in writing within ninety (90) days after the close of the case, and will conclusively include and determine all matters submitted by the parties, unless the contrary appears affirmatively upon the face of the Decision and Award.

The Decision and Awards of the Board of Arbitration will begin in substantially the following form:

IN ARBITRATION
IN THE MATTER OF

_____, Claimant

vs.

_____, Respondent

The Board of Arbitration, after due consideration of all matters submitted to it in the dispute above entitled, does hereby make the following Decision and Award:

A Decision and Award must be accompanied by such explanations or statements as the Board of Arbitration, deems necessary to fully advise the parties of the reasons or basis for its Decision and Award. The Decision and Award of the Board of Arbitration must be signed by the Arbitrators and the Secretary. Arbitrators who did not concur in an Award may prepare a dissenting opinion in writing, signed by such Arbitrators.

430.00. FINALITY OF THE DECISION AND AWARD.

There is no right to an appeal from any Decision and Award. The Decision and Award is final and conclusive upon the parties as to all matters decided by that Board of Arbitration.

431.00. FILING AND SERVICE OF THE DECISION AND AWARD.

The Decision and Award and any dissenting opinion must be filed with the Secretary, who will immediately serve a copy upon each of the parties. The Decision and Award and dissenting opinions will remain in the permanent records of the Exchange.

432.00. FAILURE TO COMPLY WITH THE DECISION AND AWARD.

The party or parties against whom a Decision and Award has been rendered must comply with that Decision and Award within ten (10) business days after a copy of that Decision and Award is served upon it. Failure to pay the full amount of the Decision and Award or assessment of costs to the Exchange, as escrow agent, within thirty (30) days of notice of the Decision and Award or assessment of costs, will be deemed to be a failure to perform an Exchange contract in accordance with **Rule 827.00.**

In case of failure to pay, the party in whose favor a Decision and Award has been made may apply to the Secretary, who will deliver to the prevailing party a certified copy of the Decision and Award that may be filed with a court of competent jurisdiction at the prevailing party's sole expense and election.

Any Member, Clearing Member, or Market Participant that violates any MGEX Rule or directive of the Exchange or Board of Directors, including but not limited to failing to pay any Decision and Award, will be deemed to be in violation of the MGEX Rules and may be subject to disciplinary action by the Exchange.

433.00. RECORD OF PROCEEDING.

The Board of Arbitration will cooperate with the Secretary to maintain, track, log and retain a complete record of the entire arbitration proceeding.

CONFIDENTIALITY

434.00. PROCEEDINGS TO REMAIN CONFIDENTIAL.

All proceedings of any Board of Arbitration will remain confidential. Notwithstanding the foregoing, the Exchange may disclose any part of the record or Decision and Award to any federal authority with appropriate jurisdiction, including the CFTC, upon reasonable request.

The Decision and Award issued in any arbitration may be posted publically on the Exchange's website or otherwise made available to the public, provided that any confidential or otherwise proprietary information of the parties or the dispute is redacted prior to being made public.

ARBITRATION FEES AND COSTS

435.00. FEES.

Fees must be paid in advance by the Claimant to the Exchange in each case, and such fees will be retained by the Exchange whether the case is heard or not. The Board of Arbitration may assess additional fees as allowed by MGEX Rules at any time.0 Fees are not to be applied against costs of hearing any case.

436.00. CURRENT FEES FOR ARBITRATION PURSUANT TO RULE 400.00. OR RULE 401.00.

For each case brought pursuant to Rule 400.00. or Rule 401.00., the following fees will apply:

<u>Up to \$10,000</u>	<u>\$600</u>
<u>\$10,001 to \$50,000</u>	<u>\$700</u>
<u>\$50,001 to \$100,000</u>	<u>\$1,000</u>
<u>\$100,001 to \$200,000</u>	<u>\$2,000</u>
<u>\$200,001 and above</u>	<u>\$2,500 + 1% of total value in Complaint</u>
<u>Any non-monetary claims</u>	<u>\$1,500</u>

438.00. ASSESSMENT OF COSTS OF THE EXCHANGE.

The Secretary may assess such actual costs incurred by the Exchange in the administration of any arbitration to the parties, including but not limited to reasonable labor on behalf of Exchange employees. Any costs will be split equally between the parties and must be paid within thirty (30) days of receiving notice of any assessment.

439.00. AWARD OF FEES AND COSTS.

Any fees and costs of the Exchange referred to in these Rules incurred in connection with the hearing of any case brought before a Board of Arbitration may be assessed against and allocated between the parties as that Board of Arbitration determines, provided that the award of fees and costs is included in the Decision and Award. In the case of costs of the Exchange that had previously been assessed and paid by the parties pursuant to Rule 438.00., the Board of Arbitration may order the reimbursement of any costs paid by any party.

The Board of Arbitration may, in its discretion, award such costs incurred by the prevailing party as would be allowed by a prevailing litigant under 28 U.S.C. § 1920, as now in effect or hereafter amended. Any award of costs must be included in the Decision and Award.

440.00. AWARD OF ATTORNEYS' FEES.

The Board of Arbitration may, in its discretion, award reasonable attorneys' fees incurred by the prevailing party, provided that the award of attorneys' fees is included in the Decision and Award.

441.00. PAYMENT OF FEES AND COSTS.

When a Decision and Award has been rendered, the Secretary will ensure that the fees, costs and attorneys' fees, as applicable, will be assessed according to the Decision and Award. The Secretary will distribute such payment and adjust or refund the amounts previously deposited so that all the costs and fees involved are paid in accordance with the terms of the Decision and Award.