



March 20, 2017

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

VIA ONLINE SUBMISSION

Re: Recordkeeping Proposed Rule, RIN 3038-AE36

Dear Secretary Kirkpatrick:

The Minneapolis Grain Exchange, Inc. (“MGEX”) would like to thank the Commodity Futures Trading Commission (“Commission” or “CFTC”) for the opportunity to respond to the CFTC’s request for public comment on the above referenced proposed rule, as published in the January 19, 2017 Federal Register Vol. 82, No. 12. (“Proposed Rule”). MGEX is both a Designated Contract Market (“DCM”) and Subpart C Derivatives Clearing Organization (“DCO”), and has been the primary marketplace for North American Hard Red Spring Wheat (“HRSW”) since its inception in 1881.

I. Regulation 1.31: Proposed Rule

As a whole, MGEX supports the goal of amending §1.31 to a more technology neutral regulation that streamlines recordkeeping processes. Specifically, MGEX is supportive of the Commission’s efforts to modernize §1.31 by removing requirements for retaining electronic records in their native file format, eliminating the “write once, read-many” format requirement, and eliminating the requirement to enter into an agreement with a Technical Consultant.

II. Regulation 1.31(b): Regulatory Records Policies and Procedures

As the CFTC considers potential changes to the recordkeeping requirements in new §1.31(b) for ongoing “training of officers and personnel of the records entity regarding their responsibility for ensuring compliance with the obligations...and regular monitoring for such compliance,” MGEX supports the Commission’s position of not being prescriptive as it relates to ongoing training and regular monitoring.¹ MGEX requests that the CFTC avoid a standardized “one size fits all” to such training and monitoring, especially as it relates to form and frequency. Given the varying size, complexity, sophistication, product

¹ See *Recordkeeping*, Proposal, 82 Fed. Reg. 6360 (Jan. 19, 2017) (providing that “[w]ith respect to training, the Commission does not find it necessary to prescribe specific requirements regarding the frequency and format of any training.”).

mix, and market share of existing DCM's and DCO's, MGEX believes it is important for the CFTC to be flexible with regard to existing methods of training and monitoring.

In addition, adding requirements prescribing the frequency or form of regular monitoring may impose additional resource demand on smaller entities over existing §1.31(b)(3)(ii), which requires only “develop[ing] and maintain[ing] written operational procedures and controls....”² Requiring additional resources, whether technological, financial, or human, adds barriers of entry to new entities and can disproportionately harm smaller entities. Further, each DCM remains in the best position to ensure their ongoing training and regular monitoring fulfills its business needs and the requirements set forth in existing or new §1.31(b).

Moreover, MGEX comments and suggests that if the Commission approves this Rulemaking without making any alterations, that new §1.31(b) be eliminated for smaller entities to avoid additional regulatory compliance demands. Alternatively, MGEX suggests that there be a phase-in period in addition to the compliance time customarily provided for final rulemaking of no less than 180 days for smaller entities to ensure adequate time to develop and/or fully implement any necessary adjustments to existing practices and procedures.

III. Regulation 1.31(d): Form and Manner of Retention

MGEX notes that for new §1.31(d), the practice of the Commission routinely publishing guidelines regarding technical standards for electronic regulatory records would likely result in increased cost and devotion of technical resources to ensure compliance therewith. MGEX respectfully requests the CFTC avoid publishing guidelines for technical standards of regulatory records and simply ensure regulatory records are retained by records entities in a “form and manner necessary to ensure the records’ and recordkeeping systems’ authenticity and reliability.”³

As such, entities could utilize or upgrade existing systems to meet the CFTC requirements without being mandated to utilize certain technologies or systems that may not be required or needed to meet the objectives of records and recordkeeping “authenticity and reliability.” Although the Commission believes these requirements are “not new,”⁴ MGEX believes the language of the proposed new regulations, including language regarding system requirements, are sufficiently new to warrant a phase-in period. Therefore, MGEX asks for a phase-in period in addition to the compliance time customarily provided for final rulemaking of no less than 180 days.

² CFTC Regulation 1.31(b)(3)(ii).

³ See *Recordkeeping* at 6361.

⁴ *Id.*

MGEX thanks the Commission for the opportunity to comment on the Proposed Rule. If there are any questions regarding these comments, please contact me at (612) 321-7128 or psparby@mgex.com. Thank you for your attention to this matter.

Sincerely,



Peter D. Sparby
Assistant Corporate Counsel

cc: Mark G. Bagan, MGEX, CEO & President
Layne G. Carlson, MGEX, Chief Regulatory Officer