



# Memo

**TO:** MGEX Clearing Members & Market Participants

**FROM:** Layne G. Carlson, Secretary

**SUBJECT:** SPIKES™ Volatility Index Futures – Petition for Rehearing

**DATE:** September 12, 2023

Yesterday, MGEX filed a petition for panel rehearing and rehearing *en banc* of the United States Court of Appeals for the District of Columbia’s July 28, 2023 decision to vacate the SEC’s Exemptive Order related to SPIKES™ Volatility Index Futures. As a result, the original date on which the Court’s vacatur was to go into effect – November 1, 2023 – no longer applies. If the petition is denied, the new date for the vacatur is three months after the end of the month in which such denial is issued. If the petition is granted, the SEC Exemptive Order would remain in effect until the Court hears the matter again and/or issues a new opinion. As a result, **the earliest date on which SPIKES Futures would be required to cease trading is January 1, 2024.** MGEX continues to explore all options available to it to ensure the uninterrupted trading of SPIKES™ Volatility Index Futures. The Exchange will provide a further update when there is a material development on this matter.

If you have any questions, please contact Layne Carlson at 612-321-7169 or [lcarlson@mgex.com](mailto:lcarlson@mgex.com), or the MGEX Clearing House at (612) 321-7146 or [clearing@mgex.com](mailto:clearing@mgex.com).

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