



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5000

Market Participants
Division

Amanda L. Olear
Acting Director

Division of
Market Oversight

Dorothy D. DeWitt
Director

Re: Partial Extension of No-Action Positions to Facilitate Physical Separation of Registrant Personnel in Response to COVID-19 Pandemic

Ladies and Gentlemen:

At the request of CME Group Inc. (“**CME**”), ICE Futures U.S. (“**IFUS**”), and the Minneapolis Grain Exchange (“**MGEX**”), this letter further extends the time period of certain no-action relief provided by the Market Participants Division (formerly, the Division of Swap Dealer and Intermediary Oversight) (“**MPD**”) and the Division of Market Oversight (“**DMO**”) of the Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) in CFTC Staff Letters Nos. 20-04 and 20-09, each issued on March 17, 2020, and extended by CFTC Staff Letter 20-19, issued on June 9, 2020, CFTC Staff Letter 20-26, issued on September 11, 2020, and CFTC Staff Letter 21-05, issued on January 19, 2021 (the “**COVID-19 Letters**”).¹ In connection with an industry-wide response to the coronavirus disease 2019 (“**COVID-19**”) pandemic, no-action relief was granted pursuant to the COVID-19 Letters for failure to comply with certain Commission regulations where compliance was anticipated to be particularly challenging or impossible because of displacement of personnel from their normal business sites due to implementing recommended practices, such as, social distancing and closures, to curtail the spread of the COVID-19 pandemic.

Since March 2020, the MPD and DMO Directors have reiterated their expectation that registrants will work to implement technological solutions that permit full compliance

¹ CFTC Staff Letters related to COVID-19 are available on the Commission’s website: <http://www.cftc.gov/coronavirus>. Any relief not extended by this letter has expired or will expire pursuant to the terms of the applicable Covid-19 Letter.

with CFTC regulations while working in a remote environment.² As firms have adapted to a work-from-home environment, it is MPD and DMO's understanding that many registrants and other market participants have implemented a variety of technological solutions that facilitate compliance with CFTC regulations while working remotely. However, for the reasons described below, CME, IFUS, and MGEX request an additional period of relief for floor brokers ("**FBs**").

I. Summary of Requests

Due to their ongoing response to the COVID-19 pandemic, most trading floors of CME, IFUS, and MGEX remain closed.³ As a result, a significant portion of the FB community is unable to trade from CME's, IFUS's, or MGEX's trading floors and continues to work from alternate locations. Accordingly, CME, IFUS, and MGEX are requesting a further extension of the location and registration relief previously granted to FBs in the COVID-19 Letters.

In addition, due to the ongoing displacement of FBs from the trading floors and/or other designated premises of the designated contract markets ("**DCMs**"),⁴ CME, IFUS, and MGEX request an extension of certain relief granted in the COVID-19 Letters with respect to certain real-time market monitoring requirements.

II. MPD No-Action Positions

In light of the foregoing, and in order to support CME's, IFUS's and MGEX's continuing responses to the COVID-19 pandemic, MPD believes that the location and registration relief granted in the COVID-19 Letters for FBs continues to be warranted for an additional period of time. MPD expects that as COVID-19-related risks decrease, and CME, IFUS, and MGEX fully re-open their respective trading floors, FBs will return to compliance with respect to all physical location requirements pursuant to the definition of FB in Commission Regulation 1.3 from which relief has been provided.

Accordingly, the no-action relief provided by MPD for FBs pursuant to the COVID-19 Letters from the following regulatory requirements is hereby extended until **September 30, 2021**, subject to the terms and conditions as stated in CFTC Staff Letter 20-04:

² CFTC Release Number 8176-20 (June 10, 2020), available at: <https://www.cftc.gov/PressRoom/PressReleases/8176-20>; CFTC Release Number 8240-20 (Sept. 11, 2020), available at: <https://www.cftc.gov/PressRoom/PressReleases/8240-20>.

³ To-date, CME has only re-opened the CME Eurodollar options pit for open outcry trading.

⁴ "Other designated premises" refers to exchange rules that may allow customer orders to be entered from the premises of an entity registered to conduct customer business.

- (1) Location requirement pursuant to the definition of “floor broker” in Commission regulation 1.3.
- (2) Introducing broker registration.

III. DMO No-Action Positions

As noted above, based on the representations of CME, IFUS, and MGEX, DMO understands that the displacement of personnel from a DCM’s trading floor and/or other designated premises in response to the COVID-19 pandemic that prompted the issuance of the COVID-19 Letters continues. In order to support CME’s, IFUS’s, and MGEX’s continuing responses to the COVID-19 pandemic, DMO believes that the real-time market monitoring no-action relief granted in the COVID-19 Letters continues to be warranted.

DMO reiterates that it expects DCMs relying on the relief extended by this letter to remain particularly vigilant in their self-regulatory functions and to implement compensating controls designed to ensure that the extended relief does not facilitate or allow FBs to take advantage of this relief to engage in improper trading. DMO further expects that as COVID-19-related risks decrease, and CME, IFUS, and MGEX fully re-open their respective trading floors, DCMs will return to compliance with all real-time market monitoring requirements from which relief has been provided.

Accordingly, the no-action relief provided by DMO pursuant to the COVID-19 Letters from the following regulatory requirements is hereby extended until **September 30, 2021**, subject to the terms and conditions as stated in CFTC Staff Letter 20-09:

- (1) Real-time market monitoring requirements pursuant to CEA sections 5(d)(4) and Commission regulations 38.250 through 38.253, to the extent that non-compliance relates to the displacement, in connection with the COVID-19 pandemic response, of FBs from any pit, ring, post, or other place provided by a contract market pursuant to the definition of “floor broker” in Commission regulation 1.3.⁵

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⁵ Condition 1 of CFTC Letter 20-09 states that “[t]he DCMs will require [FBs, other registrants, and unregistered members of DCMs (“**Affected Market Participants**”)] to continue to conduct customer business in accordance with the same exchange rules applicable to the trading conducted on the trading floor, or otherwise in compliance with relief granted pursuant to [MPD’s] [CFTC Staff Letters] 20-02, 20-03, 20-04, 20-05 and 20-06....” For avoidance of doubt, upon the expiration of CFTC Staff Letters 21-04 and 21-05, DCMs may not rely on relief from audit trail and related requirements pursuant to CEA sections 5(d)(4) and (10) and Commission regulations thereunder where the relief granted pursuant to CFTC Staff Letters 20-02, 20-03, 20-04, 20-05, and 20-06 for Affected Market Participants is not extended by this letter.

IV. Conclusion

This letter, and the positions taken herein, represent the views of MPD and DMO only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the CEA or in Commission regulations. Further, this letter, and the positions taken herein, are based upon the facts and circumstances presented to MPD and DMO. Any different, changed, or omitted material facts or circumstances might render the relief provided by this letter void.

Finally, as with all staff letters, MPD and DMO retain the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of relief provided herein, in their discretion.

If you have any questions concerning this correspondence, please contact Frank Fisanich, Chief Counsel, MPD, at (202) 418-5949 or ffisanich@cftc.gov or Roger Smith, Associate Chief Counsel, DMO, at (202) 418-5344 or rsmith@cftc.gov.

Very truly yours,

Amanda L. Olear
Acting Director
Market Participants Division

Dorothy D. DeWitt
Director
Division of Market Oversight

cc: Regina Thoele, Compliance
National Futures Association, Chicago