

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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**1:53 pm, Jun 18, 2013**

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**In the Matter of:**

**ABN AMRO CLEARING  
CHICAGO LLC,**

**Respondent.**

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) **CFTC Docket No. 13 – 25**  
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO  
SECTIONS 6(c) and 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING  
FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

**I.**

The Commodity Futures Trading Commission (“Commission”) has reason to believe that ABN AMRO Clearing Chicago LLC (“ABN AMRO”) violated the Commodity Exchange Act (the “Act”) and Commission Regulations (“Regulations”). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether ABN AMRO has engaged in the violations as set forth herein and to determine whether any order should be issued imposing remedial sanctions.

**II.**

In anticipation of the institution of this administrative proceeding, ABN AMRO has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, ABN AMRO consents to the entry of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.<sup>1</sup>

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<sup>1</sup> ABN AMRO consents to the entry of this Order and the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party provided, however, that ABN AMRO does not consent to the use of the Offer, or the findings or conclusions consented to in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does ABN AMRO consent to the use of the Offer or this Order, or the findings

### III.

The Commission finds the following:

#### A. Summary

ABN AMRO lacked certain internal controls, which resulted in a number of violations of the Act and Regulations during the period March 19, 2009, through at least January 2012 (“relevant period”).

Specifically, on four separate occasions during the relevant period, ABN AMRO violated Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2) (2006 & Supp. V 2012),<sup>2</sup> and Regulations 1.20(a) and 30.7(d), 17 C.F.R. §§ 1.20(a) and 30.7(d) (2011), when it failed to segregate sufficient funds to margin, guarantee, or secure the customers’ trades or contracts.<sup>3</sup> Following each occurrence, ABN AMRO took steps to ensure that sufficient funds were available for the customers to meet any margin calls the next business day and ABN AMRO timely notified the CME Group, Inc., (“CME Group”), its designated self-regulatory organization, and the Commission, as required by Regulation 1.12(h), 17 C.F.R. § 1.12(h) (2011).

Further, during a routine audit conducted by the CME Group of ABN AMRO’s books and records as they were on the close of business on May 31, 2011, the CME Group found that ABN AMRO had improperly used a customer’s withdrawn warehouse receipts as collateral for margining purposes. Without these warehouse receipts, the customer’s accounts were under-margined on several occasions. The result was that ABN AMRO had to reduce its adjusted net capital by an amount equal to the margin deficits. Once these reductions were calculated, it was determined that ABN AMRO failed to meet the minimum net capital requirements for a single

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or conclusions consented to in the Offer or this Order, by any other party in any other proceeding.

<sup>2</sup> Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), was amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, effective July 16, 2011. Although the general requirement that customer funds be segregated or secured did not change, the language of the applicable provision was amended. Thus, 7 U.S.C. § 6d(a)(2) (2006) applies to the March 19, 2009 under-segregated violation and the June 10, 2011 under-secured violation. However, 7 U.S.C. § 6d(a)(2) (Supp. V 2012) applies to the August 8, 2011 and August 19, 2011 under-segregated violations.

<sup>3</sup> The amount of funds required to be segregated pursuant to Regulation 30.7 is referred to as “foreign futures and foreign options secured amount”; thus, the failure to properly segregate funds pursuant to Regulation 30.7 constitutes a failure to secure customer funds.

month-end, in violation of Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1)(i), 17 C.F.R. § 1.17(a)(1)(i) (2011).

Finally, the Commission's Division of Swap Dealer and Intermediary Oversight ("DSIO") Examination staff conducted a limited review of ABN AMRO beginning on January 27, 2012. At that time, ABN AMRO was unable to produce a complete and accurate margin report listing for a very limited number of certain types of accounts. Thus, ABN AMRO violated Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a), 17 C.F.R. § 1.35(a) (2012), when it failed to keep accurate books and records sufficient to determine the margin status of each customer.

Each of these violations was a result of ABN AMRO's insufficient controls, reflecting a lack of supervision over commodity interest accounts and/or other activities of its partners, employees, and agents relating to its business as a Commission registrant in violation of Regulation 166.3, 17 C.F.R. § 166.3 (2011).

## **B. Respondent**

ABN AMRO Clearing Chicago LLC is a futures commission merchant ("FCM") located at 175 West Jackson Boulevard, 4th Floor, Chicago, Illinois 60604. ABN AMRO is part of the global clearing business of Netherlands-based ABN AMRO Group. ABN AMRO also has offices in New York, New York and Kansas City, Missouri. ABN AMRO has been continuously registered with the Commission as an FCM since 1982.

## **C. Facts**

ABN AMRO had certain deficient policies, procedures, and controls concerning customer accounts. These deficiencies related primarily to the segregation or securing of customer funds and the margining of customer accounts.

During the relevant period, ABN AMRO reported three instances of under-segregated customer funds in violation of Section 4d(a)(2) of the Act and Regulation 1.20(a), and one instance of under-secured customer funds in violation of Section 4d(a)(2) of the Act and Regulation 30.7. Each of these violations was the result of clerical errors and/or a lack of adequate policies and procedures related to customer movement of funds. A summary of these violations during the relevant period is as follows:

- Under-Segregated by \$97,500,000 on August 19, 2011;
- Under-Segregated by \$21,100,000 on August 8, 2011;
- Under-Secured by \$70,600,000 on June 10, 2011; and
- Under-Segregated by \$15,300,000 on March 19, 2009.

In three of these four episodes, customers had access to sufficient funds to satisfy margin calls, but as a result of ABN AMRO's clerical errors and deficient policies, such funds were not held in the appropriate accounts. In one instance, the firm had access to funds but did not move them to the proper origin. Following each occurrence, ABN AMRO took steps to ensure that sufficient funds were available for the customers to meet any margin calls the next business day, and ABN AMRO timely notified the CME Group and the Commission as required by Regulation 1.12(h), 17 C.F.R. § 1.12(h) (2011).

In addition to the instances of failure to properly segregate and/or secure customer funds outlined above, ABN AMRO lacked adequate margin compliance procedures. For example, in December 2011, the CME Group completed an audit of ABN AMRO's books and records as they were on the close of business on May 31, 2011. During the course of the audit, the CME Group found that ABN AMRO had been improperly including withdrawn warehouse receipts as customer collateral for margin calculation purposes in violation of CME Group Rule 930.C for several months. Without these warehouse receipts, the customer's accounts were undermargined on several occasions. As a result of the audit and subsequent review, ABN AMRO, in consultation with the CME Group, performed an analysis of its month-end capital computations resulting in a reduction of its adjusted net capital by an amount equal to the margin deficits. After performing this calculation, it was determined that ABN AMRO failed to meet the minimum net capital requirements at month-end for April 2011.

Following the CME Group audit, on January 27, 2012, DSIO Examinations staff commenced a limited scope review of ABN AMRO. During its review, DSIO identified additional issues with ABN AMRO's margining procedures. The primary deficiency noted by DSIO was that ABN AMRO relied on a commonly-used commercial accounting software program to calculate and generate its customer margin call listing. This particular software program is unable to calculate the correct amount of margin required for a very limited number of certain types of accounts (*e.g.*, omnibus accounts that offset margin requirements for certain credit spread transactions). Although margin calls were issued as necessary to the relevant accounts, ABN AMRO did not maintain a supplemental report or record of the margin requirements for these types of accounts.

#### **IV. LEGAL DISCUSSION**

##### **A. ABN AMRO Failed to Properly Segregate Customer Funds**

Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a) (2006 & Supp. V 2012), provides that it shall be unlawful for any person to engage as a FCM unless such person shall:

treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately

accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held. . . .

Regulation 1.20, 17 C.F.R. § 1.20 (2011), requires that all customer funds be separately accounted for, properly segregated and treated as belonging to such customers, and not commingled with the funds of any other person. Similarly, Regulation 30.7, 17 C.F.R. § 30.7 (2011), requires that all money, securities, and property provided by foreign futures or foreign options customers be separately accounted for, properly segregated and treated as belonging to such foreign futures or foreign options customers, and denominated as the “foreign futures or foreign options secured amount.”

On three separate occasions, ABN AMRO failed to segregate a sufficient amount of customer funds due to clerical errors and/or inadequate policies regarding customer movement of funds. Each of these instances constitutes a separate violation of Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a) (2006 & Supp. V 2012), and Regulation 1.20, 17 C.F.R. § 1.20 (2011). On one occasion, ABN AMRO failed to segregate sufficient funds to satisfy the foreign futures or foreign options secured amount, which constitutes an additional violation of Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a) (2006), and a violation of Regulation 30.7, 17 C.F.R. § 30.7 (2011).<sup>4</sup>

#### **B. ABN AMRO Failed to Meet Minimum Net Capital Requirements**

Pursuant to Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006):

no person desiring to register as futures commission merchant shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligations as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements . . . .

Regulation 1.17(a)(1)(i)(B) sets forth the minimum financial requirements for FCMs and provides that each FCM must maintain “adjusted net capital” that is “equal to or in excess of . . . [t]he futures commission merchant’s risk-based capital requirement, computed as eight percent

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<sup>4</sup> After each of these violations, ABN AMRO timely notified the CME Group, its designated self-regulatory organization, and the Commission as required by Regulation 1.12(h), 17 C.F.R. § 1.12(h) (2011), reporting the violation and identifying policies and procedures purportedly adopted to reduce the likelihood of such violations in the future.

of the total risk margin requirement for positions carried by the futures commission merchant in customer accounts and noncustomer accounts.” 17 C.F.R. § 1.17(a)(1)(i)(B) (2011).<sup>5</sup>

Regulation 1.17(c)(5) contains the various adjustments made to an FCM’s net capital that leads to the firm’s actual adjusted net capital. One of these adjustments is the reduction of net capital caused by under-margined accounts. *See* 17 C.F.R. § 1.17(c)(5)(ix) (2011).

As discussed above, ABN AMRO had been improperly including withdrawn warehouse receipts as customer collateral for margin calculation purposes in a customer’s accounts. Without these warehouse receipts, the customer’s accounts were under-margined on several occasions. Pursuant to Regulation 1.17(c)(5)(ix), ABN AMRO’s adjusted net capital should have been reduced by the amount the customer’s accounts were under-margined. As a result of this reduction, as of April 30, 2011, ABN AMRO’s adjusted net capital fell below the minimum net capital required as set forth in Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17, 17 C.F.R. § 1.17 (2011).

### **C. ABN AMRO Failed to Keep Accurate Books and Records**

Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a), 17 C.F.R. § 1.35(a) (2012), require FCMs to maintain and provide to the Commission, upon request, certain documents related to customer accounts, including margin reports. ABN AMRO uses a common commercial accounting software program to calculate and generate its customer margin call listing. This particular software program has known deficiencies in that it is unable to calculate the correct amount of margin required for a very limited number of types of accounts (*e.g.*, omnibus accounts that offset margin requirements for certain credit spread transactions). Although margin calls were issued as necessary to the relevant accounts, ABN AMRO did not maintain a supplemental report or record of the margin requirements for these types of accounts and, as a result, was unable to produce a comprehensive report when requested by the Commission’s DSIO Examinations staff during its January 27, 2012 limited scope review.

Thus, ABN AMRO violated Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a), 17 C.F.R. § 1.35(a) (2012), when it failed to keep accurate books and records sufficient to determine the margin status of each customer.

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<sup>5</sup> “Risk margin for an account means the level of maintenance margin or performance bond required for the customer or noncustomer positions by the applicable exchanges or clearing organizations, and, where margin or performance bond is required only for accounts at the clearing organization, for purposes of the FCM’s risk-based capital calculations applying the same margin or performance bond requirements to customer and noncustomer positions in accounts carried by the FCM....” 17 C.F.R. § 1.17(b)(8) (2011).

#### **D. ABN AMRO Failed to Properly Supervise Its Employees**

Regulation 166.3, 17 C.F.R. § 166.3 (2011), requires that every Commission registrant (except associated persons who have no supervisory duties) diligently supervise the handling by its partners, employees, and agents of all activities relating to its business as a registrant. Regulation 166.3 imposes upon registrants an affirmative duty to supervise their employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance programs. In order to prove a violation of Regulation 166.3, the Commission must demonstrate that either: (1) the registrant's supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995); *In re Paragon Futures Assoc.*, [1990-1992 Transfer Binder] Comm. Fut. L Rep. (CCH) ¶ 25,266 at 38,850 (CFTC Apr. 1, 1992); *Bunch v. First Commodity Corp. of Boston*, [1990-1992 Transfer Binder] Comm. Fut. L Rep. (CCH) ¶ 25,352 at 39,168-69 (CFTC Aug. 5, 1992).

As discussed *supra*, ABN AMRO's violations of the Act and Regulations during the past four years were the result of a lack of adequate policies, procedures, and/or controls and, for the most part, were preventable. For example, had ABN AMRO implemented adequate policies that prohibited the use of withdrawn warehouse receipts as collateral and adequately trained its staff regarding the margining requirements imposed by the CME Group, ABN AMRO could have called for additional assets from its customer and would likely not have violated the minimum net capital requirements on April 30, 2011.

Evidence of violations that "should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly" is probative of a failure to supervise. *Paragon Futures*, ¶ 25,266 at 38,850.

ABN AMRO failed to implement an adequate system of internal controls and procedures regarding customer movement of funds to ensure compliance with the segregation and foreign futures and foreign options secured amount requirements; failed to implement accounting procedures to reduce the likelihood of clerical errors and forecasting errors; failed to implement adequate procedures and training regarding exchange margin requirements; and failed to implement adequate policies and procedures to ensure an accurate and complete daily margin report. By such acts, ABN AMRO violated Regulation 166.3, 17 C.F.R. § 166.3 (2011).

#### **V. FINDINGS OF VIOLATIONS**

Based on the foregoing, the Commission finds that, during the Relevant Period, ABN AMRO: (1) failed to fully segregate or secure customer funds in violation of Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2) (2006 & Supp. V 2012), and Regulations 1.20(a) and 30.7, 17 C.F.R. §§ 1.20(a), 30.7 (2011); (2) failed to meet the minimum net capital requirements in violation of Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1)(i), 17 C.F.R. § 1.17(a)(1)(i) (2011); (3) failed to maintain accurate books and records in violation of

Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a) (2012); and (4) failed to adequately supervise its partners, employees, and agents in violation of Regulation 166.3, 17 C.F.R. § 166.3 (2011).

## VI. OFFER OF SETTLEMENT

ABN AMRO has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges receipt of service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
  - 1. the filing and service of a complaint and notice of hearing;
  - 2. a hearing;
  - 3. all post-hearing procedures;
  - 4. judicial review by any court;
  - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  - 6. any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;
  - 7. any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and
  - 8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which ABN AMRO has consented in the Offer;

E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:

1. makes findings by the Commission that ABN AMRO violated:
  - a) Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2) (2006 & Supp. V 2012), and Regulations 1.20(a) and 30.7, 17 C.F.R. §§ 1.20(a), 30.7 (2011), when it failed to fully segregate or secure customer funds;
  - b) Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1)(i), 17 C.F.R. § 1.17(a)(1)(i) (2011), when it failed to meet the minimum net capital requirements;
  - c) Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a) (2012), when it failed to maintain accurate books and records; and
  - d) Regulation 166.3, 17 C.F.R. § 166.3 (2011), when it failed to adequately supervise its partners, employees, and agents relating to its business as a Commission registrant;
2. orders ABN AMRO to cease and desist from violating:
  - a) Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2) (2006 & Supp. V 2012), and Regulations 1.20(a) and 30.7, 17 C.F.R. §§ 1.20(a), 30.7 (2012);
  - b) Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1)(i), 17 C.F.R. § 1.17(a)(1)(i) (2012);
  - c) Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a) (2012); and
  - d) Regulation 166.3, 17 C.F.R. § 166.3 (2012);
3. orders ABN AMRO to pay a civil monetary penalty in the amount of one million dollars (\$1,000,000), within ten (10) days of the date of entry of this Order, plus post-judgment interest; and
4. orders ABN AMRO, and its successors and assigns, to comply with the conditions and undertakings consented to in the Offer and as set forth in Part V(C) of this Order.

Upon consideration, the Commission has determined to accept the Offer.

## V. ORDER

### Accordingly, IT IS HEREBY ORDERED THAT:

- A. ABN AMRO shall cease and desist from violating:
1. Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2) (2006 & Supp. V 2012), and Regulations 1.20(a) and 30.7, 17 C.F.R. §§ 1.20(a), 30.7 (2012);
  2. Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Regulation 1.17(a)(1)(i), 17 C.F.R. § 1.17(a)(1)(i) (2012);
  3. Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2006), and Regulation 1.35(a) (2012); and
  4. Regulation 166.3, 17 C.F.R. § 166.3 (2012);
- B. ABN AMRO shall pay a civil monetary penalty in the amount of one million dollars (\$1,000,000), within ten (10) business days of the date of the entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) business days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006). ABN AMRO shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement  
Attn: Accounts Receivables – AMZ 340  
E-mail Box: 9-AMC-AMZ-AR-CFTC  
DOT/FAA/MMAC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
Telephone: (405) 954-5644

If payment by electronic funds transfer is chosen, ABN AMRO shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. ABN AMRO shall accompany payment of the CMP Obligation with a cover letter that identifies ABN AMRO and the name and docket number of this proceeding. ABN AMRO shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. ABN AMRO and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

ABN AMRO shall, within 30 calendar days of receipt of this notice, enlist the services of an independent third party consultant ("Consultant"), subject to approval by the Commission's Division of Enforcement ("Division") to review and evaluate ABN AMRO's existing internal control policies and procedures and risk management systems. After consultation with Division staff and staff from the DSIO, the Consultant shall, at a minimum:

1. Review and evaluate the effectiveness of ABN AMRO's existing internal controls and policies and procedures related to:
  - a) Preventing, detecting, and/or mitigating any potential violation of the Act or Regulations concerning ABN AMRO's: (i) compliance with recordkeeping and reporting requirements; and (ii) policies and procedures regarding the protection of customer funds and net capital compliance;
  - b) Company policies, procedures, controls and risk models to detect and mitigate the risk ABN AMRO could encounter due to expected and unexpected balance sheet fluctuations affecting liquidity needs; and
  - c) Preventing, detecting, reporting and/or mitigating market risk through the use of policies, procedures, controls and risk models that measure the risk associated with customer investment strategies.
2. Review and evaluate ABN AMRO's accounting systems to determine the extent to which the accounting systems provide real-time financial and operational data as a risk management aid and facilitate the ability to produce accurate, timely, and complete external reporting concerning margin requirements, customer segregated funds, and customer secured funds as required by the Act and/or Regulations.
3. Review and evaluate ABN AMRO's risk management process to ensure adequate controls and written procedures are in place to: (i) limit the financial risks ABN AMRO incurs as a result of clearing trades; and (ii) ensure adequate liquid resources are available to meet the obligations that arise, including but not limited to:
  - a) Reviewing existing controls and procedures and making recommendations as to enhancing such controls and procedures so that they are reasonably designed to ensure compliance to applicable margin rules and regulations. The procedures to be addressed should include, among others, procedures and controls to facilitate prompt reconciliation between the segregated and secured account origins, computing the amount of under margined capital charges to be taken against the firm's

capital, margin valuation of warehouse receipts and shipping certificates, verification of margin requirements submitted to the firm by customers, and combining origins when calculating performance bond requirements;

b) Review ABN AMRO's controls and procedures for evaluating and testing its ability to meet initial and variation margin requirements, and recommend enhancements if necessary;

c) Review ABN AMRO's controls, policies and procedures with respect to regulations related to margin and net capital compliance under the Act, reporting regulatory and compliance matters, the adequacy of controls over regulatory and financial reporting to ABN AMRO's Board of Directors and senior management; adequacy of staffing, and recommend enhancements if necessary; and

d) Review ABN AMRO's controls and procedures with respect to its ability to monitor segregation and secured requirements on a real-time basis including, but not limited to, the accuracy of the firm's segregation and secured funding forecast procedures and appropriate cash movements in client accounts to ensure proper segregation and secured funding at all times in accordance with applicable Act regulations and interpretations.

4. Prepare and issue to the Board of Directors of ABN AMRO a written report ("Report") which shall:

a) Describe the scope and methodologies used by the Consultant in order to complete the review;

b) Describe ABN AMRO's compliance with the review;

c) Describe any findings with regard to the adequacy of ABN AMRO's existing internal control policies and procedures and risk management systems and ABN AMRO's management's support for, and any response to, such findings; and

d) Make recommendations, if any, with regard to matters assessed, setting forth why such recommendations are reasonably designed to improve ABN AMRO's internal controls and policies and procedures and risk management processes.

5. ABN AMRO will ensure that any and all recommendations from the Consultant will be implemented within sixty (60) calendar days after receiving the Consultant's report. If implementation cannot be accomplished within sixty days, a specific timetable and plan must be presented to the Division for its acceptance.

6. All recommendations that are implemented shall be employed by ABN AMRO indefinitely from the time of the implementation, unless: (i) a change in the law would require that ABN AMRO utilize and implement alternative methods for ABN AMRO's internal controls, policies, procedures, and risk management processes; or (ii) a material change in the business of the entity causes the recommended action or procedure to become unduly burdensome, unachievable, impractical, or unreasonably costly. In the event a material change in business under (ii) occurs, ABN AMRO shall notify DSIO during its routine audit of ABN AMRO.

7. ABN AMRO shall cooperate fully with the Consultant and the Consultant shall have the authority to take such reasonable steps, in its view, as may be necessary to be fully informed about the operations of ABN AMRO within the scope of this review, including full access to all information the consultant deems necessary to perform its duties.

8. The Commission's acceptance of ABN AMRO's offer of settlement and entry of this Order shall not be construed as its approval of any policy or practice reviewed by the Consultant and/or implemented based on the Consultant's recommendation.

9. A copy of the Report (and plan if developed) shall be available for review by the Division upon completion.

10. The Consultant is not, and shall not be treated for any purpose, as an officer, employee, agent, or affiliate of ABN AMRO, or the Commission. The Consultant shall not owe any fiduciary duties or other duties or obligations of any kind to ABN AMRO or its directors, officers, employees, shareholders, bondholders, or creditors. Moreover, ABN AMRO shall not employ the Consultant for a period of three (3) years commencing on the date of the Consultant's engagement. Further, ABN AMRO shall not employ any entity or individual hired by the Consultant to fulfill its responsibilities during the Consultant's engagement, either directly or indirectly, for a period of two (2) years, commencing on the date that the entity or individual's engagement terminates, without prior approval from the Commission.

D. Public Statements: ABN AMRO agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect ABN AMRO's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. ABN AMRO and its successors and assigns shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.

E. Partial Satisfaction: ABN AMRO understands and agrees that any acceptance by the Commission of partial payment of ABN AMRO's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

F. Change of Address/Phone: Until such time as ABN AMRO satisfies in full its CMP Obligation as set forth in this Order, ABN AMRO shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten (10) calendar days of the change.

The provisions of this Order shall be effective on this date.

**By the Commission**



Melissa Jurgens

Secretary of the Commission

Commodity Futures Trading Commission

Dated: June 18, 2013