June 3, 2011

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Via Online Submission

SUBJECT: RIN 3038-AC98, 3038-AD02

Dear Mr. Secretary:

The Minneapolis Grain Exchange, Inc. ("MGEX" or "Exchange") would like to thank the Commodity Futures Trading Commission ("CFTC" or "Commission") for this opportunity to respond to the Commission's request for comment on the above referenced matter published in the October 14, 2010 Federal Register Vol. 75, No. 198.

MGEX, a single legal entity that is both a Designated Contract Market ("DCM") and a Derivatives Clearing Organization ("DCO"), reiterates its positions contained in the original comment letter dated December 13, 2010. The Exchange would like to take this opportunity to highlight some of its concerns because, as a combined entity, final financial and reporting requirements for DCOs will directly impact MGEX as a whole entity, not just as a DCO.

First, the Exchange supports regulation through prudential standards consistent with the Commission's principles-based approach implemented by the Commodity Futures Modernization Act of 2000. Rigid prescriptive requirements tend to create inflexible and arbitrary one-size-fits-all rules that are not equally applicable to all regulated parties. Therefore, MGEX believes much of the detail within the CFTC's proposed rules would best serve the industry if they were adopted as guidelines. Guidelines are more flexible and can be customized more easily and readily than a blanket prescriptive rule.

Second, the Exchange believes the CFTC should not interpret the proposed financial resources and liquidity requirements for DCOs to require either separate accounting or the formal division of assets and liabilities for a combined DCO/DCM. MGEX, its clearing members and customers benefit from the financial strength and efficiencies resulting from being a combined entity. Of course, MGEX recognizes that it must account for and maintain financial resources and liquidity necessary to operate as a DCO as well as a DCM but needs to have the flexibility to comply with prudential

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standards and be permitted to create a customized approach.

Third, the Exchange is not supportive of adopting specific capital requirements for DCOs. Flexible capital requirements will permit DCOs to quickly respond to trading activity changes by adjusting margin requirements without being strictly limited by its capital requirements. A DCO/DCM should be able to determine how it best needs to allocate risk among its various financial resources mentioned in proposed Regulation 39.11(b). Therefore, specific capital requirements are not necessary.

Fourth, the Exchange believes there are circumstances where the CFTC should consider potential assessments a legitimate financial resource under proposed Regulation 39.11(b). Commission rules should be principles-based and allow each DCO to provide its methodology and support for why an assessment should be considered a financial resource and how much.

Fifth, the Exchange believes the permitted financial resources for operating expenses should be principles-based and evaluated by customizable prudential standards. Therefore, proposed Regulation 39.11(b)(2) should be broadened to permit a DCO to provide its explanation and methodology for determining which financial resources to include in its calculation.

Sixth, the Exchange believes the CFTC should not interpret proposed Regulation 39.11(a)(3) to require MGEX to formally divide assets and accounts. As a single entity DCO/DCM, MGEX keeps one set of financial records that are compliant with various accounting standards. Setting up extra checking accounts, for example, simply means additional and unnecessary costs.

Seventh, the Exchange believes the CFTC should consider a DCO's privacy concerns when permitting reasonable discretion in the data the DCO provides in the monthly reports required by proposed Regulation 39.11(d). Some detail as to projected revenue and expenses must remain proprietary if it involves potential business opportunities or other strategic business decisions. DCOs have a legitimate concern that confidential financial information could be subject to Freedom of Information requests. Additionally, MGEX will likely combine the cash flow projections as a single entity DCO/DCM.

Eighth, as a combined DCO/DCM, the Exchange believes proposed Regulation 39.11(e) should permit combining and then totaling its liquidity of financial resources as a single-entity DCO/DCM. This is only practical for our operations and consistent with our current clearing house default rules.

Ninth, the Exchange believes the CFTC should interpret proposed Regulation 39.11(e)(1) to mean that a DCO must have cash that will cover the average of all the clearing members' average daily settlement variation pays. Additionally, the proposed Regulation mentions settlement variation pays which MGEX would interpret as being the end of a business day trading or settlement cycle.

Tenth, the Exchange encourages the CFTC to adopt a single default liquidity standard for each DCO. The proposal cites at least three liquidity standards: the liquidity quoted in the prior paragraph, the liquidity requirement to cover a clearing member default, and

the liquidity standard to cover six months worth of operating expenses. Rather than adopting multiple liquidity requirements, the proposed Regulation could adopt the most relevant, which appears to be the clearing member default coverage.

Finally, the Exchange believes the effective date should be no earlier than 180 days after posting of the final rules. However, if the Commission limited codification to the current DCO default guidelines, the effective date could be significantly shorter.

In summary, the Commission should continue with a principles-based approach for financial resources and liquidity. Codifying more than the current default guidelines represents additional costs likely to be passed to clearing members and customers.

Please see the original comment letter for further guidance as to the opinions of MGEX regarding these as well as other matters of this proposed rulemaking. Further, if MGEX has not reiterated within this letter previous comments made in the original comment letter, it does not diminish the Exchange's comments made in the original comment letter unless otherwise noted above.

The Exchange thanks the Commission for the opportunity to comment again on the proposed rulemaking. If there are any questions regarding our original comments, please contact me at (612) 321-7169 or lcarlson@mgex.com. Thank you for your attention to this matter.

Regards,

Layne G. Carlson
Corporate Secretary

cc: Mark G. Bagan, CEO, MGEX
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December 13, 2010

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Via Electronic Mail

SUBJECT: RIN 3038-AC98, 3038-AD02

Dear Mr. Secretary:

The Minneapolis Grain Exchange, Inc. ("MGEX" or "Exchange") would like to thank the Commodity Futures Trading Commission ("CFTC" or "Commission") for this opportunity to respond to the Commission's request for comment on the above referenced matter published in the October 14, 2010 Federal Register Vol. 75, No. 198.

MGEX is a single legal entity that is both a Designated Contract Market ("DCM") and Derivatives Clearing Organization ("DCO"). MGEX mentions this because our response to the Commission's proposed rulemaking will be from this combined DCM/DCO viewpoint. Whatever final financial and reporting requirements the Commission adopts for DCOs under the rulemaking will directly affect MGEX as a whole entity, not just as a DCO.

First, the Exchange would like to reiterate that it is a strong proponent of the principles-based approach and the core principles adopted as a result of the Commodity Futures Modernization Act of 2000. We believe that 10 years has proven the value of adopting core principles. Even the economic recession of 2008 demonstrated that a principles-based approach is better than an inflexible and sometimes arbitrary one-size-fits-all prescriptive rulemaking. Because experience and evidence both support a principles-based approach, MGEX believes any rulemaking adopted from this proposal should likewise favor the principles-based approach over prescriptive rules. Attempting to strike a balance between the two methods generally diminishes the value of the principles-based approach which the industry as a whole also appears to believe is best. Therefore, prescriptive rules should only be adopted if necessary and the principles-based approach has failed in some aspect.

That being said, MGEX supports the Commission's goal of ensuring each DCO has adequate financial resources and liquidity. However, MGEX believes much of the detail within the CFTC's proposed rulemaking would best serve the industry if they were left

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as guidelines and the Commission modified them or adopted further guidelines if necessary. In the alternative, the Commission should limit codification to those guidelines already in place such as those developed for potential default scenarios since DCOs are already familiar with those guidelines. Further, guidelines are more flexible and can be changed more easily and readily than a prescriptive rule. Being able to quickly respond to changing circumstances seems best accomplished via guidelines as well. The Commission's proposed rulemaking that goes beyond financial resources and liquidity for potential defaults does not appear to derive from guidelines. And codifying these other financial and liquidity requirements is jumping the starting gun. Consequently, aspects of the proposed rulemaking related to these new requirements are perplexing, or at least require some further clarity or explanation. For example, what analysis did the Commission use to select the six month cash requirement, or the 30% assessment haircuts and 20% assessment component? These and other comments supporting and questioning the proposed rulemaking follow.

As a combined DCM and DCO, MGEX believes the proposed financial resources and liquidity requirements for DCOs should not be interpreted to require separate accounting, or the formal division of assets or liabilities of a combined DCM/DCO. This should be clarified in any final rulemaking. MGEX, its clearing members and customers benefit from the financial strength and efficiencies resulting from being a combined entity. Of course, MGEX recognizes that it will have to somehow account for and maintain financial resources and liquidity necessary to operate as a DCM as well as a DCO in meeting the proposed requirements. However, MGEX believes there should be no requirement that there be formal separation of assets and liabilities between DCM and DCO financial records of a combined DCM/DCO entity.

Consistent with a principles-based approach, MGEX is not supportive of adopting specific capital requirements for DCOs. There are a number of reasons for not adopting specific requirements. We will quickly mention a couple. First, the marketplace and trading activity changes and moves quickly, and DCOs must be able to adopt margin changes and take such financial action necessary to adjust to risk and price volatility. A DCO's capital is not determinative in setting margins. Second, the proposed rulemaking under 39.11(a) or 39.29(a) already requires a DCO to be able to withstand the default of one or two of the largest clearing members "in extreme but plausible market conditions." A DCO's capital is only one element of the financial resources necessary to cover that risk. A DCO should be able to determine how it best needs to allocate that risk among its various financial resources mentioned in proposed regulation 39.11(b). Therefore, specific capital requirements are not necessary.

MGEX does believe there are circumstances whereby potential assessments should be considered a type of financial resource as proposed under Regulation 39.11(b). Specifically, if the clearing member has liquid financial resources or access to liquid financial resources, and a DCO's rules or procedures require a contractual obligation to pay any assessment within a normal variation settlement cycle, then it seems very plausible that at least some of those assets should be considered a financial resource. It is logical to conclude that the amount of an assessment cannot be unlimited. However, if the DCO's assessment power is a reasonable formula of a clearing member's assets or even security deposit, and the amount does not exceed the clearing

member's cash or access to cash, then it also seems reasonable that a DCO should be able to include some of those assets or obligations as a financial resource. In these instances, the assessments are more than a mere promise to pay. There is evidence of financial capabilities and a legal obligation incurred if a contract or guaranty is signed. Commission rules should be principles-based and allow each DCO to be able to provide its methodology and support for why any assessment might be considered a financial resource and how much.

Likewise, when it comes to proposed Regulation 39.11(b)(2) and financial resources for operating expenses, the rulemaking should be principles-based and retain the ability for a DCO to provide its explanation and methodology for inclusion as a financial resource. The list of potential financial resources should be broad; it should not be pruned too quickly, particularly by initial regulation.

Pursuant to proposed Regulation 39.11(a)(3), a DCO will be prohibited from using a type of financial resource for both default and operating cost purposes. While this seems a logical approach to take to avoid counting an asset's value for two different purposes, there are practical implications to consider. As a DCM and DCO, MGEX keeps one basic set of financial records that are compliant with various accounting standards. The Commission's proposal should not be interpreted to require MGEX to formally divide some assets and accounts. This is not practical. Setting up extra checking accounts, for example, simply means additional and unnecessary costs.

As to proposed Regulation 39.11(c)(1), MGEX already performs stress tests on a routine basis, even informal daily basis. So, monthly reporting itself seems reasonable. And the MGEX believes the Commission's comments to allow DCOs discretion in selecting stress test scenarios is appropriate and the best course of action consistent with principles-based rulemaking and guidelines already adopted. MGEX believes each DCO best knows its financial condition, its clearing members, the risks it wants to assume, and the measurement of those risks. Further, each DCO can only provide its best cash flow projection over the ensuing 12 months. DCO revenue is highly dependant upon futures activity and volume which cannot be guaranteed. Further, some detail as to projected revenue and expense must remain proprietary if it involves potential business opportunities for example. Hence, detailed explanations as to future cash flow must not be used for public consumption which is always a potential danger as any confidential financial information could be subject to FOI requests. Therefore, the Commission must provide DCOs broad latitude in this area as well. And potential CFTC changes to any DCO's stress testing or operating cost methodologies should be exercised only in extreme cases. From a practical perspective, MGEX will likely combine the cash flow projections as a DCM and DCO.

MGEX has a few questions of proposed Regulation 39.11(d). Specifically, how did the Commission arrive at the 30 percent haircut to potential assessments and the 20 percent component limit on assessments? The Exchange understands that a line may need to be drawn somewhere. However, the haircut and limit seem arbitrary and prescriptive. In some instances the haircut perhaps should be higher if the clearing member has little cash or other financial resources. In other instances where the clearing member has significant liquidity, no haircut should be necessary. Following a

principles-based approach, the DCO should be allowed discretion to establish its methodology.

Under proposed Regulation 39.11(e), MGEX anticipates that it would likely combine, then total and determine liquidity of financial assets as a DCM and DCO. This is consistent with statements made earlier in this comment letter. Additionally, this is only practical for our operations and is consistent with our current clearing house default rules.

MGEX believes proposed Regulation 39.11(e)(1) requires some clarity. Specifically, part of the proposed regulation reads, "The derivatives clearing organization shall have sufficient capital in the form of cash to meet the average daily settlement variation pay per clearing member over the last fiscal quarter." MGEX interprets this to mean a DCO must have cash that will cover the average of all the clearing members' average daily settlement variation pays. This would seem a logical and practical application. Additionally, the proposed regulation mentions settlement variation pays which MGEX would interpret as being the end of a business day trading or settlement cycle.

The proposal cites at least three liquidity standards: the liquidity quoted in the prior paragraph, the liquidity requirement to cover a clearing member default and the liquidity standard to cover six months worth of operating expenses. At different times, the liquidity minimums under the three requirements may be quite different. Rather than adopting multiple liquidity requirements, the process could perhaps be simplified to address the most relevant which would appear to be the clearing member default coverage. The customer and market should come first. If financial resources were ever required for a clearing member default and the DCO were to continue operations, it would once again need to have sufficient liquidity to cover the largest financial risk posed by a clearing member. Regardless, any liquidity requirement should be fundamentally sound and able to be determined efficiently.

The Commission's proposed rulemaking is fairly clear: DCOs must have adequate capital, cash and financial resources. Certainly, very practical. However, the multiple requirements and methodologies that need to be employed are becoming somewhat unwieldy. The result of the proposed rulemaking and the multiple financial requirements may well be a tendency to overcompensate and ensure that a DCO has sufficient financial and liquidity cushions. Consequently, DCOs will raise security (guaranty) deposits, require more deposits posted in cash, and even keep margins high. All these actions will be significantly borne by clearing members and customers. That will have the unintended affect of negatively impacting the marketplace. Therefore, adding further significant financial requirements beyond that of covering a large clearing member default should be cautiously contemplated and implemented.

The Commission requested comment on an effective date of the final rules. MGEX believes that if the rules are adopted as proposed the effective date for implementation will be longer than if the Commission only codified the current DCO default guidelines. Otherwise, DCOs should also be given sufficient time to adopt rule changes and incorporate potential changes to current accounting and financial risk methodologies. Thereafter, each DCO should also be allowed sufficient time to stress test the changes.

The Exchange is not a proponent of delay, but also not a proponent to rush implementation. Sufficient time is also necessary should a DCO wish to request an informal interpretation on whether a particular financial resource would be acceptable for default or operating purposes. Considering the potential impact and significance of the entire propose rulemaking, MGEX believes the effective date should be no earlier than 180 days.

In summary, the Commission should continue with a principles-based approach for financial resources and liquidity. Codifying more than the current default guidelines represents additional costs likely to be passed to clearing members and customers. The Exchange thanks the Commission for the opportunity to comment on the notice of proposed rulemaking. If there are any questions regarding these comments, please contact me at (612) 321-7169 or lcarlson@mgex.com. Thank you for your attention to this matter.

Regards,

Layne G. Carlson
Corporate Secretary

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