



December 1, 2017

Web 2017-6

Dear MGEX Members & Rules and Regulations Book Recipients:

The following Chapter has been amended:

<u>Chapter</u>	<u>Citation</u>	<u>Purpose</u>
7- Futures and Options Trading	718.00. 718.01. 719.00.	Provide clarity regarding transfers and EFRPs including the information that must be provided as well as reporting deadlines.

You can view these changes by visiting the MGEX website at <http://www.mgex.com>:

1. On the top, go to "RESOURCES" and click "Rules and Regulations"
2. Click "Latest changes to MGEX RULES, REGULATIONS AND RESOLUTIONS"

If you have any questions or problems accessing the Rules and Regulations, please contact Jesse Marie B. Green at (612) 321-7122 or jgreen@mgex.com.

Sincerely,

A handwritten signature in black ink that reads "Layne G. Carlson".

Layne G. Carlson, Corporate Secretary

CHAPTER 7 FUTURES AND OPTIONS TRADING

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717.00. OPTIONS CONTRACTS: ACCEPTANCE OF OFFERS.

All offers to purchase or sell commodity Futures or Options in this market shall be open for immediate acceptance by any Member (but only in the name of a Clearing Member), and such offers shall not be restricted to or specified for any particular Member as against any other Member.

An offer to buy or sell any commodity for future delivery shall be deemed an offer to buy or sell all or any part of the quantity specified in the offer and shall be subject to total or partial acceptance up to the total quantity bid for or offered.

718.00. "TRANSFER" OR "OFFICE" TRADES: DEFINITIONS.

"Transfer" trades and "Office" trades shall be limited to the following transactions:

- A. Transactions made for the purpose of (1) transferring open futures or options contracts from one account to another on the books of the same Clearing Member where no change in ownership is involved; or (2) transferring open futures or options contracts from an account on the books of one Clearing Member to another Clearing Member where no change of ownership is involved; PROVIDED, however, that no such transfer shall be made after receipt from the Exchange of a delivery Notice on such contracts if such transfer is for the apparent purpose of avoiding delivery on such contract;

Notwithstanding the requirements of 718.00.A., the Department of Audits and Investigations, in its sole discretion, may approve a transfer that results in a change of beneficial ownership when such transfer is made as a result of a merger, asset purchase, consolidation or similar non-recurring transaction between two (2) or more Persons.

- B. Transactions consisting of the exchange or transfer of futures contracts in connection with cash commodity transactions or transactions consisting of the exchange of futures for cash commodities.
- C. Transactions consisting of the exchange or transfer of futures contracts in connection with risk transactions or transactions consisting of the exchange of futures for risks.

Except for situations involving insolvency or default (see generally Chapter 21), futures contracts may be transferred using either the original trade price or the most recent settlement price. Options contracts may be transferred using either the original trade price or a trade price of zero. All transfers in physically delivered futures contracts must be recorded and carried on the books of the receiving Clearing Member at the original trade dates. All other contracts may be recorded and carried at either the original trade date or the transfer date.

All records and memoranda pertaining to "Transfer" and "Office" trades shall be marked or identified by appropriate symbols or designations. All "Office" trades, where such trades remain on the books of one and the same Clearing Member and where no change in ownership is involved, may or may not be cleared at the discretion of the Clearing Member. All "Transfer" trades, which involve two Clearing Members in which no change of ownership is involved, shall be included and identified in daily reports to the Exchange. "Transfer" trades involving the transfer of a customer's positions and related collateral from an account on the books of one Clearing Member to another Clearing

Member shall not require the close-out and re-booking of the positions prior to the requested transfer; PROVIDED, the following conditions are met: (1) The customer instructed the carrying Clearing Member to make the transfer, and (2) the receiving Clearing Member has consented to the transfer.

718.01. OFFSETS AND TRANSFER TRADES.

Except by same day trade activity, existing futures positions in a delivery month may not be offset during the period beginning two (2) business days prior to the delivery month and continuing through the end of the delivery month. Clearing Members will be responsible for compliance with this requirement by their omnibus accounts. This prohibition also applies to transfer trades where no change in ownership is involved when the date of execution or exercise of the position being transferred is not the same as the transfer date. Such positions are required to be offset by trading. If such positions are carried on the books of different Clearing Members, the receiving Clearing Member is responsible for compliance with this Rule.

At its sole discretion, the Department of Audits and Investigations may permit an offset via netting, transfer, or position adjustment. Such adjustments are permissible to correct a bona fide clerical or operational error for an amount less than five percent (5.0%) of the published open interest reported the same morning for which the offset will be reported by the Clearing Member's morning position reporting deadline. Moreover, such adjustments are only permissible if the Department of Audits and Investigations reasonably believes the offset will not adversely impact the market. Such permission does not prohibit A&I from investigating or taking disciplinary action for any alleged violation of the Rulebook.

719.00. EXCHANGE FOR RELATED POSITION.

An Exchange for Related Position ("EFRP") transaction involves a privately-negotiated off-exchange execution involving two separate, but related transactions, consisting of an Exchange for futures and, on the opposite side of the market, the simultaneous execution of an equivalent quantity of physical (cash product, by-product, or related product) or in connection with a risk (an over-the counter (OTC) derivative or a swap agreement) component that corresponds to the asset underlying the Exchange futures contract.

The following types of EFRP transactions are permitted to be executed in accordance with the requirements of this rule:

Exchange for Physical Transaction ("An EFP") - An exchange of futures for, or in connection with, a physical consisting of a cash commodity transaction and a futures transaction.

Exchange for Risk Transaction ("EFR") - An exchange of futures for, or in connection with, a risk consisting of an OTC derivative or a swap agreement and a futures transaction.

EFRP transactions are subject to the requirements below.

- A. The opposing accounts to EFRP transactions must be (a) independently controlled accounts with different beneficial ownership; (b) independently controlled accounts of separate legal entities with common beneficial ownership; or (c) independently controlled accounts of the same legal entity, provided that the account controllers

operate in separate business units.

- B. The quantity or economic value covered by the physical or risk transaction must be approximately equivalent to or bear a relationship to the quantity or economic value covered by the futures contract(s). At the time such transaction is effected, the buyer and seller of the futures transaction must be the seller and buyer of the physical or risk transaction. The risk component of an EFR transaction must comply with Part 35 of Commission Regulations and the Commodity Exchange Act, as amended.
- C. Each buyer and seller must satisfy the Department of Audits and Investigations, at its request, that the transaction is a bona fide EFRP transaction. Upon request of the Department of Audits and Investigations, all documentary evidence relating to the EFRP, including, but not limited to, contracts, confirmations, invoices, warehouse receipts, documents of title, a master swap agreement and any supplements thereto, or any other document that demonstrates the existence and nature of the over-the-counter or derivative transaction shall be obtained by the Clearing Members from the buyer or seller and submitted to the Department of Audits and Investigations. Clearing Members are responsible for exercising due diligence as to the bona fide nature of EFRPs submitted on behalf of their customers.
- D. An EFRP may be made at such prices as are mutually agreed upon by the two parties to the transaction. If the price of an EFP cannot be mutually agreed upon by the date of shipment, the cash commodity buyer has the option to set the price within that day's trading range.
- E. EFRP transactions should be submitted to the Exchange as soon as possible on the same day during the hours of trading, following final agreement to contract terms by the parties involved in the trade. An EFRP executed after the close of trading of the underlying futures contract must be submitted for clearing no later than the next business day.
- F. A third party may facilitate, as the principal, the related position component of an EFRP on behalf of a customer so long as the third party is able to demonstrate that the related position was passed through to the customer who received the futures contract as part of the EFRP.
- G. The futures contracts that may be exchanged for a physical or a risk transaction, and the last day and time for executing an EFRP shall be determined by the Board of Directors.

(See [Resolution 719.00.](#))

725.00. QUOTATIONS BASED ON TRADES.

Quotations of prices in Futures and Options Contracts made in this market shall be based on purchases or sales of such quantities as the Board of Directors shall have prescribed for each commodity, from time to time, by Regulation.

725.01. REPORTING OF TRADES.

Each party to an Options transaction made competitively in the Pit must promptly notify the Market Observer(s) of the price at which the trade has been executed.

726.00. "FAST" QUOTATIONS.

The symbol "FAST," when used in connection with market quotations, shall mean that a condition in the market similar, but not limited to the following, exists:

- A. Larger than normal price changes between Pit reported trades. "Normal price changes" is defined as orderly minimum tick moves in the most active contract months.
- B. Market is bid up or offered down rapidly. A market condition may occur with momentary spurts of bids and/or offers which may not be considered a "FAST" market.
- C. Trades, bids or offers are occurring too rapidly to be fully reported. However, during a "FAST" market every effort must be made to comply with **Rule 725.01.**

The Exchange shall be the judge of when the symbol shall be used, and any trades made at intervening prices are to be considered officially quoted. The Market Observer(s) shall signal an end to the "Fast" market when appropriate.

After the "FAST" market is invoked, the Market Observer(s) will report the market to the best of their ability. The quotations during the "FAST" market shall be duly noted in the official time and sales.

727.00. "FAST" QUOTATIONS-UNEXECUTED ORDERS.

Whenever price fluctuations of the commodities traded on the Exchange are "FAST" and the volume of business is large, it is common that different prices are bid and offered for the same delivery in different parts of the Pit at the same time. This may, at times, result in the execution by Members of orders at prices not officially quoted, or the inability of a Member to execute an order at a limited price. This is unavoidable, but is in no way the fault of the Member and it is not permissible for Members to readjust the price at which orders have been filled, nor to report as filled orders those that have not been filled. To do so is a major offense.

Quotations sent must be based on transactions made in the open market. The term "open market" is defined as a bid or an offer openly and audibly made by public outcry and in such manner as to be open to all Members in the Pit.

Any quotations based on transactions made in the open market, already distributed or sent out over the wire, shall not be cancelled.

728.00. QUOTATION CHANGES.

The Exchange may make quotation changes when required as a result of an error or at any other time deemed necessary.

- A. The Exchange may approve the change of an opening range only within thirty (30) minutes after the opening of a specific contract month.
- B. The Exchange may approve the change of a closing range only within fifteen (15) minutes after the closing of each contract traded.

730.00. PREARRANGED PRICES PROHIBITED.

Purchase or sales or offers to purchase or sell commodity futures or options in this market may not be made at prearranged prices.

731.00. BIDS AND OFFERS ABOVE OR BELOW CURRENT MARKET.

Market Participants are forbidden to offer to buy any commodity Futures or Options on this Exchange at a price higher than the current asking price, or to offer to sell any commodity in Futures or Options on the Exchange at a price below the current bid price. [See Interpretation.](#)

732.00. FICTITIOUS BIDS OR OFFERS PROHIBITED.

No Member or Market Participant shall make any bids or offers in commodity futures or options in this market which are not made in good faith and intended to be carried out if accepted, and the making of pretended or fictitious bids or offers is hereby prohibited.

733.00. ATTEMPT TO UPSET MARKET PROHIBITED.

Purchase or sales of (or offers to purchase or sell) commodity futures or options in this market, made for the purpose of upsetting the equilibrium of the market or bringing about a demoralization of the market, so that prices will not properly reflect values, are forbidden. Any Member or Market Participant who makes or assists in making such purchases or sales or such offers to purchase or sell, with knowledge of the purpose thereof or who, with such knowledge, shall be a party to or assist in carrying out any plan or scheme for the making of such purchases or sales or such offers to purchase or sell, shall be deemed and held to be guilty of uncommercial conduct.

733.01. DISREGARD FOR ORDERLY EXECUTION PROHIBITED.

The Exchange prohibits any Person from demonstrating intentional or reckless disregard for the orderly execution of transactions including during the opening or closing period.

740.00. PRINCIPAL AND AGENT: ACTING AS BOTH PROHIBITED.

No Member or Market Participant shall be both principal and agent in any transaction for commodity futures or options made in this market, except under the following circumstances:

- A. When two Members meet in the execution of orders in the appropriate Pit or designated area and, without prearrangement, unintentionally consummate a contract for one and the same Clearing Member principal, such transactions shall not be considered a violation of the MGEX Rules and Regulations.
- B. If, after public outcry in the Pit a Member is unable to execute an order, the Member may, with the express prior consent of the person giving the order, become the Buyer in respect to a selling order or orders of such person, or

may become the Seller in respect to a buying order or orders of such person. In the exercise of this privilege prior consent may be given in the form of a written agreement which is separate and distinct from the customer agreement. No intermediary transmitting an order may give this consent without the prior knowledge and permission of the principal for whom the order is being executed. Provisions of subsections B. and C. of **Rule 742.00.** shall be followed in the execution of such trades.

- C. When a Broker receives a customer's order from a Clearing Member and on bidding or offering, finds that the best response comes from a Broker whose order is identifiably for the house account of the same Clearing Member, acceptance of that order will not be regarded as a violation of the MGEX Rules and Regulations. Such instances must be random and not arise from preferential trading nor represent a pattern of trading.

741.00. ACTING FOR BOTH BUYER AND SELLER PROHIBITED.

Except as expressly authorized by the provisions of **Rule 742.00.**, no Member or Market Participant shall allow himself or itself directly or indirectly, either by his own act or by the act of an employee or Broker, or by the act of any other Member or Market Participant, to be placed in the position of agent for both Buyer and Seller in connection with any transaction in futures or options made in this market.

742.00. CROSS TRADING-HANDLING BOTH BUYING AND SELLING ORDERS.

A Member, or an entity designated by the Member (called "the Member" for purposes of this **Rule 742.00.**), who shall have in hand at the same time both buying and selling orders from different principals for the same commodity in futures or options in the same delivery month, may execute such orders for and directly between such principals, at the market price, upon the following conditions:

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

PROVIDED FURTHER, that when two Members meet in the execution of orders in the open market in the Pit and, without prearrangement,

unintentionally consummate a contract for one and the same Clearing Member principal, such transaction shall not be considered a violation of the MGEX Rules and Regulations. The Board of Directors is authorized to adopt regulations necessary to enable Members to utilize the provisions of this Rule.

743.00. PROHIBITION ON ACCOMMODATION OR WASH TRADES.

No Market Participant shall engage in wash, accommodation or any other risk-free trading. Risk-free or wash trading may involve entering into, or purporting to enter into, transactions that give the appearance that purchases and sales have been made, without incurring market risk or changing the Market Participant's market position. Accommodation trading may involve entering into, or purporting to enter into, transactions that assist in the execution of a Market Participant's offsetting orders.

Examples of prohibited conduct may include but are not limited to: entering offsetting orders for purchases and sales of the same month and/or strike price of the same commodity for the same account at the same or nearly the same price; entering offsetting orders for purchases and sales for different accounts with common beneficial ownership or control at the same or nearly the same price; entering offsetting orders for purchases and sales between one or more parties of the same month of the same commodity at the same or nearly the same price; or a series of transactions or related transactions over any period of time that have the appearance of accommodation or wash activity.

750.00. PRIORITY OF CUSTOMERS' ORDERS.

No Market Participant may buy or sell any commodity for future delivery for his own account or for any account in which he has an interest while holding an order for another person for the purchase or sale of the same commodity that is executable at the market price, or at the price at which such purchase or sale can be made for the Member's own account or the account in which he has an interest.

No Market Participant may execute any transaction for any account of another person for which buying and/or selling orders can be placed or originated, or for which transactions can be executed, by such Member without the prior specific consent of the account owner, regardless of whether the general authorization for orders or transactions is pursuant to a written agreement, except that orders of such an account may be placed with another Member for execution. However, a Member is not required to hand off orders for discretionary accounts or discretionary orders when orders originate on behalf of Members of Floor Brokers' immediate families, contract market members and proprietary accounts of contract market member firms. PROVIDED, however, that customers' orders, including price and time discretion orders, are executed before discretionary account orders for family members, contract market members or proprietary accounts of contract market firms.

For the purpose of this **Rule 750.00.**, immediate family members are defined as spouses, children and stepchildren, parents, brothers, and sisters.

751.00. DISCLOSING ORDERS PROHIBITED.

Market Participants are forbidden to disclose to any party the possession or receipt of orders to buy or sell commodity Futures or Options in this market.

A Market Participant may, however, use his discretion and bid or offer any quantity of contracts without violating this **Rule 751.00**, when the information may aid or expedite a fill.

A Market Participant acting pursuant to the second paragraph of **Rule 750.00**, or when supplying information requested by an authorized representative of the Commodity Futures Trading Commission or an Exchange official, will not be in violation of this **Rule 751.00**.

753.00. BROKERS' LIABILITIES ON LIMIT ORDERS.

A Broker shall not be liable for failure to execute a Limit Order unless the Broker is found to be negligent. In the case of a dispute regarding any unfilled Limit Order, the Disciplinary Committee is authorized to determine whether an adjustment is due a customer. No adjustment on any unfilled order shall be allowed if the Broker has not been found negligent by the Disciplinary Committee.

754.00. FILLING LIMIT ORDERS ON THE OPENING AND CLOSING.

Brokers are not to be held liable for obtaining a complete or partial fill on Limit Orders falling within the opening price or closing range even when those orders are the high or low prices of the closing range.

755.00. ORDERS OR CANCELLATIONS ACCEPTED ON A "NOT-HELD" BASIS.

All orders and cancellations that reach the Trading Floor fifteen (15) minutes or fewer before the opening of the market and all orders and cancellations that reach the Trading Floor fifteen (15) minutes or fewer before the close of the market through the end of the post settlement session may involve extraordinary problems and hence will be accepted solely at the risk of the customer on a "not-held" basis.

760.00. MARGINS.

- A. EXCHANGE MARGINS: This term shall mean United States Funds, negotiable securities or other property deposited with or to the sole credit of an agent or of a Clearing Member as protection against losses incident to a transaction for future delivery.
1. INITIAL MARGIN: This term shall mean a margin (as defined herein) deposited at the initiation of a Futures transaction.
 2. MAINTENANCE MARGIN: This term shall mean a margin (as defined herein) maintained during the period a Futures Contract remains open.

Members and nonmember customers of a Clearing Member shall deposit and maintain initial and maintenance margins according to the Clearing Member's requirements. Initial margins as established by the Exchange, shall be charged at a minimum. The Exchange may increase or decrease initial and maintenance margins as market conditions require.

PROVIDED, that the margins on spreading and hedging transactions shall be the requirements of the Exchange as a minimum, except where a customer specifies that a spread involves an MGEX approved inter-exchange spread. Then the initial margin on the MGEX side of the spread shall be at a minimum established by the Exchange.

The specific amounts of the initial, maintenance, and spread margins are to be transmitted to the membership by special memorandum.

- B. CLEARING MARGINS: This term shall mean United States Funds or securities approved by the Exchange deposited with or to the sole credit of the Exchange as protection against losses incident to a Transaction for Future Delivery (See [Regulation 2102.00.](#))

765.00. TRADING FOR OFFICERS, COPARTNERS OR EMPLOYEES.

No Member shall make a purchase or a sale of any commodity futures or options in this market, or accept or carry an account for such purchase or sale, for the account of an officer, copartner, or employee of another Member without the written consent of such other Member.

766.00. CONFIRMATION OF FUTURES OR OPTIONS TRADES.

A Clearing Member shall confirm to the customer every transaction made for the customer's account no later than the following business day. Such confirmation shall be in writing and shall show the commodity bought or sold, the quantity, the price or premium and the delivery month and, if an option, whether a put or call and the strike price.

768.00. ACCEPTANCE OF ACCOUNTS FROM OTHERS THAN PRINCIPALS.

Except as provided in OMNIBUS ACCOUNTS and DISCRETIONARY ACCOUNTS, no Member or Market Participant shall make a purchase or a sale of any commodity in futures or options in this market for the account of another party, nor shall any Member or Market Participant accept or carry such an account for such other party, if such other party is known to be acting as an agent for and on behalf of others, unless such other party is properly registered with the CFTC or the National Futures Association.

No purchase or sale of commodities in futures or options shall be made in this market, and no account for such purchase or sale shall be accepted or carried for the account of any person if such purchases or sales are made pursuant to trading authority given by such person to another person (not a member of the same family) to trade in his or her name, except on the following terms and conditions:

- A. A monthly statement shall be sent directly to the person for whose account such purchases or sales have been made, showing the exact position of the account, including all open trades figured to the market;
- B. Each transaction shall be specifically designated with the name of the person for whose account such purchase or sale has been made at the time the order is accepted;
- C. No transaction shall be held open in the name of the person for whose account such transaction has been made if such transaction can be closed by making up an Account of Purchase and Sale;
- D. Confirmations of all trades shall be sent promptly, both to the person for whose account such purchases or sales have been made and to the party authorized to act for his or her account;

- E. Written evidence of such delegation of authority by such party to such other party to trade in his or her name shall have been furnished to the Member or Market Participant making the trade.

769.00. OMNIBUS ACCOUNTS.

An omnibus account stands in the name of an organization or firm and is utilized for placing and clearing the trades of one or more undisclosed customers of the account.

An omnibus account may be carried only for a person, organization or firm which is in compliance, with the registration requirements of the Commodity Futures Trading Commission. It shall be the responsibility of the firm handling an omnibus account to be aware of, and vouch for the registration status of the account.

The person responsible for an omnibus account shall at all times disclose, upon request of the Clearing Member carrying that account, the gross long and short positions held by that account in each commodity. The person responsible for an omnibus account shall, at least two (2) business days prior to the first delivery day in a contract month, provide the Clearing Member carrying that account with a complete list of the purchase and sale dates of all open positions for that contract month. Such list shall be kept up to date throughout the delivery month.

A Clearing Member carrying an omnibus account (except an omnibus account of another Clearing Member) shall indemnify and hold harmless the Exchange for any loss of damage suffered by the Exchange by reason of fraudulent dealings with, or management of, customer funds and transactions within the omnibus account. Each Clearing Member that maintains an omnibus account with another Clearing Member shall also bear financial responsibility to the Exchange for that omnibus account.

770.00. DISCRETIONARY ACCOUNTS.

No Clearing Member shall accept or carry an account over which any Person, other than the Person in whose name the account is carried, exercises trading authority or control without meeting the following conditions:

- A. Authorization.

The Person in whose name the account is being carried shall sign and submit to the Clearing Member a power of attorney or other document by which trading authority or control is clearly given and that designates precisely to whom the trading control is given.

The power of attorney, trading authorization, or the document by which trading authority is given, shall be in writing showing the date it was entered into. It shall remain in effect until it is terminated by a written revocation signed by the person for whom the account is carried or by the death or incapacity of such person.

Termination may also be made by the person to whom such power has been delegated and must be in writing or by the death or incapacity of such person.

- B. Orders.

Any person initiating an order for an account over which he has discretion must reduce the order to writing, record thereon the account number and

date, and time-stamp the order. This requirement shall not apply to the following:

1. Accounts maintained by Members for their families (spouse, parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece, or in-law).
2. Accounts belonging to other Exchange Members.
3. Proprietary accounts of Clearing Members.

C. Records.

The records of the Clearing Member shall clearly identify each controlled account it carries, and the Clearing Member agrees to provide the Exchange with a list of such accounts promptly upon request.

775.00. "BUCKET-SHOPS" FORBIDDEN.

No Member, and no Market Participant, shall make, negotiate in any form, have, or be in any way interested in any "Bucket-Shop" contract, trade, or transaction, whatever, or in any contract for the purchase or sales of any commodity whatever, for Futures or Options, without intent to make an actual purchase or sale, or to deliver or receive such commodity, but with intent to settle or cancel such contract by the payment of the difference between a contract and the market price, or in dealing in differences in the market price of any commodity without a bona fide purchase or sale of such commodity for actual delivery on this or some other Exchange where such commodity is dealt in.

No Member or Market Participant shall knowingly be interested in the business of, or associated in business with, or shall, in any transaction, act as the Broker or representative of, or shall execute any order for or on behalf of any Person, exclusively, or otherwise in operating a "Bucket-Shop," in making, negotiating, or dealing in the contracts, trades or transactions previously prohibited in this Rule.

Any Member or Market Participant, who or which has violated the provisions of this **Rule 775.00.**, shall be subject to disciplinary action and/or shall have its access to the Electronic Trading System terminated.

780.00. OFFICIAL OPENING.

The official opening of the market shall be understood to include the price at which the opening orders are executed, provided that in the opinion of the Market Observer and the Exchange, due diligence and promptness have been observed in handling such orders. The condition of the market shall also be considered in forming the decision.