

UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

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In the Matter of the  
HedgeStreet, Inc. Request that its Order of  
Designation be Amended

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AMENDED ORDER OF DESIGNATION

HedgeStreet, Inc., (“HedgeStreet”) a Delaware corporation, has submitted pursuant to Section 5 and 6(a) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 7 and 8(a), a request, dated September 6, 2005, and amended October 24 through November 18, 2005, (“iMarket Proposal”) that the Commodity Futures Trading Commission (“Commission”) amend the Order, dated February 18, 2004, approving HedgeStreet’s application for designation as a contract market (“Order of Designation” as a “DCM”). HedgeStreet’s iMarket request seeks Commission approval to operate a market trading contracts described as iHedglets (“iMarket”) where members of the iMarket are required to be members (“Participants”) of the Clearing Corporation (“CCorp”), a registered derivatives clearing organization (“DCO”) and allowed to trade on their own behalf or on behalf of their customers. HedgeStreet requested that the Commission’s Order of Designation be amended to: (1) permit intermediation by CCorp Participants for customers; (2) permit contracts traded on the iMarket to be margined on other than a fully collateralized basis prior to trade execution; and (3) permit the required collateral for iMarket contracts to be less than one hundred percent (100%) of the full payout on settlement of such contracts if HedgeStreet can, at some future time, develop a margining method for such contracts that

enables compliance with Core Principles with collection of less than 100 percent collateral.

HedgeStreet also represents that if, in the future, such margining methodology is developed, it would then enter into contracts with either the National Futures Association (“NFA”) or CCorp to conduct a risk management program to ensure the financial integrity of the *iMarket*.

HedgeStreet is currently limited to offering only contracts that are fully collateralized prior to being matched or cleared.

The Commission has considered HedgeStreet’s request. Based on its review of this matter, the Commission FINDS that, subject to the exceptions described below, HedgeStreet’s request for an amendment to its Order of Designation provides a showing that it complies with the conditions set forth in the Act, and the Commission’s regulations thereunder applicable to it, for designation as a contract market and provides a sufficient assurance that it will continue to comply with the requirements of the Act and the Commission’s regulations. Specifically,

1. HedgeStreet has demonstrated, as required by Commission Regulation §38.3(a)(1)(i), its ability to comply with the requirement under Designation Criterion 5 and Core Principle 11, Act §§ 5(b)(5), 5(d)(11); 7 U.S.C. §§ 7(b)(5), 7(d)(11), to establish minimum financial standards for member FCMs and the requirement to monitor for compliance with those standards,
2. HedgeStreet has not demonstrated
  - a) an ability to conduct financial surveillance of member FCMs, specifically, the ability to assess the potential impact upon each member's financial position of possible market moves in cases where *iHedgelets* are margined at less than 100 percent of possible losses. In particular, HedgeStreet has not met the requirements of Commission Regulation §38.3(a)(1)(ii)(D) and (E) that, in relevant part, require an applicant DCM to provide an executed or executable copy of any agreements or contracts with any third-party regulatory service and supporting documentation that enable the applicant to comply with a designation criterion or core principle and copies of manuals or other documents describing, with specificity, the manner in which the applicant will conduct financial surveillance;

- b) an ability to provide a methodology for margining Fixed Price *i*Hedgelets at less than 100 percent of possible losses; or
- c) an ability to set settlement prices for Variable Price *i*Hedgelets for illiquid markets where daily prices for the underlying are unavailable to HedgeStreet;

all as required by Designation Criterion 5, Core Principle 11, and the application guidance thereto.

Therefore,

IT IS ORDERED, under Section 5 and 6(a) of the Act, that the request of HedgeStreet for an amendment of its Order of Designation be granted in part, as described below.

IT IS FURTHER ORDERED, that this amended Order of Designation is subject to HedgeStreet's compliance with all sections of the Act and regulations thereunder applicable to it as a designated contact market.

IT IS FURTHER ORDERED, that the Order of Designation is amended to read as follows:

A. With respect to HedgeStreet's Non-intermediated Market

IT IS ORDERED THAT:

1. In place of filing clearing member reports under Commission Rule 16.00 and until further order of the Commission, HedgeStreet shall file large trader reports and forms under Part 17 of the Commission's regulations on behalf of its clearing members; and

2. HedgeStreet will comply with commitments it made to the Commission by letter dated February 9, 2004 ("February 2004 commitments") as follows:

HedgeStreet and any official, agent, or other person acting on behalf of HedgeStreet within the scope of his or her employment or office shall not, in or in connection with the offer or sale of HedgeStreet products:

- (a) cheat or defraud or attempt to cheat or defraud any person;

(b) willfully make or cause to be made to any person any false report or statement or caused to be entered for any person any false record; or

(c) willfully deceive or attempt to deceive any person by any means whatsoever.

The Commission has accepted the February 2004 commitments from HedgeStreet in light of the fact that HedgeStreet's structure and intended manner of operation on its non-intermediated market is qualitatively different from more traditional exchanges. HedgeStreet's non-intermediated market will have members who interact directly with the trading facility. More traditional markets have been intermediated markets in which the intermediaries conduct most customer solicitations. On the non-intermediated market, any solicitation that occurs will be by HedgeStreet. In these circumstances, these commitments are appropriate to ensure that HedgeStreet customers receive a similar level of protection against fraudulent conduct, including fraudulent solicitation, as customers of more traditional exchanges.

B. With Respect to HedgeStreet's iMarket

IT IS ORDERED THAT:

1. HedgeStreet members' accounts may be carried by registered futures commission merchants provided that such contracts are cleared by a Derivatives Clearing Organization that is otherwise permitted to clear such contracts (the "DCO");
2. HedgeStreet iMarket contracts may be cleared by the DCO without the requirement of collection of prepaid collateral prior to acceptance for clearing; and
3. HedgeStreet is limited to offering contracts that will be collateralized for 100 percent (100%) of the maximum possible loss each participant may incur, except that the DCO may collect required collateral for HedgeStreet contracts no later than the day after accepting such contracts for clearing.

C. With Respect to All HedgeStreet Markets

IT IS ORDERED THAT:

In order to ensure that HedgeStreet maintains sufficient liquid assets to continue to meet its obligations to comply with the Designation Criteria and Core Principles, HedgeStreet shall not list for trading any contract that has an expiration date beyond the date at which HedgeStreet's cash and cash equivalents are estimated to be depleted, pursuant to an analysis acceptable to the Commission.

Issued in Washington, D.C., this 5<sup>th</sup> day of December, 2005.

By the Commission

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Catherine D. Daniels  
Assistant Secretary of the Commission