



June 14, 2016

Web 2016-2

Dear MGEX Members & Rules and Regulations Book Recipients:

The following Chapters have been amended:

<u>Chapter</u>	<u>Citation</u>	<u>Purpose</u>
4- Arbitration Rules		Remove previous Chapter 4 Arbitration- Cash Trades or Members' Futures (Options) and Chapter 5 Arbitration Customers' Futures and Options to replace with a new Chapter 4 Arbitration Rules (enclosed). The purpose of the change is to streamline and clarify the dispute resolution rules.

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 cursive script that reads "Layne G. Carlson".

Layne G. Carlson, Corporate Secretary

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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:

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

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.