



Clearing Rules

Table of Contents

PREAMBLE.....	2
Chapter 1.INTERPRETATION	3
Chapter 2.MEMBERSHIP	12
Chapter 3.CLEARING OF CONTRACTS	22
Chapter 4.MARGIN	32
Chapter 5.RISK COMMITTEE.....	52
Chapter 6.MISCELLANEOUS	63
Chapter 7.DISCIPLINARY RULES.....	78
Chapter 8.GENERAL GUARANTY FUND.....	86
Chapter 9-19	[RESERVED]
Chapter 20.CREDIT DEFAULT SWAPS	99
Chapter 20A.CDS PORTABILITY RULES	115
Chapter 21.REGIONAL CDS COMMITTEES AND DISPUTE RESOLUTION PROCEDURES.....	124
Chapter 22.CDS PHYSICAL SETTLEMENT.....	142
Chapter 23-25.	[RESERVED]
Chapter 26.CLEARED CDS PRODUCTS.....	148
Schedule 502: List of Pre-Approved Products.....	164
Schedule 503: Form of Confidentiality Agreement	165
Exhibit I: Standard Annex.....	170

Rules of ICE Trust U.S. LLC

PREAMBLE

The Board shall have sole responsibility for the control and management of the operations of ICE Trust, subject only to the prior consultation rights of the Risk Committee as described in Chapter 5 of, and elsewhere in, these Rules.

Participants shall explicitly contract to be bound by these Rules, and ICE Trust will retain the right to modify these Rules and the ICE Trust Procedures (as defined herein) from time to time in its sole discretion, subject to the prior consultation with the Risk Committee with respect to only those modifications for which such consultation is prescribed in Chapter 5 of, and elsewhere in, these Rules.

Prior to modifying these Rules or materially modifying the ICE Trust Procedures with respect to matters for which prior consultation with the Risk Committee is not required, ICE Trust will inform and may consult with the Risk Committee and, taking into account the legal requirements of the Participants, will use good faith efforts to ensure that such modifications would not result in any Participant failing to be in compliance with laws or regulations applicable to such Participant.

1. INTERPRETATION

101. Scope and Interpretation.

- (a) The Rules set forth herein are applicable to Trades and related obligations arising out of Contracts. In the event of a conflict between these Rules generally and the Rules adopted by ICE Trust specifically governing Trades and related obligations made on a particular Market or with respect to particular Contracts, the Rules specifically governing such Market or Contracts will prevail. More particularly:
- (i) The Rules in Chapters 1 – 8 are supplemented for specific Markets and Contracts by the Rules in Chapters 20 *et seq.* (Thus, for example, the definitions in Rule 102 are supplemented, for purposes of Chapter 20, by the additional definitions in Rule 20-102.) The Rules in Chapters 20 *et seq.* shall apply only to the Market or Contracts specified in the caption to such Chapter.
 - (ii) Where the numbering of a Rule in Chapters 20 *et seq.* corresponds to that of a Rule in Chapters 1 – 8, the Rule in Chapters 1 – 8 is superseded to the extent applicable by the correspondingly numbered Rule in Chapter 20 *et seq.* (Thus, for example, references in Chapter 20 to the term “Default” mean a Default established in accordance with Rule 20-605.)
 - (iii) Where a Rule in Chapter 20 *et seq.* is “[Reserved],” the correspondingly numbered Rule in Chapters 1 – 8 is made expressly inapplicable to the Market or Contracts that are the subject of such Chapter.
- (b) In these Rules, unless a clear contrary intention appears, (i) the singular number includes the plural number and vice versa, (ii) reference to the masculine, feminine or neuter gender includes each other gender, (iii) any reference to a number of days shall mean calendar days unless ICE Trust Business Days or other business days are specified, (iv) any reference to a time shall mean the time in New York, New York and (v) any reference to “dollars” or “\$” shall mean U.S. dollars. Except as otherwise specifically provided in these Rules, an act that otherwise would be required or permitted by these Rules to be performed on a day that is not an ICE Trust Business Day may be performed on the next day that is an ICE Trust Business Day.

102. Definitions.

Affiliate

With respect to a particular entity, any entity that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, that particular entity.

Authorized Trade Processing Platform

A trade processing or trade execution service or platform authorized by ICE Trust in accordance with Rule 314 to submit Trades to ICE Trust for clearing on behalf of one or more Participants.

Backloaded Client Trade

A Trade submitted pursuant to Rule 301(e) and identified as such in a manner to be specified by ICE Trust that is intended to replace and backload an existing agreement on terms equivalent to a Contract to which a Non-Participant Party is party, where the relevant Participant either (i) is acting for such Non-Participant Party or (ii) will enter into a Non-Participant Contract with such Non-Participant Party upon the establishment of the corresponding position with ICE Trust.

Board

The Board of Managers of ICE Trust.

Business Conduct Committee

The Business Conduct Committee of ICE Trust whose composition, rights and responsibilities are described in Chapter 7 of these Rules.

CEA

The U.S. Commodity Exchange Act, as amended.

CFTC

The U.S. Commodity Futures Trading Commission.

Chief Executive Officer

The Chief Executive Officer of ICE Trust.

Client-Related Initial Margin

Initial Margin (other than Physical Settlement Margin) with respect to Client-Related Positions.

Client-Related Position

An Open Position identified as such at the time the related Trade is submitted by a Participant to ICE Trust in accordance with Rules 301 and 302, where such related Trade, at the time established, either (i) in the case of a Participant that is an FCM, is entered into by the Participant for a Non-Participant Party or (ii) in the case of a Participant that is not an FCM, mirrors or offsets on a back-to-back basis a Non-Participant Contract between the Participant and a Non-Participant Party. ICE Trust will rely on a Participant's designation of an Open Position as a Client-Related Position for purposes of these Rules. A Client-Related Position will include an Open Position entered into by an FCM Participant for another Person (which may be an Affiliate of that Participant or of another Participant) that is itself acting for one or more Non-Participant Parties with respect to such Open Position (such an Affiliate in such case, a "Client-Carrying Affiliate").

Closing-out Process

In connection with the Default of a Participant, the process of termination of Open Positions, determination of amounts owing with respect thereto, netting of such amounts, liquidation and application of any Margin and/or Collateral and application of Default Portability Rules, if applicable, in each case as contemplated by these Rules.

Collateral

At any time, such funds or other property Transferred by a Participant to ICE Trust for the General Guaranty Fund pursuant to title transfer or pledge (and not released by ICE Trust), in accordance with these Rules and the ICE Trust Procedures.

Contracts

An agreement, contract, or transaction that is specifically identified in these Rules as a Contract.

Control

With respect to the relationship between or among two or more Persons, the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as

trustee, personal representative or executor, by contract, credit arrangement or otherwise.

Custodial Asset Policies

Policies or procedures adopted from time to time by ICE Trust with respect to the investment of assets in the Custodial Client Omnibus Margin Account and the assets permitted to be transferred to the Custodial Client Omnibus Margin Account.

Custodial Client Omnibus Margin Account

Any account or accounts maintained by or on behalf of ICE Trust with respect to a Participant for the purposes of holding on an omnibus basis margin of Non-Participant Parties posted to that Participant in respect of their respective Minimum ICE Trust Required Initial Margin (as defined in Rule 405 or Rule 406, as applicable) and Participant Excess Margin requirements, as applicable, or Participant Property posted in lieu thereof in accordance with these Rules. For the avoidance of doubt, ICE Trust may establish a separate account or subaccount with respect to a portion of the Custodial Client Omnibus Margin Account corresponding to the Net Client Omnibus Margin Amount.

DCM Standard Terms

The form of DCM standard terms as published by ICE Trust as in effect from time to time.

Default

Any event that would constitute a Default under Rule 605 or the corresponding Rule in any Market or Contract-specific Chapter of these Rules.

Eligible Custodial Assets

Instruments permitted to be transferred to the Custodial Client Omnibus Margin Account under the Custodial Asset Policies from time to time.

Eligible Officer

Any officer of ICE Trust designated by the Board from time to time for purposes of the applicable determination, decision or other action contemplated by these Rules.

Excess Margin

With respect to a Non-Participant Party of a Participant, (i) the amount of initial margin held in the Custodial Client Omnibus Margin Account in respect of the

Minimum ICE Trust Required Initial Margin for Client-Related Positions of that Participant (or related Non-Participant Contracts, as the case may be) with respect to that Non-Participant Party, as reduced by the applicable Non-Participant Pro Rata Share of the Net Client Omnibus Margin Amount, plus (ii) the amount of any initial margin held in the Custodial Client Omnibus Margin Account in excess of the current Minimum ICE Trust Required Initial Margin for such Non-Participant Party that has not been withdrawn, plus (iii) (without duplication) the amount of such Participant Excess Margin, if any, collected from such Non-Participant Party as the Participant may Transfer from time to time to the Custodial Client Omnibus Margin Account to be held as Excess Margin.

Excess Margin Return Amount

With respect to a Non-Participant Party, the value of its Excess Margin (as determined by ICE Trust (or its agent or custodian) pursuant to a methodology established by ICE Trust from time to time in the ICE Trust Procedures) held in the Custodial Client Omnibus Margin Account (including its Participant Excess Margin) after application of any amount thereof to a Covered Transaction Termination Amount or otherwise pursuant to these Rules.

FCM

A futures commission merchant registered with the CFTC.

Federal Reserve Board

The Board of Governors of the U.S. Federal Reserve System.

General Guaranty Fund

At any time, funds or other property set aside and recorded on the books of ICE Trust in support of the Obligations of Participants in respect of all Contracts.

House Margin Account

Any account or accounts maintained by or on behalf of ICE Trust with respect to a Participant for the purposes of holding Margin for House Positions of that Participant.

House Position

An Open Position of a Participant that is not a Client-Related Position. For the avoidance of doubt, Open Positions resulting from Trades submitted for the account of an Affiliate of a Participant shall be House Positions.

ICE Trust

ICE Trust U.S. LLC.

ICE Trust Business Day

Any day (other than Saturdays, Sundays and holidays observed by ICE Trust) on which ICE Trust is open for business. References in these Rules to a “day” or “ICE Trust Business Day” shall, unless the context otherwise requires, mean the “ICE Trust Business Day” corresponding to the trading day declared by the relevant Market, if applicable.

ICE Trust Procedures

The policies, procedures and other provisions established by ICE Trust U.S. LLC relating to clearing of Contracts, as amended from time to time.

Margin

Initial Margin (including Portfolio Risk Margin, Physical Settlement Margin and Super and Special Margin) and Mark-to-Market Margin Transferred or Transferable by or to a Participant to or by ICE Trust.

Margin Accounts

Each Participant’s House Margin Account and Custodial Client Omnibus Margin Account.

Markets

A market that is party to an agreement with ICE Trust for the provision of clearing services and that is specifically identified in these Rules as a Market.

Net Client Omnibus Margin Amount

As of any relevant time for a Participant, the aggregate amount of Client-Related Initial Margin with respect to the Client-Related Positions of that Participant (determined on a net basis across all such Client-Related Positions).

Net Termination Claim

With respect to a Non-Participant Party and a non-FCM Participant in Default, an amount equal to (i) if the Participant owes the Covered Transaction Termination Amount (as defined in the Standard Clearing Annex (Non-FCM)) to such Non-Participant Party under the Non-Participant Master Agreement, the sum of (a) such amount (after deduction of the amount of any Covered Transaction Mark-to-Market Margin Requirement as defined in the Standard Clearing Annex (Non-FCM)) in favor of Non-Participant Party (whether or not actually posted to such

Non-Participant Party) *plus* (b) the Non-Participant Party's Non-Participant Pro Rata Share of the Net Client Omnibus Margin Amount, (*provided* that the amount in this clause (b) shall be reduced proportionally to the extent such Non-Participant Party has not posted sufficient margin to such Participant, which is held in the Custodial Client Omnibus Margin Account, to satisfy the Minimum ICE Trust Required Initial Margin for such Non-Participant Party with respect to Non-Participant Contracts with such Participant); and (ii) if the Non-Participant Party owes the Covered Transaction Termination Amount, the greater of (a) zero and (b) its Non-Participant Pro Rata Share of the Net Client Omnibus Margin Amount (subject to the proviso to clause (b) above) minus the value of any of its Non-Participant Initial Margin applied to its Covered Transaction Termination Amount under the Standard Clearing Annex (Non-FCM).

New York Fed

The Federal Reserve Bank of New York.

Non-Participant Contract

A bilateral agreement between a Participant and a Non-Participant Party on terms equivalent to a Contract, where such parties have agreed pursuant to the Standard Clearing Annex (Non-FCM) that such agreement be treated as a Non-Participant Contract for purposes of these Rules.

Non-Participant Party

A Person that is not ICE Trust, a Participant or an Affiliate of a Participant (provided that a Client-Carrying Affiliate acting in its capacity as such will be deemed a Non-Participant Party for purposes of the Rules).

Non-Participant Pro Rata Share

For each Non-Participant Party of a Participant, a percentage equal to (i) the Minimum ICE Trust Required Initial Margin for such Non-Participant Party with respect to Client-Related Positions (or related Non-Participant Contracts) with that Participant divided by (ii) the aggregate Minimum ICE Trust Required Initial Margin for all Non-Participant Parties with respect to Client-Related Positions (or related Non-Participant Contracts) with that Participant.

Obligations

All obligations of a Participant arising under these Rules or any agreements between such Participant and ICE Trust, in each case however created, arising or evidenced, whether direct or indirect, absolute or contingent, existing, due or to become due.

Open Positions

A Participant's open positions in Contracts with ICE Trust created pursuant to Rule 301 or as otherwise provided in these Rules and not offset pursuant to Rule 304 or closed pursuant to the Closing-out Process. Both Client-Related Positions and House Positions shall constitute Open Positions for the purposes of these Rules.

Participant

A person that has been approved by ICE Trust for the submission of Contracts and that is party to an agreement with ICE Trust specifically relating to transactions in Contracts (a "**Participant Agreement**").

Participant Excess Margin

Any initial margin required by a Participant from a Non-Participant Party in respect of a Non-Participant Contract or Client-Related Position, as the case may be, in excess of the Minimum ICE Trust Required Initial Margin.

Person

An individual, sole proprietorship, partnership, limited liability company, association, firm, trust, corporation or other entity, as the context may require.

President

The President of ICE Trust.

Retiring Participant

A Participant who has notified ICE Trust pursuant to the terms of its Participant Agreement of its intention to terminate its status as a Participant or who has been notified by ICE Trust pursuant to the terms of its Participant Agreement or these Rules of ICE Trust's intention to terminate its status as a Participant.

Risk Committee

The Risk Committee of ICE Trust whose composition, rights and responsibilities are described in Chapter 5 of these Rules.

Rule

References to a "Rule" or "Rules" are references to the Rules of ICE Trust.

SEC

The U.S. Securities and Exchange Commission.

Securities Exchange Act

The U.S. Securities Exchange Act of 1934, as amended.

Standard Clearing Annex (Non-FCM)

An annex in the form attached as Exhibit I hereto (as amended from time to time and with such modifications or variations as shall be acceptable to ICE Trust from time to time) to the ISDA Master Agreement between a Participant that is not an FCM and Non-Participant Party, which annex shall apply only to Non-Participant Contracts.

Trades

Transactions in Contracts.

Transfer

- (a) With respect to any Margin, Collateral or other assets required to be delivered by a Participant to ICE Trust (i) in the case of cash, payment or delivery by wire transfer into one or more bank accounts specified by ICE Trust (which may be a relevant Margin Account), (ii) in the case of securities or other financial assets that can be paid or delivered by book-entry, the crediting of such securities or other financial assets to a securities account specified by ICE Trust (which may be a Margin Account), and (iii) in the case of neither cash nor securities or other financial assets that can be paid or delivered by book-entry, in accordance with the instructions of ICE Trust; and
- (b) With respect to any Margin, Collateral or other assets required to be delivered by ICE Trust to a Participant, in any manner specified herein including, without limitation, (i) in the case of Mark-to-Market Margin, by crediting such Margin to such Participant's House Margin Account or Custodial Client Omnibus Margin Account, as applicable, deeming such Margin as having been Transferred by such Participant to ICE Trust and making such Margin available for withdrawal by the Participant, in accordance with the ICE Trust Procedures, (ii) in the case of Initial Margin, making such Margin in such Participant's House Margin Account or Custodial Client Omnibus Margin Account, as applicable, at ICE Trust available for withdrawal by the Participant, in accordance with the ICE Trust Procedures, and (iii) in the case of other property to be returned to a Participant from a Custodial Client Omnibus Margin Account in accordance with Rule 405 or Rule 406, by making such property available for withdrawal in accordance with the ICE Trust Procedures.

2. MEMBERSHIP

201. Qualifications of Participants.

- (a) ICE Trust shall have the sole power to determine whether any applicant for status as a Participant, or any existing Participant, satisfies the qualifications established by ICE Trust. Only Persons found by ICE Trust to be so qualified shall be permitted to become or remain, as applicable, Participants. For the purpose of determining whether any applicant or Participant is thus qualified, ICE Trust may establish minimum capital and other financial requirements for Participants, examine the books and records of any applicant or Participant (on the site of such applicant or Participant, during normal business hours, with reasonable advance notice, and, in the case of a Participant, not more frequently than annually unless ICE Trust determines that a more frequent examination of the Participant is appropriate for the protection of the clearing system operated by ICE Trust pursuant to these Rules), and take such other steps as it may deem necessary to ascertain the facts bearing upon the question of qualification. The Risk Committee will have certain consultation rights over any Modification (as defined in Rule 502) to the qualifications for Participants contemplated by this Rule 201.
- (b) Participants must meet and maintain such standards of business integrity, financial capacity, creditworthiness, operational capability, experience and competence as may be established by ICE Trust from time to time. Without limitation of the foregoing, no applicant shall be admitted or permitted to remain, as applicable, as a Participant unless, in ICE Trust's sole determination:
- (i) It is regulated by a "competent authority" for capital adequacy (the "**Regulatory Requirement**"), such as the Federal Reserve Board, the Office of the Comptroller of the Currency, the U.K. Financial Services Authority, the CFTC, SEC or any other regulatory body ICE Trust designates from time to time for this purpose, or it is an Affiliate of an entity that satisfies the Regulatory Requirement and is subject to consolidated holding company group supervision;
- (ii) (A) Subject to subsection (B) below, (1) it has a minimum of \$1 billion of Adjusted Net Capital (*provided* that this requirement may, at the discretion of ICE Trust, be met by a Parent if such Parent provides a guarantee pursuant to Rule 205), and (2) its Excess Net Capital exceeds the amount of its Required Contribution to the General Guaranty Fund; "Adjusted Net Capital" shall be as defined in CFTC Rule 1.17 and as reported on its Form 1-FR-FCM or FOCUS Report or as otherwise reported to the CFTC under CFTC Rule 1.12; "Excess Net Capital" shall equal its "excess net capital" as reported on its Form 1-FR-FCM or

FOCUS Report or as otherwise reported to the CFTC under CFTC Rule 1.12; A non-FCM Participant that has not elected to be subject to subsection (B) below (an “**ANC-Based Non-FCM**”) shall calculate its Adjusted Net Capital and Excess Net Capital under CFTC Rule 1.17 as though it were an FCM and shall prepare and provide to ICE Trust a Form 1-FR-FCM or FOCUS Report as of the times required for FCMs.

(B) In the case of a Participant that is not an FCM and that elects to be governed by this subsection (B) in lieu of subsection (A) above, it has a minimum of \$5 billion of Tangible Net Worth (*provided* that this requirement may, at the discretion of ICE Trust, be met by a Parent if such Parent provides a guarantee pursuant to Rule 205); “**Tangible Net Worth**” shall be computed in accordance with the Federal Reserve Board’s definition of “Tier 1 capital” as contained in Federal Reserve Regulation Y Part 225 Appendix A, or any successor regulation thereto;

- (iii) At the time of admission, it demonstrates to the Board, upon recommendation by ICE Trust senior management after consultation with the Risk Committee, that it (or, if a Parent has provided a guarantee of its obligations pursuant to Rule 205, its Parent) satisfies the internal stringent credit criteria established by the Board in its discretion, such satisfaction to be confirmed by an examination of its books and records; provided that in such determination ICE Trust may, in its discretion, consider any external credit rating of the long-term senior unsecured debt rating of such entity by Moody’s Investors Service (“**Moody’s**”), Standard & Poor’s Ratings Services (“**S&P**”), a division of The McGraw-Hill Companies, Inc., Fitch Ratings (“**Fitch**”) or any other rating agency ICE Trust designates from time to time for this purpose;
- (iv) At no time after admission does it (or, if applicable, its Parent) cease to satisfy the internal credit criteria established by the Board under clause (iii) above, after consultation with the Risk Committee, upon its admission;
- (v) It makes and maintains, so long as it is a Participant, a deposit or deposits of Collateral in the General Guaranty Fund as required by these Rules;
- (vi) It (on its own or through an arrangement acceptable to ICE Trust with an Affiliate) demonstrates operational competence in agreements (whether or not cleared) substantially similar (as determined by ICE Trust) to Contracts, including (A) having the ability to process the expected volumes and values of Contracts within the required time frames (including at peak times and on peak days), (B) having the ability to submit required pricing data within the required time frames and (C) maintaining back-office facilities (or entering into a facilities management

agreement in form and substance acceptable to ICE Trust):

- (1) remote from both the exchange floor and/or trading desks;
 - (2) with adequate systems (including but not limited to computer and communication systems) and records;
 - (3) with adequate number of competent personnel experienced with procedures for the management and clearance of business transacted in the Markets and Contracts in which the Participant will participate; and
 - (4) with such equipment (including computer software and hardware) as may be required by ICE Trust.
- (vii) It (on its own or through an arrangement acceptable to ICE Trust with an Affiliate) demonstrates risk management competence in such agreements and Contracts;
- (viii) It (or its Affiliate) is a member of industry organizations related to such agreements, as designated by ICE Trust from time to time for this purpose, such as the International Swaps and Derivatives Association, Inc. ("**ISDA**"), Futures Industry Association ("**FIA**"), Securities Industry and Financial Markets Association ("**SIFMA**") and The Depository Trust & Clearing Corporation's DTCC Deriv/SERV ("**Deriv/SERV**");
- (ix) It has established relationships with, and has designated to ICE Trust, an approved settlement bank for confirmation and payment or delivery, as applicable, of all Margin and any other payments or deliveries required to be made by it to or from ICE Trust, or has made alternate arrangements to facilitate such payments and deliveries in a timely manner and in accordance with these Rules and the ICE Trust Procedures;
- (x) It provides in a timely manner all reports and information relating to the Participant, Persons controlling the Participant, and related or affiliated organizations as required by these Rules or otherwise required by ICE Trust, and upon becoming aware that any such report or information was at the time provided false or misleading in any material respect, it promptly provides ICE Trust a correcting amendment of or supplement to such report or information; and
- (xi) Each of it and, if its Parent provides a guarantee pursuant to Rule 205, its Parent is organized in a jurisdiction whose insolvency laws are acceptable to ICE Trust.

202. Application for Participant Status.

- (a) Persons desiring to clear Trades through ICE Trust shall make application in such form as shall be prescribed by ICE Trust. Each applicant must execute the Participant Agreement and agree to abide by the Rules and related interpretations and the ICE Trust Procedures as in effect from time to time. An applicant for Participant status shall be conclusively deemed to have agreed to have no recourse against ICE Trust or any member of the Risk Committee in the event that its application to become a Participant is rejected.
- (b) Notwithstanding the termination of Participant status, a Person admitted as a Participant agrees to be responsible for any Violation (as defined in Rule 701) committed by such Person while a Participant and agrees to have any disputes that arise while a Participant and that relate to or arise out of any transaction with ICE Trust or status of a Participant in ICE Trust resolved in accordance with the Rules.

203. Restriction on Activity.

- (a) In the event a Participant fails to comply with these Rules or the ICE Trust Procedures, ICE Trust may, subject to the requirements of Rule 615(b), suspend or revoke such Participant's clearing privileges.
- (b) In addition to any other rights granted to ICE Trust under these Rules, for the protection of ICE Trust and the Participants, ICE Trust shall be authorized: (i) to impose such additional capital, Margin or other requirements on a Participant; (ii) to allow such Participant to submit Trades for liquidation only; (iii) to limit or restrict the type of Contracts that may be cleared by such Participant in any of its accounts with ICE Trust; or (iv) to limit or restrict the aggregate notional or other reference amount of positions in Contracts that are permitted to be maintained by such Participant in any of its accounts with ICE Trust (any limitation imposed under clauses (ii) through (iv), a "**Trading Activity Limitation**").

204. Financial Statements of Participants.

Each Participant (and, if a Parent has provided a guarantee of its obligations pursuant to Rule 205, its Parent) shall submit statements of its financial condition at such times and in such manner as shall be prescribed by ICE Trust from time to time. Without limiting the foregoing, each Participant that is an FCM shall provide to ICE Trust a copy of its Forms 1-FR-FCM or FOCUS Reports, as applicable, as and when filed with the National Futures Association (and any Participant that is an ANC-Based Non-FCM shall provide to ICE Trust a copy of such forms as and when an FCM would be required to file such forms with the National Futures Association).

205. Parent Guarantee.

A Participant shall be approved for the clearing of Contracts only if it meets the capital, regulatory and other requirements as specified by ICE Trust from time to time, or, if it fails to meet such requirements itself, it has a direct or indirect parent or other affiliate (that is not a subsidiary of such Participant) that is acceptable to ICE Trust (a “**Parent**”) that meets such requirements (including without limitation under Rules 201(b)(i)-(iv) and (xi)) as determined by ICE Trust in its sole discretion and that unconditionally guarantees the Participant’s obligations relating to Contracts. The form, substance and amount of any such guarantee must be acceptable to ICE Trust and ICE Trust must be satisfied that the guarantee is enforceable against the Parent under applicable law. ICE Trust will not accept a Parent guarantee pursuant to this Rule 205 unless ICE Trust is satisfied that the Parent will be able to meet its financial obligations under the guarantee, based upon such financial or other information as is reasonably requested by ICE Trust.

206. Notices Required of Participants.

- (a) Each Participant shall immediately notify ICE Trust, orally and in writing, of:
 - (i) Any material adverse change in the Participant’s financial condition including, but not limited to, a decline in Tangible Net Worth (as defined in Rule 201(b)(ii)) equal to 20% or more from such amount determined as of the end of the previous calendar month, or if such Participant knows or has reason to believe that its tangible net worth has fallen below ICE Trust’s Tangible Net Worth requirement in Rule 201(b)(ii);
 - (ii) Any proposed material reduction (and, in all cases, if the reduction is 30% or more from such amount determined as of the end of the previous calendar month) in the Participant’s operating capital, including the incurrence of a contingent liability that would materially affect the Participant’s capital or other representations contained in the latest financial statement submitted to ICE Trust should such liability become fixed;
 - (iii) With respect to the Participant, any refusal of admission to, withdrawal of any application for membership in, any suspension, expulsion, bar, fine, censure, denial of membership, registration or license, withdrawal of any application for registration, cease and desist order, temporary or permanent injunction, denial of trading privileges, or any other sanction or discipline through an adverse determination, voluntary settlement or otherwise, by the U.S. Commodity Futures Trading Commission, the U.S. Securities and Exchange Commission, the U.K. Financial Services Authority, any commodity, securities or swap exchange or trading facility, clearing organization, the National Futures Association, the Financial Industry Regulatory Authority, any other regulatory, self-regulatory or other entity or organization with regulatory authority, whether U.S. or non-U.S. and governmental or otherwise, having

jurisdiction over the Participant, or other business or professional association;

- (iv) The imposition of any restriction or limitation on the business conducted by the Participant on or with any securities, futures or swap clearing organization or exchange (including, without limitation, any contract market, swap execution facility or other trading facility), other than restrictions or limitations imposed generally on all Participants of or participants in such clearing organization or exchange;
 - (v) Any failure by the Participant to perform any of its material contracts, obligations or agreements, unless such failure is the result of a good faith dispute by such Participant;
 - (vi) Any determination that the Participant will be unable to perform any of its material contracts, obligations or agreements;
 - (vii) The Participant becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
 - (viii) The institution of any proceeding by or against the Participant or any Affiliate of the Participant, under any provision of the bankruptcy laws of the United States, Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Securities Investor Protection Act of 1970, the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act or any other statute or equitable power of a court of like nature or purpose, whether domestic or foreign, in which such Participant or Person is designated as the bankrupt, debtor or equivalent, or a receiver, conservator, trustee or similar official is appointed for the Participant, such Affiliate, or its or their property;
 - (ix) The receipt by the Participant, or the filing by the Participant with a self-regulatory organization, of a notice of material inadequacy; and
 - (x) The receipt by the Participant from its independent auditors of an audit opinion that is not unqualified.
- (b) Each Participant shall provide prior written notice to ICE Trust of:
- (i) Any changes in the Participant's name, business address, its telephone or facsimile number, electronic mail address, or any number or access code for any electronic communication device used by it to communicate with ICE Trust; and

- (ii) Any proposed material change in the organizational or ownership structure or senior management of the Participant (and the Participant shall promptly furnish to ICE Trust such documents related to such events as ICE Trust may from time to time request), including:
 - (A) the merger, combination or consolidation between the Participant and another Person;
 - (B) the assumption or guarantee by the Participant of all or substantially all of the liabilities of another Person in connection with the direct or indirect acquisition of all or substantially all of the assets of such Person;
 - (C) the sale of a significant part of the Participant's business or assets to another Person; and
 - (D) a change in the direct or indirect beneficial ownership of 10% or more of the equity of the Participant.
- (c) Each Participant that is an FCM shall notify ICE Trust of any matter required to be notified to the CFTC under CFTC Rule 1.12, within the time and in the manner specified in that rule. (Any Participant that is an ANC-Based Non-FCM shall provide notices to ICE Trust pursuant to the preceding sentence as though it were an FCM.) Each Participant that is a broker-dealer shall notify ICE Trust of any matter required to be notified to the SEC under Rule 17a-11 or FINRA under Rule 3070, within the time and in the manner specified in those rules.
- (d) Each Participant shall promptly notify ICE Trust in writing if it becomes subject to statutory disqualification under Section 8a(2) of the CEA or otherwise applicable CFTC regulations.

. . . Interpretations and Policies:

- .01 As used in this Rule, the term "Participant" shall be deemed to include any Parent of the Participant providing a guarantee pursuant to Rule 205 and the Participant and such Parent shall be jointly obligated to deliver all notices required by this Rule relating to events occurring with respect to the Participant or such Parent.

207. Termination of Participant Status.

- (a) Upon the occurrence of a Termination Event (as defined herein), ICE Trust may, in its sole discretion, impose limitations, conditions and restrictions upon a Participant or, subject to the requirements of Rule 615(b), terminate the status of the Participant. In such circumstances, ICE Trust may, in its sole discretion, (i) decline to accept new Trades in the case of Termination Events described in subparagraphs (b)(i), (b)(ii) (provided such Retiring Participant has no remaining Open Positions) or (b)(v) of this Rule, (ii) cause Open Positions to be transferred to another clearing organization designated by the Market, if applicable, or that provides clearing services for agreements equivalent to Contracts, with such security against claims and liabilities as ICE Trust shall deem necessary for its protection, (iii) impose a Trading Activity Limitation (as defined in Rule 203), (iv) prior to the occurrence of a Default, require the Participant to cause all Open Positions to be closed out (or, in the case of Client-Related Positions, transferred (along with any related Non-Participant Contracts) to a new Participant in accordance with Chapter 20A-01 of these Rules by a date specified by ICE Trust (which, in the case of a Retiring Participant, shall be no later than such Retiring Participant's Scheduled Return Date (as defined in Rule 803)), with the failure of the Participant to do so constituting a default under the Participant's Contracts with ICE Trust, and (v) otherwise take or omit to take such actions, or any combination thereof, as it deems necessary or appropriate in the circumstances; *provided* that nothing in this paragraph (a) shall limit the rights granted to ICE Trust upon the Default of a Participant.
- (b) As used herein, "**Termination Event**" shall mean the occurrence of any of the following:
- (i) The expiration or termination of the agreement for clearing services between ICE Trust and the relevant Market;
 - (ii) The Participant becomes a Retiring Participant;
 - (iii) (A) A representation or warranty made by the Participant (or any Parent of Participant providing a guarantee pursuant to Rule 205) to ICE Trust under or in connection with any agreement between ICE Trust and the Participant (or such Parent) shall be false or misleading in any material respect as of the date on which made;
 - (B) an Eligible Officer determines that the Participant (or, if applicable, such Parent) has failed to satisfy the ongoing requirements to retain its status as a Participant under Rule 201(b)(i), (ii), (iv), (v), (viii), (ix), (x) or (xi); or

- (C) the Board determines, by a two-thirds majority of those voting, in a vote excluding members of the Board who are employees of such Participant or any Affiliate and with a quorum of at least fifty percent of the remaining members of the Board, that (1) the Participant (or, if applicable, such Parent) has failed to satisfy any other ongoing requirements to retain its status as a Participant, including under Rule 201(b)(vi) or (vii), or (2) it appears, in the Board's judgment, that the Participant (or, if applicable, such Parent) is likely to fail to satisfy any ongoing requirements to retain its status as a Participant if any proposed material change in the organizational or ownership structure or senior management of the Participant (or, if applicable, such Parent) referred to in Rule 206(b)(ii) were effected;
 - (iv) The material breach by the Participant of the Rules or any of the terms or provisions of any agreement between ICE Trust and the Participant which is not remedied promptly after notice from ICE Trust; or
 - (v) The Participant is in Default.
 - (vi) The Participant becomes subject to statutory disqualification under Section 8a(2) of the CEA or otherwise applicable CFTC regulations.
- (c) A Retiring Participant's status as a Participant hereunder shall be terminated no later than the Retiring Participant's Retirement Date determined pursuant to Rule 803.

208. Client Related Clearing.

- (a) **Client Identification Program.** As of each ICE Trust Business Day, regardless of whether Participant submits Contracts to be cleared by ICE Trust, Participant hereby represents and warrants that it has implemented its anti-money laundering program, and it, or its agent, will perform the specified requirements of Participant's Client Identification Program ("**CIP**"). Participant will certify to ICE Trust on an annual basis that it has implemented its anti-money laundering program and that it will perform (or its agent will perform) the specified requirements of Participant's CIP.
- (b) **SEC Exemptive Relief.** Participant agrees to comply with the terms of the exemption from broker dealer related requirements as set forth in the order issued by the SEC on or about December 7, 2009 (as such order may be extended and/or modified from time to time, the "**Order**") to the extent such Order is applicable to it. As such, Participant will:

- (i) On an annual basis provide a certification to ICE Trust as to its compliance with such Order in such form as ICE Trust may require;
- (ii) Provide ICE Trust with notice of any arrangements with a non-U.S. custodian as described in the Order along with a legal opinion from the custodian's home jurisdiction as required by the Order;
- (iii) Not submit any Trades for which the Non-Participant Party is a natural person;
- (iv) Provide the disclosure required in the Order to any Non-Participant Parties in respect of which Participant will submit Trades to ICE Trust for clearing; and
- (v) Perform such other acts or undertake such other obligations as may be applicable to it, as set forth in the Order.

ICE Trust's responsibility with respect to such notices or certifications to be provided by Participants pursuant to this subsection (b) will be limited to maintaining records thereof and making such records available to the SEC pursuant to the Order.

3. CLEARING OF CONTRACTS

301. Effect of Clearance.

- (a) Trades submitted for clearance by or for the account of a Participant shall be submitted to ICE Trust as required by these Rules and the ICE Trust Procedures and the rules of any applicable Market.
- (b) **Interdealer Trades.** If (i) two Participants (Participant X and Participant Y) enter into an agreement equivalent to a Contract, (ii) each submits the relevant terms to ICE Trust and (iii) ICE Trust accepts the same in accordance with the requirements in Rule 309, the Trade shall be novated and Participant X shall be deemed to have entered into such Trade with ICE Trust (which shall succeed to the position of Participant Y) and Participant Y shall be deemed to have entered into such Trade with ICE Trust (which shall succeed to the position of Participant X) and, with respect to each Participant, its position in such Trade shall become an Open Position. Upon such novation, such Participants shall be released from their obligations to each other, and ICE Trust shall be deemed to have succeeded to all the rights, and to have assumed all the obligations, of the original parties to such agreement to the extent provided in these Rules, except that the terms of the Trades between ICE Trust and each Participant will be amended and restated into the terms of the Contract equivalent to the original agreement between the Participants and as provided in Rule 303. If any agreement submitted for clearance contains an obligation to make an up-front payment (an “**Initial Payment**”), the obligation to make such Initial Payment shall remain the direct obligation of the relevant Participant to the other Participant and ICE Trust shall have no obligation to make or guarantee such Initial Payment.
- (c) **Bilateral Client Trades.** If (i) a Participant and a Non-Participant Party enter into a contract intended to be submitted to ICE Trust for clearing for which no corresponding Trade between the Participant and another Participant is submitted to ICE Trust as a Client-Related Position, (ii) the Participant submits the relevant terms of a Trade corresponding to such contract to ICE Trust to be cleared and (iii) ICE Trust accepts the same in accordance with the requirements in Rule 309, the Participant and ICE Trust shall be deemed to have entered into two separate and distinct Trades, one Trade (“**Trade A**”) whose terms shall mirror the terms of such contract and a second trade (“**Trade B**”) whose terms shall exactly offset the terms of Trade A, except that Trade A and Trade B will have the terms of the equivalent Contract and the terms provided in Rule 303. In such case, Trade A shall constitute a Client-Related Position for the Non-Participant Party (or with respect to which Participant will enter into a Non-Participant Contract) and Trade B shall constitute a House Position.

- (d) **DCM Trades.** If (i) an Authorized Trade Processing Platform submits the relevant terms of an agreement (other than a Backloaded Client Trade) equivalent to a Contract on behalf of two Participants (Participant X and Participant Y), (ii) such Participants (and, if applicable, any Non-Participant Party for whom Participant X or Participant Y is acting or that will enter into a related Non-Participant Contract with Participant X or Participant Y) have affirmed such terms through such Authorized Trade Processing Platform, (iii) by its terms (including without limitation pursuant to the terms of the DCM Standard Terms) such Contract is to become effective upon its submission and acceptance for clearing under the Rules, and (iv) ICE Trust accepts the Contract in accordance with the requirements of Rule 309, then Participant X will be deemed to have entered into a Trade on the terms of such Contract with ICE Trust and Participant Y will be deemed to have entered into an exactly offsetting Trade with ICE Trust, and with respect to each such Participant, its position in such Trade shall become an Open Position. Upon the establishment thereof, such positions will have the terms of the equivalent Contract. If Participant X or Participant Y is acting for a Non-Participant Party or has agreed to enter into a related Non-Participant Contract upon the establishment of such position with ICE Trust, such position of such Participant shall constitute a Client-Related Position. Notwithstanding anything to the contrary herein (including Section 303), any obligation or right of Participant X or Participant Y to make or receive an Initial Payment with respect to positions established pursuant to this subsection (d) shall be in favor of or due from ICE Trust, as the case may be. The provisions of this Rule 301(d) may also apply where Participant X and Participant Y are the same entity, in which case such entity will be deemed to have entered into two separate and distinct Trades with ICE Trust.
- (e) **Backloaded Client Trades.** If (i) an Authorized Trade Processing Platform submits the relevant terms of a Backloaded Client Trade on behalf of either one Participant or two Participants (Participant X and Participant Y), as applicable, (ii) such Participant or Participants, as applicable (and any Non-Participant Party for whom Participant X or Participant Y is acting or that will enter into a related Non-Participant Contract with such Participant or either of such Participants, as applicable) have affirmed such terms through such Authorized Trade Processing Platform, (iii) by its terms (including without limitation pursuant to the terms of the DCM Standard Terms) such Contract is to become effective upon its submission and acceptance for clearing under the Rules, and (iv) ICE Trust accepts the Contract in accordance with the requirements of Rule 309, then (A) if such Backloaded Client Trade was submitted on behalf of two Participants, Participant X will be deemed to have entered into a Trade on the terms of such Backloaded Client Trade with ICE Trust and Participant Y will be deemed to have entered into an exactly offsetting Trade with ICE Trust, or (B) if such Backloaded Client Trade was submitted on behalf of a single Participant, such Participant will be deemed to have entered into two separate and distinct Trades, one Trade (“**Trade A**”) on the terms of such Backloaded Client Trade and a second trade (“**Trade B**”) whose terms shall exactly offset the terms of Trade A. Upon the establishment

thereof, such positions shall become Open Positions and will have the terms of the equivalent Contract and the terms provided in Rule 303. If a Participant is acting for a Non-Participant Party or has agreed to enter into a related Non-Participant Contract upon the establishment of such a position with ICE Trust, such position of such Participant shall constitute a Client-Related Position.

- (f) Each Participant acknowledges and agrees that ICE Trust may rely, without additional investigation, on the terms of trades submitted by an Authorized Trade Processing Platform that have been designated by such platform as having been affirmed or confirmed by the relevant parties thereto (including as to the identity of the Participants to be party thereto), and that each Participant shall be obligated under any Open Position established pursuant to this subsection (d) as a result of such submission. A Participant may notify ICE Trust, in a manner to be specified in the ICE Trust Procedures, that it will not accept trades submitted by an Authorized Trading Processing Platform on its behalf, and following receipt by ICE Trust of such notice, ICE Trust will not accept for clearing pursuant to this subsection (d) trades submitted by such Authorized Trade Processing Platform that identify such Participant (but without limiting the provisions of this paragraph with respect to any trades submitted before ICE Trust's receipt of such notice).

302. Tender of Trades; Client-Related Positions.

- (a) The submission of a Trade confirmation, in the manner designated by ICE Trust or its agents, by or on behalf of a Participant, as hereinafter provided, shall be deemed a tender to ICE Trust for clearance of the Trade listed on such confirmation. These Rules shall constitute part of the terms of each Contract tendered to ICE Trust.
- (b) Each Trade confirmation submitted to ICE Trust by or on behalf of a Participant pursuant to Rule 301(b), (d) or (e) will identify, in the manner specified by ICE Trust, whether such Trade, when cleared, is to be a Client-Related Position or a House Position of the relevant Participant (including, if applicable, for purposes of Rule 304(c)), and failing such designation, such Trade will be presumed to be a House Position of that Participant.

303. Adjustments.

Upon the clearance of a Trade pursuant to Rule 301(b), (c) or (e), regardless of the terms of the bilateral agreement between the submitting Participants or of any related Non-Participant Contract, as applicable, the Trade between ICE Trust and each such Participant shall have an Initial Payment of zero.

304. Offsets.

- (a) Subject to subsection (b) below, where, pursuant to Rule 301, or as otherwise provided in these Rules, a Participant has entered into Trades that are House

Positions or Client-Related Positions with ICE Trust that constitute opposite positions which are identical in all material respects (other than notional or other reference amount and the application of Rule 613) in a single Contract, then at the applicable time and in the manner to be specified in the ICE Trust Procedures, the second such Trade shall be deemed pro tanto a settlement or adjustment of the prior transaction and, therefore, a reduction in the relevant Open Position. Thereupon, such Participant shall possess no further rights and be under no further liability with respect thereto only to the extent of such settlement or adjustment.

- (b) In no event shall any Client-Related Position be offset against any House Position or any House Position be offset against any Client-Related Position, in either case pursuant to subsection (a) above, except as provided in subsection (c) below. Client-Related Positions identified by a Participant to ICE Trust as relating to the same Non-Participant Party may be offset against each other pursuant to subsection (a) hereof. Client-Related Positions identified by a Participant to ICE Trust as relating to different Non-Participant Parties may not be offset against each other pursuant to subsection (a) hereof; provided that such Client-Related Positions shall be deemed to be offset against each other for purposes of determining the Participant's net Margin requirements with respect thereto (including the Client-Related Initial Margin requirement) and any obligation of either ICE Trust to the Participant or the Participant to ICE Trust with respect thereto at any time, and in addition such positions may be offset against each other by ICE Trust following a Default as set forth in these Rules.
- (c) Where the Non-Participant Contract relating to a Client-Related Position has terminated prior to the termination date of the related Client-Related Position (because of a default or termination event with respect to the Non-Participant Party or Participant thereunder (other than a Default under these Rules with respect to the Participant)) and the relevant Participant has so notified ICE Trust in writing, the Participant may elect, in a manner to be specified by ICE Trust, (i) to offset such Client-Related Position against a House Position entered into by such Participant for the specific purpose of liquidating such Client-Related Position or (ii) to convert such Client-Related Position into a House Position, whereupon it shall be treated as such for all purposes under these Rules (including subsection (a) above). For the avoidance of doubt, upon the offset of such Client-Related Position or its conversion into a House Position, ICE Trust shall recalculate the applicable Margin Requirements and, if applicable, make margin in respect of the Client-Related Position available for withdrawal in accordance with Rule 401.

305. Trade Confirmations.

Each ICE Trust Business Day, the exact hours of which shall, from time to time, be fixed by ICE Trust, Participants shall file with ICE Trust or its agent confirmations, in the manner prescribed by ICE Trust (which, in the case of Authorized Trade Processing

Platforms or other electronic systems that submit matched Trades to ICE Trust, shall be satisfied by confirming reports automatically generated by such system that contain the information set forth herein), covering Trades made during the day showing for each Trade (a) the identity of both Participants (or the relevant Participant, if a single Participant), (b) which side of the Trade each Participant has taken, if applicable, (c) the relevant Contract involved, (d) the quantity or notional and other economic terms involved, (d) whether such Trades are House or Client-Related Positions for the relevant Participant and (e) such other information as may be required by ICE Trust to effect the matching of Trades between the parties.

306. Disagreement in Trade Confirmations.

In the case of a Trade between two Participants submitted for clearing, if a Trade confirmation of either Participant shall not correspond in all material respects with the confirmation of the other party to such Trade, ICE Trust may reject such Trade and notify both Participants, setting forth the basis of such objection.

307. Statement of Open Positions.

ICE Trust shall make available to each Participant a statement of Open Positions (separately for House Positions and Client-Related Positions) for each ICE Trust Business Day on which such Participant has Open Positions. Such statement shall show the following with respect to each Mark-to-Market Margin Category, as described in the Chapter 4 Rules (or any corresponding Rules in any product-specific Chapter):

- (a) The Mark-to-Market Price of each Open Position,
- (b) The Margin Requirement,
- (c) The Margin then on deposit with respect to such Margin Category, and
- (d) The Net Margin Requirement.

. . . Interpretations and Policies:

- .01 For the purposes of this Rule, the term "Open Positions" shall also include Trades that have been accepted by ICE Trust pursuant to Rule 309 but not yet novated or established pursuant to Rule 301 because the Novation Time has not yet occurred.

308. Statement of Initial Margin.

At or around the time a Statement of Open Positions is made available pursuant to Rule 307, ICE Trust shall also make available to each Participant a statement (separately for Client-Related Positions and House Positions) showing the following with respect to

each Initial Margin Category, as described in the Chapter 4 Rules (or any corresponding Rules in any product-specific Chapter):

- (a) The Margin Requirement,
- (b) The Margin then on deposit with respect to such Margin Category, and
- (c) The Net Margin Requirement.

309. Acceptance of Trades by ICE Trust.

- (a) ICE Trust shall accept the submission of Trades for clearance hereunder only from or on behalf of Participants. A Trade is accepted upon ICE Trust's notice, in accordance with the ICE Trust Procedures, to the relevant Participant(s) that ICE Trust has accepted a Trade submitted for clearance.
- (b) **Interdealer Trades.** The acceptance of a Trade between two Participants that is submitted for clearance pursuant to Rule 301(b) shall not result in the occurrence of a novation pursuant to Rule 301(b) until the novation time for the relevant clearing cycle, as it may be established by ICE Trust from time to time and notified to the Participants (the "**Novation Time**"). Such acceptance may be revoked only by ICE Trust until the Novation Time.
- (c) **Bilateral Client Trades.** The acceptance of a Trade between a Participant and a Non-Participant Party that is submitted for clearance pursuant to Rule 301(c) shall not result in the establishment of positions pursuant to Rule 301(c) until the Novation Time. Such acceptance may be revoked only by ICE Trust until the Novation Time.
- (d) **DCM Trades.** The acceptance of a Trade that is submitted for clearance pursuant to Rule 301(d) shall result in the establishment of positions pursuant to such subsection as of the time of such acceptance and such acceptance may not be revoked.
- (e) **Backloaded Client Trades.** The acceptance of a Trade that is submitted for clearance pursuant to Rule 301(e) shall not result in the establishment of positions pursuant to Rule 301(e) until the Novation Time. Such acceptance may be revoked by ICE Trust until the Novation Time, and the Participant or either Participant, as the case may be, that is party to such trade may withdraw such trade from clearing prior to the Novation Time in accordance with the ICE Trust Procedures provided that such Participant so withdraws all other Backloaded Client Trades that are part of the same backloading clearing cycle. For the avoidance of doubt, in the case of a Backloaded Client Trade, ICE Trust may require advance funding of applicable margin prior to the Novation Time.

- (f) Following the novation or establishment of positions as described in clauses (b), (c), (d) or (e), as applicable, above, such positions shall be binding as between ICE Trust and the relevant Participants. Following acceptance of a Trade for clearing by ICE Trust, each Participant that is a party to such Trade must resubmit or submit, as the case may be, in accordance with the ICE Trust Procedures, the terms of such Trade to Deriv/SERV or another service specified by ICE Trust with identical terms as the original submission for clearance, adjusted to take into account any offsets under Rule 304 and the substitution of ICE Trust, if applicable, for the other party to such Trade. Failure to so resubmit (or submit) any Trade to Deriv/SERV or another service specified by ICE Trust will be a violation of these Rules and may subject the Participant to disciplinary action, but shall not affect the validity or binding effect of the cleared Trade as between the relevant Participant(s) and ICE Trust. Prior to such resubmission or submission and confirmation thereof, the cleared Trade shall be governed by the terms of the original submission for clearance, as so adjusted and subject to these Rules.
- (g) ICE Trust shall accept for clearance all Trades that are submitted in accordance with, and meet the requirements established by, these Rules and the ICE Trust Procedures (each, a “**Conforming Trade**”); *provided* that ICE Trust may decline to accept a submitted Conforming Trade if an Eligible Officer determines in good faith that, based on the exercise of prudent risk management standards, ICE Trust should not accept the Conforming Trade.
- (h) ICE Trust may establish, separately with respect to each Participant, a specified notional or other relevant amount of Conforming Trades of a particular type that ICE will agree to accept on any ICE Trust Business Day and which ICE Trust may not decline pursuant to the preceding sentence, subject to the Participant not being in Default and otherwise being in good standing under the Rules and compliance by the Participant with any conditions imposed by ICE Trust (including, if applicable, advance funding of applicable margin).
- (i) Where a Participant clears a Trade for a Non-Participant Party, such Participant becomes liable to ICE Trust and ICE Trust liable to such Participant on such Trade as if the Trade were for the proprietary account of the Participant, subject in all cases to the provisions of these Rules applicable to Client-Related Positions.

. . . Interpretations and Policies:

- .01 Initially, the Novation Time shall be 12:01 a.m. on the calendar day following the ICE Trust Business Day on which ICE Trust accepts a submitted Trade for clearance. An acceptance which occurs after 4:00 p.m. on an ICE Trust Business Day or which occurs on a day that is not an ICE Trust Business Day shall, unless otherwise provided in the ICE Trust Procedures, be deemed to have occurred on the following ICE Trust Business Day.
- .02 ICE Trust may also accept the submission of Trades for clearance for the account of a Participant from an Affiliate of such Participant; *provided* that such Affiliate has been previously designated for this purpose by such Participant in writing to ICE Trust. Such submission by an Affiliate shall be deemed a submission by the relevant Participant for the purposes of these Rules. For the avoidance of doubt, ICE Trust and such Affiliate shall have no rights, obligations or liability with respect to each other pursuant to such submission or the related novation, irrespective of the relationship between such Participant and its Affiliate.

310. Records.

Participants shall keep permanent records showing, with respect to each Trade, the names of both Participants (if applicable) and any related Non-Participant Party, as the case may be, the Contract, quantity or notional, other economic terms and such other information as may be required by law, regulation, or by ICE Trust. Such permanent records shall be retained for at least five years, either in original form or in such other form as ICE Trust may from time to time authorize, and shall be deemed the joint property of ICE Trust and the Participant keeping such records. ICE Trust shall be entitled to inspect on the Participant's site during normal business hours or take temporary possession of such records at any time, in each case with reasonable advance notice.

311. Reporting.

Participants shall make reports of their positions at the time and in the manner prescribed by ICE Trust. In all instances, such Participant reports shall specify which positions are Client-Related Positions and which positions are House Positions. In identifying any Client-Related Positions, Participants shall also specify such information as to the Non-Participant Parties and any related Non-Participant Contracts as ICE Trust may direct. Without limiting the foregoing, Participants shall identify to ICE Trust those Client-Related Positions relating to Non-Participant Contracts of the same Non-Participant Party and those Client-Related Positions that are Non-Transfer Positions (as defined in Chapter 20A of these Rules). ICE Trust may require Participants to make

reports only to the extent such reports have a reasonable nexus to the operations and regulatory requirements of ICE Trust.

312. Limitation of Liability.

- (a) ICE Trust shall have no liability for any obligations of or to any Person who is not a Participant. ICE Trust makes no representation about the adequacy of the General Guaranty Fund, and the Margin and other amounts provided under these Rules, to cover a Default by any Participant, and ICE Trust is not acting as an adviser or fiduciary with respect to the decision whether to enter any particular Trade or to clear Trades in accordance with these Rules. ICE Trust shall not be responsible for any of the actions or inactions of any of its agents, any Participant, a Market, an Authorized Trade Processing Platform or any other Person, including, without limitation, the failure of a Participant to perform any of its direct obligations to another Participant, the cessation, suspension or other change in the activities of any of ICE Trust's agents, any Authorized Trade Processing Platform or any Market, or the failure of linkages or communications between ICE Trust and any other party. Absent bad faith or willful misconduct, ICE Trust shall not be liable to any Participant or other Person for any determination ICE Trust is required or authorized to make under these Rules, or any exercise by ICE Trust of its discretion under these Rules or decision not to exercise any such discretion, including, without limitation, determining Margin requirements, determining the Value of deposited Margin, determining the Mark-to-Market Price of any Contract, and any actions or inactions relating to an emergency or force majeure, the decision that a Participant is in Default or the Closing-out Process. Without limiting the foregoing, ICE Trust shall have no liability or obligation to any Non-Participant Party in respect of a Client-Related Position, Non-Participant Contract or otherwise (without prejudice to ICE Trust's obligation under these Rules to return collateral and distributions thereon to a Participant in accordance with these Rules).
- (b) **In no event shall the amount of ICE Trust's liability arising out of or relating to payment or delivery obligations with respect to Contracts or these Rules (whether direct or indirect, in contract, tort or otherwise) exceed the sum of (A) the amount then on deposit in the General Guaranty Fund (including any additional General Guaranty Fund deposits actually collected from Participants (subject to applicable Additional Assessment Limits, as defined in Rule 802(d)), the ICE Trust Priority Contribution and the ICE Trust Pro Rata Contribution (subject to the ICE Trust Default Maximum as defined in Rule 802(b)(v))), (B) any unpaid ICE Trust Priority Contribution or ICE Trust Pro Rata Contribution (subject to the ICE Trust Default Maximum) that is past due, and (C) any amounts actually collected by ICE Trust (reduced by all costs and expenses of collection) from a Participant or its guarantor in respect of Obligations, as described in Rule 802(a) or Rule 802(c), or from other Participants or their guarantors in respect of Wound-up Contracts, as described in Rule 804; provided that amounts received or**

collected as Margin in respect of Client-Related Positions may only be applied as set forth in these Rules. In no event shall the amount of ICE Trust's liability to a Participant not arising out of or relating to payment or delivery obligations with respect to Contracts or these Rules (whether direct or indirect, in contract, tort or otherwise) exceed the aggregate amount paid to ICE Trust by such Participant for the Services (as defined in the relevant Participant Agreement) within the twelve-month period preceding any claim therefor.

313. Non-Acceptance of Trades.

In case of the non-acceptance of the Trades of any Participant, ICE Trust shall incur no obligations with respect to the Trades that are not accepted. It shall be the sole responsibility of the Participants who are parties to any such Trades to take such steps as the Participants may deem necessary or proper for such Participants' own protection.

314. Open Access for Execution Venues and Trade Processing Platforms.

ICE Trust shall ensure that there shall be open access to the clearing system operated by ICE Trust pursuant to these Rules for all execution venues and trade processing platforms. ICE Trust may impose (a) reasonable criteria to determine whether an execution venue has the capability to deliver the necessary quality of service to be granted access to ICE Trust and (b) reasonable criteria to determine whether a trade processing platform has the capability to deliver the necessary quality of service to be granted access to ICE Trust and connected through the ICE Trust application programming interface; *provided* that in each case such criteria shall not unreasonably inhibit such open access.

4. MARGIN

401. Margin Generally.

- (a) ICE Trust shall, following the close of business on each ICE Trust Business Day, and may, at any other time or times selected by ICE Trust, determine the Margin requirement for a Participant with respect to each category of Initial Margin and of Mark-to-Market Margin (each, a “**Margin Category**”, and the related Margin requirement, a “**Margin Requirement**”). For each Margin Category for a Participant and for a given ICE Trust Business Day, ICE Trust shall calculate a net amount (a “**Net Margin Requirement**”) (i) in the case of an Initial Margin Category, equal to the Participant’s Margin Requirement for such Initial Margin Category as of such ICE Trust Business Day minus the Value of the Participant’s Margin held by ICE Trust as Margin for such Initial Margin Category and (ii) in the case of a Mark-to-Market Margin Category, equal to the Participant’s Margin Requirement for such Mark-to-Market Margin Category (expressed as a positive number if owed by the Participant and a negative number if owed by ICE Trust) minus the Value of the Participant’s Margin held by ICE Trust as Margin for such Mark-to-Market Margin Category or plus the Value of ICE Trust’s Margin held or deemed held by the Participant as Margin for such Mark-to-Market Margin Category, as applicable. With respect to each Margin Category for a Participant:
- (i) if the Net Margin Requirement is negative, ICE Trust shall (unless the Participant is, or a determination by ICE Trust is pending as to whether the Participant is, in Default), with respect to Eligible Margin having a Value as close as reasonably practicable to (but not to exceed) the absolute value of the Net Margin Requirement, (A) in the case of Mark-to-Market Margin, Transfer such Eligible Margin to the Participant, which Eligible Margin would, as applicable, either be applied to a Net Margin Requirement for an Initial Margin Category or be available for withdrawal by the Participant, in accordance with the ICE Trust Procedures, to the extent there is any excess after satisfying the Margin Requirement for each Initial Margin Category or (B) in the case of Initial Margin, Transfer such Eligible Margin to the Participant, in accordance with the ICE Trust Procedures, to the extent there is any excess after satisfying the Margin Requirement for each Initial Margin Category.
 - (ii) if the Net Margin Requirement is positive, the Participant shall Transfer to ICE Trust, in accordance with the ICE Trust Procedures, Eligible Margin having a Value at least equal to the Net Margin Requirement, with such Transfer required to be made prior to the time established by ICE Trust in the ICE Trust Procedures for this purpose on the ICE Trust Business Day next following the ICE Trust Business Day to which the close of business Net Margin Requirement relates (or, if ICE Trust notifies a Participant, in accordance with the ICE Trust Procedures, of a Net Margin Requirement

other than in respect of its close of business determinations, within one ICE Trust business hour of such notice); *provided* that (i) to the extent there is cash in a Participant's House Margin Account in the relevant currency, ICE Trust may withdraw from such account such cash to satisfy a Net Margin Requirement for a Mark-to-Market Margin Category for the relevant House Position(s), and (ii) to the extent there is cash in the Custodial Client Omnibus Margin Account in the relevant currency, ICE Trust may withdraw from such account such cash (up to the amount of the outstanding Net Client Omnibus Margin Amount) to satisfy a Net Margin Requirement for a Mark-to-Market Margin Category for the relevant Client-Related Position(s), as applicable, and in either case adjust the Participant's Net Margin Requirements accordingly; or

- (iii) if the Net Margin Requirement is zero, no Margin shall be required to be Transferred.
- (b) Notwithstanding anything to the contrary herein, in determining each Participant's Margin Requirement as described above, ICE Trust shall make separate Margin Requirement calculations for a Participant's Client-Related Positions and for a Participant's House Positions, notwithstanding that such positions would otherwise be in the same Margin Category. In no event shall the Margin Requirements for a Participant's Client-Related Positions and House Positions be netted or offset against each other (except as specifically provided in these Rules), nor shall any Excess Margin held or released in respect of Client-Related Positions be applied at any time to any Margin Requirement in respect of House Positions.

The Margin Requirement for a Participant's Client-Related Positions shall be calculated on the basis that all Client-Related Positions related to different Non-Participant Parties have been offset pursuant to Rule 304 (i.e., on a "net" margin basis), regardless of whether ICE Trust or such Participant otherwise records such Client-Related Positions as being so offset. Participant shall Transfer the appropriate Excess Margin in respect of Client-Related Positions to ICE Trust as provided in Rule 405 and 406.

- (c) **"Eligible Margin"** means (i) with respect to Initial Margin, (A) in the case of satisfaction of a Net Margin Requirement, dollars or other currencies acceptable to ICE Trust for this purpose and (B) in the case of substitutions of Initial Margin, assets, in the case of each of clauses (A) and (B), as specified in the ICE Trust Procedures as Eligible Margin for the applicable Initial Margin Category and (ii) with respect to Mark-to-Market Margin, the currency in which the Contracts for the applicable Mark-to-Market Margin Category are denominated. Currencies must be in immediately available funds to qualify as Eligible Margin.
- (d) **"Value"** means, (i) with respect to Eligible Margin consisting of dollars or another currency that qualifies as Eligible Margin for the applicable Margin Category, the

amount thereof converted, if applicable, to the currency of the relevant Net Margin Requirement at such exchange rate as ICE Trust in its discretion may determine from time to time pursuant to the ICE Trust Procedures, (ii) with respect to Eligible Margin consisting of assets, other than currencies, that qualify as Eligible Margin for the applicable Margin Category, the value thereof as determined by ICE Trust (or its agent or custodian) pursuant to a methodology established by ICE Trust from time to time in the ICE Trust Procedures, and (iii) with respect to any currency or asset that does not qualify as Eligible Margin for the applicable Margin Category, zero.

- (e) ICE Trust shall establish and maintain a House Margin Account and a Custodial Client Omnibus Margin Account for each Participant. All Client-Related Initial Margin and Excess Margin required with respect to a Participant's Client-Related Positions shall be Transferred to such Participant's Custodial Client Omnibus Margin Account. All Initial Margin required with respect to House Positions of such Participant shall be Transferred to such Participant's House Margin Account.
- (f) ICE Trust shall charge a Participant interest for any net Mark-to-Market Margin Transferred by ICE Trust to the Participant and shall pay a Participant interest for any net Mark-to-Market Margin Transferred by the Participant to ICE Trust and for any cash Margin in such Participant's Margin Accounts, in each case at an interest rate and on a frequency determined from time to time by ICE Trust in the ICE Trust Procedures.
- (g) A Participant may substitute, in accordance with the ICE Trust Procedures, Eligible Margin for an amount of Margin in such Participant's House Margin Account or Custodial Client Omnibus Margin Account, as applicable, having a Value not to exceed such substitute Eligible Margin.
- (h) Margin or Excess Margin required to be provided by a Participant hereunder shall be provided at the time and in the manner specified in the ICE Trust Procedures. Where Margin or Excess Margin is available for withdrawal by a Participant in accordance with these Rules, if such Participant requests such withdrawal on an ICE Trust Business Day by the deadline established in the ICE Trust Procedures, ICE Trust will transfer such margin to the relevant account of the Participant on such ICE Trust Business Day.

... Interpretations and Policies:

- .01 Margin required to be Transferred by a Participant shall be considered timely Transferred to ICE Trust if (i) such Participant's settlement bank guarantees, in a form acceptable to ICE Trust, Transfer of such Margin prior to the time such Margin would be due

in accordance with these Rules and (ii) such Margin is actually Transferred to ICE Trust within a time period established by ICE Trust.

- .02 For the purposes of Chapter 4, the term “Open Positions” shall also include Trades that have been accepted by ICE Trust pursuant to Rule 309 but not yet novated or established because the Novation Time has not yet occurred.

402. Transfer of Title; Liens.

- (a) Each Participant (other than a Participant that is an FCM) agrees that all right, title and interest in and to any cash Transferred by such Participant to ICE Trust under the terms of these Rules as Margin, Excess Margin or Collateral consisting of cash and all cash proceeds of any Margin, Excess Margin or Collateral (collectively, “**Cash Margin**”) shall vest in ICE Trust free and clear of any liens, claims charges or encumbrances. Upon the occurrence of a Default, ICE Trust shall be entitled to apply such cash Transferred to ICE Trust by such Defaulting Participant and any cash proceeds of the Margin and Collateral of such Defaulting Participant to the Obligations of such Defaulting Participant to ICE Trust in accordance with the provisions herein; provided that cash Transferred in respect of Client-Related Positions and constituting Margin or Excess Margin and cash proceeds of Margin or Excess Margin provided in respect of Client-Related Positions may only be applied to Obligations in respect of Client-Related Positions as set forth herein and only subject to the limitation set forth in subsection (h) below. Prior to the completion of the requirements under these Rules for the occurrence of a Default, ICE Trust shall also be entitled to apply such cash to the Obligations of a Participant (but subject to the proviso to the preceding sentence) if such Participant has defaulted with respect to making a payment or delivery when due under these Rules or a Contract.
- (b) Each Participant hereby grants to ICE Trust a continuing lien and security interest in and to and right of set-off against all of the Participant’s right, title and interest, whether now owned or existing or hereafter acquired or arising, in and to (i) all securities, financial assets and other property (other than cash) Transferred by such Participant to ICE Trust under the terms of these Rules as Margin, Excess Margin or Collateral not constituting cash, (ii) all non-cash proceeds of any of the foregoing and (iii) in the case of a Participant that is an FCM, any cash Transferred by such Participant to ICE Trust under the terms of these Rules as Margin, Excess Margin or Collateral consisting of cash and all cash proceeds of any Margin, Excess Margin or Collateral, in each case as security for the Obligations of such Participant to ICE Trust (jointly, (i), (ii) and (iii), the “**Pledged Items**”); provided that Pledged Items Transferred in respect of Client-Related Positions and constituting Margin or Excess Margin shall only secure Obligations of such Participant in respect of Client-Related Positions and shall be subject to the limitation set forth in subsection (h) below. Upon the withdrawal of Pledged

Items by a Participant from its House Margin Account or Custodial Client Omnibus Margin Account, as applicable, in accordance with these Rules and the ICE Trust Procedures, the security interest and lien granted hereunder on such Pledged Items will be released immediately without any further action by either party.

- (c) Upon the occurrence of a Default, ICE Trust may exercise all rights of a secured party under the New York Uniform Commercial Code or other applicable law. ICE Trust may, without being required to give any notice, except as may be required by law, sell or otherwise apply any Pledged Items Transferred to, or otherwise under the control of, ICE Trust to satisfy the Participant's Obligations. Notwithstanding the foregoing, ICE Trust may only exercise such rights with respect to, or otherwise dispose of or sell, Pledged Items Transferred in respect of Client-Related Positions and constituting Margin or Excess Margin (including Pledged Items Transferred to the Custodial Client Omnibus Margin Account) for the purposes of satisfying any outstanding Obligations of a Defaulting Participant in respect of Client-Related Positions and subject to the limitation set forth in subsection (h) below. Upon any such sale, ICE Trust shall have the right to deliver, assign and transfer to the purchaser thereof the Pledged Items so sold. Each purchaser at any such sale shall hold the Pledged Items so sold to it absolutely and free from any claim or right of whatsoever kind, including any equity or right of redemption of the Participant which may be waived, and the Participant, to the extent permitted by law, hereby specifically waives all rights of redemption, stay or appraisal which it has or may have under any law now existing or hereafter adopted.
- (d) Each Participant represents that it is the sole owner of or otherwise has the right to Transfer to ICE Trust the Pledged Items subject to the foregoing lien and security interest, free and clear of any other security interest, lien, encumbrance or other restrictions, and agrees not to create or permit to exist any such security interest, lien, encumbrance or other restrictions, in each case other than any security interest subordinate and junior to the lien and security interest of ICE Trust hereunder as may be acceptable to ICE Trust in its discretion. Each Participant agrees to take any action reasonably requested by ICE Trust that may be necessary or desirable for ICE Trust to create, preserve, perfect or validate the foregoing lien and security interest or to enable ICE Trust to exercise or enforce its rights with respect thereto. With respect to any Pledged Items consisting of securities and other financial assets Transferred by ICE Trust under the terms of these Rules, each Participant agrees it will accept securities and financial assets of the same issuer, type, nominal value, description and amount as those securities and financial assets initially Transferred by such Participant to ICE Trust.
- (e) Subject to subsection (f) below, ICE Trust agrees that all right, title and interest in and to any cash Transferred by ICE Trust to a Participant under the terms of these Rules and not used by or on behalf of the Participant to satisfy a Margin

Requirement shall vest in such Participant free and clear of any liens, claims, charges or encumbrances.

- (f) (i) With respect to Pledged Items Transferred to the Custodial Client Omnibus Margin Account of a Participant under Rule 405, ICE Trust and such Participant hereby agree that such Pledged Items, together with any proceeds thereof, shall constitute the property of, and are held by ICE Trust as custodian solely for the benefit of, Non-Participant Parties and shall not constitute the property of such Participant (except to the extent (and solely to the extent) such Participant has transferred its own property to the Custodial Client Omnibus Margin Account ("**Participant Property**"), rather than property pledged to the Participant by a Non-Participant Party, and such Participant Property has not been substituted or exchanged in accordance with Rule 405), subject to the security interest and lien of ICE Trust pursuant to subsection (b) and the security interest and lien of Participant described in the following sentence. Participant agrees that neither it nor any of its Affiliates shall have any interest in such property (other than a security interest and lien thereon in favor of the Participant to secure the applicable Non-Participant Party's obligations under Non-Participant Contracts and other obligations of the Non-Participant Party to which such property is permitted to be applied thereunder, which security interest and lien shall be junior and subordinate to the security interest and lien of ICE Trust pursuant to subsection (b) above), other than Participant Property. Any such property and any cash (including Cash Margin previously Transferred to ICE Trust in respect of Client-Related Positions (or cash proceeds of Pledged Items)) that is Transferred by ICE Trust to the Participant in respect of Client-Related Positions shall be received by the Participant as agent and custodian on behalf of the relevant Non-Participant Parties in accordance with Rules 405 and the applicable Non-Participant Contracts. For the avoidance of doubt, each Participant shall be obligated to Transfer Margin and Excess Margin to ICE Trust in respect of Client-Related Positions in accordance with these Rules notwithstanding any failure of a Non-Participant Party to provide such Participant with related margin under a Non-Participant Contract.
- (ii) With respect to Pledged Items Transferred to the Custodial Client Omnibus Margin Account of a Participant under Rule 406, ICE Trust agrees that such Pledged Items, together with any proceeds thereof, shall constitute customer property held for the benefit of the applicable Non-Participant Parties of Participant in accordance with applicable law and Rule 406, subject to the security interest and lien of ICE Trust pursuant to subsection (b) and the security interest and lien in favor of Participant to secure the applicable Non-Participant's obligations in respect of the Client-Related Positions and other obligations of the Non-Participant to which such property is permitted to be applied under the applicable documentation between such Non-Participant Party and Participant, which security interest and lien shall be junior and subordinate to the security interest and lien of ICE Trust pursuant to subsection (b) above. For the avoidance of doubt, each Participant shall be obligated to Transfer Margin and

Excess Margin to ICE Trust in respect of Client-Related Positions in accordance with these Rules notwithstanding any failure of a Non-Participant Party to provide such Participant with related margin in respect of such Client-Related Position.

- (g) Where a Participant makes a partial Transfer of the Margin required to be Transferred on any date to ICE Trust in respect of both Client-Related Positions and House Positions, such Margin shall be applied first to the outstanding Margin Requirement in respect of the Client-Related Positions until satisfied and thereafter to the outstanding Margin Requirement in respect of the House Positions, notwithstanding any designation made by the Participant as to the application of such Margin.
- (h) Notwithstanding anything to the contrary herein, ICE Trust shall only be permitted to use, apply or otherwise exercise rights pursuant to subsections (a), (b) and (c) above with respect to Cash Margin and Pledged Items (or the proceeds thereof) posted in respect of Client-Related Positions and constituting Initial Margin or Excess Margin in an aggregate amount for any Default not to exceed the most recently calculated Net Client Omnibus Margin Amount as of the relevant time; provided that Excess Margin of a Non-Participant Party may also be used solely as provided in these Rules. For the avoidance of doubt, but subject to the foregoing sentence, ICE Trust shall be permitted to select the specific assets so used or applied.

403. Initial Margin.

“**Initial Margin**” shall consist of the Margin Categories listed in this Rule (collectively, the “**Initial Margin Categories**”). With respect to each Initial Margin Category, ICE Trust shall determine the Margin Requirement pursuant to one or more methodologies established by ICE Trust from time to time in the ICE Trust Procedures. To protect itself and the other Participants, ICE Trust may deviate from applying the methodologies uniformly to each Participant if ICE Trust determines it appropriate to do so in its sole discretion. Margin Requirements with respect to an Initial Margin Category shall be expressed as a positive number or as zero, as applicable.

- (a) “**Portfolio Risk Margin**” means the Margin ICE Trust requires related to the size and risk of a Participant’s Open Positions.
- (b) “**Physical Settlement Margin**” means the Margin ICE Trust requires to secure a Participant’s obligations to another Participant pursuant to a bilateral agreement relating to a Contract that has been allocated to a pair of Participants for purposes of effecting physical settlement.
- (c) “**Super or Special Margin**” means additional Margin ICE Trust may require for any purpose at any time and from time to time in its sole discretion.

404. Mark-to-Market Margin.

- (a) **“Mark-to-Market Margin”** means the Margin required as a result of the market value of a Participant’s Open Positions. Each currency in which Contracts are denominated shall be treated as a separate Margin Category (each, a **“Mark-to-Market Margin Category”**). With respect to a Participant, the Margin Requirement for a Mark-to-Market Margin Category shall be the sum of the value of each Open Position in such Margin Category, determined by ICE Trust by the application of the Mark-to-Market Price for the relevant Contract (expressed as a positive number if owed by the Participant and a negative number if owed by ICE Trust). Margin Requirements with respect to a Mark-to-Market Margin Category shall be expressed as a positive or negative number or as zero, as applicable.
- (b) **“Mark-to-Market Price”** means, for each Contract, the price determined in the manner designated by ICE Trust for such Contract from time to time in the ICE Trust Procedures. Notwithstanding the foregoing, when deemed necessary by ICE Trust in order to protect the respective interests of ICE Trust and Participants, ICE Trust may set the Mark-to-Market Price for any Contract at a price deemed appropriate by ICE Trust under the circumstances. When ICE Trust determines that circumstances necessitate the application of the preceding sentence, the reasons for that determination and the basis for the establishment of the Mark-to-Market Price in such circumstances shall be recorded as provided in the ICE Trust Procedures. To aid in the establishment of Mark-to-Market Prices, Participants are required to submit end of day prices in accordance with the ICE Trust Procedures. The submission of those prices may result in a bilateral transaction which will subsequently be cleared in accordance with the ICE Trust Procedures.

405. Certain Requirements with Respect to Non-Participant Contracts of Non-FCM Participants.

The provisions of this Rule 405 shall apply to Participants (other than FCMs) solely in respect of Non-Participant Contracts. Without limiting Rule 312, ICE Trust shall have no obligation or liability in respect of any Non-Participant Contract or other transaction or arrangement between a Participant and any Non-Participant Party.

- (a) Non-Participant Contracts shall be documented pursuant to and governed by an ISDA Master Agreement (or other applicable master agreement or netting agreement) agreed between the parties, as supplemented by the Standard Clearing Annex (Non-FCM) (the **“Non-Participant Master Agreement”**).
- (b) A Participant shall require each Non-Participant Party to provide margin or collateral pursuant to the terms of its Non-Participant Contracts (**“Non-Participant Collateral”**) in an amount no less than the amount of Margin of each applicable Margin Category required on a gross basis by ICE Trust with respect to the corresponding Client-Related Position(s) and, except to the extent otherwise agreed to pursuant to subsection (e) below, in a form that is Eligible Margin or Eligible Custodial Assets for the applicable Margin Category (and

subject to any relevant percentage limitations on particular forms of Eligible Margin or Eligible Custodial Assets under the ICE Trust Procedures). For this purpose, "gross basis" shall mean that the margin requirement will be determined giving effect to any offset of such Client-Related Positions against Client-Related Positions relating to the same Non-Participant Party, but without giving effect to any offset or permitted offset of such Client-Related Positions against Client-Related Positions relating to a different Non-Participant Party. With respect to Initial Margin, such minimum amount determined on a gross basis for Non-Participant Contracts of a particular Non-Participant Party shall be referred to herein as the "**Minimum ICE Trust Required Initial Margin**" for that Non-Participant Party.

- (c) A Participant shall receive the margin posted by a Non-Participant Party in respect of the Minimum ICE Trust Required Initial Margin (and any Participant Excess Margin to be held in the Custodial Client Omnibus Margin Account) (collectively, the "**Non-Participant Initial Margin**") as agent or custodian or in a similar capacity for the benefit of the Non-Participant Party, subject to a security interest and lien in favor of the Participant, pursuant to the Non-Participant Master Agreement.
- (d) The Non-Participant Initial Margin shall be separately accounted for and segregated from the assets and accounts of the Participant and its Affiliates, whether credited to the Custodial Client Omnibus Margin Account or held by the Participant or its custodian during any period pending its Transfer by the Participant to such account, which segregation may be on an omnibus basis for margin of Non-Participant Parties. The Participant shall be responsible for reflecting such segregation on its books and records in a manner consistent with the legal, regulatory and insolvency regime applicable to the Participant.
- (e) Within such times as ICE Trust shall specify pursuant to the ICE Trust Procedures, and in any event promptly upon receipt by the Participant of the Minimum ICE Trust Required Initial Margin for a Non-Participant Party, the Participant shall Transfer such margin to the Custodial Client Omnibus Margin Account, where it shall satisfy the Non-Participant Pro Rata Share of Participant's Initial Margin requirement in respect of Client-Related Positions in the amount of the Net Client Omnibus Margin Amount, with the remainder constituting Excess Margin. If agreed between the Participant and Non-Participant Party, the Non-Participant Initial Margin provided by the Non-Participant Party may be exchanged for or invested in a type of Eligible Margin or Eligible Custodial Assets by the Participant on behalf of the Non-Participant Party, whereupon such replacement Eligible Margin or Eligible Custodial Asset shall constitute Non-Participant Initial Margin of the Non-Participant Party for purposes hereof and shall be Transferred to the Custodial Client Omnibus Margin Account as provided herein, and any Non-Participant Initial Margin provided by the Non-Participant Party and so exchanged shall become the property of the Participant.

- (f) Participant Excess Margin shall be held as agreed between the Participant and the Non-Participant Party. Subject to such agreement, Participant Excess Margin may, but need not, be transferred to the Custodial Client Omnibus Margin Account. For the avoidance of doubt, Participant Excess Margin not transferred to the Custodial Client Omnibus Margin Account may also secure obligations of the Non-Participant Party other than in respect of Non-Participant Contracts.
- (g) Non-Participant Initial Margin in the Custodial Client Omnibus Margin Account may only constitute the Participant's Margin for purposes of these Rules to the extent of the Net Client Omnibus Margin Amount. ICE Trust shall hold any Excess Margin as custodian in respect thereof and shall not be entitled to use or apply Excess Margin to satisfy Obligations of a Participant except as expressly set forth herein; provided that ICE Trust shall be entitled to transfer assets in the Custodial Client Omnibus Margin Account (including Excess Margin) as set forth in Chapter 20A of these Rules.
- (h) ICE Trust may but will not be obligated to provide a service pursuant to which Excess Margin with respect to a Participant's Non-Participant Parties in the form of Cash in the Custodial Client Omnibus Margin Account may be invested in Eligible Custodial Assets as directed by such Participant (if applicable), which investments shall be held in the Custodial Client Omnibus Margin Account. The terms and conditions of any such service shall be specified in the Custodial Asset Policies.
- (i) ICE Trust shall pass through to the relevant Participant the return on any assets in the Custodial Client Omnibus Margin Account (including any return provided by ICE Trust on Cash therein), less administrative costs as determined by ICE Trust, whereupon such return shall be subject to distribution by the Participant in accordance with the applicable Non-Participant Master Agreements or as otherwise agreed between the Participant and relevant Non-Participant Parties.
- (j) Each Participant will be required to identify in its books and records (i) the aggregate amount of the Minimum ICE Trust Required Initial Margin Transferred that constitutes Excess Margin (the "**Aggregate ICE Trust Excess Margin**"), (ii) the aggregate amount of Participant Excess Margin Transferred to the Custodial Client Omnibus Margin Account and (iii) the amount of assets in the Custodial Client Omnibus Margin Account representing Excess Margin of each applicable Non-Participant Party (for such party, its "**Excess Margin Amount**"), including amounts in respect of both the Minimum ICE Trust Required Initial Margin and any Participant Excess Margin. Provided that no Default has occurred and is continuing with respect to the Participant, in the event of the termination of a Non-Participant Contract (including as a result of a default by a Non-Participant Party under the terms of a Non-Participant Master Agreement), the Participant may notify ICE Trust to that effect in writing and request the return to the Participant of the Excess Margin Amount for such Non-Participant Party in accordance with Rule 401(h) and the ICE Trust Procedures. For the avoidance

of doubt, the Excess Margin Amount of a Non-Participant Party may not be used by a Participant to satisfy the obligations of other Non-Participant Parties. In addition, to the extent a Participant is required to return margin to the Non-Participant Party under the terms of a Non-Participant Master Agreement (unless a Default with respect to a Participant has occurred and is continuing, in which case Rule 20-605 and Chapter 20A of these Rules shall apply), the Participant shall request from ICE Trust a return of the Excess Margin Amount (or applicable portion thereof) required to be so returned.

- (k) To the extent a Participant has Transferred Participant Property to the Custodial Client Omnibus Margin Account in respect of a Non-Participant Party's Minimum ICE Trust Required Initial Margin, it may require the relevant Non-Participant Party to reimburse such advance of Participant Property and may subsequently substitute such Participant Property with eligible Non-Participant Initial Margin of the relevant Non-Participant Party, which shall satisfy such obligation (or in the case of Participant Property in the form of cash where the Non-Participant Property has provided Non-Participant Initial Margin in the form of cash, to deem such margin to have been so substituted). In addition, the Participant may agree with the Non-Participant Party (i) to treat such advance of Participant Property for the benefit of such Non-Participant Party as secured by the corresponding Non-Participant Initial Margin, and/or (ii) to treat such Participant Property as having been exchanged for the assets comprising the relevant Non-Participant Initial Margin, whereupon such Non-Participant Initial Margin shall become property of the Participant and such Participant Property shall become property (and be treated as Non-Participant Initial Margin) of the relevant Non-Participant Party. Participants shall not otherwise be allowed to use or rehypothecate any assets in the Custodial Client Omnibus Margin Account.
- (l) In connection with any Non-Participant Contracts and related Client-Related Positions, Participant shall keep and maintain written records showing, with respect to such Non-Participant Contract and related Client-Related Position, the identity of the relevant Non-Participant Party, the amount and form of Non-Participant Initial Margin posted by such Non-Participant Party, the amount and form of Non-Participant Initial Margin Transferred to the Custodial Client Omnibus Margin Account, any investments made with such Non-Participant Initial Margin, any Margin requirements satisfied with Participant Property and the amount and form thereof, any exchanges of Participant Property for margin provided by a Non-Participant Party, the applicable Non-Participant Pro Rata Share for such Non-Participant Party and any such other information as may be required by law, regulation or ICE Trust. Each Participant shall provide such records to ICE Trust upon request and upon such other basis, if any, as is provided in the ICE Trust Procedures.
- (m) Without limiting Rule 312, ICE Trust shall not be liable to any Participant, Non-Participant Party or other Person for any losses, claims, liabilities, damages or expenses arising out of or relating to the holding, investment or use of the

Custodial Client Omnibus Margin Accounts or assets credited thereto from time to time (“**Custodial Losses**”), except to the extent such Custodial Losses result from the gross negligence or willful misconduct of ICE Trust. No Participant shall be liable to any Non-Participant Party for any Custodial Losses, except to the extent such Custodial Losses result from the gross negligence or willful misconduct of the Participant. ICE Trust shall have no duties or responsibilities with respect to the Custodial Client Omnibus Margin Accounts except as expressly set forth in these Rules. ICE Trust shall have no responsibility for any investment decisions by a Participant (or any other Person) with respect to assets in the Custodial Client Omnibus Margin Account or for the results of any such investments and shall have no obligation to monitor the value of the assets in the Custodial Client Omnibus Margin Account or the conformity thereof to the requirements of Rule 405 or any requirements set forth in any Non-Participant Master Agreement. ICE Trust shall have no responsibility for the compliance by any Participant or Non-Participant Party with its obligations under a Non-Participant Master Agreement. ICE Trust shall be under no obligation to inquire into, and shall be fully protected in relying on, any instructions or directions with respect to the Custodial Client Omnibus Margin Account or the assets therein or transferred thereto or therefrom under these Rules received from a Person ICE Trust believes to be authorized to act on behalf of the appropriate Participant.

- (n) Each Participant shall be required to obtain the agreement of each Non-Participant Party to the provisions of this Rule 405 in the Non-Participant Master Agreement, with ICE Trust as a third party beneficiary of such agreement.
- (o) Each Participant hereby agrees to the terms and conditions of the DCM Standard Terms to these Rules as in effect from time to time. Each applicable Non-Participant Party shall be a third party beneficiary of such agreement.
- (p) ICE Trust may, consistent with applicable law, adopt procedures requiring the transfer of Client-Related Positions subject to this Rule 405 to FCM Participants to be held in accordance with Rule 406.

406. Certain Requirements with Respect to Client-Related Positions of FCM Participants.

The provisions of this Rule 406 shall apply to Participants that are FCMs in respect of Client-Related Positions. Without limiting Rule 312, ICE Trust shall have no obligation or liability to any Non-Participant Party in respect of a Client-Related Position or any transaction, agreement or arrangement between a Participant and any Non-Participant Party.

- (a) The relationship between a Non-Participant Party and a Participant in respect of Client-Related Positions for that Non-Participant Party shall be documented pursuant to and governed by a futures account agreement or clearing agreement (or equivalent document) agreed between such parties (“**Customer Account Agreement**”), subject to the applicable provisions of the Rules.

- (b) A Participant shall require each Non-Participant Party to provide margin or collateral (“**Non-Participant Collateral**”) in an amount no less than the amount of Margin of each applicable Margin Category required on a gross basis by ICE Trust with respect to the relevant Client-Related Position(s). For this purpose, “gross basis” shall mean that the margin requirement will be determined giving effect to any offset of such Client-Related Positions against Client-Related Positions relating to the same Non-Participant Party, but without giving effect to any offset or permitted offset of such Client-Related Positions against Client-Related Positions relating to a different Non-Participant Party. With respect to Initial Margin, such minimum amount determined on a gross basis for Client-Related Positions related to a particular Non-Participant Party shall be referred to herein as the “**Minimum ICE Trust Required Initial Margin**” for that Non-Participant Party. The Minimum ICE Trust Required Initial Margin for a Non-Participant Party, together with any Participant Excess Margin for such Non-Participant Party, shall be referred to herein as the “**Non-Participant Initial Margin**” for such party.
- (c) A Participant shall receive, hold and use all Non-Participant Collateral only as permitted under CEA Section 4d(f) and the rules thereunder and Securities Exchange Act Section 3E and the rules thereunder, as applicable, and to the extent not inconsistent with the foregoing, as set forth in these Rules and the ICE Trust Procedures (the “**Swap Customer Segregation Requirements**”). All customer property Transferred to ICE Trust by Participant on behalf of Non-Participant Parties shall be held in the Custodial Client Omnibus Margin Account of such Participant as customer property in accordance with the Swap Customer Segregation Requirements. Pursuant to this Rule, Participant shall satisfy the requirement to obtain any segregation acknowledgement letter from ICE Trust under the Swap Customer Segregation Requirements.
- (d) Prior to the effectiveness of the Swap Customer Segregation Requirements, the Client-Related Positions and related Non-Participant Collateral shall be held in the cleared OTC derivative account class for purposes of Part 190 of the CFTC regulations. All Non-Participant Collateral Transferred to ICE Trust by Participant on behalf of Non-Participant Parties shall be held in the Custodial Client Omnibus Margin Account as customer property separated from the proprietary positions and margin of such Participant. Such customer property shall be treated by ICE Trust as belonging to the applicable Non-Participant Parties of Participant. Subject to the foregoing and to any requirements in respect of the cleared OTC derivative account class that may be adopted by the CFTC, the Participant shall treat such customer property in the manner required for segregated customer property with respect to futures contracts under CFTC Rules 1.20-1.30; provided that such customer property shall be accounted for and held separately from, and not in any event commingled with, any such segregated customer property for futures contracts.

- (e) Non-Participant Collateral posted in respect of the ICE Trust Minimum Required Initial Margin may only be applied in respect of Client-Related Positions for purposes of these Rules to the extent of the Net Client Omnibus Margin Amount or as otherwise provided herein. Accordingly, Non-Participant Collateral of Non-Participant Parties, whether or not such parties are themselves in default, is at risk as provided in the preceding sentence if there is a Default by a Participant affecting Client-Related Positions. ICE Trust shall hold any Non-Participant Collateral that constitutes Excess Margin as custodian and depository in respect thereof and shall not be entitled to use or apply Excess Margin to satisfy Obligations of a Participant except as expressly set forth herein; provided that ICE Trust shall be entitled to transfer assets in the Custodial Client Omnibus Margin Account (including Excess Margin) as set forth in Chapter 20A of these Rules.
- (f) ICE Trust shall pass through to the relevant Participant the return on any assets in the Custodial Client Omnibus Margin Account (including any return provided by ICE Trust on Cash therein), less administrative costs as determined by ICE Trust.
- (g) Each Participant will be required to identify in its books and records (i) the aggregate amount of the Minimum ICE Trust Required Initial Margin Transferred that constitutes Excess Margin (the “**Aggregate ICE Trust Excess Margin**”), (ii) the aggregate amount of Participant Excess Margin Transferred to the Custodial Client Omnibus Margin Account and (iii) the amount of assets in the Custodial Client Omnibus Margin Account representing Excess Margin of each applicable Non-Participant Party (for such party, its “**Excess Margin Amount**”), including amounts in respect of both the Minimum ICE Trust Required Initial Margin and any Participant Excess Margin.
- (h) In connection with any Client-Related Position and related Non-Participant Collateral, Participant shall keep and maintain written records required by the Swap Customer Segregation Requirements (or, prior to the effectiveness of such requirements, as required under CFTC regulations for positions subject to segregation under CFTC Rule 1.20). Each Participant shall provide such records to ICE Trust upon request and upon such other basis, if any, as is provided in the ICE Trust Procedures.
- (i) Without limiting Rule 312, but subject to any contrary requirements of law: ICE Trust shall not be liable to any Participant, Non-Participant Party or other Person for any Custodial Losses, except to the extent such Custodial Losses result from the gross negligence or willful misconduct of ICE Trust. No Participant shall be liable to any Non-Participant Party for any Custodial Losses, except to the extent such Custodial Losses result from the gross negligence or willful misconduct of the Participant. ICE Trust shall have no duties or responsibilities with respect to the Custodial Client Omnibus Margin Accounts except as expressly set forth in these Rules and applicable law. ICE Trust shall have no responsibility for any investment decisions by a Participant (or any other Person) with respect to

assets in the Custodial Client Omnibus Margin Account or for the results of any such investments and shall have no obligation to monitor the value of the assets in the Custodial Client Omnibus Margin Account or any requirements set forth in any applicable agreement between Participant and a Non-Participant Party. ICE Trust shall have no responsibility for the compliance by any Participant or Non-Participant Party with its obligations under any such agreement. ICE Trust shall be under no obligation to inquire into, and shall be fully protected in relying on, any instructions or directions with respect to the Custodial Client Omnibus Margin Account or the assets therein or transferred thereto or therefrom under these Rules received from a Person ICE Trust believes to be authorized to act on behalf of the appropriate Participant. In no event shall a Non-Participant Party attempt to interfere with the ability of ICE Trust to exercise its rights as set forth in the Rules.

- (j) Each Non-Participant Party for which a Participant clears a Client-Related Position must be an “eligible contract participant” as defined in the CEA.
- (k) Each Non-Participant Party consents to the disclosure by its Participant to ICE Trust of such Non-Participant Party’s identity and information concerning the Client-Related Positions held by such Participant for such Non-Participant Party and related margin as set forth in the Rules.
- (l) Each Non-Participant Party consents and agrees that in the event a Default has occurred with respect to its Participant or in the event of the insolvency of the Participant, (i) the Participant (or its receiver, insolvency trustee or similar official) and/or ICE Trust shall be entitled to attempt to transfer its Client-Related Positions in accordance with Part 190 of the CFTC regulations, other applicable law and the Default Portability Rules, (ii) such Non-Participant Party appoints ICE Trust as its lawful agent and attorney-in-fact to take such actions on behalf of the Non-Participant Party as ICE Trust determines necessary or appropriate in order to effectuate the Default Portability Rules with respect to the Client-Related Positions carried by the Participant for such Non-Participant Party, including executing any document or instrument with respect to the transfer of the Client-Related Positions and/or exercising rights and remedies to transfer such positions; (iii) the Non-Participant Party shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of the Participant, any receiver, insolvency trustee or similar official, or ICE Trust to take action contemplated by its Rules, including, without limitation, the transfer of positions and the transfer of related margin or collateral; (iv) any determination made by ICE Trust with respect to the termination value of a Client-Related Position under the Rules shall be conclusive and binding absent manifest error and (v) any amount payable by such Non-Participant Party in respect of the termination of a Client-Related Position held by the Defaulting Participant for such Non-Participant Party shall not be netted or offset against any amount owed by such Participant to such Non-Participant Party under any other agreement or instrument and shall be paid directly to or as directed by ICE Trust.

- (m) Each Participant shall be required to obtain the agreement of each Non-Participant Party to the provisions of the Rules applicable to or otherwise referring to Non-Participant Parties (including Rule 312 and this Rule 406) and hereby represents and warrants to ICE Trust that it has obtained such agreement.
- (n) Each Participant hereby agrees to the terms and conditions of the DCM Standard Terms as in effect from time to time. Each applicable Non-Participant Party shall be a third party beneficiary of such agreement. Each Non-Participant Party agrees to the terms and conditions of the DCM Standard Terms as in effect from time to time, and each Participant acting as an “Executing Dealer” or “FCM” thereunder shall be a third party beneficiary of such agreement.

407. UK and European Issues

- (a) For the purposes of this Rule 407 only:
 - (i) **“Offer to the Public”** in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and any Securities to be offered so as to enable an investor to decide to purchase or subscribe for those Securities, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State;
 - (ii) **“PD Contract”** means any contract that is a Security and which is (A) a contract cleared or proposed to be cleared by ICE Trust; or (B) a contract in relation to which ICE Trust provides or proposes to provide services as collateral agent; or (C) a contract on terms identical or similar to a contract falling under (A) or (B);
 - (iii) **“Prospectus Directive”** means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State and any reference to a particular article of the Prospectus Directive shall be deemed to also be a reference to the relevant provision of the relevant implementing measure in each Relevant Member State;
 - (iv) **“Relevant Member State”** means, in relation to paragraph (b) of this Rule or any of the other definitions in this paragraph (a), any member state of the European Economic Area which has implemented the Prospectus Directive or, in relation to paragraphs (i), (j), (k), (l) and (m) of this Rule, means any member state of the European Economic Area which has implemented the Data Protection Directive; and
 - (v) **“Securities”** means ‘securities’ within the meaning of article 2(1)(a) of the Prospectus Directive as the same may be varied in any Relevant Member

State by any measure implementing the Prospectus Directive in that Relevant Member State.

- (b) ICE Trust has not authorized, nor does it authorize, the making of any Offer to the Public of any PD Contract in circumstances in which an obligation arises for ICE Trust, a Participant or any other person to publish or supplement a prospectus for any such offer. Accordingly, Participants shall not make any such Offer to the Public in relation to PD Contracts. Without prejudice to the generality of the foregoing, no Participant shall enter into a PD Contract: (i) with ICE Trust; or (ii) with another Participant pursuant to these Rules; or (iii) with any of its customers on a back-to-back basis with a contract falling under (i) or (ii), unless one or more of the following conditions is satisfied:
- (A) in the case of any PD Contract to which ICE Trust is a party, the Participant is a “qualified investor” (as defined article 2(1)(e) of the Prospectus Directive);
 - (B) in the case of any PD Contract to which ICE Trust is not a party, the Participant and its counterparty are both “qualified investors” (as defined in article 2(1)(e) of the Prospectus Directive);
 - (C) the minimum total consideration is at least €50,000; or
 - (D) the requirement to publish or supplement a prospectus under the Prospectus Directive otherwise does not apply.
- (c) Each Participant shall be deemed to represent and warrant to ICE Trust that it has complied and will comply with all applicable provisions of the Financial Services and Markets Act 2000 (as amended, “**FSMA**”) with respect to anything done by it in connection with the clearing services provided, and contracts offered, by ICE Trust in, from or otherwise involving the United Kingdom.
- (d) Paragraphs (e), (f), (g) and (h) of this Rule shall cease to apply on such date that ICE Trust becomes a recognized overseas clearing house in the United Kingdom.
- (e) Participants and other persons are hereby given notice that ICE Trust is not a recognized clearing house or recognized overseas clearing house (“**ROCH**”) in the United Kingdom.
- (f) These Rules and any other document or material produced by ICE Trust may be distributed only to persons who: (i) are “investment professionals” as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended, the “**Financial Promotion Order**”); (ii) are persons falling within Article 49(2)(a) to (d) (“high net worth companies, unincorporated associations etc”) of the Financial Promotion Order; (iii) are outside the United Kingdom in circumstances in which Article 12 of the Financial

Promotion Order (“communications to overseas recipients”) applies; or (iv) are persons to whom an invitation or inducement to engage in investment activity (within the meaning of the FSMA) in connection with the clearing services provided, and contracts offered, by ICE Trust may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as “**Relevant Persons**”). These Rules and such other documents and materials are directed only at Relevant Persons and must not be acted on or relied on by persons who are not Relevant Persons. Any investment or investment activity to which these Rules or such other documents or materials relate is available only to Relevant Persons and will be engaged in only with Relevant Persons.

- (g) Each Participant shall be deemed to represent and warrant to ICE Trust that it has only communicated or caused to be communicated, and will only communicate or cause to be communicated, any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA), received by it in connection with the clearing services provided, or contracts offered, by ICE Trust, in circumstances in which Section 21(1) of the FSMA would not be breached by ICE Trust.
- (h) Without prejudice to the generality of paragraphs (f) and (g) of this Rule, Participants shall not enter into any contract with any person that is not a Relevant Person on a back-to-back basis either: (i) with a contract to which ICE Trust is counterparty; or (ii) with a contract to which another Participant is counterparty in circumstances in which ICE Trust provides services as collateral agent.
- (i) ICE Trust shall be entitled to Process any Personal Data provided to it by Participants for the purpose of exercising any rights ICE Trust has under these Rules or the Participant Agreement, including Processing required to comply with ICE Trust’s legal and regulatory obligations as a clearing house or bank.
- (j) ICE Trust agrees that it will:
 - (i) keep all Personal Data confidential only insofar as this is required under the Participant Agreement;
 - (ii) ensure that access to Personal Data shall only be provided to those of its employees or service providers who need access to such data for the performance of their duties for the purposes set out in Rule 407(i). ICE Trust will ensure that any such transfers of Personal Data to third party service providers will be subject to contractual requirements to safeguard Personal Data equivalent to those set out in this Rule 407(j);

- (iii) take adequate technical and organizational security measures to safeguard Personal Data against unauthorized access, destruction, disclosure, transfer, or other improper use;
 - (iv) provide access to any Participant to the Personal Data which have been provided by that Participant, to enable that Participant to provide relevant Data Subjects with access to such Personal Data. ICE Trust shall refer Data Subjects requesting access to their Personal Data to the relevant Participant and shall also, at the request of any Participant, amend, correct, delete or add to Personal Data that have been supplied by that Participant to ensure that such Personal Data are accurate and complete;
 - (v) as soon as reasonably practical cease processing any Personal Data where it receives notice from any Participant that consent to Processing has been revoked by a Data Subject;
 - (vi) promptly notify any Participant of any accidental or unauthorized access, destruction, disclosure, transfer or other improper use of Personal Data that have been supplied by such Participant, after ICE Trust becomes aware of any such access, destruction, disclosure, transfer or other improper use, or of any complaints by individuals or third parties that involve or pertain to such Personal Data;
 - (vii) co-operate with any Participant in responding to any inquiry, complaint, or claim from a Supervisory Authority or any Data Subject relating to the Processing of Personal Data provided by that Participant;
 - (viii) comply with all reasonable instructions of Participants to ensure ICE Trust's compliance with its obligations under this Rule 407(j); and
 - (ix) make reasonable periodic inquiries into its compliance with its obligations under this Rule 407(j).
- (k) To the extent that ICE Trust is a Processor in respect of such Personal Data, ICE Trust shall Process such Personal Data provided to it by any Participant in accordance with any reasonable instructions of the relevant Participant, which instructions shall permit the Processing of such Personal Data for the purposes set out in Rule 407(i).
- (l) Each Participant, in relation to all Personal Data provided by it to ICE Trust, shall ensure that:
- (i) where consent is required, all relevant Data Subjects have consented to their Personal Data being disclosed to ICE Trust for Processing in accordance with these Rules, including any onward transfer to a jurisdiction outside the European Economic Area by either ICE Trust or any relevant third party;

- (ii) the disclosure of Personal Data by the Participant to ICE Trust will be in each case and in all respects lawful; and
 - (iii) notice of the disclosure of their Personal Data to ICE Trust for Processing in accordance with these Rules will be provided to all relevant Data Subjects prior to any such disclosure.
- (m) For the purposes of Rules 407(i), (j), (k), (l) and (m) only:
 - (i) the terms “**Processor**,” “**Process(ing)**” and “**Personal Data**” each have the meaning given to such terms in the Data Protection Directive;
 - (ii) the term “**Data Subject(s)**” shall mean an individual who is the subject of Personal Data;
 - (iii) the term “**Supervisory Authority**” shall mean the data protection authority in the applicable European state; and
 - (iv) the term “**Data Protection Directive**” shall mean Directive 95/46 EC and includes any relevant implementing measure in each Relevant Member State.
- (n) For purposes of Rule 405 as it relates to Participants organized or acting through a branch in the United Kingdom, such Participants shall execute a “deed poll” or similar document in the form approved by ICE Trust from time to time. For purposes of Rule 405 as it relates to Participants organized in other non-U.S. jurisdictions, ICE Trust may adopt from time to time supplemental provisions and/or required documentation to be applicable to such Participants.

5. RISK COMMITTEE

501. The Risk Committee.

ICE Trust shall establish a committee that includes representatives of Participants (the “**Risk Committee**”) as provided in Rule 503. Notwithstanding anything to the contrary in these Rules, the Board shall not have any obligation to accept any proposal made by, or take any action proposed by, the Risk Committee, and any deliberation and/or decision by the Board with respect to any such proposal shall be made at the sole discretion of the Board, with no obligation whatsoever to the Risk Committee in respect of such deliberation or decision.

502. Specified Actions.

ICE Trust shall not take nor permit to be taken any of the following actions without prior consultation with the Risk Committee (“**Specified Actions**”):

- (a) accept for clearing any types of transactions other than the credit default swaps specified as Schedule 502 to these Rules (“**Pre-Approved Products**”) and, with respect to new Contracts (including for Pre-Approved Products) or the then-existing Contracts, establish, impose, make any change or addition to or deletion from or otherwise modify, directly or indirectly, (collectively, “**Modify**” and any such action, a “**Modification**”) the Rules, or, to the extent directly and materially relating thereto, the ICE Trust Procedures or any other governing provisions, (the Rules, such ICE Trust Procedures and such other governing provisions, collectively, the “**ICE Provisions**”) relating to the specific characteristics of a Contract or make the determination that a proposed Modification to the ICE Provisions relating to the specific characteristics of a Contract is not a Contract Modification (as defined in Rule 616), it being understood that adding new series or versions of an index to an existing Contract as contemplated by the Rules governing such Contract shall not be considered a Modification;
- (b) Modify the Participant qualifications set forth in or contemplated by Rule 201 (or any successor Rule thereto) or the other ICE Provisions (the “**Participant Qualifications**”);
- (c) (i) Modify the ICE Provisions that relate to Margin, including, without limitation, (A) the methodology for calculating any Margin Requirement or the components thereof, (B) the types of currency or assets that qualify as Eligible Margin or the methodology and discounts for calculating the Value thereof, (C) the methodology for determining the interest rate charged or credited for cash Margin, (D) provisions relating to the application, or the use, rehypothecation or investment, of Margin and (E) provisions relating to Buyer Allocated Collateral (as defined in Rule 2204(b)) or (ii) Modify the ICE Provisions to include material obligations relating to, or otherwise materially affecting, the manner in which

Participants or their Affiliates interact with their customers and/or conduct their business outside of the Participant's direct dealings with ICE Trust, including, without limitation, with respect to margin, collateral or other credit support provided by customers;

- (d) Modify the ICE Provisions that relate to (i) the structure, size or application of the General Guaranty Fund, (ii) the methodology for calculating a Participant's Required Contribution or the components thereof, (iii) the types of currency or assets eligible for, or valuation methodology or discounts applied to, a Participant's Guaranty Fund contribution, (iv) the Additional Assessment Limit, (v) the time period for, or means by which, Collateral is returned to a Participant, (vi) the methodology for determining the interest rate credited for Collateral on deposit in the General Guaranty Fund, (vii) the methodology and procedures for applying amounts on deposit in General Guaranty Fund and recoveries related thereto, (viii) provisions relating to the use, rehypothecation or investment of Collateral on deposit in the General Guaranty Fund or (ix) the size, form, timing, investment guidelines, valuation or priority scheme with respect to the ICE Trust Priority Contribution or the ICE Trust Pro Rata Contribution;
- (e) Modify the ICE Provisions that relate to (i) the Closing-out Process, the CDS Default Committee or the other rights and obligations of ICE Trust upon the Default of a Participant or the occurrence of an ICE Trust Default, (ii) the definition of ICE Trust Default or Default or the process required to determine that a Default has occurred, (iii) the definition of Termination Event, the process required to determine that a Termination Event has occurred, or the rights and obligations of ICE Trust upon the occurrence of a Termination Event with respect to a Participant, (iv) the process for dispute resolution or (v) the process for effecting physical settlement of Contracts or the allocation methodology relating thereto;
- (f) Modify the ICE Provisions that relate to open access to the clearing system operated by ICE Trust in accordance with these Rules for all execution venues and all Trade processing platforms, as contemplated by Rule 314 (or any successor Rule thereto);
- (g) Modify the ICE Provisions that relate to (i) ICE Trust or any other Person seeking the consent of, or engaging in consultation with, the Risk Committee or any other specified body or other Person, (ii) the delegation of responsibility for an action or determination to a Person other than ICE Trust, (iii) ICE Trust or any other Person applying a particular standard for an action or determination, including, without limitation, Rule 615 (or any successor Rule thereto) or (iv) Chapter 7 of these Rules (or any successor Chapter thereto); and
- (h) Modify this Chapter of the Rules or Modify any other Risk Committee Provisions (as defined in Rule 504).

503. Composition of the Risk Committee; Confidentiality.

- (a) The composition of the Risk Committee shall be as follows:
- (i) The Risk Committee shall consist of twelve members.
 - (ii) Each member of the Risk Committee shall have risk management experience and expertise and shall be subject to the approval of the Board, such approval not to be unreasonably withheld, conditioned or delayed.
 - (iii) Three of the members of the Risk Committee shall be comprised of (A) a member of the Board who is independent in accordance with the requirements of each of the New York Stock Exchange listing standards, the U.S. Securities Exchange Act of 1934, as amended, and IntercontinentalExchange, Inc.'s Board of Director Governance Principles (such requirements, the "**Independence Requirements**" and such member, the "**Independent ICE Manager**") and (B) two officers of ICE Trust from among the Chief Executive Officer, President, Chief Financial Officer and Chief Risk Officer, each appointed by ICE US Holding Company L.P. (including any successor, the "**ICE Parent**"), a Cayman Islands exempted limited partnership, by written notice to the Board;
 - (iv) The other nine members of the Risk Committee will be appointed as specified below (the "**Participant Appointees**");
 - (v) The nine Participant Appointees will include one member appointed by each Participant Group that includes or is Affiliated with one of the following: Bank of America, N.A.; Barclays Bank PLC; Citibank, N.A.; Credit Suisse International; Deutsche Bank AG; Goldman Sachs International; JPMorgan Chase Bank, N.A.; Morgan Stanley Capital Services, Inc. and UBS AG. "**Participant Group**" means a Participant and its Affiliates, if any, such that, if two or more Participants are Affiliates, collectively they shall constitute a Participant Group.
 - (vi) The composition of the Participant Appointees shall be reconstituted on the two year anniversary of the first date on which ICE Trust accepts Contracts for clearing (the "**Start Date**") and each one year anniversary of the Start Date thereafter as follows (each such anniversary, a "**Risk Committee Reconstitution Date**," and the twelve full consecutive calendar months ending immediately prior to a Risk Committee Reconstitution Date, an "**Eligibility Determination Period**") (subject to paragraph (ii) above):
 - (A) among those Participant Groups that have an incumbent member on the Risk Committee, those Participant Groups that have the six highest Participant Activities for the immediately preceding

Eligibility Determination Period (each, a “**Top Six Incumbent Participant Group**”) shall have the right to retain such member on the Risk Committee until the next Risk Committee Reconstitution Date;

- (B) among the Participant Groups that are not Top Six Incumbent Participant Groups, the Participant Groups that have the three highest Participant Activities for the immediately preceding Eligibility Determination Period (each, an “**Eligible Participant Group**”) shall have the right to appoint or retain, as applicable, a member on the Risk Committee until the next Risk Committee Reconstitution Date;
- (C) each Participant Group that has an incumbent member on the Risk Committee but is not entitled to retain such member as provided above shall cause its Risk Committee member to resign or otherwise remove such member from the Risk Committee effective as of the applicable Risk Committee Reconstitution Date; and
- (D) each Participant Group that has the right to appoint a member to the Risk Committee as provided above and that does not have an incumbent member on the Risk Committee shall notify the Board in writing on or prior to the applicable Risk Committee Reconstitution Date of the individual appointed by such Participant Group to the Risk Committee; *provided, however*, that the failure to provide such notice shall not result in the loss of the right of such Participant Group to appoint a member to the Risk Committee.
- (E) “**Participant Activity**” means, for a specified Eligibility Determination Period and with respect to a particular Participant Group, the aggregate volume of Trades during such time submitted to, and accepted for clearing by, ICE Trust by members of such Participant Group, which such volume shall be measured in terms of aggregate notional amount of Trades so submitted and accepted. In the event that a Combination of Participants occurs prior to the applicable Risk Committee Reconstitution Date, all Participant Activity of such Participants (and their Affiliates) shall be aggregated together for purposes of determining the Participant Activity of the resulting Participant Group for the corresponding Eligibility Determination Period.
- (F) “**Combination**” means any event in which a Participant (or its Affiliate) obtains Control of another Participant that was previously not an Affiliate of such Participant (or any Person that Controls such other Participant) or a Participant (or any Person that Controls such Participant) is merged with another Participant that was

previously not an Affiliate of such Participant (or any Person that Controls such other Participant).

- (vii) Notwithstanding anything to the contrary herein, if at any time prior to the one year anniversary of the Start Date, there is a Combination involving Participants where more than one of the relevant Participant Groups had the right to appoint a member of the Risk Committee, then (A) as of the date of consummation of such Combination, such Participant Groups shall, collectively, have the right to appoint only one member of the Risk Committee and the Participant Group resulting from such Combination shall take all actions necessary to remove all but one of their previously appointed members effective as of the date of consummation of the Combination, (B) the resulting vacanc(ies) on the Risk Committee shall remain vacant until the one year anniversary of the Start Date and (C) at the one year anniversary of the Start Date, the vacanc(ies) of the Risk Committee will be filled by the Participant Group(s) that had the highest Participant Activit(ies) (over the 12-month period from and including the Start Date to but excluding such one year anniversary) among those Participants that did not have the right to appoint one of the initial members of the Risk Committee (in order of the level of such Participant Activity, from highest to lowest) effective as of the one year anniversary of the Start Date.

- (viii) Notwithstanding anything to the contrary herein, if at any time on or after the one year anniversary of the Start Date but prior to the first Risk Committee Reconstitution Date, there is a Combination involving Participants where more than one of the relevant Participant Groups had the right to appoint a member of the Risk Committee, then, as of the date of consummation of such Combination, (A) such Participant Groups shall, collectively, have the right to appoint only one member of the Risk Committee and the Participant Group resulting from such Combination shall take all actions necessary to remove all but one of their previously appointed members effective as of the date of consummation of the Combination and (B) the vacanc(ies) of the Risk Committee will be filled by the Participant Group(s) that had the highest Participant Activit(ies) (over the 12-month period from and including the Start Date to but excluding such one year anniversary) among those Participants that, as of the date of consummation of such Combination, did not have the right to appoint a member to the Risk Committee (in order of the level of such Participant Activity, from highest to lowest) effective as of the date of consummation of such Combination.

- (ix) Notwithstanding anything to the contrary herein, if at any time on or after the first Risk Committee Reconstitution Date, there is a Combination involving Participants where more than one of the relevant Participant Groups had the right to appoint a member of the Risk Committee, then, as

of the date of consummation of such Combination, (A) such Participant Groups shall, collectively, have the right to appoint only one member of the Risk Committee and the Participant Group resulting from such Combination shall take all actions necessary to remove all but one of their previously appointed members effective as of the date of consummation of the Combination and (B) the vacanc(ies) of the Risk Committee will be filled by Participant Group(s) that had the highest Participant Activit(ies) (over the immediately preceding Eligibility Determination Period) among those Participants that, as of the date of consummation of such Combination, did not have the right to appoint a member to the Risk Committee (in order of the level of such Participant Activity, from highest to lowest) effective as of the date of consummation of such Combination.

- (x) Notwithstanding anything to the contrary herein, if at any time all Participants in a Participant Group with the right to appoint a member of the Risk Committee are in Default or have had their status as Participant terminated as a result of being a Retiring Participant, (A) such Participant Group shall immediately lose the right to appoint a member to the Risk Committee, (B) if applicable, the resulting vacancy on the Risk Committee shall remain vacant until the one year anniversary of the Start Date and (C) at the later of the one year anniversary of the Start Date and the date of such Default or termination, the Participant Group that had the highest Participant Activity (over the period from and including the Start Date to but excluding such one year anniversary or, if on or after the first Risk Committee Reconstitution Date, over the immediately preceding Eligibility Determination Period) among those Participants that, as of the date of such Default or termination, did not have the right to appoint a member to the Risk Committee, shall have the right to appoint a member to the Risk Committee effective as of the date of such Default or termination.
- (xi) A Participant Group may appoint an individual to be a member of the Risk Committee only if such individual is an employee of one of the Participants in such Participant Group or an Affiliate thereof. Any member of the Risk Committee may be removed at any time, with or without cause, by the Participant Group that appointed such member pursuant to this Rule 503. In the event a vacancy occurs on the Risk Committee as a result of the retirement, removal, resignation or death of a member thereof, such vacancy shall be filled by an individual designated by the relevant Participant Group.
- (xii) Within five ICE Trust Business Days of the end of each Eligibility Determination Period, ICE Trust shall, based on its books and records, deliver to each Participant Group a good faith determination of the identity of (A) the Top Six Incumbent Participant Groups and (B) the Eligible Participant Groups, and shall inform each of the Top Six Incumbent Participant Groups and the Eligible Participant Groups of its right to

appoint a member to the Risk Committee as of the next Risk Committee Reconstitution Date pursuant to this Rule; *provided, however*, that ICE Trust and its Affiliates, Board and officers shall have no liability with respect to the delivery of such good faith determination. For the sake of clarity, such good faith determination shall identify only the Participant Groups mentioned above, and shall not set forth the Participant Activity levels of such Participant Groups. In the event any Participant Group disputes in good faith ICE Trust's good faith determination of the Top Six Incumbent Participant Groups or the Eligible Participant Groups, the disputing Participant Group and the Risk Committee shall submit such dispute for resolution to PricewaterhouseCoopers LLP (or, if such firm shall decline or is unable to act or is not, at the time of such submission, independent of ICE Trust, the disputing Participant Group or any member of the Risk Committee, to another independent accounting firm of international reputation mutually acceptable to the disputing Participant Group and the Risk Committee) (such firm, the "**Independent Accounting Firm**"), which shall, within 30 ICE Trust Business Days after such submission, determine and report to ICE Trust, the disputing Participant Group and the Risk Committee, and such report shall be final, conclusive and binding on the disputing Participant Group, the Risk Committee and ICE Trust. The disputing Participant Group shall be solely responsible for the fees and disbursements of the Independent Accounting Firm. ICE Trust and its Affiliates, Board and officers shall have no liability in connection with the determination of the Independent Accounting Firm.

- (xiii) If, by written agreement of the Risk Committee and the Board, ICE Trust is determined to have established multiple risk pools (each, a "**Risk Pool**"), ICE Trust will create a new and separate risk committee for each such Risk Pool. In such event, (A) each such new risk committee will have, with respect to its Risk Pool, the same rights, responsibilities and operational procedures as the Risk Committee has under this Chapter, and (B) to the extent practicable, the composition of such other risk committee will be determined on the same basis as the Risk Committee is determined hereunder (taking into account, instead, the applicable volume or usage metric with respect to such Risk Pool as determined by the Risk Committee), with the rules for such composition being determined by the Board, in consultation with the Risk Committee.
 - (xiv) No member of the Risk Committee may be subject to statutory disqualification under CEA Section 8a(2) or other applicable CFTC regulations.
- (b) Each Participant whose Participant Group appoints a member of the Risk Committee shall, prior to participation in the Risk Committee, execute a confidentiality agreement substantially in the form of the agreement attached as Schedule 503 to these Rules and cause its Risk Committee member to execute

an acknowledgement of his or her confidentiality obligations in a form reasonably prescribed by ICE Trust and each such Participant and Risk Committee member shall comply with the confidentiality obligations thereunder.

504. Change of Control of ICE Trust.

No change of control or sale (whether by merger, consolidation, stock sale, membership interest sale or sale, license or other disposition of all or substantially all of the assets or otherwise) of IntercontinentalExchange, Inc., a Delaware corporation, ICE Trust or the ICE Parent, in each case either directly or indirectly, will affect or alter in any manner the responsibilities, rights or operations of the Risk Committee or the manner in which the Risk Committee is constituted as set forth in the Rules (the “**Risk Committee Provisions**”), and the Risk Committee Provisions shall survive any such change in control or sale. The foregoing shall apply, *mutatis mutandis*, to any subsequent change of control or sale of the acquiring or surviving Person resulting from any such previous change of control or sale.

505. Actions by the Risk Committee.

- (a) Except as provided in Rule 508, all decisions and recommendations made by the Risk Committee shall be made at a meeting by majority vote of members. When providing to ICE Trust or the Board a decision or recommendation made by the Risk Committee, the Risk Committee shall identify each member that participated and how such member voted.
- (b) A majority of the Risk Committee, which must include at least half of the Participant Appointees, shall constitute a quorum at a meeting of the Risk Committee. In the event that a member of the Risk Committee is unable to attend or participate in any meeting of the Risk Committee, the Participant that designated such member of the Risk Committee may appoint an alternate to attend such meetings and to participate in the deliberations of such meetings. Such alternate will be permitted to vote on behalf of the absent member of the Risk Committee and will be considered an attendee of any meetings for the purposes of constituting a quorum.
- (c) The Risk Committee will be chaired by the Independent ICE Manager.
- (d) Any action required or permitted to be taken by the Risk Committee, either at a meeting or otherwise, may be taken without a meeting if the members of the Risk Committee, by unanimous action, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Risk Committee. Written notice of the action to be taken by written consent shall be given by any member of the Risk Committee who joined in such consent (as determined by the members of the Risk Committee who joined in such consent) to all other members of the Risk Committee and the Board within five ICE Trust Business Days following the taking of any such action.

506. Fiduciary Duties; Limitation of Liability of the Risk Committee.

No member of the Risk Committee and no member of a Participant Group that appoints such a member to the Risk Committee (each, a “**Protected Person**”) shall, to the fullest extent permitted by applicable law, have any fiduciary duties otherwise existing at law or equity to ICE Trust, the ICE Parent, any directors, managers or officers of either, the Participants or any other Person by reason of such service on the Risk Committee or the appointment of a member to the Risk Committee. Notwithstanding anything to the contrary in the Rules, to the extent that, at law or in equity, a Protected Person has duties (including fiduciary duties) and liabilities relating thereto to ICE Trust, the ICE Parent, any directors, managers or officers of either, the Participants or any other Person, such Protected Person acting under the Rules shall not be liable to ICE Trust, the ICE Parent, any directors, managers or officers of either, the Participants or any other Person for breach of fiduciary duty for its good faith reliance on the provisions of the Rules. The Rules, to the extent that they restrict the duties (including fiduciary duties) and liability of a Protected Person otherwise existing at law or in equity, are agreed by ICE Trust and the ICE Parent to replace such other duties and liabilities of such Protected Person.

507. Meetings of the Risk Committee.

- (a) The Board or any two members of the Risk Committee may call for a meeting of the Risk Committee. The Risk Committee shall meet no less frequently than quarterly. Meetings of the Risk Committee shall be at such place and time as shall be determined by the party or parties that called the meeting. Not fewer than five ICE Trust Business Days before each such meeting, the party or parties that called the meeting shall provide to each member of the Risk Committee (i) notice of such meeting, (ii) an agenda specifying in reasonable detail the matters to be discussed at such meeting and (iii) proposals or other written materials providing background in reasonable detail regarding the agenda items. Any member of the Risk Committee that wishes to have any additional matter discussed at any such meeting shall give to the party or parties that called the meeting and each other member of the Risk Committee notice of, and reasonable detail regarding, each matter it so wishes to discuss not fewer than two ICE Trust Business Days prior to any such meeting. Emergency meetings of the Risk Committee may be called by any one or more members of the Risk Committee upon not less than one ICE Trust Business Day’s telephonic notice by such member(s) of the Risk Committee to all other members of the Risk Committee specifying in reasonable detail the nature of such emergency, the business to be transacted at such meeting and the location of such emergency meeting (to be confirmed by written facsimile or email notice) by any member of the Risk Committee. Emergency meetings of the Risk Committee may be held at the offices of ICE Trust or such other place as shall be determined by the Independent ICE Manager, as the chair. In the event a quorum of the Risk Committee (as provided in Rule 505) for any meeting other than an emergency meeting is not present, such meeting shall be adjourned and the party or parties

that called the meeting shall provide no less than two ICE Trust Business Days' second telephonic notice to the members of the Risk Committee of the reconvening of such adjourned meeting (to be confirmed by written facsimile or email notice). In the event a quorum of the Risk Committee (as provided in Rule 505) for an emergency meeting is not present, such meeting shall be adjourned and the party or parties that called the meeting shall provide no less than twelve hours' second telephonic notice to the members of the Risk Committee of the reconvening of such adjourned emergency meeting (to be confirmed by written facsimile or email notice). In the event a quorum was not present at the adjourned meeting and is not present for the reconvening of such adjourned meeting, and a particular member of the Risk Committee and/or its alternate was not present at the adjourned meeting and is not present for the reconvening of such adjourned meeting, such reconvening of the adjourned meeting of the Risk Committee shall not require the presence of such absent member or its alternate for a quorum. For purposes of the required vote for any action at the reconvening of the adjourned meeting, the size of the Risk Committee shall be deemed to have been reduced by the number of such member(s) or alternate(s) of the Risk Committee who was/were not present for either the adjourned meeting or the reconvening of such adjourned meeting.

- (b) Members of the Risk Committee may participate in a meeting of the Risk Committee by means of a conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting, except where a member of the Risk Committee participates in the meeting for the express purpose of objecting, at the beginning of such meeting, to any business on the ground that such meeting was called or convened in violation of these Rules or any applicable law. ICE Trust shall make participation by means of a conference telephone or similar communications equipment available to all members of the Risk Committee at all meetings of the Risk Committee; *provided* that all meetings must be held in the United States.
- (c) Any member of the Risk Committee that is entitled to notice of a meeting of the Risk Committee may waive such notice in writing, whether before or after the time of such meeting. Attendance by a member of the Risk Committee at a meeting thereof shall constitute a waiver of notice of such meeting by such member, except when such member attends such meeting for the express purpose of objecting, at the beginning of such meeting, to the transaction of any business at such meeting because such meeting is called or convened in violation of the Rules or any applicable law.
- (d) The decisions, recommendations and resolutions of the Risk Committee shall be reported in minutes, which shall state the date, time and place of the meeting (or the date of the written consent in lieu of meeting), the members of the Risk Committee present at the meeting, the resolutions put to a vote (or the subject of a written consent) and the results of such voting (or written consent). The

minutes shall be entered in a minute book kept at the principal office of ICE Trust and a copy of the minutes shall be provided to each member of the Risk Committee and the Board.

508. Risk Committee Board Appointees.

- (a) The Risk Committee shall have the authority to designate to ICE Parent in writing four members for election to the Board (the “**Risk Committee Board Appointees**”), two of whom must satisfy the Independence Requirements (the “**Independent Risk Committee Appointees**”). The Risk Committee shall seek to ensure that the two Risk Committee Board Appointees that do not satisfy the Independence Requirements are senior executives, preferably employed by the ultimate Parent (as defined in Rule 201) of a Participant, that have broad experience in corporate governance, management oversight and financial markets (including with respect to matters other than credit derivatives).
- (b) The Risk Committee Board Appointees shall be selected by majority vote of the Participant Appointees from a slate of individuals nominated by one or more Participant Appointees. Risk Committee Board Appointees shall serve in such capacity for the same term as the other members of the Board. The Risk Committee may instruct ICE Parent in writing to remove a Risk Committee Board Appointee from the Board at any time and for any reason by a majority vote of the Participant Appointees. The Risk Committee shall instruct ICE Parent in writing to remove an Independent Risk Committee Appointee from the Board promptly following the date that the Risk Committee becomes aware that such appointee ceases to satisfy the Independence Requirements during the appointee’s membership on the Board. The Risk Committee shall instruct ICE Parent in writing to remove a Risk Committee Board Appointee who is an employee of a Participant or Affiliate of a Participant promptly following the date that the Risk Committee becomes aware that such Participant is in Default or becomes a Retiring Participant. Upon any vacancy in the Risk Committee Board Appointees due to removal pursuant to this subparagraph or the resignation, death or incapacity of a Risk Committee Board Appointee, the Risk Committee shall convene as soon as reasonably practicable to instruct ICE Parent in writing to fill such vacancy in accordance with this Rule.
- (c) The Risk Committee shall be entitled to consult with ICE Parent prior to ICE Parent appointing any member of the Board (other than a Risk Committee Board Appointee) who was not a member of the Board on the Start Date, with respect to the skills and experience of such proposed member.

6. MISCELLANEOUS

601. Emergencies.

- (a) The Board, upon the affirmative vote of the Managers voting at a meeting where a quorum is present, may adopt a resolution in response to an Emergency (as “**Emergency Resolution**”) which shall supersede and supplant all contrary or inconsistent resolutions or Rules, except for this Rule and the provisions of Chapter 5. Unless multiple conflicts of interest would make it impracticable to assemble a quorum promptly, a Manager who has a conflict of interest with respect to the outcome of such a vote (as determined by ICE Trust) shall abstain from deliberating and voting on the matter in question. In the event that ICE Trust is unable to convene a meeting of the Board reasonably promptly, an Eligible Officer may take action pursuant to this Rule (an “**Officer Emergency Action**”), *provided* that ICE Trust shall convene a meeting of the Board as soon as practicable thereafter to ratify or rescind such Officer Emergency Action.
- (b) Notwithstanding paragraph (a) of this Rule, in the event an Emergency Resolution or an Officer Emergency Action constitutes a Specified Action (as defined in Rule 502), there shall be no obligation to consult with the Risk Committee to the extent that the Board or the Eligible Officer, as applicable, determines in good faith that the delay caused by consulting with the Risk Committee would create significant risks to the clearing system operated by ICE Trust pursuant to these Rules and the Participants generally; *provided, however,* that ICE Trust shall notify the Risk Committee of such action and the Board shall consult with the Risk Committee as promptly as practicable, and in any event within three ICE Trust Business Days, after taking such Specified Action to discuss the Specified Action taken and the Board shall take into account such consultation in determining whether to modify or rescind such Specified Action.
- (c) An Emergency Resolution or Officer Emergency Action shall expire upon the happening of either of the following events: (i) the Board shall have voted to rescind the Emergency Resolution or Officer Emergency Action; or (ii) 90 days (in the case of an Emergency Resolution) or three ICE Trust Business Days (in the case of an Officer Emergency Action) shall have elapsed since the emergency resolution was adopted.
- (d) All Trades, accounts and Open Positions with ICE Trust, and all Participants shall be subject to the exercise of these Emergency powers by the Board or an Eligible Officer.
- (e) As used herein, the term “**Emergency**” shall include, without limitation, (i) the

occurrence of an event or circumstance in which, as determined by the Board or the Chief Executive Officer or President, market volatility is likely to have an effect on the ability of ICE Trust to arrange for a fair and orderly settlement cycle, and that absent action, the functioning of the clearing system operated by ICE Trust pursuant to these Rules is likely to be impaired, (ii) trading generally on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Market or the NASDAQ Global Select Market, the Chicago Mercantile Exchange, the Chicago Board of Trade or any other exchange or market relevant to the pricing or trading of Contracts or similar agreements shall have been suspended or limited or minimum prices shall have been established on any such exchanges or markets, (iii) a banking moratorium shall have been declared by the United States Federal, New York State or any European Union member authorities or (iv) there shall have occurred any outbreak or escalation of hostilities, declaration of a national emergency or war, or other calamity or crisis, national or international, in the case of each of the foregoing clauses, the effect of which on financial markets is such as to make it, in the sole judgment of the Board or an Eligible Officer, as applicable, impractical for ICE Trust to continue operating in accordance with these Rules.

- (f) Except as otherwise stated in an Emergency Resolution adopted hereunder or an Officer Emergency Action, the powers exercised by ICE Trust under this Rule shall be in addition to and not in derogation of authority granted elsewhere in these Rules to a committee or officer of ICE Trust to take action as specified therein.

602. Physical Emergencies.

In the event the physical functions of ICE Trust are, or are threatened to be, severely and adversely affected by a physical emergency such as, but not limited to, fire or other casualty, bomb threats, substantial inclement weather, power failures, communications breakdowns or transportation breakdowns, the Chairman, a Vice Chairman or the Chief Executive Officer or President of ICE Trust or, in their absence, another officer of ICE Trust, is authorized to take such action as he or she shall deem necessary or appropriate to deal with such emergency.

603. Force Majeure.

Notwithstanding any other provision of these Rules, ICE Trust shall not be obligated to perform its obligations under these Rules or any agreement with a Participant relating to Contracts, or to compensate any person for losses occasioned by any delay or failure of performance, to the extent such delay or failure is the result of acts of God, lightning, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, flood, nuclear radiation, act of a public enemy or blockade, insurrection, riot or civil disturbance, strike or labor disturbance, or any other cause beyond ICE Trust's reasonable control (whether or not similar to any of the foregoing).

If ICE Trust shall, as a result of any of the above-described events, fail to perform any of its obligations, such failure shall be excused for a period equal to the period of delay caused by such event. In such an event, ICE Trust shall give written notice thereof to the affected Market or such Participant, as the case may be, as soon as it is reasonably practicable and attempt diligently to remove such condition.

604. Suspension of Rules.

Except as otherwise provided in Chapter 5 of these Rules, the time frames fixed by these Rules, interpretations or policies of ICE Trust for the doing of any act or acts may be extended, or the doing of any act or acts required by these Rules or any interpretations or policies of ICE Trust may be waived, and any provision of these Rules or any interpretations or policies of ICE Trust may be suspended by the Board or by any Eligible Officer whenever, in the judgment of the Board or such Eligible Officer, as applicable, such extension, waiver or suspension is necessary or expedient; *provided* that ICE Trust may not take any action pursuant to this Rule that would, as determined by the Board or such Eligible Officer, as applicable, have a material adverse effect on the majority of Participants and; *provided, further*, that in the event of an Emergency, ICE Trust may not take any action under this Rule and any such extension, waiver or suspension may occur only in accordance with the requirements of Rule 601. Any such extension, waiver or suspension under this Rule may continue in effect after the event or events giving rise thereto but shall not continue in effect for more than three ICE Trust Business Days after the date thereof unless it shall be approved by the Board within such period.

605. Participant Default.

- (a) A Participant is in “**Default**” who (i) fails to meet any of the Participant’s obligations (other than an obligation to Transfer Margin) with respect to, or who is otherwise in default or subject to early termination under, the Participant’s Contracts with ICE Trust, (ii) fails to Transfer Margin (whether Initial Margin or Mark-to-Market Margin) by the deadline established under these Rules, (iii) is suspended or expelled or whose privileges are revoked by a Market or by ICE Trust or (iv) has a guarantor providing a guarantee pursuant to Rule 205 who fails to meet any obligations with respect to, or who is otherwise in default under, the guarantee. Upon a Default, ICE Trust may effect the Closing-out Process with respect to such Participant (the “**Defaulting Participant**”) as deemed appropriate by ICE Trust, and any debit balance owing to ICE Trust shall be immediately due and payable.
- (b) In effecting the Closing-out Process as provided in paragraph (a) of this Rule, ICE Trust shall, without limiting the generality of paragraph (a) of this Rule, have the right:
 - (i) (A) With respect to Open Positions that are Client-Related Positions in

any account of such Defaulting Participant, to liquidate, set off and/or apply, as applicable, (1) in the following order: (a) any proceeds received by ICE Trust from closing or replacing such Client-Related Positions, (b) any property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's House Positions, (c) the Defaulting Participant's Required Contribution to the General Guaranty Fund as provided in Rule 802, (d) any other property of or delivered by the Defaulting Participant within the possession or control of ICE Trust (other than Margin in respect of Client-Related Positions), and (e) any property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's Client-Related Positions, against (2) any amounts paid by ICE Trust in closing or replacing such Client-Related Positions, including any commissions, losses, costs or expenses incurred in connection therewith or in connection with the liquidation of Margin (whether in the House Margin Account or Custodial Client Omnibus Margin Account) as described in clause (1) hereof, and any other obligations of the Defaulting Participant to ICE Trust in respect of Client-Related Positions, including any obligations arising from any other accounts maintained by the Defaulting Participant with ICE Trust in respect of Client-Related Positions;

(B) With respect to Open Positions that are House Positions in any account of such Participant, to liquidate, set off and/or apply, as applicable, (1) in the following order: (a) any proceeds received by ICE Trust from closing or replacing such House Positions, (b) any property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's House Positions, (c) the Defaulting Participant's Required Contribution to the General Guaranty Fund as provided in Rule 802, and (d) any other property of or delivered by the Defaulting Participant within the possession or control of ICE Trust, other than property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's Client-Related Positions, against (2) any amounts paid by ICE Trust in closing or replacing such House Positions, including any commissions, losses, costs or expenses incurred in connection therewith or in connection with the liquidation of Margin in the House Margin Account, and any other obligations of the Defaulting Participant to ICE Trust, including any obligations arising from any other accounts maintained by the Defaulting Participant with ICE Trust;

- (ii) In exercising any of its rights of setoff or otherwise as necessary hereunder, to designate the currency of payments to be made by or to ICE Trust in effecting the Closing-out Process and to convert payments made by or to ICE Trust into a currency and at a rate of exchange as it shall determine;

- (iii) To cause Open Positions held in accounts of the Defaulting Participant and, to the extent of any remaining imbalance, of other Participants, or any portion thereof, to be offset against each other and/or to be settled at the Mark-to-Market Price for such Contracts, or at such other price or prices as ICE Trust may deem fair and reasonable in the circumstances;
 - (iv) To take any action or refrain from taking any action on behalf of the Defaulting Participant with respect to any Open Position of the Defaulting Participant, which, in the judgment of ICE Trust and subject to the terms of the relevant Contract and applicable law, would be advisable to preserve the value of the Open Position, including, without limitation, exercising any rights or remedies therein; tendering or accepting for tender any securities, loans or other obligations; making or receiving any payments; making or providing any election or notice or otherwise performing any other act or obligation contemplated therein;
 - (v) To defer the Closing-out Process if, in its discretion, it determines that the Closing-out Process would not be in the best interests of ICE Trust or other Participants, taking into account the size and nature of the positions in question, market conditions prevailing at the time, the potential market effects of such liquidating transactions as might be directed by ICE Trust, and such other circumstances as it deems relevant; and
 - (vi) To take any other action as ICE Trust may deem necessary or appropriate for its protection.
- (c) ICE Trust shall effect the Closing-out Process separately with respect to House Positions and Client-Related Positions and notwithstanding anything to the contrary herein but subject to the following sentence, Client-Related Positions and House Positions may not be netted or offset against each other as part of the Closing-out Process. Net amounts owed by a Defaulting Participant with respect to Client-Related Positions may be offset against net amounts owed to a Defaulting Participant with respect to House Positions; provided that net amounts owed by a Defaulting Participant with respect to House Positions may not be offset against net amounts owed to a Defaulting Participant with respect to Client-Related Positions.
- (d) In taking any action hereunder, ICE Trust may cooperate, by sharing information or in any other manner it determines appropriate, with any regulatory, self-regulatory or other entity or organization with regulatory authority, whether governmental or otherwise, having jurisdiction over ICE Trust or the Defaulting Participant or its guarantor.

- (e) ICE Trust may appoint any person to take or assist it in taking any action that it is allowed to take hereunder.
- (f) Any obligation of ICE Trust to a Defaulting Participant arising from an Open Position or from any provision of these Rules shall be subject to all the terms of the Rules, including the setoff and other rights set forth herein. The rights of ICE Trust set forth herein shall be in addition to other rights that ICE Trust may have under applicable law and governmental regulations, other provisions of the Rules and additional agreements with the Defaulting Participant, or any other source.
- (g) A Defaulting Participant shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of ICE Trust to take any action contemplated by this Rule, including, without limitation, to liquidate, set off and/or apply such Defaulting Participant's Open Positions or Margin or other property held by ICE Trust, pursuant to these Rules or (ii) to set off amounts owed to such Defaulting Participant against such Defaulting Participant's Obligations.

606. Fees; Fines and Charges.

- (a) Clearing fees and other charges for ICE Trust services shall be as fixed from time to time by ICE Trust.
- (b) ICE Trust shall have the power to assess fines and charges against Participants for the failure to comply with these Rules or the ICE Trust Procedures; *provided* that such fines or charges may be assessed only in accordance with the process described in Chapter 7 of these Rules.

607. Trading by Employees Prohibited.

- (a) No employee of ICE Trust shall:
 - (i) trade or participate directly or indirectly in any transaction in any Contract, except to the extent necessary to carry out the provisions of Rule 605 or any other Rule that specifies the rights of ICE Trust upon the Default of a Participant, or as otherwise permitted pursuant to an exemption granted in accordance with this Rule; or
 - (ii) disclose any material, non-public information obtained as a result of such Person's employment with ICE Trust where the employee has or should have a reasonable expectation that the information disclosed may assist another Person in trading any Contract or any similar transaction, underlying asset or any other interest in respect thereof; *provided* that an employee is not prohibited from making disclosures in the course of the employee's duties, or to another self-regulatory

organization, court of competent jurisdiction or representative of any agency or department of the federal or state government acting in his or her official capacity.

- (b) From time to time, ICE Trust may adopt additional Rules which set forth circumstances under which exemptions from the trading prohibition contained in paragraph (a)(i) will be granted. The effectiveness of such rules and the procedures for administration of such rules shall be governed by applicable law and/or regulations.

608. Forms; Transmission of Data to ICE Trust.

- (a) In connection with any transaction or matter handled through, with or by ICE Trust under or pursuant to the Rules, the form of any required list, notice or other document shall be as from time to time prescribed by ICE Trust, and additions to, changes in and elimination of any such forms may be made by ICE Trust at any time in its discretion.
- (b) A Participant may execute any document to be delivered to ICE Trust or to any other Participant pursuant to these Rules by means of a mechanically or electronically reproduced facsimile signature of a representative of the Participant; *provided* that the Participant shall have complied with such requirements as may be prescribed by ICE Trust in connection with the use of such facsimile signatures.

609. Just and Equitable Principles of Trade; Acts Detrimental to the Interest or Welfare of ICE Trust.

- (a) Subject to the requirements of Rule 615(b), ICE Trust shall have the power to suspend or revoke clearing privileges of a Participant for engaging in conduct inconsistent with just and equitable principles of trade or in acts detrimental to the interest or welfare of ICE Trust (together, "**Prohibited Conduct**").
- (b) ICE Trust shall have the power to assess fines or charges against a Participant for engaging in Prohibited Conduct; *provided* that such fines or charges may be assessed only in accordance with the process outlined in Chapter 7 of these Rules.

610. Construction in Accordance with New York Law.

These Rules, and all rights and obligations hereunder (including the creation of security interests in the Collateral and Margin), shall be construed in accordance with the internal laws of the State of New York, without giving effect to the conflict of law provisions thereof.

611. Interpretation in Relation to Insolvency Laws.

- (a) ICE Trust and each Participant intend that certain provisions of these Rules be interpreted in relation to certain terms (identified by quotation marks) that are used or defined in the “Clearing organization netting” provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 (“**FDICIA**”), 12 U.S.C. § 4404, as amended, as follows:
- (i) ICE Trust is a “clearing organization.”
 - (ii) An obligation of a Participant to make a payment to ICE Trust, or of ICE Trust to make a payment to a Participant, subject to a netting agreement, is a “covered clearing obligation” and a “covered contractual payment obligation.”
 - (iii) An entitlement of a Participant to receive a payment from ICE Trust, or of ICE Trust to receive a payment from a Participant, subject to a netting contract, is a “covered contractual payment entitlement.”
 - (iv) ICE Trust is a “member,” and each Participant is a “member.”
 - (v) The amount by which the covered contractual payment entitlements of a Participant or ICE Trust exceed the covered contractual payment obligations of such Participant or ICE Trust after netting under a netting contract is its “net entitlement.”
 - (vi) The amount by which the covered contractual payment obligations of a Participant or ICE Trust exceed the covered contractual payment entitlements of such Participant or ICE Trust after netting under a netting contract is its “net obligation.”
 - (vii) These Rules and any other agreement between ICE Trust and a Participant governing Contracts are a “netting contract” and include “security agreements or arrangements or other credit enhancements related to such netting contract.”
 - (viii) The rights granted to ICE Trust herein upon the Default of a Participant are all rights that enable ICE Trust to “terminate, liquidate, accelerate and net” the related Open Positions.

- (b) ICE Trust and each Participant intend that certain provisions of these Rules be interpreted in relation to certain terms (identified by quotation marks) that are used or defined in Section 11(e) of the Federal Deposit Insurance Act (“**FDIA**”), 12 U.S.C. § 1821(e)(8), as amended, as follows:
- (i) Each Open Position is a “swap agreement.”
 - (ii) These Rules and any other agreement between ICE Trust and a Participant governing Contracts constitute a “master agreement” and each security interest granted and each transfer of title provided for herein (including each Participant’s grant of a security interest in Margin and Collateral) constitutes a “security agreement or arrangement or other credit enhancement” in connection with or related to a “swap agreement.”
 - (iii) The rights granted to ICE Trust herein upon the Default of a Participant are rights that enable ICE Trust “to cause the termination, liquidation, or acceleration” of the Defaulting Participant’s Open Positions and “to offset or net out any termination value, payment amount, or other transfer of” any Open Positions.
 - (iv) Each Participant’s Transfer of Collateral to the General Guaranty Fund constitutes a “security arrangement or other credit enhancement” related to a “swap agreement” and therefore is itself a “swap agreement.”
- (c) ICE Trust and each Participant intend that certain provisions of these Rules be interpreted in relation to certain terms (identified by quotation marks) that are used or defined in Section 761 of Title 11 of the United States Code, as amended (the “**Bankruptcy Code**”), as follows:
- (i) Each Open Position is a “commodity contract”.
 - (ii) These Rules and any other agreement between ICE Trust and a Participant governing Contracts constitute a “master agreement” and each security interest granted and each transfer of title provided for herein (including each Participant’s grant of a security interest in Margin and Collateral) constitutes a “security agreement or arrangement or other credit enhancement” related to a “commodity contract.”
 - (iii) The rights granted to ICE Trust herein upon the Default of a Participant are rights that enable ICE Trust “to cause the termination, liquidation, or acceleration” of the Defaulting Participant’s Open Positions and “to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with” any Open Positions.
 - (iv) Each Participant’s Transfer of Collateral to the General Guaranty Fund constitutes a “security arrangement or other credit enhancement” related to a “commodity contract” and therefore is itself a “commodity contract.”

- (d) ICE Trust and each Participant intend that certain provisions of these Rules be interpreted in relation to certain terms (identified by quotation marks) that are used or defined in Section 210(c) of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended, as follows:
- (i) Each Open Position is a “swap agreement.”
 - (ii) These Rules and any other agreement between ICE Trust and a Participant governing Contracts constitute a “master agreement” and each security interest granted and each transfer of title provided for herein (including each Participant’s grant of a security interest in Margin and Collateral) constitutes a “security agreement or arrangement or other credit enhancement” related to a “swap agreement.”
 - (iii) The rights granted to ICE Trust herein upon the Default of a Participant are rights that enable ICE Trust “to cause the termination, liquidation, or acceleration” of the Defaulting Participant’s Open Positions and “to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with” any Open Positions.
 - (iv) Each Participant’s Transfer of Collateral to the General Guaranty Fund constitutes a “security arrangement or other credit enhancement” related to a “swap agreement” and therefore is itself a “swap agreement.”

612. Waiver of Setoff.

Notwithstanding any existing or future agreement, except as expressly provided in these Rules or a Contract, each Participant irrevocably waives any and all rights it may have to set off, net, recoup or otherwise withhold or suspend or condition payment or performance of any obligation between ICE Trust and such Participant under these Rules or any Contract against any obligations between ICE Trust and such Participant or any branch or Affiliate of ICE Trust or of such Participant, under any other agreements or otherwise.

613. Taxes.

- (a) All payments under these Rules or any Contract will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If ICE Trust or a Participant is so required to deduct or withhold, then ICE Trust or the Participant (“X”) will: —
- (i) promptly notify the recipient (“Y”) of such requirement;

- (ii) pay to the relevant authorities the full amount required to be deducted or withheld (in the case of a Participant as X, including the full amount required to be deducted or withheld from any amount paid by the Participant to ICE Trust under Rule 613(b), 613(c) or 613(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (iii) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities.

For the purpose of this Rule 613, “**Tax**” shall mean any present or future tax, levy, impost, duty, charge, assessment, or fee of any nature (including interest, penalties, and additions thereto) that is imposed by any government or other taxing authority.

- (b) In the event that any payment made by a Participant to ICE Trust under these Rules or any Contract is subject to deduction or withholding (either at the time of such payment or in the future) for or on account of any Tax (other than a Tax that would not have been imposed in respect of such payment but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and ICE Trust), then the Participant shall pay to ICE Trust an amount (such amount, together with any additional amount paid pursuant to Rule 613(g), the “**Additional Amount**”), in addition to the payment to which ICE Trust is otherwise entitled under these Rules or any Contract, necessary to ensure that the net amount actually received by ICE Trust (free and clear of any such deduction or withholding for or on account of any such Tax, whether assessed against the Participant or ICE Trust), will equal the full amount ICE Trust would have received in the absence of any such deduction or withholding.

However, a Participant will not be required to pay any Additional Amount to ICE Trust under this Rule 613(b) to the extent that it would not be required to be paid but for (i) the failure by ICE Trust to provide to the Participant such forms and documents as required under Rule 613(e), *provided* that this clause (i) shall apply only if (A) the relevant Participant has notified ICE Trust in writing of such failure and (B) ICE Trust has failed to provide such forms or documents within five ICE Trust Business Days after the receipt of such notice; or (ii) the failure of a representation made by ICE Trust pursuant to Section 3(f) of an ISDA 2002 Master Agreement between ICE Trust and the Participant to be accurate and true (unless the failure under this clause (ii) would not have occurred but for (A) any action taken by a taxing authority, or brought in a court of competent jurisdiction (regardless of whether such action is taken or brought with respect to a party to the relevant ISDA 2002 Master Agreement) or (B) a Change in Tax Law, that in each case occurs after ICE Trust and the Participant enter into the relevant ISDA

2002 Master Agreement (or, if applicable, the date that ICE Trust and the Participant amend such master agreement to account for such Change in Tax Law)).

In the event that the failure under clause (ii) of the preceding paragraph would not have occurred but for the reasons described under subclause (A) or (B) thereof, ICE Trust shall use commercially reasonable efforts to provide to the Participant a new representation (to the extent that it is appropriate) for the purpose of Section 3(f) of the relevant ISDA 2002 Master Agreement between ICE Trust and the Participant, promptly after the learning of such failure (so long as the provision of such representation would not, in ICE Trust's judgment, materially prejudice the legal or commercial position of ICE Trust).

For the purpose of this Rule 613, "**Change in Tax Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law).

- (c) If (i) a Participant is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding from any payment made to ICE Trust under these Rules or any Contract for or on account of any Tax, in respect of which the Participant would be required to pay an Additional Amount to ICE Trust under Rule 613(b); (ii) the Participant does not so deduct or withhold; and (iii) a liability resulting from such Tax is assessed directly against ICE Trust, then, except to the extent the Participant has satisfied or then satisfies the liability resulting from such Tax, the Participant will promptly pay to ICE Trust the amount of such liability (including any related liability for interest, penalties and costs).
- (d) If (i) ICE Trust is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding from any payment made to a Participant under these Rules or any Contract for or on account of any Tax; (ii) ICE Trust does not so deduct or withhold; and (iii) a liability resulting from such Tax is assessed directly against ICE Trust, then, except to the extent the Participant has satisfied or then satisfies the liability resulting from such Tax, the Participant will promptly pay to ICE Trust the amount of such liability (including any related liability for interest, penalties and costs).
- (e) ICE Trust shall provide to each Participant (i) the tax forms and documents specified in the Schedule to each ISDA 2002 Master Agreement between ICE Trust and the Participant and (ii) any other form or document reasonably requested in writing by the Participant in order to allow the Participant to make a payment under these Rules or any Contract without deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document as

described in this clause (ii) would not, in ICE Trust's judgment, materially prejudice the legal or commercial position of ICE Trust).

- (f) Each Participant shall provide to ICE Trust (i) the tax forms and documents specified in the Schedule to each ISDA 2002 Master Agreement between ICE Trust and the Participant and (ii) any other form or document reasonably requested in writing by ICE Trust in order to allow ICE Trust to make a payment under these Rules or any Contract without deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of such Participant). For the avoidance of doubt, in the event that any payment made by ICE Trust to a Participant under these Rules or any Contract is subject to deduction or withholding (either at the time of such payment or in the future) for or on account of any Tax, ICE Trust is not required to pay any additional amount in respect of such deduction or withholding. ICE Trust will, at the Participant's expense, use commercially reasonable efforts to cooperate with a Participant to seek any credit or remission or other relief available with respect to any such Tax so deducted or withheld (so long as such cooperation would not, in ICE Trust's judgment, materially prejudice the legal or commercial position of ICE Trust).
- (g) Each Participant will pay any stamp, registration, documentation, excise, sales or value added Tax or any other similar Tax levied or imposed upon it or in respect of its execution or performance of any agreement, contract or transaction in connection with these Rules and will indemnify ICE Trust against any such stamp, registration, documentation, excise, sales or value added Tax (to the extent that ICE Trust is not able, in ICE Trust's commercially reasonable judgment, to reclaim or recover such value added Tax) or any other similar Tax levied or imposed upon ICE Trust or in respect of ICE Trust's execution or performance of any agreement, contract or transaction in connection with these Rules. Any payment required to be made by a Participant to ICE Trust under this Rule 613(g) shall include an additional amount equal to any Tax levied or imposed on ICE Trust as a result of the receipt of any payment under this Rule 613(g) (including this sentence).
- (h) Each Participant shall promptly notify ICE Trust in writing upon learning that any payment made by ICE Trust to the Participant or by the Participant to ICE Trust under these Rules or any Contract is subject to any Tax, other than any Tax imposed or levied based on the net income of the Participant or ICE Trust, as applicable.
- (i) Participants shall not have any termination or other special rights in respect of Contracts or Open Positions as a result of the occurrence of adverse Tax consequences, whether relating to a Change in Tax Law or otherwise, it being understood that Participants may, in accordance with these Rules, submit for clearing Trades with other Participants (including with any Affiliate that is a

Participant) that, if accepted, would offset its Open Positions. If so requested by a Participant for the purpose of reducing adverse Tax consequences to such Participant, ICE Trust shall use reasonable efforts to expeditiously review an application for status as a Participant submitted by an Affiliate of such requesting Participant.

614. Audit Rights.

The Participants, acting collectively and not individually, shall have the right, on 30 days' prior written notice, to audit the books and records of ICE Trust on an annual basis; *provided* that the Participants bear their own legal and other expenses with respect to such audits.

615. Determinations by ICE Trust.

- (a) Any determination or action that ICE Trust is required or authorized to make or take pursuant to, and any exercise of judgment or discretion under, these Rules or the ICE Trust Procedures shall be made or taken or exercised (or not) in good faith and in the best interest of the clearing system operated by ICE Trust pursuant to these Rules and taking into account the interests of the Participants.
- (b) Any determination to suspend or revoke the clearing privileges of a Participant, or to terminate its status as a Participant, granted to ICE Trust pursuant to these Rules or the ICE Trust Procedures, including, without limitation, as provided in Rules 203(a), 207(a) and 609(a), shall be made only with the consent of the Board (in a vote excluding any member who is an employee of such Participant or any Affiliate) after consultation with, and consideration of the views expressed by, the staff of the New York Fed and other regulators ICE Trust determines appropriate for this purpose and shall not become effective until the ICE Trust Business Day following notice of such suspension, revocation or termination to such Participant. (For the sake of clarity, the determination that a Participant is in Default is distinct from the determination to suspend or revoke the clearing privileges of a Participant, or to terminate its status as a Participant and, accordingly, is not subject to any requirements under these Rules applicable to suspension, revocation or termination.) Prior to such effectiveness, the subject Participant shall, except where such suspension, revocation or termination was recommended by a Hearing Panel or where such termination was based on such Participant being in Default, have the right to deliver notice to ICE Trust contesting such suspension, revocation or termination, in which case such suspension, revocation or termination shall not become effective and the matter shall be deemed to have been referred to a Hearing Panel (as defined in Rule 707) by a Review Subcommittee pursuant to Rule 703(e), whereupon the Hearing Panel shall adjudicate the matter and impose sanctions as provided in Chapter 7 of these Rules (and, for this purpose, the term "Violation" shall be deemed to include the basis for such suspension, revocation or termination and the Hearing Panel may establish a condensed schedule for its adjudication if it

determines appropriate under the circumstances). ICE Trust shall provide notice to all Participants as much in advance as reasonably practicable (but in any event at least two hours) prior to any suspension or revocation of clearing privileges or termination of Participant status of a Participant becoming effective, whether by the Board or a Hearing Panel pursuant to Rule 710.

- (c) ICE Trust shall provide notice of the imposition of any Trading Activity Limitation or a limitation described in Rule 207(a)(i) on a Participant to the New York Fed before or, if not reasonably practicable to do so, as promptly as reasonably practicable after such imposition.

616. Contract Modification.

- (a) ICE Trust may not Modify (as defined in Rule 502) the terms and conditions of a Contract if such Modification would, in the determination of ICE Trust, (i) reasonably be expected to have a material effect on the Mark-to-Market Price (as defined in Rule 404) of such Contract or (ii) materially increase the basis risk of such Contract relative to the over-the-counter agreement equivalent to such Contract referred to in Rule 301 (collectively, a “**Contract Modification**”) unless ICE Trust provides all Participants at least ten ICE Trust Business Days’ notice prior to the effective date of such Contract Modification (a “**Contract Modification Effective Date**”). For the sake of clarity, Modifications to provisions of the Rules or the ICE Trust Procedures relating to Margin, the General Guaranty Fund, Default/Closing-out Process and/or Rules 601 through 604 (or any successor Rules) shall not constitute a Contract Modification and Modifications to Rule 613 or Chapter 21 of these Rules, in each case that would otherwise meet the standards in clauses (i) or (ii) above, shall constitute a Contract Modification.
- (b) A Contract Modification shall not apply to Trades or Open Positions in the relevant Contract that have a Novation Time (as defined in Rule 309) on a date prior to the relevant Contract Modification Effective Date and such Trades or Open Positions may not be offset against Trades or Open Positions in the relevant Contract with a Novation Time on or after such Contract Modification Effective Date.

7. DISCIPLINARY RULES

701. Jurisdiction.

- (a) ICE Trust shall have the authority to initiate and conduct investigations and to prosecute instances of Prohibited Conduct (as defined in Rule 609) and violations of these Rules or the ICE Trust Procedures (such violations, together with instances of Prohibited Conduct, “**Violations**”) allegedly committed by Participants and to impose sanctions for such Violations as provided in these Rules.
- (b) Each Participant, upon becoming a Participant and thereafter upon any change to the relevant office, shall file with ICE Trust a written notice designating an office within the County of New York for receiving service of documents. If a Participant fails to designate such an office, mailing service to its address on file with ICE Trust shall be good service, and delivery thereof shall be deemed to have occurred as of the date of such mailing.

702. ICE Trust Staff — Powers and Duties.

- (a) ICE Trust staff shall consist of ICE Trust employees, including officers, and such other individuals (who possess the requisite independence) as ICE Trust may hire on a contract basis.
- (b) ICE Trust staff shall conduct investigations of possible Violations, prepare written reports respecting such investigations, furnish such reports to the Business Conduct Committee and conduct the prosecution of such Violations.
- (c) ICE Trust shall provide the Participant that is the subject of any investigation with a copy of the written report no less than five ICE Trust Business Days prior to distribution of the report to the applicable Review Subcommittee of the Business Conduct Committee and shall provide an opportunity to submit written comments regarding or evidence relevant to the report. Any written comments received from the Participant shall either accompany distribution of the report to the Review Subcommittee or shall be furnished to the Review Subcommittee at or before the time of its meeting, depending on the date on which the Participant’s comments are received by ICE Trust staff.
- (d) If, in any case, the Chief Executive Officer or President or another ICE Trust employee designated for this purpose by the Board concludes that a Violation may have occurred, he or she may:
 - (i) issue a warning letter to the Participant informing it that there may have been a Violation and that such continued activity may result in disciplinary sanctions; *provided* that such warning letter shall indicate that it is neither

the finding of a Violation nor a penalty and is subject to the review of the Business Conduct Committee; or

- (ii) negotiate and enter into a written settlement agreement with the Participant, whereby the Participant, with or without admitting guilt, may agree to:
 - (1) a cease and desist order or a reprimand; and/or
 - (2) a fine of up to ten thousand dollars for each Violation alleged plus the monetary value of any benefit received as a result of the alleged Violation.

Any such written settlement shall be subject to the approval of a Review Subcommittee of the Business Conduct Committee and shall become final and effective pursuant to Rule 714(a).

703. The Business Conduct Committee.

- (a) The Business Conduct Committee shall have the power to direct that an investigation of any suspected Violation be conducted by ICE Trust, and shall hear any matter referred to it by ICE Trust or the Risk Committee regarding a suspected Violation.
- (b) The Business Conduct Committee shall be comprised of the independent managers of the Board. ICE Trust shall appoint from time to time a chairman (the “**BCC Chairman**”) and a vice chairman (the “**BCC Vice Chairman**”) of the Business Conduct Committee. The Business Conduct Committee shall act through one or more subcommittees as provided in this Chapter 7, with each such subcommittee chaired either by the BCC Chairman or the BCC Vice Chairman. Three subcommittee members shall constitute a quorum for any action of a subcommittee, so long as they are in attendance at the time of the relevant action.
- (c) The Business Conduct Committee shall, from time to time as it deems appropriate, assign a subcommittee of three members (the “**Review Subcommittee**”), chaired by the BCC Chairman or the BCC Vice Chairman, to periodically receive and review the written investigation reports concerning possible Violations provided by ICE Trust and written settlement agreements negotiated and entered into pursuant to Rule 702(d)(ii). If a member of a Review Subcommittee believes he or she has a direct financial, personal or other interest in the matter under consideration, the member shall notify the Business Conduct Committee, which shall replace such member on the Review Subcommittee for the particular matter. If there are insufficient available members of the Business Conduct Committee to constitute a quorum on a Review Subcommittee, the Board may appoint such other independent individuals as it determines appropriate to such Review Subcommittee.

- (d) If, after initial review of an investigation report, a Review Subcommittee concludes that a Violation may have occurred, it shall allow the Participant a reasonable opportunity to prepare and present whatever evidence the Participant may have. Such a presentation shall be conducted informally with no transcript taken.
- (e) In any case where a Review Subcommittee concludes that a Violation may have occurred, such Review Subcommittee shall advise the Participant of that fact and may:
 - (i) refer or return the matter to ICE Trust staff with instructions for further investigation;
 - (ii) approve a settlement agreement negotiated and entered into pursuant to Rule 702(d)(ii) with such Participant which may provide for a penalty other than that recommended by the relevant ICE Trust staff, subject to the limitations set forth in subparagraph (e)(iv) of this Rule;
 - (iii) refer the matter to a formal hearing of a Hearing Panel; or
 - (iv) negotiate and enter into a written settlement agreement with the Participant, whereby the Participant, with or without admitting guilt, may agree to:
 - (1) a cease and desist order or a reprimand; and/or
 - (2) a fine of up to twenty-five thousand dollars for each Violation alleged plus the monetary value of any benefit received as a result of the alleged Violation.

704. Notice of Charges.

In any case in which a Review Subcommittee refers a matter to a formal hearing, ICE Trust staff shall serve a Notice of Charges (a “**Notice**”) on the Participant alleged in such Notice to have been responsible for the alleged Violation (the “**Respondent**”), the BCC Chairman and the President and/or Chief Executive Officer. Such Notice shall state:

- (a) the acts, practices or conduct in which the Respondent is alleged to have engaged;
- (b) how such acts, practices or conduct constitute a Violation;
- (c) that the Respondent is entitled, upon written request filed with ICE Trust within twenty days of service of the Notice, to a formal hearing on the charges;

- (d) that the failure of the Respondent to request a hearing within twenty days of service of the Notice, except for good cause shown, shall be deemed a waiver of its right to a hearing;
- (e) that the failure of the Respondent to file an Answer (as defined in Rule 705) with ICE Trust staff within twenty days of service of the Notice shall be deemed an admission of all of the allegations contained in the Notice; and
- (f) that the failure of the Respondent to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation.

705. Answer; Request for Hearing; Failure to Answer or Deny Charges.

- (a) The Respondent shall serve on ICE Trust a written answer (an “**Answer**”) to the Notice of Charges and a written request for a hearing on the charges within twenty days of the date of service of the Notice of Charges.
- (b) The Respondent’s failure to file an Answer within such twenty-day period shall be deemed an admission of all of the allegations contained in the Notice.
- (c) The Respondent’s failure to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation.
- (d) The Respondent’s failure to request a hearing within such twenty-day period, absent good cause shown, shall be deemed a waiver of Respondent’s right to a hearing.

706. Reply.

ICE Trust staff may serve a reply (a “**Reply**”) to the Respondent’s Answer within five days of the date of service of the Respondent’s Answer. The Reply must be limited to the matters set forth in the Answer.

707. Selection of Hearing Panel.

- (a) Formal hearings on any alleged Violation shall be conducted by a three-member panel selected by the BCC Chairman from members of the Business Conduct Committee who were not on the Review Subcommittee for such alleged Violation (the “**Hearing Panel**”) and are not ineligible pursuant to paragraph (c) of this Rule, and, if there are fewer than three available members of the Business Conduct Committee, from the remaining members of the Board who are not employees of the Respondent or any Affiliate. The BCC Chairman, in his or her sole discretion, shall set a date for the hearing (the “**Hearing Date**”).
- (b) The BCC Chairman shall notify ICE Trust staff and the Respondent of the Hearing Date and the names of the members of the Hearing Panel at least fifteen days prior to the Hearing Date.

- (c) No member of the Hearing Panel shall hear a case in which that member, in the determination of the BCC Chairman, has a direct financial, personal or other interest in the matter under consideration. If there are insufficient available Board members to constitute a Hearing Panel, the Board may appoint such other individuals who do not have such an interest as it determines appropriate, to complete the Hearing Panel.

708. Challenge to Members of the Hearing Panel.

Within ten days after service on the Respondent of notice of the Hearing Date and names of the members of the Hearing Panel, the Respondent may challenge, in writing, the inclusion of any member of the Hearing Panel for cause, including without limitation, if the member has a direct financial, personal or other interest in the matter under consideration. The merits of such challenge shall be finally decided by the BCC Chairman in his or her sole discretion. If said written challenge is not received within such ten-day period, absent good cause shown, any such right to challenge is deemed waived.

709. Hearing on Penalty in the Event of Failure to Deny Charges; Failure to Request Hearing Deemed Acceptance of Penalty.

In the event the Respondent fails to file an Answer or admits the allegations or fails to deny the allegations in support of a charge of a Violation contained in the Notice, the Hearing Panel shall find the Respondent guilty of each such Violation and may impose a penalty for each such Violation subject to the limitations set forth in Rule 712(b)(v). The Hearing Panel shall promptly notify the Respondent of any such penalty and of the Respondent's right to a hearing on the penalty within ten days, or such longer period as the Hearing Panel may determine, after the imposition of such penalty. Failure to request a hearing on the penalty in a timely manner, absent good cause shown, shall be deemed to be acceptance of the penalty.

710. Settlement Prior to Commencement of Hearing.

Prior to the commencement of the hearing, the Hearing Panel may negotiate and enter into a written settlement agreement with the Respondent, whereby the Respondent, with or without admitting guilt, may agree to:

- (a) a cease and desist order or a reprimand;
- (b) a fine of up to twenty-five thousand dollars for each Violation alleged plus the monetary value of any benefit received as a result of the alleged Violation; and/or
- (c) a suspension of clearing privileges of up to one year; *provided* that such one year limit shall not apply in the event that matter was referred to the Hearing Panel pursuant to Rule 615(b), in which case the Respondent may agree to a lengthier suspension, a revocation of clearing privileges or a termination of Participant status.

711. Hearing Procedures.

Each Hearing Panel shall determine the procedures to be followed in any hearing before it, except that the following shall apply in every case:

- (a) The prosecution shall be conducted by ICE Trust staff.
- (b) The Respondent shall be allowed to be represented by legal counsel or any other representative of its choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.
- (c) ICE Trust staff and the Respondent shall deliver to each other a statement listing the witnesses expected to be called and the documents expected to be introduced into evidence, together with copies of such documents, by such date prior to the hearing as the Hearing Panel may reasonably specify. Unless the Hearing Panel, in its discretion, waives compliance with this requirement, no witness may testify and no documentary evidence may be introduced into evidence unless listed in and, in the case of documents, furnished with such statement. On written request, ICE Trust staff shall provide the Respondent with access to all books, documents or other tangible evidence in the possession or under the control of ICE Trust which are to be relied upon by ICE Trust or which are relevant to the allegations contained in the Notice of Charges.
- (d) No formal rules of evidence shall apply, and the Hearing Panel shall be free to accept or reject any and all evidence it considers proper.
- (e) Neither ICE Trust staff, the Respondent, any witnesses testifying before the Hearing Panel nor any other Person within ICE Trust's jurisdiction shall engage in conduct that may impede the progress of a hearing or the fair and just resolution of the subject matter thereof, and any such conduct may itself constitute a Violation.
- (f) *Ex parte* contacts by any of the parties with members of the Hearing Panel shall not be permitted.
- (g) A substantially verbatim record capable of being accurately transcribed shall be made of the proceedings, *provided, however*, that such record need not be transcribed, unless the transcript is requested by the Respondent or an applicable regulator.
- (h) The Notice of Charges, the Answer, the Reply, any stenographic transcript of the hearing, the documentary evidence and any other material presented to the Hearing Panel by either party with notice to the other shall constitute the record of the hearing (the "**Hearing Record**").

- (i) The burden of proof shall be on the prosecution. A finding of a Violation shall be made by majority vote based on the Hearing Panel's good faith judgment as to the weight of the evidence contained in the Hearing Record.

712. Written Decision of Hearing Panel.

- (a) If the Hearing Panel finds that the Respondent has not committed any Violation charged, it shall render a written decision to that effect, and the Respondent shall not be subject to any further proceedings with respect to the Violation charged. The written decision shall include:
 - (i) a summary of the allegations contained in the Notice of Charges;
 - (ii) a summary of the Answer;
 - (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
 - (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge.
- (b) If the Hearing Panel finds the Respondent has committed the Violation charged, it shall render a written decision to that effect. The written decision shall include:
 - (i) a summary of the allegations contained in the Notice of Charges;
 - (ii) a summary of the Answer;
 - (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
 - (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge, including how Respondent is found to have committed a Violation; and
 - (v) an order stating any penalty imposed and the effective date of such penalty; the penalty that may be imposed on the Respondent shall be one or more of the following:
 - (A) a cease and desist order or a reprimand;
 - (B) a fine of up to one hundred thousand dollars for each Violation plus the monetary value of any benefit received as a result of the alleged violation; and/or
 - (C) a recommendation to the Board to impose a suspension or revocation of clearing privileges or a termination of Participant

status of the Respondent, in accordance with the requirements of Rule 615(b).

- (c) ICE Trust shall notify the CFTC of any determination by a Hearing Panel that a Participant has committed a Violation and the penalty imposed, and shall make available to the CFTC the written decision of the Hearing Panel and any related materials upon request, subject to applicable law.

713. Liability for Expenses.

Any Respondent that, after notice and opportunity for hearing, has been found to have committed a Violation may, in the discretion of the Hearing Panel appointed in the matter, be required to pay to ICE Trust an amount equal to any and all out-of-pocket expenses incurred by ICE Trust in connection with the prosecution of such Violations, in addition to any penalty which may be imposed upon such Participant by virtue of the Violations found by the Hearing Panel.

714. Effective Date of Penalties.

- (a) If a Participant enters into a settlement agreement with relevant ICE Trust staff, the terms of which have been approved by the relevant Review Subcommittee, or with such Review Subcommittee or Hearing Panel, any penalty included as a part of such settlement agreement shall become final and effective on the date that such Review Subcommittee or Hearing Panel approves or enters into such settlement agreement.
- (b) Any decision (including any penalty) by a Hearing Panel shall be the final decision of ICE Trust and shall become effective fifteen days, or such longer time as the Hearing Panel may specify, after a copy of the written decision of the Hearing Panel has been served on the Respondent; *provided, however*, that in any case where the Respondent has consented to the action taken and to the timing of its effectiveness or the matter was referred to the Hearing Panel pursuant to Rule 615(b), the Hearing Panel may cause the decision involving any disciplinary action (including any penalty) to become effective prior to the fifteen day period.
- (c) Any fine imposed by a Hearing Panel shall be due and payable on the effective date of the decision imposing such fine, or on such later date as the Hearing Panel may specify.

715. Extension of Time Limits.

- (a) Any time limit provided for in Rules 704, 705, 706, 707, 708, 709 or 711 may be extended by mutual consent of the Respondent and ICE Trust, by the BCC Chairman, or, if a Hearing Panel has been appointed, by the majority vote of the Hearing Panel.

8. GENERAL GUARANTY FUND

801. General Guaranty Fund Contribution.

- (a) Each Participant shall Transfer to ICE Trust, and thereafter maintain so long as it is a Participant, Collateral for deposit in the General Guaranty Fund in the form and in such amounts as may be determined by ICE Trust from time to time in its sole discretion ("**Required Contribution**"); *provided* that, following the determination by ICE Trust that a Participant is in Default (or the automatic occurrence of a Default, as applicable), (i) ICE Trust shall not be entitled to adjust such Defaulting Participant's Required Contribution and (ii) until such time as ICE Trust has completed the Closing-out Process with respect to such Defaulting Participant, ICE Trust shall not be entitled to adjust any other Participant's Required Contribution except for periodic adjustments of Participants' Required Contributions contemplated by the ICE Trust Procedures; *provided, further*, that ICE Trust shall not be entitled to increase a Retiring Participant's Required Contribution following the first date on which such Retiring Participant no longer has any Open Positions. ICE Trust shall cause appropriate entries to be made in its books and records to reflect the deposit of Collateral, the ICE Trust Priority Contribution and the ICE Trust Pro Rata Contribution into the General Guaranty Fund. ICE Trust shall have the sole right to withdraw cash, securities or other property from, and to authorize the sale or other disposition of any securities or other property held in, the General Guaranty Fund, subject to the limitations imposed in subparagraph (b)(v) of this Rule. A Participant may request, in accordance with the ICE Trust Procedures, that ICE Trust withdraw Collateral from the General Guaranty Fund and return it to the Participant to the extent the Participant's contributions to the General Guaranty Fund exceed its Required Contribution at that time. A Participant may substitute, in accordance with the ICE Trust Procedures, Collateral for an amount of Collateral currently on deposit in the General Guaranty Fund and credited to such Participant having a value, determined in accordance with the ICE Trust Procedures, not to exceed such substitute Collateral. ICE Trust shall pay a Participant interest for any net cash Collateral of such Participant in the General Guaranty Fund, at an interest rate and on a frequency determined from time to time by ICE Trust in the ICE Trust Procedures.
- (b) ICE Trust shall contribute and maintain deposit(s) of capital in the General Guaranty Fund in such form and amount(s) and at such time(s) as follows:
- (i) On or before the first date that Participants are required to Transfer Collateral to ICE Trust for deposit in the General Guaranty Fund pursuant to these Rules or the ICE Trust Procedures, ICE Trust shall contribute to the General Guaranty Fund ten million dollars. Thereafter, ICE Trust may make additional contributions to the General Guaranty Fund from time to

time and shall be obligated to have made aggregate contributions (including the initial ten million dollars) to the General Guaranty Fund of twenty-five million dollars on or prior to the first anniversary of the Customer Integration Date (from time to time, the aggregate amount of dollars so contributed by ICE Trust pursuant to this subparagraph, reduced by any charge applied to such amount pursuant to Rule 802(b) and not reimbursed under Rule 802(a) or (c), the “**ICE Trust Priority Contribution**”). ICE Trust may invest the ICE Trust Priority Contribution only in accordance with the investment guidelines in the ICE Trust Procedures. If on or after the first anniversary of the Customer Integration Date, the value, determined in accordance with the ICE Trust Procedures, of the assets constituting the ICE Trust Priority Contribution is below the required amount of the ICE Trust Priority Contribution because of a decrease in the value of such ICE Trust Priority Contribution (including such decreases that occurred prior to such first anniversary or as the result of investments of the ICE Trust Priority Contribution, but excluding decreases resulting from a charge to such amount pursuant to Rule 802(b)), ICE Trust shall be required, by the open of business on the following ICE Trust Business Day, to contribute an additional amount of assets to the General Guaranty Fund sufficient to cause the assets constituting the ICE Trust Priority Contribution to have a value, determined in accordance with the ICE Trust Procedures, of at least the required amount of the ICE Trust Priority Contribution.

- (ii) Following the aggregate contribution to the General Guaranty Fund by ICE Trust of twenty-five million dollars as described in subparagraph (i), ICE Trust may make additional contributions to the General Guaranty Fund pursuant to this subparagraph (ii) and, by the second anniversary of the Customer Integration Date, shall be obligated to have made an additional contribution to the General Guaranty Fund pursuant to this subparagraph (ii) (net of any charge applied to such amount pursuant to Rule 802(b) on or before such second anniversary and exclusive of the ICE Trust Priority Contribution) of at least twenty-five million dollars (from time to time, the aggregate amount of dollars contributed to the General Guaranty Fund by ICE Trust pursuant to this subparagraph, reduced by any charge applied to such amount pursuant to Rule 802(b), the “**ICE Trust Pro Rata Contribution**”, it being understood that on and after the second anniversary of the Customer Integration Date, the required amount of the ICE Trust Pro Rata Contribution shall be twenty-five million dollars). ICE Trust may invest the ICE Trust Pro Rata Contribution only in accordance with the investment guidelines in the ICE Trust Procedures. If, prior to the second anniversary of the Customer Integration Date, an amount is charged to the ICE Trust Pro Rata Contribution pursuant to Rule 802(b), ICE Trust shall be required, by the open of business on the following ICE Trust Business Day, to contribute an additional amount of dollars to the General Guaranty Fund equal to the amount of such charge and such

additional amount shall constitute part of the ICE Trust Pro Rata Contribution. If, on or after the second anniversary of the Customer Integration Date, the value, determined in accordance with the ICE Trust Procedures, of the assets constituting the ICE Trust Pro Rata Contribution is below the required amount of the ICE Trust Pro Rata Contribution because of a decrease in the value of such ICE Trust Pro Rata Contribution, an investment of the ICE Trust Pro Rata Contribution or a charge to such amount pursuant to Rule 802(b), ICE Trust shall be required, by the open of business on the following ICE Trust Business Day, to contribute an additional amount of assets to the General Guaranty Fund sufficient to cause the assets constituting the ICE Trust Pro Rata Contribution to have a value, determined in accordance with the ICE Trust Procedures, of at least the required amount of the ICE Trust Pro Rata Contribution.

- (iii) For the purposes of allocating the application of any charge to the General Guaranty Fund pursuant to Rule 802(b), the amount of the ICE Trust Priority Contribution and the ICE Trust Pro Rata Contribution shall be determined as of the date of such application. Subject to the ICE Trust Default Maximum, any deficiency of the actual ICE Trust Priority Contribution or ICE Trust Pro Rata Contribution relative to the required amount thereof at the time of application shall remain the liability of ICE Trust, notwithstanding anything to the contrary in these Rules.
 - (iv) **“Customer Integration Date”** shall mean December 14, 2009.
 - (v) ICE Trust may make withdrawals from the General Guaranty Fund in respect of the ICE Trust Priority Contribution and the ICE Trust Pro Rata Contribution only to the extent the value of the assets constituting such contribution exceeds the required amount thereof and for purposes of application of any charge to the General Guaranty Fund pursuant to Rule 802(b). ICE Trust may substitute assets constituting the ICE Trust Priority Contribution or the ICE Trust Pro Rata Contribution in accordance with the investment guidelines in the ICE Trust Procedures.
 - (vi) ICE Trust’s obligation under this Rule 801(b) to contribute additional assets to the General Guaranty Fund shall cease upon the occurrence of one of the reasons for commencing the winding up of Open Positions, as described in Rule 804(a), except for any due and unpaid amounts at the time of such occurrence.
- (c) For the purposes of the application of amounts charged to the General Guaranty Fund pursuant to Rule 802(b) and recoveries related thereto pursuant to Rule 802(a) or (c), the General Guaranty Fund (excluding the ICE Trust Priority Contribution and the General Guaranty Fund contribution of the relevant Participant whose Default or Obligation Failure results in such application (such

Participant, the “**Excluded Participant**”) shall be separated from time to time into two tranches as follows:

- (i) “**Tranche 1**” shall consist of (A) the ICE Trust Pro Rata Contribution (as adjusted, if applicable, by the proviso below) and (B) a portion of the Required Contribution of each Participant other than the Excluded Participant and any Retiring Participant if the relevant Obligation Failure or Default occurred after such Retiring Participant’s Scheduled Return Date (as defined in Rule 803) (each, a “**Remaining Participant**”) equal to such Remaining Participant’s Required Contribution *divided by* the sum of all Remaining Participants’ Required Contributions *multiplied by* the number of Remaining Participants *multiplied by* the ICE Trust Pro Rata Contribution (as adjusted, if applicable, by the proviso below); *provided* that if the sum of all Remaining Participants’ Required Contributions *divided by* the number of Remaining Participants (the “**Average Contribution**”) is less than the ICE Trust Pro Rata Contribution, for the purposes of determining Tranche 1, the ICE Trust Pro Rata Contribution shall be deemed to be the Average Contribution and the remainder of the ICE Trust Pro Rata Contribution shall be applied, if at all, in accordance with Rule 802(b)(iv).
- (ii) “**Tranche 2**” shall consist of the excess of each Remaining Participant’s Required Contributions over the amounts thereof included in Tranche 1.

802. General Guaranty Fund Application.

- (a) If a Participant is in Default and, as a result thereof, ICE Trust suffers any loss or expense in effecting the Closing-out Process, or a Participant shall fail to make any other payment or render any other performance required under these Rules or a Contract (such failure, an “**Obligation Failure**”), then ICE Trust shall, after appropriate application of such Participant’s Margin and other funds in or payable to the accounts of such Participant and any amounts collected from any guarantor of such Participant (other than Margin provided in respect of Client-Related Positions), or may, prior to such application, charge to and apply against the Participant’s contributions to the General Guaranty Fund, in the manner and in the order of priority set forth below:
 - (i) **FIRST:** To the payment of the costs and expenses of any sale, collection or other realization of such Margin or Collateral or amounts deposited by others in the General Guaranty Fund, including, without limitation, fees and expenses of counsel, and all reasonable expenses, liabilities and advances made or incurred by ICE Trust in connection therewith;
 - (ii) **SECOND:** To the payment of any Obligations relating to Open

Positions or the Closing-out Process or any obligations of ICE Trust, in either case, arising out of or in any way relating to such Participant's Default or Obligation Failure (such obligations, together with the costs and expenses described in subparagraph (i), the "**Reimbursement Obligations**");

- (iii) THIRD: To the extent any amount has been charged to or applied against the General Guaranty Fund pursuant to subparagraph (b)(iv) of this Rule on account of such Participant's Default or Obligation Failure, to the Participants and ICE Trust whose contribution to the General Guaranty Fund was charged and applied (whether or not such Participant remains a Participant at the time of the collection), first to the Participants charged to the extent they were charged after the ICE Trust Default Maximum was reached and thereafter to the Participants and ICE Trust, in each case in proportion to the amount each was charged and applied in accordance with subparagraph (b)(iv) of this Rule, up to the amount of such charge and application;
- (iv) FOURTH: To the extent any amount has been charged to or applied against Tranche 2 pursuant to subparagraph (b)(iii) of this Rule on account of such Participant's Default or Obligation Failure, to the Participants whose contribution to Tranche 2 was charged and applied (whether or not such Participant remains a Participant at the time of the collection), in proportion to the amount each was charged and applied in accordance with subparagraph (b)(iii) of this Rule, up to the amount of such charge and application;
- (v) FIFTH: To the extent any amount has been charged to or applied against Tranche 1 pursuant to subparagraph (b)(ii) of this Rule on account of such Participant's Default or Obligation Failure, to the Participants and ICE Trust whose contribution to Tranche 1 was charged and applied (whether or not such Participant remains a Participant at the time of the collection), in proportion to the amount each was charged and applied in accordance with subparagraph (b)(ii) of this Rule, up to the amount of such charge and application;
- (vi) SIXTH: To the extent any amount has been charged to or applied against the ICE Trust Priority Contribution pursuant to subparagraph (b)(i) of this Rule on account of such Participant's Default or Obligation Failure, to ICE Trust up to the amount of such charge and application; *provided* that ICE Trust shall contribute any amount recovered in respect of this subparagraph to the General Guaranty Fund for credit to the ICE Trust Priority Contribution; and
- (vii) SEVENTH: To ICE Trust or to whomsoever may be lawfully entitled to receive any surplus then remaining from such proceeds (including,

without limitation, any insurer, surety or guarantor of the obligations of ICE Trust) or as a court of competent jurisdiction may direct, of any such surplus or, if neither ICE Trust nor any other Person is lawfully entitled to receive any such surplus, to or upon the order of the relevant Participant; *provided* that, if such Participant is a Defaulting Participant, then until such Defaulting Participant's Retirement Date determined pursuant to Rule 803, no such surplus shall be available for distribution under this subparagraph (vii) and any such surplus shall remain in the General Guaranty Fund and be subject to charge and application under paragraph (b) of this Rule.

Reimbursement Obligations shall include obligations in respect of a Defaulting Participant's House Positions and Client-Related Positions. To the extent such Reimbursement Obligations cannot be satisfied in full pursuant to this subsection (a), amounts available pursuant to this subsection (a) shall be applied to Reimbursement Obligations in respect of House Positions and Client-Related Positions in proportion to the respective Initial Margin requirements of the Defaulting Participant in respect of such positions immediately prior to the Default, until the Reimbursement Obligations in respect of House Positions or Client-Related Positions are reduced to zero.

- (b) Following the occurrence of an Obligation Failure, the determination by ICE Trust that a Participant is in Default or the occurrence of an Automatic Default with respect to a Participant, ICE Trust shall be entitled, from time to time, to charge to and apply against the General Guaranty Fund with respect to any of such Participant's Remaining Reimbursement Obligations, in the following order:
- (i) the ICE Trust Priority Contribution;
 - (ii) Tranche 1, pro rata from the contributions thereto of the Remaining Participants and ICE Trust, based on the relative size of such contributions;
 - (iii) Tranche 2, pro rata from the contributions thereto of the Remaining Participants, based on the relative size of such contributions; and
 - (iv) any additional assets deposited in the General Guaranty Fund pursuant to paragraph (d) of this Rule, pro rata from each Remaining Participant's contributions, based on the relative size of such contributions; *provided* that, for the purposes of this subparagraph, if the entire ICE Trust Pro Rata Contribution was not included in Tranche 1 pursuant to the proviso in Rule 801(c)(i), the excess of the ICE Trust Pro Rata Contribution over the amount thereof included in Tranche 1 shall be applied pursuant to this subparagraph (iv), along with additional amounts deposited in the General Guaranty Fund by

Participants pursuant to paragraph (d) of this Rule at the same proportionate rate of application as in Tranche 1 until the ICE Trust Default Maximum is reached.

Notwithstanding anything to the contrary in these Rules, in no event shall more than the ICE Trust Default Maximum be applied in the aggregate to the ICE Trust Pro Rata Contribution in the case of a single Participant Default and any Obligation Failure resulting in such Default. “**ICE Trust Default Maximum**” means, at any time of determination, the lesser of (A) (x) prior to the second anniversary of the Customer Integration Date, the actual amount of the ICE Trust Pro Rata Contribution or (y) on or following the second anniversary of the Customer Integration Date, twenty-five million dollars and (B) the amount of the ICE Trust Pro Rata Contribution that has been applied at the time all additional assets that Remaining Participants may be required to deposit in the General Guaranty Fund pursuant to paragraph (d) of this Rule have been applied.

As used herein, “**Remaining Reimbursement Obligations**” means those Reimbursement Obligations in respect of a Defaulting Participant that remain unsatisfied after application of available amounts pursuant to subsection (a) and, in the case of Reimbursement Obligations in respect of Client-Related Positions only, after application of such Participant’s Margin in respect of Client-Related Positions and any Non-Participant Initial Margin of a defaulting Non-Participant Party in accordance with these Rules. Available amounts pursuant to this subsection must be applied to Remaining Reimbursement Obligations in respect of Client-Related Positions and House Positions in proportion to the respective Initial Margin requirements of the Defaulting Participant in respect of such positions immediately prior to the Default, until the Remaining Reimbursement Obligations in respect of Client-Related Positions or House Positions are reduced to zero.

- (c) Any deficiency in respect of Obligations shall remain a liability of the Participant and any related guarantor to ICE Trust, which ICE Trust may collect from any Margin, Collateral or other assets of such Participant or such guarantor or by legal process. Any such collection by ICE Trust shall be applied in the following order: (i) to the costs and expenses, including, without limitation, fees and expenses of counsel, of obtaining such collection, (ii) to any unreimbursed costs and expenses referred to in subparagraph (a)(i) of this Rule, (iii) to any deficiencies owed to Participants under Wound-up Contracts described in Rule 804, (iv) to the Participants and ICE Trust whose contribution to the General Guaranty Fund was charged and applied for such deficiency pursuant to subparagraph (b)(iv) of this Rule (whether or not such Participant remains a Participant at the time of the collection), first to the Participants charged to the extent they were charged after the ICE Trust Default Maximum was reached and thereafter to the Participants and ICE Trust, in each case in proportion to the amount each was charged and applied in accordance with subparagraph (b)(iv) of this Rule, up to the amount of such charge and application, (v) to the

Participants whose contribution to Tranche 2 was charged and applied for such deficiency (whether or not such Participant remains a Participant at the time of the collection), in proportion to the amount each was charged and applied in accordance with subparagraph (b)(iii) of this Rule, up to the amount of such charge and application, (vi) to the Participants and ICE Trust whose contribution to Tranche 1 was charged and applied for such deficiency (whether or not such Participant remains a Participant at the time of the collection), in proportion to the amount each was charged and applied in accordance with subparagraph (b)(ii) of this Rule, up to the amount of such charge and application, (vii) to ICE Trust in respect of the charge and application against the ICE Trust Priority Contribution, up to the amount of such charge and application; *provided* that ICE Trust shall contribute any amount recovered in respect of this clause to the General Guaranty Fund for credit to the ICE Trust Priority Contribution; (viii) to the Custodial Client Omnibus Margin Account (or to the Participant for distribution to the applicable Non-Participant Parties), to the extent the Participant's Margin in respect of Client-Related Positions was applied to such deficiency; and (ix) to the payment of any other Obligations.

- (d) ***Additional Collateral Deposit.*** ICE Trust shall notify Participants whenever an amount is charged to and applied against the General Guaranty Fund as provided in paragraphs (a) or (b) of this Rule. If Reimbursement Obligations are charged to and applied against Collateral in the General Guaranty Fund pursuant to paragraph (b) of this Rule and, as a result, the amount of Collateral credited to a Participant is less than the amount it was required to maintain pursuant to Rule 801 immediately prior to such charge and application, the Participant shall Transfer to ICE Trust additional Collateral for deposit into the General Guaranty Fund in an amount at least sufficient to restore that Participant's Required Contribution; *provided* that, if a Participant is a Retiring Participant or provides notice that causes it to become a Retiring Participant prior to the time such deposit is due, the Participant's additional Transfer required pursuant to this sentence shall be limited to the excess, if any, of (i) such Participant's Required Contribution on the date of the most recent application of Collateral from the General Guaranty Fund pursuant to paragraph (b) of this Rule over (ii) the aggregate Transfers of Collateral to ICE Trust for deposit in the General Guaranty Fund made by such Participant after it became a Retiring Participant (other than in respect of increases to its Required Contribution for periodic adjustments permitted under Rule 801) and any contributions of the Participant to the General Guaranty Fund in excess (as determined by ICE Trust) of its Required Contribution (with respect to such Participant, such excess of clause (i) over clause (ii) from time to time, the "**Additional Assessment Limit**"); *provided* that, if a Participant was not obligated to make a Transfer to ICE Trust of additional Collateral for deposit in the General Guaranty Fund because its Additional Assessment Limit was reduced to zero and, thereafter, its Required Contribution increases, the Participant shall Transfer to ICE Trust such additional Collateral for deposit in

the General Guaranty Fund to the extent of its Additional Assessment Limit (determined using such increased Required Contribution) on the ICE Trust Business Day following the effectiveness of such increase. All such additional Collateral shall be Transferred to ICE Trust prior to ICE Trust's opening of business on the first ICE Trust Business Day following such notice or such later time as ICE Trust shall determine in its sole discretion. A Participant that fails to Transfer the full amount of such additional Collateral shall be in Default, and ICE Trust may, in addition to any other remedies it may have, debit such Participant's House Margin Account for any or all of such unpaid amount and assess fines and charges against such Participant as provided in Rule 606.

- (e) Each Participant agrees that all right, title and interest in and to any cash Collateral Transferred by such Participant to ICE Trust for deposit in the General Guaranty Fund and any cash proceeds of such Participant's Collateral on deposit in the General Guaranty Fund shall vest in ICE Trust free and clear of any liens, claims, charges or encumbrances in accordance with Rule 402(a). Upon the occurrence of a Default or an ICE Trust Default, or as otherwise provided in these Rules, ICE Trust shall be entitled to apply such cash Collateral and cash proceeds in the General Guaranty Fund, regardless of the source, and any interest payable with respect thereto (i) to the Reimbursement Obligations of any Participant or (ii) to the obligations of ICE Trust to any Participant under any Wound-up Contracts.

- (f)
 - (i) Each Participant hereby grants to ICE Trust, acting on behalf of itself and each Participant, a continuing lien and security interest in and to and right of set-off against all of Participant's right, title and interest, whether now owned or existing or hereafter acquired or arising, in and to all Collateral consisting of (A) all securities, financial assets and other property (other than cash) Transferred by such Participant to ICE Trust for credit to the General Guaranty Fund and (B) all non-cash proceeds of any of the foregoing (jointly, (A) and (B), the "**Pledged Guaranty Collateral**") as security for any and all Reimbursement Obligations of any and all Participants to ICE Trust and for ICE Trust's obligations to any and all Participants under Wound-up Contracts in the event of an ICE Trust Default (collectively, the "**Guaranteed Obligations**"). Upon the return of Pledged Guaranty Collateral by ICE Trust to a Participant in accordance with these Rules and the ICE Trust Procedures, the security interest and lien granted hereunder on such Pledged Guaranty Collateral will be released immediately without any further action by either party.

 - (ii) Upon the occurrence of a Default or an ICE Trust Default, or as otherwise provided in these Rules, ICE Trust, on behalf of itself or any Participant, may exercise all rights of a secured party under the New York Uniform Commercial Code or other applicable law. ICE Trust may, without being required to give any notice, except as may be required by

law, sell or otherwise apply any Pledged Guaranty Collateral Transferred to, or otherwise under the control of, ICE Trust to satisfy the Guaranteed Obligations. Upon any such sale, ICE Trust shall have the right to deliver, assign and transfer to the purchaser thereof the Pledged Guaranty Collateral so sold. Each purchaser at any such sale shall hold the Pledged Guaranty Collateral so sold to it absolutely and free from any claim or right of whatsoever kind, including any equity or right of redemption of the Participant which may be waived, and the Participant, to the extent permitted by law, hereby specifically waives all rights of redemption, stay or appraisal which it has or may have under any law now existing or hereafter adopted.

(iii) Each Participant represents that it is the sole owner of or otherwise has the right to Transfer to ICE Trust the Pledged Guaranty Collateral subject to the foregoing lien and security interest, free and clear of any other security interest, lien, encumbrance or other restrictions, and agrees not to create or permit to exist any such security interest, lien, encumbrance or other restrictions. Each Participant agrees to take any action reasonably requested by ICE Trust that may be necessary or desirable for ICE Trust to create, preserve, perfect or validate the foregoing lien and security interest or to enable ICE Trust to exercise or enforce its rights with respect thereto. With respect to any Pledged Guaranty Collateral consisting of securities and other financial assets Transferred by ICE Trust in accordance with these Rules, each Participant agrees it will accept securities and financial assets of the same issuer, type, nominal value, description and amount as those securities and financial assets initially Transferred by such Participant to ICE Trust.

(g) A Participant shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of ICE Trust (i) to take any action contemplated by this Rule, including, without limitation, to liquidate, set off and/or apply such Participant's Open Positions, Collateral or other assets, pursuant to these Rules or (ii) to set off amounts owed to such Participant against such Participant's Obligations or any other Participant's Reimbursement Obligations.

803. Return of General Guaranty Fund Contributions.

ICE Trust shall return a Retiring Participant's contributions to the General Guaranty Fund, to the extent not charged to or applied against pursuant to Rule 802 or Rule 804, no later than the later of (i) the Retiring Participant's Scheduled Return Date and (ii) the earlier of (A) the date that ICE Trust determines that any Default that occurred on or prior to such Scheduled Return Date will not result in a charge against such Retiring Participant's contribution to the General Guaranty Fund or that there was no such Default and (B) the date that is 90 calendar days from such Scheduled Return Date (the

later of clause (i) and (ii), the “**Retirement Date**”). Upon such return, the Retiring Participant shall have no further obligation to make contributions to the General Guaranty Fund, notwithstanding any remaining Additional Assessment Limit. With respect to a Retiring Participant, the “**Scheduled Return Date**” shall be the last ICE Trust Business Day of the first calendar quarter that has at least sixty calendar days remaining as of the first date on which such Retiring Participant no longer has any Open Positions.

804. Exhaustion of General Guaranty Fund; Winding Up.

- (a) If (i) the application of the General Guaranty Fund in accordance with Rule 802(b) is insufficient to discharge in full the Remaining Reimbursement Obligations of the relevant Participant, taking into account (subject to the Additional Assessment Limit) additional deposits made in accordance with Rules 801 or 802, (ii) the Board determines, by virtue of the number of Retiring Participants or otherwise, that a winding up of outstanding Contracts is prudent or (iii) an ICE Trust Default occurs pursuant to Rule 805, the Board shall determine close-out values for all Open Positions (the “**Wound-up Contracts**”) on a date and at prices determined by the Board in its discretion, acting in good faith and a commercially reasonable manner, and shall determine a single net amount owed by or owed to each Participant in respect of House Positions and a single net amount owed by or owed to each Participant in respect of Client-Related Positions. In such case, net amounts owed by a Participant with respect to Client-Related Positions may be offset and netted against net amounts owed to a Participant with respect to House Positions; provided that net amounts owed by a Participant with respect to House Positions may not be offset or netted against net amounts owed to a Participant with respect to Client-Related Positions. In that case, ICE Trust shall apply all amounts collected from Participants who owe ICE Trust a net amount under the Wound-up Contracts (directly or through Margin deposited by such Participant and other funds in or payable to the accounts of the Participant or from any applicable guarantor, provided that Margin provided in respect of Client-Related Positions may only be applied to the extent net amounts are owed in respect of Client-Related Positions), plus all available amounts in the General Guaranty Fund, to pay all net amounts owed by ICE Trust to Participants under the Wound-up Contracts, subject to the limitation of liability set forth in Rule 312, and, to the extent the amounts owed by ICE Trust exceed the amounts available for payment, the amounts available for payment shall be prorated based on the relative net amounts owed by ICE Trust to Participants under Wound-up Contracts. To the extent amounts available for payment exceed the amounts owed by ICE Trust, such excess shall be applied in accordance with Rule 802(a)(iii)-(vii).
- (b) For the sake of clarity, if ICE Trust and some or all of the Retiring Participants agree to establish a new General Guaranty Fund (the “**New General Guaranty Fund**”) and to have ICE Trust accept for clearing replacements for some or all

of the Wound-up Contracts, the limitation of liability set forth in Rule 312 shall continue to apply to the Wound-up Contracts, ICE Trust shall be liable only to the extent set forth in such Rule 312, and the New General Guaranty Fund shall not be available to satisfy any obligations in respect of the Wound-up Contracts.

805. ICE Trust Default.

If any of the events listed in this Rule occur (an “**ICE Trust Default**”), all Open Positions with all Participants shall be terminated and cash settled in accordance with Rule 804.

- (a) **Failure to Pay or Deliver.** Failure by ICE Trust to (i) make, when due, any payment or delivery with respect to any Participant’s Open Positions required to be made by it (determined without regard to the limitation of liability set forth in Rule 312) or (ii) make, when due, a contribution to the General Guaranty Fund required of it by Rule 801 or 802, in the case of each of clauses (i) and (ii) if such failure is not remedied on or before the third ICE Trust Business Day after notice of such failure is given to ICE Trust by any Participant; or
- (b) **Bankruptcy.** ICE Trust (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) institutes a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or presents a petition for its winding-up or liquidation; (iii) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation and, in each case, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or (iv) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets.

... Interpretations and Policies:

- .01 As used in this Chapter 8, “Participant” includes a Participant that has had its clearing privileges suspended or revoked, or its status as a Participant terminated, by ICE Trust or whose privileges in respect of Trades and Contracts have been restricted pursuant to Rules 203 or 207.

9-19. [RESERVED]

20. CREDIT DEFAULT SWAPS

The rules in this Chapter 20 apply to the clearance of CDS Contracts.

20-102. Definitions.

2005 Matrix Supplement

The “2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions” (published on March 7, 2005), as published by ISDA.

2005 Monoline Supplement

The “Additional Provisions for Physically Settled Default Swaps – Monoline Insurer as Reference Entity” (published on January 21, 2005), as published by ISDA.

CDS Committee Rules

The rules set forth in Chapter 21. Any reference to a particular CDS Committee Rule shall be a reference to the relevant rule in Chapter 21.

CDS Committee-Eligible Participant

Any CDS Participant that has been approved by the Board or its designee, after consultation with the Risk Committee, for participation in one or more Regional CDS Committees under the CDS Committee Rules and in the CDS Default Committee. The Board or its designee, after consultation with the Risk Committee, may revoke (or reinstate) its approval from time to time based on its determination as to whether a particular CDS Participant has been in compliance with these Rules and the ICE Trust Procedures.

CDS Contract

A credit default swap transaction accepted for clearing that meets the criteria established under these Rules. A CDS Contract is a Contract for purposes of Chapter 1 of these Rules.

CDS Master Agreement

With respect to each CDS Participant, the ISDA 2002 Master Agreement, as published by ISDA, entered into between such CDS Participant and ICE Trust. This Master Agreement shall, subject to the provisions of these Rules, govern all Open CDS Positions between ICE Trust and such CDS Participant. The CDS Master Agreement, including all Open CDS Positions governed thereby, and

these Rules form a single agreement between ICE Trust and such CDS Participant.

CDS Participant

A Participant that has been approved by ICE Trust for the submission of CDS Contracts.

CDS Physical Settlement Rules

The rules set forth in Chapter 22 of these Rules. Any reference to a particular CDS Physical Settlement Rule shall be a reference to the relevant rule in Chapter 22 of these Rules.

CDS Region

A region for which CDS Contracts are cleared by ICE Trust, as determined by the Board or its designee, after consultation with the Risk Committee.

CDS Regional Business Day

With respect to a CDS Region, any day determined in accordance with the location and other parameters designated by the Board or its designee as a day on which the business of clearing CDS Contracts may occur in the particular CDS Region.

CDS Restructuring Rules

The rules published and designated as such by ICE Trust that specify the rights and obligations of ICE Trust and the relevant CDS Participants under Restructuring CDS Contracts for which either “Restructuring Maturity Limitation and Fully Transferable Obligation Applicable” or “Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable” is specified.

DC Rules

The Credit Derivatives Determinations Committees Rules, as defined in Section 1.22 of the July 2009 Supplement as the “Rules”.

ISDA

The International Swaps and Derivatives Association, Inc., or any successor thereto.

July 2009 Supplement

The 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions, as published by ISDA on July 14, 2009.

Matched Restructuring Pair

Following a CDS Contract becoming a Restructuring CDS Contract pursuant to these Rules, a matched pair of a Buyer and a Seller under such Restructuring CDS Contract with an allocated Floating Rate Payer Calculation Amount, as determined by ICE Trust in accordance with the CDS Restructuring Rules.

Open CDS Positions

A CDS Participant's Open Positions in CDS Contracts.

Regional CDS Committee Restructuring Announcement

The announcement by ICE Trust that a Regional CDS Committee (or Dispute Resolver) has Resolved that an event that constitutes a Restructuring has occurred with respect to one or more CDS Contracts.

Restructuring CDS Contract

A CDS Contract that is subject to a DC Credit Event Announcement in respect of Restructuring Credit Event or a Regional CDS Committee Restructuring Announcement.

Triggered Restructuring CDS Contract

An Open CDS Position (or portion thereof) in a Restructuring CDS Contract that is the subject of an effective Credit Event Notice pursuant to the CDS Restructuring Rules.

20-402. ICE Trust Lien.

In addition to the lien described in Rule 402(b), each CDS Participant hereby grants ICE Trust, acting on behalf of the relevant Buyer, a continuing lien and security interest in and to all of such CDS Participant's right, title and interest, whether now owned or existing or hereafter acquired or arising, in and to all Buyer Allocated Collateral (as defined in Rule 2204(b)) as security for all obligations of such CDS Participant to such Buyer under all Allocated CDS Contracts (as defined in Rule 2203(a)) between such CDS Participant and such Buyer.

20-605. CDS Participant Default.

- (a) ICE Trust may determine that a CDS Participant is in "**Default**" if such CDS Participant (i) fails to meet, or appears, in the judgment of ICE Trust, likely to fail

to meet, any of the CDS Participant's obligations (other than an obligation to Transfer Margin) with respect to, or is otherwise in default or subject to early termination under, the CDS Participant's Contracts with ICE Trust, (ii) fails to Transfer Margin (whether Initial Margin or Mark-to-Market Margin) by the deadline established under these Rules, (iii) is suspended or expelled or whose privileges are revoked by a Market or by ICE Trust or (iv) has a guarantor providing a guarantee pursuant to Rule 205 who fails to meet, or appears, in the judgment of ICE Trust, likely to fail to meet, any obligations with respect to, or who is otherwise in default under, the guarantee. If "Automatic Early Termination" is specified as applying to a CDS Participant under its CDS Master Agreement, then all Open CDS Positions of such CDS Participant shall be immediately terminated (A) upon the occurrence with respect to such CDS Participant of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8) of its CDS Master Agreement (or as otherwise specified in the Schedule thereto), or (B) as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such CDS Participant of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8) of its CDS Master Agreement (or as otherwise specified in the Schedule thereto), and the occurrence of any such termination of Open CDS Positions shall automatically constitute a Default (an "**Automatic Default**"). Upon a Default, ICE Trust may effect the Closing-out Process with respect to such CDS Participant (the "**Defaulting CDS Participant**") as provided in these Rules as deemed appropriate by ICE Trust, and any debit balance owing to ICE Trust shall be immediately due and payable. For purposes of clause (i) or (iv), and without limiting the generality thereof, ICE Trust may rely on any of the following to demonstrate that a CDS Participant or a guarantor appears likely to fail to meet its obligations to ICE Trust:

- (A) the CDS Participant or guarantor is in breach of the terms of membership or the rules or regulations of, or is refused an application for or is suspended or expelled from membership of, any Market or any other exchange, market or clearing house;
- (B) the CDS Participant or guarantor is in breach of the terms of membership of, or is refused an application for or is suspended or expelled from membership of, any regulatory, self-regulatory or other entity or organization with regulatory authority, whether governmental or otherwise (a "**Regulatory Body**") or is in breach of the rules or regulations of a Regulatory Body to which it is subject or its authorization by a Regulatory Body is suspended or withdrawn;
- (C) a Regulatory Body takes or threatens to take action against or in respect of the CDS Participant or guarantor under any statutory provision or process of law;

- (D) circumstances occur that would qualify, with respect to the CDS Participant or guarantor, as a Bankruptcy Event of Default under Section 5(a)(vii) of the ISDA 2002 Master Agreement, determined without regard to any grace periods therein;
 - (E) the CDS Participant or guarantor fails to pay any sum due and payable, or is otherwise in default under the terms of any agreement (including without limitation a Non-Participant Contract) or threatens to suspend payment or to default under the terms of any agreement (including without limitation a Non-Participant Contract), in each case other than (i) where such payment or other relevant obligation is the subject of a good faith dispute by the CDS Participant or guarantor or (ii) where such failure or default is the result of an administrative or operational error on the part of the CDS Participant or guarantor and the relevant party had the financial ability to make the relevant payment or perform the relevant obligation at the time due; or
 - (F) any distress, execution or other process is levied or enforced or served upon or against any property of the CDS Participant or guarantor.
- (b) If ICE Trust determines to effect the Closing-out Process, ICE Trust shall (i) convene the CDS Default Committee for purposes of making recommendations as to any Initial Cover Transactions referred to in paragraph (c)(ii) of this Rule and the appropriate auction or other process referred to in paragraph (c)(vi) of this Rule and related Minimum Target Price(s) and (ii) provide notice of such Default, including the identity of the Defaulting CDS Participant, as soon as reasonably practicable (but in any event before ICE Trust executes any transactions described in paragraph (c) of this Rule) to the CDS Participants and to the public generally, through a press release or in another manner determined by ICE Trust.
- (c) In effecting the Closing-out Process as provided in paragraph (a) of this Rule, ICE Trust shall, without limiting the generality of paragraph (a) of this Rule, have the right, in consultation with the CDS Default Committee:
- (i) (A) With respect to the Open CDS Positions that are Client-Related Positions in any account of such Defaulting CDS Participant, to liquidate, set off and/or apply, as applicable, (1) in the following order: (a) any proceeds received by ICE Trust from closing or replacing such Open CDS Positions or any related Initial Cover Transactions, (b) in the following order, without duplication, (i) any Mark-to-Market Margin provided to ICE Trust with respect to such Client-Related Positions, (ii) any Non-Participant Initial Margin (including Excess Margin) of a defaulting Non-Participant Party (to the extent of its obligation to the related Participant) and any proceeds thereof ("**Defaulting Client Margin**"), and (iii) any amounts or proceeds received by ICE Trust from or on behalf of the

relevant Non-Participant Party under or in respect of the Client-Related Positions (or related Non-Participant Contracts), including margin applied in satisfaction of a Non-Participant Party's obligations thereunder ("**Non-Participant Party Proceeds**"), (c) any property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's House Positions, (d) the Defaulting Participant's Required Contribution to the General Guaranty Fund as provided in Rule 802, (e) any other property of or delivered by the Defaulting CDS Participant (other than Margin for Client-Related Positions) within the possession or control of ICE Trust (whether or not related to Open CDS Positions), and (f) any other property or proceeds thereof deposited with or held by ICE Trust as Initial Margin for such Defaulting Participant's Client-Related Positions, subject to the limitation set forth in Rule 402(h), against (2) any amounts paid by ICE Trust in closing or replacing such Client-Related Positions or any related Initial Cover Transactions, including any commissions, losses, costs or expenses incurred in connection therewith or in connection with the liquidation of Margin (whether in the House Margin Account or Custodial Client Omnibus Margin Account) and any other obligations of the Defaulting CDS Participant to ICE Trust in respect of Client-Related Positions, including any obligations arising from any other accounts maintained by the Defaulting CDS Participant with ICE Trust in respect of Client-Related Positions. For purposes of the foregoing, ICE Trust may, in its discretion use assets available pursuant to clause (c)-(f) prior to receipt of proceeds due pursuant to clause (b)(ii) or (iii), provided that any proceeds subsequently received pursuant to clause (b)(ii) or (iii) (to the extent not applied by ICE Trust) will be used to reimburse the sources of such other assets (and, in the event assets were used pursuant to clause (f)), deposited in the Custodial Client Omnibus Margin Account for distribution pursuant to subsection (l) below. For the avoidance of doubt, the provisions of this clause (c)(i)(A) will not apply to Client-Related Positions transferred to or replaced with a Replacement Participant without loss to ICE Trust pursuant to Rule 20A-02;

(B) With respect to the Open CDS Positions that are House Positions in any account of such Defaulting CDS Participant, to liquidate, set off and/or apply, as applicable, (1) in the following order: (a) any proceeds received by ICE Trust from closing or replacing such Open CDS Positions or any related Initial Cover Transactions, (b) any property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's House Positions, (c) the Defaulting Participant's Required Contribution to the General Guaranty Fund as provided in Rule 802 and (d) any other property of or delivered by the Defaulting CDS Participant within the possession or control of ICE Trust (whether or not related to Open CDS Positions), other than any property or proceeds thereof deposited with or held by ICE Trust as Margin or Excess Margin for such Defaulting Participant's Client-Related Positions (including any amounts in

the Custodial Client Omnibus Margin Account), against (2) any amounts paid by ICE Trust in closing or replacing such House Positions or any related Initial Cover Transactions, including any commissions, losses, costs or expenses incurred in connection therewith or in connection with the liquidation of Margin in the House Margin Account and any other obligations of the Defaulting CDS Participant to ICE Trust, including any obligations arising from any other accounts maintained by the Defaulting CDS Participant with ICE Trust;

(C) Notwithstanding the foregoing, to the extent any (i) property or proceeds thereof deposited with or held by ICE Trust as Margin for such Defaulting Participant's House Positions or (ii) any other property of or delivered by the Defaulting CDS Participant within the possession or control of ICE Trust, whether or not related to Open CDS Positions (other than any property or proceeds thereof deposited with or held by ICE Trust as Margin or Excess Margin for such Defaulting Participant's Client-Related Positions and the Defaulting Participant's Required Contribution to the General Guaranty Fund as provided in Rule 802) is to be applied pursuant to both clauses (A) and (B) above, such property shall be applied first pursuant to clause (B) above in respect of House Positions until the relevant obligations are satisfied and thereafter pursuant to clause (A) above in respect of Client-Related Positions. The Defaulting Participant's Required Contribution to the General Guaranty Fund shall be applied as provided in Rule 802.

- (ii) If ICE Trust determines it is appropriate to an orderly unwind of the Open CDS Positions of the Defaulting CDS Participant or to mitigate damages to ICE Trust and the other CDS Participants caused by the Default, to enter into, as part of the Closing-out Process, transactions with CDS Participants with respect to the Open CDS Positions of the Defaulting CDS Participant that have been determined by the CDS Default Committee, pursuant to the ICE Trust Procedures, as designed to achieve this purpose ("**Initial Cover Transactions**");
- (iii) In exercising any of its rights of setoff or otherwise as necessary hereunder, to designate the currency of payments to be made by or to ICE Trust in effecting the Closing-out Process and to convert payments made by or to ICE Trust into a currency and at a rate of exchange as it shall determine;
- (iv) To cause Open CDS Positions of the Defaulting CDS Participant and, to the extent of any remaining imbalance, of other CDS Participants, or any portion thereof, to be offset against each other and/or to be settled at the Mark-to-Market Price for such Contracts, or at such other price or prices reflecting the current market as ICE Trust, in consultation with the CDS

Default Committee in accordance with the ICE Trust Procedures, may deem fair and reasonable in the circumstances;

- (v) To take any action or refrain from taking any action on behalf of the Defaulting CDS Participant with respect to any Open CDS Position of the Defaulting CDS Participant, which, in the judgment of ICE Trust and subject to the terms of the relevant CDS Contract and applicable law, would be advisable to preserve the value of such Open CDS Position, including, without limitation, exercising any rights or remedies therein; tendering or accepting for tender any securities, loans or other obligations; making or receiving any payments; making or providing any election or notice or otherwise performing any other act or obligation contemplated therein;
- (vi) Subject to Rule 20A-02, if applicable, to enter into Trades with other CDS Participants that replace or mitigate the risk of all or part of the Open CDS Positions of the Defaulting CDS Participant and any Initial Cover Transactions, pursuant to one or more auctions or other process established taking into account recommendations of the CDS Default Committee, but any such Trades shall not be at a price less favorable to ICE Trust than a target price (a “**Minimum Target Price**”) for all or a portion of the Open CDS Positions of the Defaulting CDS Participant and any Initial Cover Transactions with respect thereto, established by ICE Trust in consultation with the CDS Default Committee and taking into account the results of any prior auctions, which shall be the least favorable price that would be, in the judgment of ICE Trust, reasonable to accept for such Trades;
- (vii) To the extent that ICE Trust does not enter into Trades that replace or otherwise close all of the Open CDS Positions of the Defaulting CDS Participant and all Initial Cover Transactions (if any), to enter into Trades with other CDS Participants (who shall be obligated to enter into such Trades in accordance with this subparagraph and to submit, in accordance with the ICE Trust Procedures, the terms of such Trades with ICE Trust to Deriv/SERV or another service specified by ICE Trust) that replace any remaining Open CDS Positions of the Defaulting CDS Participant and any remaining Initial Cover Transactions at a price (the “**Allocation Price**”) reflecting the current market as determined by ICE Trust in consultation with the CDS Default Committee in accordance with the ICE Trust Procedures, taking into account the Minimum Target Price (as adjusted by ICE Trust in consultation with the CDS Default Committee for market changes from the time of the initial determination of the Minimum Target Price to the time such Trades are entered into) on a pro rata basis (or as near as practicable, with odd lots determined by ICE Trust and assigned randomly) in proportion to the size of each CDS Participant’s Required Contribution to the General Guaranty Fund relative

to the aggregate of the Required Contributions to the General Guaranty Fund of all CDS Participants other than the Defaulting CDS Participant. For the avoidance of doubt, ICE Trust shall not be permitted to enter into a Trade with a CDS Participant pursuant to this clause (vii), and a CDS Participant will not be obligated to enter into any such Trade, unless ICE Trust pays to the CDS Participant the applicable Allocation Price, if any, owed to such CDS Participant for entering into such Trade, and accordingly following exhaustion of the General Guaranty Fund (including any additional Collateral deposit pursuant to Rule 802(d)), no Trades will be entered into pursuant to this subclause (vii);

- (viii) To defer the Closing-out Process if, in its discretion, it determines that the Closing-out Process would not be in the best interests of ICE Trust or other CDS Participants, taking into account the size and nature of the positions in question, market conditions prevailing at the time, the potential market effects of such liquidating transactions as might be directed by ICE Trust, and such other circumstances as it deems relevant; and
 - (ix) For the purposes of entering into Initial Cover Transactions or other Trades with CDS Participants pursuant to this Rule, notwithstanding anything to the contrary in Rules 301 or 303, to make and receive “**Initial Payments**” with respect to such Trades; and
 - (x) To take any other action as ICE Trust may deem necessary or appropriate for its protection.
- (d) ICE Trust shall effect the Closing-out Process separately in respect of Open CDS Positions that are Client-Related Positions and House Positions, and notwithstanding anything to the contrary herein but subject to the following sentence, Client-Related Positions and House Positions may not be netted or offset against each other as part of the Closing-out Process. Net amounts owed by a Defaulting Participant with respect to Client-Related Positions may be offset against net amounts owed to a Defaulting Participant with respect to House Positions; provided that net amounts owed by a Defaulting Participant with respect to House Positions may not be offset against net amounts owed to a Defaulting Participant with respect to Client-Related Positions. With respect to Client-Related Positions, the Closing-out Process shall be subject to the Default Portability Rules set forth in Rule 20A-02, if applicable. To the extent the Closing-out Process in respect of Client-Related Positions results in an amount owed by ICE Trust to the Defaulting Participant, such amount (the “**ICE Trust Client Termination Amount**”) will be credited to the Custodial Client Omnibus Margin Account for distribution to Non-Participant Parties (1) in the case of a Participant that is not an FCM, as provided in subsection (l) below and upon any withdrawal therefrom shall be received by the Defaulting Participant as agent and custodian on behalf of and for the benefit of the relevant Non-Participant Parties to Non-Participant Contracts with that Participant, for distribution in accordance

with these Rules and the Standard Clearing Annex (Non-FCM), and Participant shall have no other interest therein; or (2) in the case of a Participant that is an FCM, as provided in subsection (m) below. Amounts recovered by or on behalf of ICE Trust from a Non-Participant Party of a Defaulting Participant will be similarly be credited to the Custodial Client Omnibus Margin Account for application pursuant to clause (c)(i)(A) above or distribution to Non-Participant Parties as provided in subsection (l) or (m) below , as applicable.

- (e) In taking any action hereunder, ICE Trust may cooperate, by sharing information or in any other manner it determines appropriate, with any Regulatory Body having jurisdiction over ICE Trust or the Defaulting CDS Participant or its guarantor.
- (f) ICE Trust may appoint any person to take or assist it in taking any action that it is allowed to take under this Rule.
- (g) (i) Before making any determination that a CDS Participant is in Default pursuant to paragraph (a), in the case of determinations under clause (i)(B)(z) and subparagraph (i)(C) of this paragraph (g) with respect to a Participant that is not an FCM, ICE Trust shall consult with the staff of the New York Fed and shall use its best efforts to consult with the Risk Committee, and, in the case of determinations under clauses (i)(B)(x) and (y) of this paragraph (g) with respect to any Participant, shall provide notice to the staff of the CFTC and New York Fed. A determination by ICE Trust that a CDS Participant is in Default pursuant to paragraph (a) shall require:
 - (A) the decision of an Eligible Officer in the event the relevant Default is that such CDS Participant (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official; (3) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and, in each case, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or (4) seeks or becomes subject to the appointment of an administrator, provisional

liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;

- (B) the decision of an Eligible Officer with the consent of either (1) the Chairman of the Board, if not an employee of such CDS Participant or any Affiliate or (2) any two members of the Board who are not employees of such CDS Participant or any Affiliate (such consent, “**Minimum Manager Approval**”) in the event the relevant Default is that such CDS Participant has failed to (x) meet any of such CDS Participant’s payment or delivery obligations (including Collateral obligations, but excluding obligations to Transfer Margin) with respect to such CDS Participant’s Contracts with ICE Trust, (y) Transfer Margin (whether Initial Margin or Mark-to-Market Margin) by the deadline established under these Rules or (z) comply with a Trading Activity Limitation (as defined in Rule 203) or a limitation imposed under Rule 207(a)(i); or
 - (C) approval of the Board by a two-thirds majority of those voting, in a vote excluding members who are employees of such CDS Participant or any Affiliate and with a quorum of at least fifty percent of the members of the Board, in the event the relevant Default is any other circumstance which may, pursuant to paragraph (a), constitute a Default by such CDS Participant, excluding any Automatic Default.
- (ii) Any right or determination, other than a determination referred to in paragraph (g)(i) of this Rule, that is granted to or required of ICE Trust pursuant to this Rule, shall be exercised or made, as applicable, upon a majority vote of the Board, *provided* that any such right or determination may be exercised or made, as applicable, by (A) any person so authorized by the Board or (B) an Eligible Officer with Minimum Manager Approval if such Eligible Officer believes in good faith that such exercise or determination requires immediate action to avoid a material risk to ICE Trust, the Defaulting CDS Participant or the remaining CDS Participants. In addition, without limiting the foregoing or paragraph (f) of this Rule, ICE Trust may, in a particular case or in general, delegate to the CDS Default Committee the authority to determine the appropriateness of entering into Initial Cover Transactions, to enter into Initial Cover Transactions on behalf of ICE Trust, to determine and thereafter adjust any Minimum Target Prices, and/or to determine how prudently to unwind the Open CDS Positions of a Defaulting CDS Participant and the related Initial Cover Transactions, if any.
- (h) Any obligation of ICE Trust to a Defaulting CDS Participant arising from an Open CDS Position or from any provision of these Rules shall be subject to all the terms of the Rules, including the setoff and other rights set forth herein. The

rights of ICE Trust set forth herein shall be in addition to other rights that ICE Trust may have under applicable law and governmental regulations, other provisions of the Rules and additional agreements with the Defaulting CDS Participant, or any other source.

- (i) A Defaulting CDS Participant shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of ICE Trust to take any action contemplated by this Rule, including, without limitation, to liquidate, set off and/or apply such Defaulting CDS Participant's Open CDS Positions, Margin or other property held by ICE Trust, pursuant to these Rules or (ii) to set off amounts owed to such Defaulting CDS Participant against such Defaulting CDS Participant's Obligations.
- (j) If there is an Automatic Default, then ICE Trust shall exercise its rights under this Rule in a manner consistent with the fact that all Open CDS Positions have automatically terminated in determining a single early termination amount in respect of Client-Related Positions and a single early termination amount in respect of House Positions, in each case payable by either ICE Trust or the Defaulting CDS Participant pursuant to the Closing-out Process.
- (k) In addition to the liens described in Rule 402(b) and Rule 20-402 (and any other lien provided under these Rules), each CDS Participant (other than an FCM) hereby grants a continuing lien and security interest in and to all of such CDS Participant's right, title and interest, whether now owned or hereafter acquired or arising, in and to all Non-Participant Contracts (if any) entered into by such Participant, together with all margin or other collateral or supporting obligations with respect thereto and all proceeds of the foregoing (without prejudice to, and after giving effect to, any contractual netting or set-off provision under such Non-Participant Contracts) and, to the extent such CDS Participant is deemed to have any interest therein, any ICE Trust Client Termination Amount (the "**Contract Collateral**"), (i) first to ICE Trust as security for all Obligations of such CDS Participant in respect of Client-Related Positions, and (ii) second in favor of all Non-Participant Parties with Non-Participant Contracts with such CDS Participant to secure such CDS Participant's obligations to pay any termination amounts owed under such Non-Participant Contracts, subject to the provisions of these Rules (including the application of any Default Portability Rules). The provisions of Rule 402(d) shall apply to the security interest in the Contract Collateral as if referred to therein. Upon the occurrence of a Default with respect to such CDS Participant, ICE Trust may exercise all rights of a secured party under the New York Uniform Commercial Code or other applicable law with respect to the Contract Collateral. ICE Trust may, without being required to give any notice, except as may be required by law, sell or otherwise dispose of or apply any such Contract Collateral, including without limitation pursuant to Rule 20A-02(b)(iii)(A), to satisfy such Obligations. With respect to the security interest pursuant to clause (ii) above, ICE Trust may act as representative of the secured parties for the sole purpose of depositing the relevant collateral or proceeds thereof into the

Custodial Client Omnibus Margin Account for distribution in accordance with subsection (l) below, and ICE Trust shall have no other liability or responsibility with respect thereto. Unless a Default with respect to the CDS Participant has occurred and is continuing, upon the termination of a Non-Participant Contract and offset of the related Client-Related Position or conversion thereof into a House Position in accordance with Rule 304, the security interest and lien granted by CDS Participant hereunder on such Non-Participant Contract will be released immediately without any further action by any party.

- (l) Upon the occurrence of a Default with respect to a CDS Participant that is not an FCM and completion of the Closing-out Process with respect thereto, ICE Trust will distribute, or return to the applicable CDS Participant or its receiver, trustee or other applicable insolvency practitioner for distribution, to each Non-Participant Party (other than those whose Non-Participant Contracts are transferred or terminated and replaced in accordance with the Default Portability Rules) the amounts remaining in the Custodial Client Omnibus Margin Account (or the proceeds thereof) as follows: (i) to the extent of the Available Net Client Distribution Amount, in accordance with its respective Net Termination Claim and (ii) to the extent of the aggregate remaining Excess Margin in the Custodial Client Omnibus Margin Account, in accordance with its respective Excess Margin Return Amount. Notwithstanding anything to the contrary herein, in the case of a distribution of assets in the Custodial Client Omnibus Margin Account following a Default, pursuant to this subsection (l), a Non-Participant Party's entitlement to such assets shall be based on its pro rata share of the proceeds thereof as set forth in the preceding sentence, and a Non-Participant Party shall not be entitled to the return of specific assets in such account (whether or not it had originally posted such assets). As used herein, the "**Available Net Client Distribution Amount**" shall be the portion of the Net Client Omnibus Margin Amount not applied by ICE Trust pursuant to this Rule 20-605, plus any ICE Trust Client Termination Amount, plus any Non-Participant Party Proceeds and Defaulting Client Margin not otherwise applied pursuant to this Rule 20-605. Any amounts remaining in the Custodial Client Omnibus Margin Account after payment in full of all Net Termination Claims and Excess Margin Return Amounts shall be returned to the CDS Participant.
- (m) Upon the occurrence of a Default with respect to a CDS Participant that is an FCM and completion of the Closing-out Process with respect thereto, ICE Trust will return to the receiver, trustee or other applicable insolvency practitioner for such CDS Participant the amounts remaining in the Custodial Client Omnibus Margin Account (or the proceeds thereof) for distribution or application as provided by law.
- (n) References to Rule 605 in Rule 611 shall be deemed to include references to this Rule 20-605.

... **Interpretations and Policies:**

.01 ICE Trust may declare a Participant that is in Default under this Rule 20-605 also to be in Default under Rule 605, and ICE Trust may effect the Closing-out Process on a combined basis with respect to Open CDS Positions and other Open Positions; provided that the Closing-out Process shall be effected separately with respect to House Positions and Client-Related Positions.

20-617. CDS Default Committee.

- (a) ICE Trust shall maintain a committee, governed by these Rules, responsible for taking certain actions provided in Rule 20-605 and Rule 20A-02 and the ICE Trust Procedures upon the Default of a CDS Participant and as otherwise provided pursuant to these Rules (the “**CDS Default Committee**”). The CDS Default Committee shall be comprised of not more than three CDS Committee-Eligible Participants designated in accordance with Rule 20-617(b) (each, a “**CDS Default Committee Participant**”). Each CDS Default Committee Participant shall designate an employee of it or one of its Affiliates with credit default swap trading experience (an “**Eligible Employee**”) to serve as its representative on the CDS Default Committee, along with one or more alternates in the event the designated employee is not available on a timely basis (the designated employee or alternate, as applicable, a “**CDS Default Committee Member**”). A CDS Default Committee Participant may replace its designated CDS Default Committee Member or alternate(s) with an Eligible Employee from time to time by notice to ICE Trust.
- (b) ICE Trust shall randomly order all CDS Committee-Eligible Participants into a list (the “**CDS Default Committee Participant List**”). For this purpose, if two or more CDS Committee-Eligible Participants are or become Affiliates, as determined by ICE Trust, they shall be treated as one on the CDS Default Committee Participant List; *provided* that, notwithstanding the foregoing, CDS Committee-Eligible Participants that are Affiliates but that make separate contributions to the General Guaranty Fund shall be treated as separate on the CDS Default Committee Participant List except that no CDS Default Committee Participant shall be an Affiliate of another CDS Default Committee Participant and ICE Trust shall have the discretion to reorder the CDS Default Committee Participant List and/or remove a CDS Default Committee Participant to effectuate this prohibition.
- (c) The CDS Default Committee for the initial Relevant CDS Default Committee Period shall be comprised of the first three CDS Committee-Eligible Participants on the CDS Default Committee Participant List. For each Relevant CDS Default Committee Period thereafter, the then current CDS Default Committee Participants shall cease to be CDS Default Committee Participants and shall be moved to the end of the CDS Default Committee Participant List, and the next

three CDS Committee-Eligible Participants on the CDS Default Committee Participant List shall be CDS Default Committee Participants. If at any time, there are fewer than three CDS Committee-Eligible Participants on the CDS Default Committee Participant List, all such CDS Committee-Eligible Participants shall be CDS Default Committee Participants. The “**Relevant CDS Default Committee Period**” will be six calendar months (i.e., January through June and July through December), unless otherwise specified by the Board or its designee.

- (d) Any CDS Participant that ceases being a CDS Committee-Eligible Participant shall be removed from the CDS Default Committee Participant List and, if such CDS Participant is serving on the CDS Default Committee at the time of removal, shall be replaced on the CDS Default Committee by the next CDS Committee-Eligible Participant on the CDS Default Committee Participant List. Any CDS Participant that becomes (or resumes being) a CDS Committee-Eligible Participant shall be added to the end of the CDS Default Committee Participant List.
- (e) If ICE Trust determines, whether upon the request of such CDS Default Committee Participant or upon ICE Trust’s own initiative, that any CDS Default Committee Participant has a conflict or lacks impartiality with regard to an action to be undertaken by the CDS Default Committee (e.g., it or its Affiliate is the subject of the Default), is not available to participate with regard to such actions in a timely manner, or should for any other reason be removed from or not participate in actions to be undertaken by the CDS Default Committee, ICE Trust shall remove such CDS Default Committee Participant and, as promptly as practicable under the circumstances, replace it with the next CDS Committee-Eligible Participant on the CDS Default Committee Participant List and, pending such replacement, the remaining CDS Default Committee Members shall continue to perform the responsibilities of the CDS Default Committee.
- (f) No CDS Default Committee Member or CDS Default Committee Participant shall be liable to ICE Trust, any Defaulting CDS Participant, any other CDS Participant or any other person for any actions taken or not taken in good faith in its role as CDS Default Committee Member or CDS Default Committee Participant.
- (g) The CDS Default Committee shall assist ICE Trust in determining and executing any Initial Cover Transactions and in determining and thereafter adjusting any Minimum Target Prices and shall provide ICE Trust with recommendations with respect to (i) how prudently to unwind the Open CDS Positions of a Defaulting CDS Participant (both Client-Related Positions and House Positions) and the related Initial Cover Transactions, if any, (ii) how to implement the Default Portability Rules, if applicable and (iii) the particular structure and characteristics of any SR Auction (as defined in Rule 26B-203(a)), in each case in accordance with these Rules and the ICE Trust Procedures.

- (h) Except as may be required by applicable law or court order or by a regulatory, self-regulatory or supervising authority having appropriate jurisdiction, each CDS Default Committee Participant and CDS Default Committee Member (each a “**Covered Party**”) agrees (i) to maintain confidentiality as to all non-public information it obtains in the course of its service including, without limitation, the Open CDS Positions of a Defaulting CDS Participant, Minimum Target Prices (or any adjustments thereto), or any other deliberations or determinations related to the actions of ICE Trust upon the Default of a CDS Participant (the “**Confidential Material**”) and (ii) not to use any Confidential Material for its own benefit or the benefit of any of its Affiliates. In the event that a Covered Party is served with or otherwise subject to legal process (including subpoena or discovery notice) requiring it to testify about, to produce, or otherwise to divulge Confidential Material, to the extent permitted by law the Covered Party subject to such process will as soon as practicable inform ICE Trust so that ICE Trust may seek a protective order or other remedy. In the event that such protective order or other remedy has not been obtained and the Covered Party is advised, in the opinion of counsel, that it is legally compelled to disclose any of the Confidential Material, the Covered Party may disclose only such Confidential Material so advised to be disclosed.
- (i) Each CDS Default Committee Participant and CDS Default Committee Member shall be responsible for its own costs associated with its service in such position.

20A. CDS PORTABILITY RULES

The rules in this Chapter 20A apply to the clearance of CDS Contracts.

20A-01. Portability Rules Where Participant is Not in Default.

- (a) Each Participant (other than a Defaulting Participant) (the “**Transferor Participant**”) that carries Client-Related Positions shall be required, upon request of a Non-Participant Party for whom such positions are carried or with which a related Non-Participant Contract with that Participant has been entered into, to transfer or novate, as the case may be, such Participant’s rights and obligations with respect thereto to one or more other Participants (the “**Transferee Participants**”) designated by such Non-Participant Party, subject to the provisions of this Rule 20A-01 and, to the extent not inconsistent with this Rule 20A-01, to any terms agreed between such Participant and Non-Participant Party. Such transfer or novation shall be effected as soon as practicable following satisfaction of the conditions set forth in subsection (b).
- (b) A transfer or novation pursuant to subsection (a) shall be subject to the following conditions:
- (i) The Transferor Participant shall have no obligation to locate or obtain a Transferee Participant (which shall be the responsibility of the Non-Participant Party).
 - (ii) (ii) Unless otherwise agreed between the Transferor Participant and the Non-Participant Party and subject to any applicable legal or regulatory requirements, the Non-Participant Party must satisfy in full, at or prior to the proposed transfer or novation time, any margin requirements (“Pre-Transfer Margin Requirements”) imposed by the Transferor Participant with respect to:
 - (A) any remaining Client-Related Positions or Non-Participant Contracts; and
 - (B) if the Non-Participant Party and Transferor Participant have expressly agreed (whether orally or in writing) to determine the margin requirements for contracts, transactions or positions other than Client-Related Positions or Non-Participant Contracts (collectively, “Noncleared Contracts”) by taking into account the margin requirements for the Client-Related Positions or Non-Participant Contracts being transferred or novated, such Noncleared Contracts;

in each case, calculated after giving effect to such transfer or novation. If there is an express agreement (whether written or oral) between the Transferor Participant and the Non-Participant Party with respect to the margining that will be imposed on Client-Related Positions, Non-Participant Contracts or Noncleared Contracts, the Transferor Participant shall determine the Pre-Transfer Margin Requirements in accordance with the terms of such agreement. So long as (x) the Pre-Transfer Margin Requirements specified in this clause (ii) are satisfied and (y) no event of default has occurred with respect to the Non-Participant Party under the applicable Customer Account Agreement, no consent of the Transferor Participant shall be required for such transfer or novation.

- (iii) The Transferor Participant, Transferee Participant and Non-Participant Party shall have agreed and executed and submitted to ICE Trust a transfer or novation confirmation (the “**Transfer Confirmation**”) in a form approved by ICE Trust (which may be written or electronic) specifying the following information:
 - (A) The Client-Related Positions (or related Non-Participant Contracts) to be transferred or novated (the “**Transferred Transactions**”);
 - (B) The proposed transfer or novation date (the “**Transfer Date**”), which shall be no earlier than the ICE Trust Business Day of submission of the Transfer Confirmation to ICE Trust and shall be a novation date for the ICE Trust clearing cycle generally;
 - (C) Whether relevant margin of the Non-Participant Party held in the Custodial Client Omnibus Margin Account is to be transferred to the Transferee Participant or returned to the Transferor Participant for distribution to the Non-Participant Party (and, for the avoidance of doubt, Participant Property being held as Initial Margin shall not be transferred to a Transferee Participant);
 - (D) The amount of such margin, if any, to be so moved or returned in respect of the transferred or novated contracts; and
 - (E) Such other matters as ICE Trust may specify.
- (iv) Prior to the applicable transfer time determined by ICE Trust on the Transfer Date (the “**Transfer Time**”), if required by ICE Trust, each of the Transferor Participant and the Transferee Participant shall have Transferred additional Margin in the amount specified by ICE Trust to satisfy any additional Margin Requirements as a result of the proposed adjustments in Client-Related Positions pursuant to clause (c) below.

- (iv) ICE Trust has accepted such Transfer Confirmation, and the Transferor Participant and Transferee Participant have satisfied such other conditions as ICE Trust may have specified.
- (c) If such conditions are satisfied, then as of the Transfer Time, the transfer or novation shall occur as set forth in the Transfer Confirmation and ICE Trust shall
 - (i) adjust the outstanding Client-Related Positions of the Transferor Participant to reflect the termination or transfer of Client-Related Positions related to the Transferred Transactions;
 - (ii) adjust the outstanding Client-Related Positions of the Transferee Participant to reflect the transfer or establishment of new Client-Related Positions related to the Transferred Transactions;
 - (iii) adjust the Margin Requirements of the Transferor Participant and Transferee Participant to reflect such adjustments of outstanding Client-Related Positions; and
 - (iv) transfer the applicable margin from the Custodial Client Omnibus Margin Account of the Transferor Participant to that of the Transferee Participant or return such margin to the Transferor Participant for distribution to the Non-Participant Party, as specified in the Transfer Confirmation.
- (d) Any fees or costs charged by the Transferor Participant on the Non-Participant Party in connection with such transfer or novation (other than those mandated by law or assessed to reimburse the Transferor Participant for any third party expenses incurred in connection with such transfer or novation) shall, unless otherwise agreed between the Transferor Participant and the Non-Participant Party at the time of transfer or novation, be consistent with the relevant prior agreement or understanding with respect to such fees or costs, if any, between the Transferor Participant and Non-Participant Party or, in the absence of any such prior agreement or understanding, shall be in accordance with the Transferor Participant's standard fees and costs applying to all such transfers or novations. For the avoidance of doubt, for purposes of this provision, "fees" or "costs" shall not be construed to refer to a margin or other credit support requirement with respect to a Client-Related Position, related Non-Participant Contract, or other contract, transaction or position between the Transferor Participant and Non-Participant Party.
- (e) In the case of a novation, solely as between the Transferor Participant and Transferee Participant, any payment owed between such parties in connection with the novation of the Transferred Transactions (as set forth in the Transfer Confirmation) shall be deemed to be netted against any offsetting payment owed between such parties in respect of the adjustment of their respective Client-Related Positions in connection with the novation.
- (f) Notwithstanding anything to the contrary herein, no Participant shall be required to accept novation of any Client-Related Transaction (or related Non-Participant Contract) as a Transferee Participant without its consent.

- (g) Following the Transfer Time, each of the Transferor Participant and Transferee Participant must make appropriate submissions, in accordance with the ICE Trust Procedures, to Deriv/SERV or another service specified by ICE Trust to reflect the adjustments to its outstanding Client-Related Positions and the novation of any related Non-Participant Contracts. The Non-Participant Party shall be required to make appropriate such submissions to reflect such novation.
- (h) Notwithstanding anything to the contrary herein or in any Transfer Confirmation, if a Default occurs with respect to a Transferor Participant prior to the Transfer Time for a transfer, such transfer (and any related Transfer Confirmation) will be of no effect and ICE Trust will not adjust the related Client-Related Positions pursuant to this Rule 20A-01.
- (i) For the avoidance of doubt, subject to satisfying the conditions in subsection (b) above, a Non-Participant Party that has entered into a Non Participant Contract with a Participant may transfer the related Client-Related Position to an FCM Participant that will hold the transferred Client-Related Position for such Non-Participant Party in accordance with Rule 406 (in which case such Non-Participant Contract will terminate in connection with such transfer).

20A-02. Post-Default Portability Rules.

- (a) Each Participant that enters into Client-Related Positions subject to Rule 405 shall require the relevant Non-Participant Party to elect whether or not it requests its Non-Participant Contracts to be subject to the rules set forth in this Section 20A-02 (the “**Default Portability Rules**”, and such an election to be subject to the Default Portability Rules, a “**Portability Election**”). Any such election by a Non-Participant Party (i) must apply to all Non-Participant Contracts with such Participant and (ii) may be amended by the Non-Participant Party at any time prior to a Default of such Participant or a default by such Non-Participant Party under the terms of a Non-Participant Master Agreement or other applicable documentation. Each Participant shall notify ICE Trust, at times and in a manner to be specified by ICE Trust, of the Client-Related Positions (on a gross basis) with respect to which the Non-Participant Party has not made a Portability Election (“**Non-Transfer Positions**”). ICE Trust shall be entitled to rely on the most recent such information provided to ICE Trust by the Participant prior to its Default, notwithstanding any notice or purported notice to the contrary from a Non-Participant Party or any other person, and ICE Trust shall have no obligation to inquire of any Non-Participant Party or other person as to any such election.
- (b) If ICE Trust determines to effect the Closing-out Process in respect of Client-Related Positions of a Defaulting Participant that is not an FCM, ICE Trust shall determine the loss to it with respect to the Client-Related Positions pursuant to the Closing-out Process and the extent, if any, to which the Net Client Omnibus Margin Amount would be applied to such loss (a “**Net Client Omnibus Margin Shortfall**”). The following additional provisions shall apply in respect of Client-

Related Positions (other than Non-Transfer Positions) of such Defaulting Participant determined by ICE Trust to be eligible therefor (“**Eligible Transfer Positions**”):

- (i) Pursuant to Rule 20-605(c), during a period of up to 3 ICE Trust Business Days from the commencement of the Closing-out Process (the “**Transfer Period**”), ICE Trust may, but will not be obligated to, enter into Trades that replace all or part of the Eligible Transfer Positions with other CDS Participants that will also agree to accept the transfer of, or enter into a replacement of, the Non-Participant Contracts corresponding to such Eligible Transfer Positions. Without limiting the foregoing, ICE Trust will have no obligation to enter into any replacement of Eligible Transfer Positions and any related transfer or replacement of Non-Participant Contracts if it would result in ICE Trust being undermargined or undersecured with respect to any remaining Eligible Transfer Positions or would raise other risk management concerns, in each case as determined by ICE Trust in its sole discretion.
- (ii) ICE Trust may seek such replacement Trades for the entire portfolio of Eligible Transfer Positions (and related Non-Participant Contracts) or any relevant portion thereof (including, if applicable, on a Client-by-Client basis). Without the prior consent of such Non-Participant Party, ICE Trust will not transfer Trades of a Non-Participant Party to, or replace Trades with, a Participant other than one designated by the Non-Participant as a permitted transferee. A Non-Participant Party may designate permitted transferees or amend such designations at any time prior to a Default of the relevant Participant or a default by such Non-Participant Party under the terms of a Non-Participant Master Agreement. Subject to the foregoing, ICE Trust may take into consideration such other factors ICE Trust determines to be relevant in seeking such replacement Transactions.
- (iii) If ICE Trust enters into such a replacement Trade for one or more Eligible Transfer Positions with another CDS Participant (the “**Replacement Participant**”), ICE Trust will contemporaneously cause the transfer or replacement of the related Non-Participant Contract(s) to or with the Replacement Participant as follows:
 - (A) if ICE Trust determines that such action is legally permitted under the circumstances (including through the exercise of rights pursuant to subsection (d) below) and so elects, ICE Trust shall transfer the defaulting Participant’s rights, title and interest to the Non-Participant Contract(s) to the Replacement Participant. Upon such transfer, the Replacement Participant shall assume and undertake in favor of the Non-Participant Party the obligations of the defaulting Participant under the transferred Eligible Transfer Position(s);

- (B) if ICE Trust determines not to effect a transfer pursuant to clause (A) above, the Replacement Participant shall enter into replacement transaction(s) with the Non-Participant Party identical to the relevant Non-Participant Contracts with the defaulting Participant. Any termination payments owed in respect of the termination of the Eligible Transfer Position and terminated Non-Participant Contract and any payments owed in respect of the establishment of the replacement transaction and replacement Client-Related Position of the Replacement Participant shall be equal (in each case based on the amount determined by ICE Trust in its discretion, and not taking into account any clearing fees or similar amounts agreed to by the relevant parties) and any such amounts remaining after application of any mark-to-market margin shall be netted among the relevant parties. To facilitate such netting, ICE Trust assigns and transfers to the Defaulting Member its rights to payment, if any, of such net amount from the Replacement Participant in respect of the establishment of the new Client-Related Position (after any offset for mark-to-market margin arising on such establishment) in satisfaction of the obligation of ICE Trust to pay the Defaulting Member the corresponding net amount in respect of the termination of the related Client-Related Position (but solely to the extent of such amount), and the Defaulting Member shall be deemed to have accepted such assignment and satisfaction;
- (C) if the Replacement Participant and Non-Participant Party have entered into an ISDA Master Agreement and Standard Clearing Annex (Non-FCM), the transferred or replacement trades pursuant to clause (A) or (B) shall be subject to such agreement and annex. If the Replacement Participant and Non-Participant Party have not entered into an ISDA Master Agreement and Standard Clearing Annex (Non-FCM), the transferred or replacement trades shall be subject to an agreement in the form of the 2002 ISDA Master Agreement (without any Schedule thereto) and the Standard Clearing Annex (Non-FCM), until such time as the Replacement Participant and Non-Participant Party have entered into an ISDA Master Agreement and Standard Clearing Annex (Non-FCM) in accordance with the terms thereof;
- (D) Following the transfer or replacement of transactions of a Client pursuant to clause (A) or (B) above, ICE Trust shall transfer any related margin of such Non-Participant Party in the Custodial Client Omnibus Margin Account (after deducting the applicable Non-Participant Pro Rata Share of any Net Client Omnibus Margin Shortfall) to the applicable such account of the Replacement Participant, to serve as margin for the transferred or replaced

transaction and related Client-Related Position, and Defaulting Participant agrees to such transfer and to take any necessary action to facilitate such transfer. In addition, the Defaulting Participant shall transfer or cause to be transferred any related Participant Excess Margin of the relevant Non-Participant Party in its possession or control to the Replacement Participant for the account of the Non-Participant Party. Notwithstanding the foregoing, the Replacement Participant shall remain obligated to satisfy any Margin Requirement resulting from its entry into replacement Client-Related Positions. For the avoidance of doubt, ICE Trust may recalculate the Net Client Omnibus Margin Amount to reflect any increase in the Initial Margin requirement as a result of the transfer or replacement of less than all of the relevant Non-Participant Contracts and related Client-Related Positions. Any such movements of margin shall be determined by ICE Trust on the basis of information most recently provided to ICE Trust by the Defaulting Participant (or any receiver, trustee, insolvency practitioner or similar party therefor); and

- (E) Nothing in these Rules shall require a Participant to accept transfer of Non-Participant Contracts or enter into a replacement contracts for Non-Participant Contracts of a Defaulting CDS Participant.
- (c) If ICE Trust determines to effect the Closing-out Process in respect of Client-Related Positions of a Defaulting Participant that is an FCM, ICE Trust shall determine the loss to it with respect to the Client-Related Positions pursuant to the Closing-out Process and the Net Client Omnibus Margin Shortfall. The following additional provisions shall apply in respect of Client-Related Positions of such Defaulting Participant determined by ICE Trust and the receiver, trustee or other insolvency practitioner for the Defaulting Participant to be eligible therefor (“**Eligible Transfer Positions**”):
- (i) ICE Trust may (but will not be obligated to), in coordination with the receiver, trustee or other insolvency practitioner for such Defaulting Participant, attempt to arrange or facilitate the transfer of such Eligible Transfer Positions to other CDS Participants that will accept such positions. Except as required by law and without limiting the foregoing, ICE Trust will have no obligation to permit any transfer of Eligible Transfer Positions if it would result in ICE Trust being undermargined or undersecured with respect to any remaining Eligible Transfer Positions or would raise other risk management concerns, in each case as determined by ICE Trust in its sole discretion.
 - (ii) Such transfers of Eligible Transfer Positions may be made with respect to the entire portfolio of Eligible Transfer Positions or any relevant portion thereof (including, if applicable, on a client-by-client basis). Subject to the

foregoing, ICE Trust may take into consideration such other factors ICE Trust determines to be relevant in arranging any such transfer.

- (iii) Following the transfer of transactions of a Non-Participant Party, ICE Trust shall transfer any related margin of such Non-Participant Party in the Custodial Client Omnibus Margin Account (after deducting the applicable Non-Participant Pro Rata Share of any Net Client Omnibus Margin Shortfall) to the applicable such account of the transferee Participant, to serve as margin for the transferred transaction, and Defaulting Participant agrees to such transfer and to take any necessary action to facilitate such transfer. Notwithstanding the foregoing, the transferee Participant shall remain obligated to satisfy any Margin Requirement resulting from its acceptance of the transfer of Client-Related Positions. For the avoidance of doubt, ICE Trust may recalculate the Net Client Omnibus Margin Amount to reflect any increase in the Initial Margin requirement as a result of the transfer of less than all of the Client-Related Positions of a Defaulting Participant. Any such movements of margin shall be determined by ICE Trust on the basis of information most recently provided to ICE Trust by the Defaulting Participant (or any receiver, trustee, insolvency practitioner or similar party therefor).
- (iv) Nothing in these Rules shall require a Participant to accept transfer of Eligible Transfer Positions.
- (d) A Defaulting CDS Participant shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of ICE Trust to take action contemplated by the Default Portability Rules, including, without limitation, the transfer or replacement of positions and the transfer of related margin or collateral.
- (e) Each CDS Participant hereby appoints ICE Trust as its lawful agent and attorney-in-fact, as further security for the Obligations of the CDS Participant, to (i) take such actions on behalf of the CDS Participant in the event it becomes a Defaulting CDS Participant as ICE Trust, in its discretion and in accordance with the Default Portability Rules, determines for the purposes of executing any document or instrument in order to effectuate the Default Portability Rules and/or (ii) exercise rights and remedies under any and all Open CDS Positions and Non-Participant Contracts in such manner as ICE Trust may, in its discretion and in accordance with the Default Portability Rules, determine. Each Participant hereby ratifies and confirms all acts or things ICE Trust does or purports to do pursuant to this power of attorney.
- (f) Following the transfer or replacement of Eligible Transfer Positions and related Non-Participant Contracts pursuant to this Rule 20A-02, the Replacement Participant must make appropriate submissions, in accordance with the ICE Trust Procedures, to Deriv/SERV or another service specified by ICE Trust to

reflect such transfer or replacement. The Non-Participant Party shall be required to make appropriate such submissions to reflect such transfer or replacement of any Non-Participant Contracts.

21. REGIONAL CDS COMMITTEES AND DISPUTE RESOLUTION PROCEDURES

2101. Composition and Role of the Regional CDS Committees.

2101-01. Composition of the Regional CDS Committees.

- (a) For each CDS Region, there shall be a committee, governed by these CDS Committee Rules, responsible for making determinations and resolving disputes related to cleared CDS Contracts for that CDS Region (each, a **“Regional CDS Committee”**). For each CDS Region, the Board or its designee will also determine the location and parameters for determining whether a day is a CDS Regional Business Day in respect of the relevant CDS Region and the relevant local time.
- (b) Each Regional CDS Committee will consist of one member (each, a **“Committee Member”**) for each Regional CDS Participant. Each Regional CDS Participant shall notify ICE Trust of the identity of its authorized representative who will serve as its Committee Member for a Regional CDS Committee and also of its authorized alternative representative, who may serve as the Regional CDS Participant’s Committee Member in the absence of the Regional CDS Participant’s authorized representative, and any changes to the identity of its representatives from time to time. ICE Trust will maintain a list of all Regional CDS Participants, their authorized representatives, and associated contact information for each Regional CDS Committee and may rely on the identity of a Regional CDS Participant’s authorized representative and authorized alternative representative previously notified to it until ICE Trust receives notice of any changes.
- (c) For a particular CDS Region, a **“Regional CDS Participant”** is CDS Committee-Eligible Participant, as defined in Rule 20-102, that meets the applicable criteria established for the relevant CDS Region by the Board or its designee, in each case at the time of the relevant vote or other activity under these CDS Committee Rules. If any two or more Regional CDS Participants in a particular CDS Region are or become Affiliates, as determined by the Board or its designee, those Regional CDS Participants together are entitled to appoint only a single Committee Member for the relevant Regional CDS Committee. If at any time affiliated Regional CDS Participants in a particular CDS Region have identified more than one Committee Member for the relevant Regional CDS Committee, the affiliated Regional CDS Participants will promptly notify ICE Trust which of the identified authorized representatives and authorized alternative representatives will represent them.
- (d) For each Regional CDS Committee, the Chairman of the Board, with the approval of the Board or its designee, will from time to time appoint a Committee Member from the Regional CDS Committee to serve as chairperson of the

committee for a term of one year (each, a “**Chairperson**”). If a Chairperson ceases to be a Committee Member of the relevant Regional CDS Committee or notifies the Chairman of the Board of his or her resignation, the Chairman of the Board, with the approval of the Board or its designee, will appoint another Committee Member to serve as Chairperson of the relevant Regional CDS Committee for the remainder of the outgoing Chairperson’s term. Prior service as Chairperson does not disqualify a Committee Member from subsequent terms of service as Chairperson.

- (e) Each Regional CDS Participant shall be responsible for its own costs associated with its participation as a Regional CDS Participant or as a Committee Member unless these CDS Committee Rules specifically provide otherwise.

2101-02. Role of the Regional CDS Committees.

- (a) For the relevant CDS Region, the Regional CDS Committee shall, subject to Rule 2101-02(d) and (e), be responsible for:
 - (i) determining whether a Reference Entity under a CDS Contract has been the subject of a Succession Event and, if so, determining the legally effective date of the Succession Event and the identity of the Reference Entity’s Successor(s), if any, *provided* that such determination shall be made only where sufficient information is available to the Regional CDS Committee to make such determination;
 - (ii) where necessary in respect of a CDS Contract, determining whether a Reference Obligation no longer satisfies the applicable requirements under a CDS Contract and, if so, identifying any Substitute Reference Obligation, *provided* that such determination shall be made only where sufficient information is available to the Regional CDS Committee to make such determination;
 - (iii) determining whether a Credit Event for which there is Publicly Available Information has occurred with respect to a CDS Contract on or after the Credit Event Backstop Date (determined by reference to Greenwich Mean Time) and on or prior to the Extension Date (determined by reference to Greenwich Mean Time) and, if so, determining the relevant Event Determination Date, if any, which shall be the first date on which the relevant Regional CDS Committee both has received effective notice prior to the end of the last day of the relevant Notice Delivery Period requesting that the Regional CDS Committee determine the matters described in this clause (iii) and is in possession of Publicly Available Information; *provided, however,* that an Event Determination Date relating to a Restructuring Credit Event shall occur in respect of a Restructuring CDS Contract or part thereof only if a relevant party thereto delivers a Restructuring Credit

Event Notice relating thereto on or before the relevant Exercise Cut-off Date, as provided in the CDS Restructuring Rules;

- (iv) if the applicable method of settlement under a CDS Contract is Physical Settlement (whether initially or due to the fact that the CDS Contract is to be settled in accordance with the Fallback Settlement Method), resolving any questions presented by one or more Committee Members with respect to such CDS Contract regarding (1) whether a particular obligation is a Deliverable Obligation, (2) whether a particular Deliverable Obligation satisfies Section 2.32(a) or 2.33(a) of the Credit Derivatives Definitions, if applicable (a Deliverable Obligation that satisfies the relevant Section, a **“Permissible Deliverable Obligation”**), (3) the length of the Physical Settlement Period, (4) the Accreted Amount of any Accreting Obligation or (5) with respect to a Deliverable Obligation, any specific assignment, novation or other document or any other action that may be necessary, customary or desirable and reasonably requested by either party to an Allocated CDS Contract for the purpose of effecting Physical Settlement and, with respect to a Deliverable Obligation that is a Loan, the documentation customarily used in the relevant market for Delivery of such Loan at that time, including any market advisory, and any amendments to such documentation to the extent necessary in order to preserve the economic equivalent, as closely as practicable, of the delivery and payment obligations of the parties under the Credit Derivatives Definitions; and
 - (v) with respect to a CDS Contract, making any other determination requested of it or resolving any disputes referred to it by ICE Trust or its designee or by any Committee Member, excluding (A) making determinations or resolving disputes relating to withholding, gross-up or reimbursement for or on account of any Tax (as defined in Rule 613) or other Tax matters and (B) resolving disputes that are subject to arbitration pursuant to these Rules.
- (b) Subject to Rule 2101-02(d) and (e), ICE Trust shall be responsible for performing any calculations or other determinations required of the Calculation Agent by a CDS Contract, other than those responsibilities specifically delegated to the Regional CDS Committees as provided in Rule 2101-02(a) or as otherwise delegated to the Regional CDS Committees by the Board or its designee. Any Calculation Agent determination made by ICE Trust under this Rule 2101-02(b) may be disputed by any Committee Member referring the determination to the relevant Regional CDS Committee.
- (c) If there is a question presented to the Regional CDS Committee under Rule 2101-02(a)(iv) with respect to whether a particular obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, as applicable, and the answer to the question may differ based on the date as of which the question is

answered (for example, the “Not Contingent” characteristic is at issue and there is a contingency that might cease to exist as of a particular date), the presenter of the question will identify the relevant date.

- (d) Notwithstanding anything to the contrary in this Rule 2101-02 or elsewhere in these Rules, if the July 2009 Supplement applies to a CDS Contract, the Regional CDS Committee shall not consider a question under these CDS Committee Rules in respect of such CDS Contract (including where new information, relevant to the question to be considered, has become available) unless a request has been previously submitted to ISDA, as DC Secretary, to convene the relevant Credit Derivatives Determinations Committee to resolve the answer to such question for the purposes of the relevant CDS Contract (and, where new information as aforesaid has become available, that information has been made available to the DC Secretary with such request) and ISDA has publicly announced that the relevant Credit Derivatives Determinations Committee has resolved not to determine the answer to such question or will not be deliberating the question.
- (e) For the avoidance of doubt, if the July 2009 Supplement applies to a CDS Contract, any determination by a Credit Derivatives Determinations Committee applicable to such CDS Contract shall be binding on ICE Trust and the relevant CDS Participants and shall supersede a prior determination of the same question by the relevant Regional CDS Committee, Dispute Resolver or ICE Trust, as applicable, as provided in Section 9.1(c)(iii) of the Credit Derivatives Definitions (except as expressly stated otherwise in Section 9.1(c)(iii)(B) thereof, interpreted as if the relevant Regional CDS Committee, Dispute Resolver or ICE Trust, as applicable, were the Calculation Agent). In the event there is a pending question before a Regional CDS Committee or a Dispute Resolver and ISDA publicly announces that the conditions are satisfied to convene a Credit Derivatives Determinations Committee to resolve the same question, such Regional CDS Committee or Dispute Resolver shall cease considering such question and, in the event the question is raised again with such Regional CDS Committee or Dispute Resolver following such Credit Derivatives Determinations Committee’s proceedings, the process of considering such question by such Regional CDS Committee or Dispute Resolver shall start over from the beginning.
- (f) If the July 2009 Supplement applies to a CDS Contract, in each case notwithstanding whether the applicable Regional CDS Committee is entitled to consider the question pursuant to Rule 2101-02(d):
 - (i) a question presented to a Regional CDS Committee concerning whether or not an event constitutes a Credit Event with respect to such CDS Contract which includes a description in reasonable detail of the facts and information required to be included in a Credit Event Notice and a Notice of Publicly Available Information shall be deemed to be delivery by a Notifying Party to the other party of a Credit Event Notice and Notice of

Publicly Available Information under all relevant CDS Contracts only for the purposes of determining the Credit Event Backstop Date pursuant to Section 1.23 of the Credit Derivatives Definitions and as otherwise provided in these Rules; and

- (ii) a question presented to a Regional CDS Committee concerning whether or not an event constitutes a Succession Event with respect to such CDS Contract which includes a description in reasonable detail of the facts required to be included in a Succession Event Notice shall be deemed to be delivery by one party to the other party of a Succession Event Notice under all relevant CDS Contracts only for the purposes of determining the Succession Event Backstop Date pursuant to Section 2.2(i) of the Credit Derivatives Definitions and as otherwise provided in these Rules.

2101-03. Meetings of the Regional CDS Committee.

- (a) ICE Trust or the Chairperson may, and at the request of any two Committee Members the Chairperson will, call a meeting of the Regional CDS Committee on no less than three hours notice. Meetings may commence at any time between 10:00 a.m. and 6:00 p.m. local time on a CDS Regional Business Day. As part of the notice to Committee Members of the meeting, ICE Trust or the Chairperson, as applicable, shall include a brief description of the circumstances, including (if applicable) which category described in Rule 2101-02(a) the Regional CDS Committee is being asked to consider. Meetings may be held in person or by telephone or videoconference.
- (b) There will be no quorum for holding a meeting of a Regional CDS Committee. The quorum for holding a binding or non-binding vote will be a number of Committee Members equal to the Standard Quorum Number, unless otherwise indicated in a CDS Committee Rule. "**Standard Quorum Number**" means the greater of (i) 5 and (ii) 50 percent of the Regional CDS Participants for the relevant Regional CDS Committee (rounded down to the nearest whole number).
- (c) Each Committee Member will have a single vote on all matters before the Regional CDS Committee. In addition, each Regional CDS Participant agrees that it will cause its Committee Member (or any other person voting on such Committee Member's behalf) to, when casting a ballot in a binding vote, vote for the answer that is, in such voter's good faith belief, the proper answer to the question, taking into account any ambiguities in the application of the terms of the CDS Contract to the particular question.
- (d) The voting standards used in these CDS Committee Rules have the following meanings:

- (i) a “**Quorum Majority**” means that there is a quorum for the vote and at least a majority of voting Committee Members have voted for a particular answer to the question posed.
- (ii) a “**Quorum Supermajority**” means that there is a quorum for the vote and at least two-thirds of voting Committee Members have voted for a particular answer to the question posed.
- (iii) a “**Quorum Stage 2 Supermajority**” means that there is a quorum for the vote and at least two-thirds of voting Committee Members have voted for a particular answer to the question posed. For a Quorum Stage 2 Supermajority, the denominator is the greater of (x) the number of Committee Members voting in the vote and (y) the number of Committee Members who voted in the most recent binding vote on the question.
- (iv) an “**Acceleration Supermajority**” means that there is a quorum for the vote of at least two-thirds of Committee Members on a Regional CDS Committee and all voting Committee Members have voted for holding a binding vote on an Issue or any element thereof on a date earlier than the date described in Rule 2103-02(a).
- (v) an “**Effectiveness Supermajority**” means that there is a quorum for the vote of at least two-thirds of Committee Members on a Regional CDS Committee and at least three-quarters of voting Committee Members have voted for a particular Effectiveness Convention.

For purposes of each of these voting standards, (1) Committee Members who are present but abstain from voting are neither counted for purposes of determining whether there is a quorum nor counted in the denominator for purposes of determining whether the requisite threshold is met and (2) Committee Members who are present but vote that they need more time to consider the question are both counted for purposes of determining whether there is a quorum and counted in the denominator for purposes of determining whether the requisite threshold is met.

- (e) A Committee Member may invite one or more employees of the Regional CDS Participant such Committee Member is representing (or of an Affiliate) to participate in a meeting of the Regional CDS Committee relating to an Issue for which the employee(s) have expertise. The Committee Member may, by notice to the Regional CDS Committee, delegate the authority to vote on its behalf on a particular Issue to any such employee.
- (f) A Regional CDS Committee may seek advice or assistance from outside counsel or other outside experts by a Quorum Majority vote of Committee Members in favor. The costs associated with any such advice or assistance may not exceed

\$100,000 per Regional CDS Committee in any one calendar year (or such other amount specified by ICE Trust), without the approval of ICE Trust.

- (g) The decisions of a Regional CDS Committee will be effective at the time of the binding vote, unless the Regional CDS Committee has adopted an applicable Effectiveness Convention, in which case the decision will be effective as provided in the Effectiveness Convention. By an Effectiveness Supermajority vote in favor, a Regional CDS Committee may adopt a convention, or modify an existing convention, for determining when a particular decision is effective in one or more particular contexts or circumstances (an “**Effectiveness Convention**”).
- (h) ICE Trust may make publicly available the answer by which a Regional CDS Committee has Resolved a question with respect to an Issue or any element thereof. A Regional CDS Committee may make publicly available a written summary of the basis for the Resolution of an Issue (whether pursuant to Rule 2103, 2104 or 2105) if such summary is supported by a Quorum Stage 2 Supermajority.

2101-04. Regional CDS Committee Mandatory Voting Members.

- (a) ICE Trust shall maintain a list of Regional CDS Participants for purposes of identifying Regional CDS Participants whose Committee Member shall be required to participate in all meetings and votes relating to a matter before the Regional CDS Committee (a “**Mandatory Voting Member**”), absent a written certification to ICE Trust by the relevant Regional CDS Participant that, in its judgment, neither its Committee Member nor anyone else within the Regional CDS Participant’s organization is appropriate to serve in such capacity. A Regional CDS Participant may not provide such a written certification solely on the basis that it does not trade the particular CDS Contract at issue.
- (b) For each CDS Region, ICE Trust shall initially list the Regional CDS Participants in random order. ICE Trust shall remove from the list those that cease to be Regional CDS Participants and add to the list in a random position any new Regional CDS Participants. If a Regional CDS Participant serves as a Mandatory Voting Member, it shall be moved to the bottom of the list. ICE Trust will provide an updated list to the Regional CDS Participants promptly after any update. If requested on a Quorum Majority vote by the relevant Regional CDS Committee, ICE Trust shall randomly re-order the list.
- (c) If a Regional CDS Committee votes, whether binding or non-binding, with respect to:
 - (i) an Issue under one of the subclauses in Rule 2101-02(a), including voting not to determine any such Issue or to dismiss such Issue;
 - (ii) an amendment to these CDS Committee Rules proposed under Rule 2106-02(b); or

- (iii) an Effectiveness Convention under Rule 2101-03(g);

and fails to achieve a quorum, the Chairperson shall notify ICE Trust, which shall, by proceeding in the order of the list, promptly identify a number of Regional CDS Participants equal to the full quorum required for that vote (e.g., the Standard Quorum Number if the voting standard is a Quorum Majority or a Quorum Supermajority) whose Committee Member shall serve as Mandatory Voting Members for such vote or, in the case of clause (i), until all aspects of the matter requiring the participation of Mandatory Voting Members have been fully Resolved.

2102. The Dispute Resolution Panel and the Dispute Resolver.

2102-01. Role and Composition of the Dispute Resolution Panel.

- (a) For each CDS Region, ICE Trust may, as provided in this Rule 2102-01, maintain a list (each such list, a “**Dispute Resolution Panel**”) of persons eligible to resolve, in accordance with these CDS Committee Rules, disputes that are referred to Stage 2 procedures described in Rule 2104 by the relevant Regional CDS Committee under Rule 2103-03.
- (b) Each Dispute Resolution Panel will consist of between 3 and 5 persons (each, a “**Panel Member**”) selected in accordance with Rule 2102-01(c). If at any time, there are fewer than 3 Panel Members, ICE Trust shall select additional individuals to be added to the Dispute Resolution Panel in accordance with Rule 2102-01(c). The Panel Member charged with resolving a particular dispute (the “**Dispute Resolver**”) will be selected from the relevant Dispute Resolution Panel in accordance with Rule 2102-02.
- (c) ICE Trust shall nominate one or more individuals to be considered for membership on a Dispute Resolution Panel and shall notify the Committee Members for the relevant Regional CDS Committee of each such nomination. ICE Trust may nominate only individuals that it is satisfied are not current employees or directors of a Regional CDS Participant for the relevant CDS Region or an Affiliate thereof. Unless 3 or more Committee Members for the relevant Regional CDS Committee object to the nomination within 30 days of the date ICE Trust notifies Committee Members of the nomination, the individual will become a Panel Member effective on the later of such 30th day and the date the individual signs an agreement with ICE Trust governing its role as Panel Member for a term specified in the agreement.
- (d) ICE Trust may, and if directed by the relevant Regional CDS Committee as provided in this Rule 2102-01(d) shall, remove a Panel Member by terminating or by not renewing or extending the term of a Panel Member in accordance with the agreement between ICE Trust and the Panel Member; *provided* that a Panel Member who is then serving as Dispute Resolver may be removed only for

cause. If a Panel Member is removed for cause while he or she is serving as Dispute Resolver, or withdraws from service as Dispute Resolver, a replacement Dispute Resolver shall be selected as if the dispute being resolved by the removed Panel Member had been newly referred to Stage 2 for resolution on the date of such Panel Member's removal or withdrawal. The Regional CDS Committee shall consider at least annually whether to direct ICE Trust to remove any Panel Members from the Dispute Resolution Panel for the relevant CDS Region. To so direct ICE Trust, (i) a Quorum Supermajority of Committee Members for the relevant Regional CDS Committee must vote in favor of the removal if the Panel Member is being removed in the middle of his or her term and (ii) a Quorum Majority of Committee Members for the relevant Regional CDS Committee must vote in favor of the removal if the Panel Member's term is not being renewed or extended.

2102-02. Selection of the Dispute Resolver.

- (a) When a Regional CDS Committee refers a dispute to the Dispute Resolution Panel, the Dispute Resolver will be selected as follows:
- (i) The Panel Member at the top of the Panel Member list, ordered as described in Rule 2102-02(b), at the time the Regional CDS Committee refers the dispute to the relevant Dispute Resolution Panel will be charged with resolving the dispute, unless that Panel Member indicates he or she has a conflict of interest or lacks impartiality with regard to resolution of the dispute or is not available to resolve the dispute within the time periods contemplated by the Stage 2 procedures set forth in Rule 2104-03(a) or unless ICE Trust determines there is such a conflict of interest or lack of impartiality (or the appearance of either) or a lack of availability. If more than one question relating to a single Issue is referred to Stage 2 for resolution, then the Panel Member selected under this Rule 2102-02(a) shall be the Dispute Resolver for each such question.
 - (ii) If that Panel Member indicates (or ICE Trust determines) such a conflict of interest or lack of impartiality or availability, the Panel Members on the relevant Dispute Resolution Panel will be charged in the order described in Rule 2102-02(b) to resolve the dispute until a Panel Member is identified without such a conflict of interest or lack of impartiality or availability.
 - (iii) If all Panel Members on the relevant Dispute Resolution Panel indicate (or ICE Trust determines) such a conflict of interest or lack of impartiality or availability, or if there are no Panel Members on the relevant Dispute Resolution Panel, the dispute shall be referred back to the Regional CDS Committee to be resolved in accordance with the Stage 3 procedures described in Rule 2105.

- (b) The Panel Members on the Dispute Resolution Panel will be ordered as follows:
- (i) For each CDS Region, ICE Trust shall initially list the Panel Members in random order. At the end of each Relevant Period, ICE Trust shall randomly reorder the Panel Member list for the next Relevant Period. For any Relevant Period, the Panel Member at the top of the initial list for that Relevant Period will be the “**Primary Panel Member**”. A Panel Member is not eligible to be the Primary Panel Member after having been the Primary Panel Member in the prior Relevant Period, unless the individual is the only remaining Panel Member, and ICE Trust shall randomly reorder the Panel Member list for a particular Relevant Period until this requirement is satisfied.
 - (ii) ICE Trust shall remove from the Dispute Resolution Panel those individuals that cease to be Panel Members during the particular Relevant Period and add to the bottom of the list any new Panel Member. If a Panel Member on a list for a particular Relevant Period serves as a Dispute Resolver, the individual shall be moved to the bottom of the list for that Relevant Period.
 - (iii) The “**Relevant Period**” will be six calendar months (i.e., January through June and July through December), unless otherwise specified by the Board or its designee.
 - (iv) ICE Trust will provide an updated list of Panel Members to the Regional CDS Participants promptly after any update to the Dispute Resolution Panel.

2103. Stage 1 – The Regional CDS Committee with Quorum Supermajority Vote.

2103-01. General.

- (a) When a Regional CDS Committee is asked to consider the application of a particular set of circumstances to a category described in Rule 2101-02(a) (an “**Issue**”), one or more meetings shall be held where Committee Members will discuss the Issue and attempt to reach a consensus. To facilitate this process, the Regional CDS Committee may hold one or more non-binding votes to gauge the views of the Committee Members. A non-binding vote shall be held whenever called by the Chairperson or requested by two or more Committee Members.
- (b) The Regional CDS Committee will attempt to reach a consensus on the phrasing of one or more questions the answers to which are necessary to Resolve an Issue. If the Regional CDS Committee cannot reach a consensus on the phrasing of any question, any two Committee Members may pose a question to be voted on by the Regional CDS Committee. To the extent practicable, the Regional CDS Committee should endeavor to Resolve through individual

questions particular elements of an Issue even if unable to Resolve all elements of such Issue. For example, the Regional CDS Committee might Resolve the determination that a Reference Obligation no longer satisfies the applicable requirements under a CDS Contract even if unable to Resolve the determination of an appropriate Substitute Reference Obligation (or vice versa).

2103-02. Binding Votes.

- (a) Subject to Rule 2103-02(d), a binding vote on all elements of an Issue shall be held:
- (i) for an Issue described in Rule 2101-02(a)(iii) or Rule 2101-02(a)(iv), on the second CDS Regional Business Day after the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue; and
 - (ii) for any other Issue, on the ninth CDS Regional Business Day after the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue;

unless, in the case of clause (i), the date for a binding vote has been delayed by a vote in favor of such delay by a Quorum Supermajority of the Regional CDS Committee and, in the case of clause (ii), the date for a binding vote has been delayed by a vote in favor of such delay by a Quorum Majority of the Regional CDS Committee for the first delay and a vote in favor of such delay by a Quorum Supermajority of the Regional CDS Committee for any subsequent delay.

- (b) A Regional CDS Committee may hold a binding vote on any element of an Issue on a date earlier than the date described in Rule 2103-02(a), (i) on the CDS Regional Business Day of the initial meeting of the Regional CDS Committee regarding the Issue, if an Acceleration Supermajority vote in favor or (ii) on any subsequent CDS Regional Business Day, if a Quorum Supermajority vote in favor.
- (c) If, in a binding vote, a Quorum Supermajority vote for a particular answer to a question, that question is considered Resolved according to that answer. Once a question has been Resolved, it may not be reconsidered or voted on again by the Regional CDS Committee. For the sake of clarity, if a Regional CDS Committee Resolves that (i) a Credit Event for which there is Publicly Available Information has not occurred with respect to a CDS Contract, but Publicly Available Information not considered by the Regional CDS Committee becomes available to the Regional CDS Committee or (ii) a particular obligation is or is not a Deliverable Obligation or a Permissible Deliverable Obligation as of a particular date, but the analysis would be different if the Deliverable Obligation Characteristics or Credit Derivatives Definitions Section 2.32(a) or 2.33(a),

applicable, were applied on a different date, a subsequent vote on such Issue is considered a new question rather than reconsideration of the prior question.

- (d) A Regional CDS Committee may, in a binding vote, by a Quorum Majority, decide not to determine the relevant Issue or to dismiss the relevant Issue, in which case the Issue shall be treated as though it had never been raised for consideration by such Regional CDS Committee.

2103-03. Referral to Stage 2.

- (a) An Issue presented to the Regional CDS Committee will be referred to Stage 2 if:
 - (i) the Regional CDS Committee holds a binding vote where a Quorum Supermajority are in favor of referring the Issue to Stage 2, in which case all elements of such Issue that have not been Resolved by the Regional CDS Committee through a binding vote will be referred to Stage 2; or
 - (ii) (unless Rule 2103-02(d) applies) the Regional CDS Committee has not fully Resolved all elements of an Issue through a binding vote within the time period described in Rule 2103-02(a), in which case each element not Resolved will be referred to Stage 2.
- (b) If an Issue is referred to Stage 2, the positions to be presented to the Dispute Resolver (each, a “**Presented Position**” and, collectively, the “**Presented Positions**”) in respect of the elements of an Issue not Resolved by the Regional CDS Committee shall be determined as follows:
 - (i) In the case of a question that was phrased to be answered with either “yes” or “no”, the Presented Positions shall be both the “yes” and “no” answers.
 - (ii) In the case of a question that was not phrased to be answered with either “yes” or “no”, the Presented Positions shall include the answer or answers that receive the most votes. If only one answer receives the most votes, the Presented Positions shall also include the answer or answers receiving the next most votes.
- (c) Where the Regional CDS Committee failed to reach a consensus on the phrasing of a question necessary to Resolve one or more elements of an Issue and there was more than one phrasing of a question voted on by the Regional CDS Committee in a binding vote, a Quorum Supermajority may determine the phrasing of the question to be addressed in Stage 2, and in the absence of a Quorum Supermajority favoring a particular phrasing, the Dispute Resolver shall select the phrasing of the question to be addressed in Stage 2.

2104. Stage 2 – Dispute Resolution.

2104-01. General.

- (a) The Dispute Resolver for a particular dispute will follow the procedures set forth in this Rule 2104 in resolving the dispute. At any time before the Dispute Resolver announces his or her decision with respect to a question, the Regional CDS Committee may withdraw and Resolve the question by holding a vote where a Quorum Stage 2 Supermajority vote for a particular answer to the question. In that case, ICE Trust or the Regional CDS Committee shall notify the Dispute Resolver not to render a decision on the particular question.

2104-02. The Decision.

- (a) The Dispute Resolver must, in his or her decision with respect to a question, select without alteration in any way from one of the Presented Positions.
- (b) The Dispute Resolver will communicate to the Regional CDS Committee and ICE Trust in writing which of the Presented Positions he or she has selected with respect to a question, but shall not issue a written opinion explaining his or her reasoning. The decision of the Dispute Resolver will be effective at the time the decision is communicated, unless the time of effectiveness was specifically included in the Presented Position.
- (c) Unless either the Regional CDS Committee has withdrawn and Resolved a question as described in Rule 2104-01(a) or any of the conditions described in Rule 2104-02(d) are met, the Dispute Resolver's decision with respect to a question will Resolve the question.
- (d) A question necessary to Resolve one or more elements of an Issue referred to Stage 2 shall be referred back to the Regional CDS Committee to be Resolved in accordance with the Stage 3 procedures in Rule 2105 in any of the following circumstances:
 - (i) the Dispute Resolver does not issue his or her decision with respect to the question within the time period described in Rule 2104-03(a);
 - (ii) ICE Trust determines that the Dispute Resolver has deviated from the requirements set forth in Rule 2104-02(a); or
 - (iii) the Dispute Resolver informs the Regional CDS Committee and ICE Trust that he or she is unable to reach a decision with respect to the question.

In the case of clause (iii), the Dispute Resolver shall not explain his or her reasoning for being unable to reach a decision.

- (e) ICE Trust may make publicly available any final decision made by the Dispute Resolver.

2104-03. Dispute Resolution Schedule.

- (a) The following schedule will apply to the dispute resolution procedures unless modified as described below:
- (i) Within one CDS Regional Business Day of an Issue being referred to Stage 2, the Dispute Resolver shall, if required by Rule 2103-03(c), select the phrasing of any question necessary to Resolve one or more elements of an Issue and communicate the selected phrasing to the Advocates and ICE Trust.
 - (ii) Within two CDS Regional Business Days of an Issue being referred to Stage 2, the Dispute Resolver and the Advocates shall hold an administrative meeting (an "**Administrative Meeting**").
 - (iii) Written Materials shall be submitted to the Dispute Resolver no more than five CDS Regional Business Days after the Issue is referred to Stage 2 (the "**Submission Deadline**").
 - (iv) Initial Oral Argument shall be heard at a time and on a CDS Regional Business Day specified by the Dispute Resolver, but in no event before the CDS Regional Business Day following the Submission Deadline.
 - (v) After the initial Oral Argument and at the option of the Dispute Resolver, additional Oral Argument may be heard at a time and on a CDS Regional Business Day specified by the Dispute Resolver.
 - (vi) The Dispute Resolver shall render his or her decision no later than four CDS Regional Business Days after the Submission Deadline.

The schedule for dispute resolution may be modified either (A) by a Quorum Stage 2 Supermajority vote of the Regional CDS Committee in favor of a modification or (B) by ICE Trust as it determines appropriate in light of extenuating circumstances. The Regional CDS Committee or ICE Trust, as applicable, shall as soon as reasonably practicable notify the other and the Dispute Resolver of any schedule modification.

2104-04. Dispute Resolution Procedures.

- (a) The Regional CDS Participants who support a particular Presented Position shall identify one or more persons to coordinate their activities, present their arguments to the Dispute Resolver, and participate in Oral Arguments (the "**Advocates**") and shall notify ICE Trust and the Dispute Resolver of the identity and contact details of their Advocates. Advocates may, but need not, be outside counsel selected by the relevant Regional CDS Participants.

- (b) Any expenses incurred in connection with the support of a Presented Position during the Stage 2 dispute resolution process, up to a maximum of \$50,000 per Presented Position (or such other amount specified by ICE Trust) (the “**Reimbursement Amount**”), will be borne on a pro rata basis by the Regional CDS Participants for the relevant CDS Region. Any expenses in excess of the Reimbursement Amount shall be borne by the Regional CDS Participant incurring such expense unless the Regional CDS Participants supporting the relevant Presented Position agree otherwise.
- (c) In addition to the Administrative Meeting scheduled under Rule 2104-03(a)(ii), the Dispute Resolver may call other Administrative Meetings, in each case on no less than three hours notice. Administrative Meetings may be commenced at any time between 10:00 a.m. and 6:00 p.m. local time on a CDS Regional Business Day, or at any other time agreed to by the Dispute Resolver and all Advocates. All Advocates must be given the opportunity to be present at each Administrative Meeting. Administrative Meetings may be held in person or by telephone or videoconference.
- (d) At an Administrative Meeting or an Oral Argument, the Dispute Resolver may, subject to the schedule for dispute resolution provided in Rule 2104-03(a), do any of the following:
- (i) schedule the time and CDS Regional Business Day of an Oral Argument;
 - (ii) establish or alter the place, duration, format or means of an Oral Argument;
 - (iii) alter the page limit of the Brief;
 - (iv) request additional Written Materials or Oral Argument on a particular subject or in response to argument previously made in Written Materials or at Oral Argument; or
 - (v) request or allow witness affidavits as Exhibits or witness testimony at Oral Argument.
- (e) The materials that may be submitted to the Dispute Resolver by the Regional CDS Participants in support of a Presented Position include the following (collectively, the “**Written Materials**”):
- (i) a brief addressing the question before the Dispute Resolver consisting of no more than twenty single-sided, double-spaced pages in Times New Roman twelve-point font, with one inch margins (the “**Brief**”); and
 - (ii) any exhibits in support of the Brief (the “**Exhibits**”). Unless requested or allowed by the Dispute Resolver, the Exhibits shall not contain any witness affidavits or additional argument.

- (f) While an Issue is before the Dispute Resolver, no director, officer, employee or agent of a Regional CDS Participant, or others acting on behalf of any such director, officer, employee or agent, may communicate with the Dispute Resolver except for the Advocates. There shall be no communications between the Dispute Resolver and an Advocate unless all other Advocates are given the opportunity to be present during such communication. For the avoidance of doubt, written communication (whether transmitted by email, facsimile, or post) between the Dispute Resolver and an Advocate must also be transmitted contemporaneously to all other Advocates.
- (g) The Dispute Resolver shall hold one or more proceedings where the Advocates may orally present argument in favor of their Presented Position (each such proceeding an “**Oral Argument**”). Unless the Dispute Resolver has altered the duration of Oral Argument under Rule 2104-04(d)(ii), the Advocates for each Presented Position shall be allocated an aggregate of one hour in which to present argument. All Advocates must be given the opportunity to be present for the duration of an Oral Argument. Oral Argument may be held in person or by videoconference, or by other means established by the Dispute Resolver under Rule 2104-04(d)(ii). If requested or allowed by the Dispute Resolver, an Oral Argument may include testimony by witnesses.
- (h) The place of dispute resolution shall be New York, New York. Notwithstanding the foregoing, the Dispute Resolver may, after consultation with the Advocates, conduct an in-person Administrative Meeting or Oral Argument at any location he or she considers appropriate.

2105. Stage 3 – The Regional CDS Committee with Quorum Majority Vote.

2105-01. General.

- (a) Promptly but in any event within one CDS Regional Business Day after a question has been referred back to the Regional CDS Committee for resolution, as provided in Rule 2102-02(a)(iii) or Rule 2104-02(d), ICE Trust will call a meeting of the Regional CDS Committee for purposes of holding a binding vote from among the Presented Positions to Resolve the question. If a Quorum Majority vote for a particular Presented Position, the question is considered Resolved according to that Presented Position.
- (b) If, at the initial Stage 3 vote on a question, a Quorum Majority is not achieved for any Presented Position, ICE Trust will call a meeting of the Regional CDS Committee on each subsequent CDS Regional Business Day for the purpose of holding a binding vote from among the Presented Positions to Resolve the question until such time as a Quorum Majority vote for a particular Presented Position. If a Quorum Majority vote for a particular Presented Position, the question is considered Resolved according to that Presented Position.

- (c) In the case of votes subsequent to the initial vote, all Regional CDS Participants shall be required to participate in the votes absent a written certification to ICE Trust by the relevant Regional CDS Participant that, in its judgment, neither its Committee Member nor anyone else within the Regional CDS Participant's organization is appropriate to serve in such capacity. A Regional CDS Participant may not provide such a written certification solely on the basis that it does not trade the particular CDS Contract at issue.

2106. Additional Provisions.

2106-01. Effect of Resolution of Issues by a Regional CDS Committee or Dispute Resolver.

- (a) Under these CDS Committee Rules, the term “**Resolved**” means, with respect to an Issue or an element thereof, that the answer to the Issue or such element is binding on all members of ICE Trust in respect of the CDS Contracts to which such Issue relates. “**Resolve**” and “**Resolves**” will be construed accordingly.
- (b) Any decision made by a Dispute Resolver in accordance with Rule 2104-02(c) shall be enforceable under the Federal Dispute Resolution Act, Title 9 United States Code.

2106-02. CDS Committee Rule Amendments.

- (a) In addition to any otherwise applicable process to amend rules of ICE Trust, an Eligible Officer may amend these CDS Committee Rules to effect an administrative change or to correct an error by notifying the Board and each Regional CDS Committee of the proposed change. If there are no objections to the amendment within 10 days of such notice that are CDS Regional Business Days for all Regions, the amendment shall become effective. Promptly after an amendment becomes effective, ICE Trust shall distribute to the Board and the Regional CDS Committees an updated copy of the CDS Committee Rules showing the amendment.
- (b) Any Regional CDS Committee may recommend an amendment to these CDS Committee Rules by providing to the Board or its designee the text of the amendment along with detail regarding the vote in favor of the recommendation.

2106-03. Confidentiality.

- (a) Except as (i) expressly contemplated by these CDS Committee Rules or (ii) as may be required by applicable law or court order or by a regulatory, self-regulatory or supervising authority having appropriate jurisdiction, each of the Regional CDS Participants, Committee Members, Advocates, Panel Members and Dispute Resolver (each a “**Covered Party**”) agrees (i) to maintain confidentiality as to all aspects of these procedures, including, without limitation, the presentation of any Issue to a Regional CDS Committee, any discussions,

deliberations, proceedings or results of any binding or non-binding vote relating to an Issue, any Written Materials or Oral Arguments, or any determinations produced by these proceedings (the “**Confidential Material**”) and (ii) not to use any Confidential Material for its own benefit or the benefit of any of its Affiliates.

- (b) In the event that a Covered Party is served with or otherwise subject to legal process (including subpoena or discovery notice) requiring it to testify about, to produce, or otherwise to divulge Confidential Material, to the extent permitted by law the Covered Party subject to such process will as soon as practicable inform the provider(s) of such Confidential Material or the Regional CDS Participants to which such Confidential Information relates (each a “**Provider**”) (or, if the Covered Party is unsure of the Provider, will inform all Regional CDS Participants for the relevant CDS Region) so that any Provider may seek a protective order or other remedy. In the event that such protective order or other remedy has not been obtained and the Covered Party is advised, in the opinion of counsel, that it is legally compelled to disclose any of the Confidential Material, the Covered Party may disclose only such Confidential Material so advised to be disclosed.

2106-04. Waivers.

- (a) The provisions of Sections 9.1(c)(i), (c)(ii), (c)(iv) and (c)(v) of the Credit Derivatives Definitions shall be incorporated by reference herein, with (i) references therein to a DC Party deemed to refer to ICE Trust (and its directors, officers, employees and other representatives) and each Committee Member, Regional CDS Participant, Panel Member, or Dispute Resolver and (ii) references therein to the Rules, the Credit Derivatives Determinations Committee, and DC Resolutions deemed to refer to these CDS Committee Rules, the Regional CDS Committee or the Dispute Resolver, and Resolutions by the Regional CDS Committee or the Dispute Resolver, respectively.

22. CDS PHYSICAL SETTLEMENT

The rules in this Chapter 22 apply to each CDS Contract for which the method of settlement is Physical Settlement for a particular Credit Event in accordance with the terms of such CDS Contract. Capitalized terms used but not otherwise defined in this Chapter 22 shall have the meanings assigned to such terms in the relevant CDS Contract.

2201. Notices of Physical Settlement.

- (a) If the method of settlement for a particular Credit Event under a CDS Contract is Physical Settlement (a “Physically Settled CDS Contract”), ICE Trust will match Buyers and Sellers under a particular Physically Settled CDS Contract, as provided in the ICE Trust Procedures on the ICE Trust Business Day following the date ICE Trust concludes or otherwise becomes aware that Physical Settlement applies, in a manner that ICE Trust determines is fair and equitable, which may include allocating Floating Rate Payer Calculation Amounts to one or more CDS Participants on the other side of the Physically Settled CDS Contract and, if there is an imbalance between Buyers and Sellers due to a pending Closing-out Process or otherwise, matching with ICE Trust (each particular matched Buyer and Seller, a “Matched Delivery Pair”); provided that, if the relevant Credit Event is a Restructuring covered by the CDS Restructuring Rules, the Matched Delivery Pair for a particular Triggered Restructuring CDS Contract that constitutes a Physically Settled CDS Contract shall be the Matched Restructuring Pair for that Triggered Restructuring CDS Contract. Except where the relevant Credit Event is a Restructuring, ICE Trust will notify the relevant Buyer and Seller of the identity of the other and provide details as to the matching.
- (b) A Buyer may not deliver a Notice of Physical Settlement or NOPS Amendment Notice under a Physically Settled CDS Contract except with respect to a Matched Delivery Pair. With respect to a Matched Delivery Pair, delivery of the Notice of Physical Settlement and any changes (including pursuant to a NOPS Amendment Notice) or corrections to the Notice of Physical Settlement, NOPS Amendment Notice or portion thereof shall be made directly between the Buyer and Seller of the Matched Delivery Pair in accordance with the terms of the Physically Settled CDS Contract with copies thereof delivered to ICE Trust in accordance with the ICE Trust Procedures in writing or in another manner permitted by ICE Trust. ICE Trust shall have no responsibility to any CDS Participant to verify in any manner the contents of any Notice of Physical Settlement NOPS Amendment Notice delivered to it.
- (c) In addition to any changes or corrections permitted under the terms of the Physically Settled CDS Contract, if it is Resolved by the applicable Regional CDS Committee (or applicable Dispute Resolver) or resolved by the relevant Credit

Derivatives Determinations Committee that (i) a particular obligation is not a Deliverable Obligation under the terms of the Physically Settled CDS Contract or (ii) a particular Deliverable Obligation is not a Permissible Deliverable Obligation (as defined in Rule 2101-02(a)(iv)), if applicable, a Buyer that has specified such Deliverable Obligation in its Notice of Physical Settlement or NOPS Amendment Notice for such Physically Settled CDS Contract shall have a single opportunity, within three CDS Regional Business Days after the date of the relevant actual decision to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) or the date ISDA publicly announces the resolution by the relevant Credit Derivatives Determinations Committee, as applicable, to replace such Deliverable Obligation to the extent it has not been previously Delivered.

2202. Disputes Relating to Deliverable Obligations.

- (a) Prior to accepting Delivery of a particular obligation, specified in a Notice of Physical Settlement or NOPS Amendment Notice, a Seller in a Matched Delivery Pair may present a dispute to the relevant Credit Derivatives Determinations Committee or, subject to Rule 2101-02(d) and unless the obligation is then listed as a Deliverable Obligation or a Permissible Deliverable Obligation, as applicable, in the relevant Final List, the relevant Regional CDS Committee as to whether the obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, if applicable, under the terms of the Physically Settled CDS Contract.
- (b) Any Seller in a Matched Delivery Pair may refuse to accept Delivery of a particular obligation specified in a Notice of Physical Settlement or NOPS Amendment Notice if any Committee Member has presented a dispute to the relevant Regional CDS Committee (that the Regional CDS Committee is entitled to consider pursuant to Rule 2101-02(d)) or a question is pending before the relevant Credit Derivatives Determinations Committee as to whether the obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, if applicable, under the terms of the Physically Settled CDS Contract, until such time as it is Resolved by the applicable Regional CDS Committee (or applicable Dispute Resolver) or the date ISDA publicly announces the resolution by the relevant Credit Derivatives Determinations Committee, as applicable, that such obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, as applicable, under the terms of the Physically Settled CDS Contract.
- (c) ICE Trust shall notify all CDS Participants of any dispute presented to the relevant Regional CDS Committee as to whether an obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, if applicable, under the terms of a Physically Settled CDS Contract.
- (d) As they relate to an obligation for which a dispute has been presented to the relevant Regional CDS Committee or the relevant Credit Derivatives Determinations Committee as to whether the obligation is a Deliverable

Obligation or a Permissible Deliverable Obligation, if applicable, under the terms of the Physically Settled CDS Contract, time periods and related rights and remedies relating to Physical Settlement, for example, under Sections 9.9 and 9.10 of the Credit Derivatives Definitions and any applicable cap on settlement, shall be tolled for the period commencing on the date the dispute is first presented until the date of the relevant actual decision to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) or the date ISDA publicly announces the resolution by the relevant Credit Derivatives Determinations Committee, as applicable, whether or not such obligation is a Deliverable Obligation or a Permissible Deliverable Obligation, as applicable, under the terms of the Physically Settled CDS Contract.

2203. Effect of Allocation; Notice of Deliveries.

- (a) Upon the allocation by ICE Trust of Buyers and Sellers to create one or more Matched Delivery Pairs, ICE Trust shall have no further rights or obligations as counterparty with respect to either the portion of the Physically Settled CDS Contract with the Buyer in each Matched Delivery Pair or the portion of the Physically Settled CDS Contract with the Seller in each Matched Delivery Pair, in each case to which the allocated Floating Rate Payer Calculation Amount relates. Instead, the Buyer and Seller in the Matched Delivery Pair shall be deemed to have entered directly with each other into a CDS Contract (an **“Allocated CDS Contract”**) having the same terms as the portion of the Physically Settled CDS Contract to which the allocated Floating Rate Payer Calculation Amount relates, but excluding any terms set forth in Chapters of these Rules prior to Chapter 20, with Seller specified as the Calculation Agent and with the CDS Master Agreement being a form of ISDA 2002 Master Agreement, as published by ISDA, deemed entered into by the Matched Delivery Pair with a Schedule specifying New York law as the governing law, the Margin provisions of these rules as a Credit Support Document, and each party waiving rights to trial by jury. If the Buyer in a Matched Delivery Pair is not permitted to deliver a Deliverable Obligation specified in the relevant Notice of Physical Settlement or NOPS Amendment Notice to the related Seller because (i) the amount of such Deliverable Obligation is less than the relevant minimum denomination of such Deliverable Obligation or (ii) such Seller is not a permitted transferee under such Deliverable Obligation or Buyer does not obtain any requisite consent with respect to delivery of loans, it shall be treated as an illegality or impossibility outside the parties’ control for the purpose of Section 9.3 of the Credit Derivatives Definitions, but in the case of clause (ii), Indicative Quotations shall not be applicable. For the sake of clarity, no assets of ICE Trust, including the General Guaranty Fund, shall be available to satisfy obligations of the Buyer or the Seller in respect of an Allocated CDS Contract.
- (b) The parties to a Matched Delivery Pair shall notify ICE Trust in accordance with the procedures it establishes for this purpose of the completion of any delivery

under an Allocated CDS Contract or if they have otherwise settled all or part of such Allocated CDS Contract, identifying the relevant amount, Deliverable Obligation and Matched Delivery Pair.

2204. Role of ICE Trust in respect of Allocated CDS Contracts.

- (a) ICE Trust shall act as collateral agent for the Buyer in a Matched Delivery Pair, holding the related Buyer Allocated Collateral (as defined below) on Buyer's behalf to secure Seller's obligations under each related Allocated CDS Contract.
- (b) The Physical Settlement Margin held by ICE Trust on behalf of a particular Buyer in respect of all Allocated CDS Contracts with a particular Seller shall be determined from time to time as follows: Each ICE Trust Business Day, ICE Trust shall allocate the Physical Settlement Margin for a particular Seller to particular Buyers in Matched Pairs with the relevant Seller on a proportionate basis, based on the remaining obligations of the relevant Seller to each such Buyer under Allocated CDS Contracts (in respect of a particular Buyer and the relevant Seller, and including all proceeds thereof, the "**Buyer Allocated Collateral**"). ICE Trust shall determine the remaining obligations under Allocated CDS Contracts consistent with its procedures for determining appropriate Physical Settlement Margin, taking into account its determination of the value of any relevant Deliverable Obligation at the relevant time.
- (c) In the event that an Early Termination Date in respect of an Allocated CDS Contract occurs or is designated and the Buyer thereunder determines that the Seller thereunder is obligated to make a payment to the Buyer in respect of such Early Termination Date, the Buyer may provide ICE Trust a certificate (an "**Allocated CDS Default Certificate**") signed by a Managing Director (or other substantively equivalent title) of the Buyer, indicating that an Early Termination Date has occurred, identifying the relevant Seller and Allocated CDS Contract(s), and the amount of the payment the Seller is obligated to make to the Buyer in respect of such Early Termination Date. Upon receipt of such a certificate, ICE Trust, on behalf of Buyer, may exercise any and all rights and remedies of a secured party under the New York Uniform Commercial Code and any and all rights and remedies available under these Rules or applicable law in respect of the Buyer Allocated Collateral and pay any Buyer Allocated Collateral or proceeds thereof, after deduction for any costs or expenses incurred in connection therewith, to the Buyer up to the amount indicated in the Buyer's Allocated CDS Default Certificate. To the extent that the Buyer Allocated Collateral is inadequate to satisfy any amounts owing from the Seller to the Buyer in respect of such Early Termination Date, the Buyer acknowledges and agrees that its sole recourse for any deficiency shall be to the Seller.
- (d) ICE Trust shall be entitled to rely upon any Allocated CDS Default Certificate believed by it in good faith to be genuine and to be signed by an authorized person of the Buyer and shall not be required to investigate the truth or accuracy

of any statement contained in any such certificate. In addition, the Seller, the Buyer and each other CDS Participant waives any and all claims against ICE Trust or any person acting on its behalf arising out of or relating to any Allocated CDS Default Certificate believed in good faith by ICE Trust to be genuine and to be signed by an authorized person of the Buyer. For the sake of clarity, the foregoing shall not limit any claims of the Seller against the Buyer that any Allocated CDS Default Certificate provided or purported to be provided on behalf of the Buyer or any information contained therein was inaccurate, inappropriate or otherwise deficient.

- (e) ICE Trust will exercise reasonable care to assure the safe custody of all Buyer Allocated Collateral to the extent required by applicable law, and in any event ICE Trust will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, ICE Trust will have no duty with respect to Buyer Allocated Collateral, including, without limitation, any duty to collect any distributions thereon, or enforce or preserve any rights pertaining thereto. Without limiting the foregoing, ICE Trust will not be liable or responsible for any loss or damage to the Buyer Allocated Collateral, or for any diminution in the value thereof, by reason of any act or omission of any sub-agent or bailee selected by ICE Trust in good faith. In addition and without limiting any other waivers contained in this Chapter 22, the Seller, the Buyer and each other CDS Participant waives any and all claims against ICE Trust or any person acting on its behalf arising out of or relating to (i) any act or omission by ICE Trust pursuant to instructions from the relevant Buyer, (ii) ICE Trust's calculations, determinations and allocations to determine Physical Settlement Margin or Buyer Allocated Collateral and (iii) any other acts or omissions with respect to the Physical Settlement Margin or Buyer Allocated Collateral, in each case except to the extent that such liability arises from ICE Trust's bad faith, gross negligence or willful misconduct.
- (f) Failure by a Seller to perform its obligations under an Allocated CDS Contract may result in the suspension of such Seller's clearing privileges at ICE Trust or such other penalty (including, but not limited to assessment of fines and charges) as ICE Trust may deem appropriate based on the applicable circumstances.

23-25. [RESERVED]

26. CLEARED CDS PRODUCTS

The Subchapters of this Chapter 26 define the particular characteristics of and any additional Rules applicable to the various CDS Contracts cleared by ICE Trust.

26A. CDX Untranching North American IG/HY/XO.

The rules in this Subchapter 26A apply to the clearance of CDX.NA Untranching Contracts.

26A-102. Definitions.

CDX.NA Untranching Contract

A credit default swap in respect of any Eligible CDX.NA Untranching Index and governed by any CDX.NA Untranching Terms Supplement. A CDX.NA Untranching Contract is a CDS Contract for purposes of Chapter 20.

CDX.NA Untranching Publisher

Markit North America, Inc., as successor to CDS IndexCo LLC, or any successor sponsor of the Eligible CDX.NA Untranching Indexes it publishes.

CDX.NA Untranching Rules

The rules set forth in Chapters 1 through 8 and 20 through 22, inclusive, as modified by the provisions of this Subchapter 26A.

CDX.NA Untranching Terms Supplement

Each of the following:

- (a) The “CDX Untranching Transactions Standard Terms Supplement”, as published by CDS IndexCo LLC on March 20, 2008 (the “**March 2008 Supplement**”).

Eligible CDX.NA Untranching Index

Each particular series and version of a CDX.NA index or sub-index, as published by the CDX.NA Untranching Publisher, included from time to time in the List of Eligible CDX.NA Untranching Indexes.

List of Eligible CDX.NA Untranching Indexes

The list of Eligible CDX.NA Untranching Indexes, maintained, updated and published from time to time by the Board or its designee, specifying the following information with respect to each index:

- (a) the name and series, including any applicable sub-index designation;
- (b) the "Effective Date";
- (c) one or more eligible "Scheduled Termination Dates" and the applicable "Fixed Rate" for each such date;
- (d) the Relevant CDX.NA Untranching Terms Supplement;
- (e) the versions (and related annex dates) eligible for clearing; and
- (f) any inactive versions (and related annex dates), i.e., those that have been determined to be fungible with later versions.

Relevant CDX.NA Untranching Terms Supplement

With respect to an Eligible CDX.NA Untranching Index, the CDX.NA Untranching Terms Supplement specified for such Eligible CDX.NA Untranching Index in the List of Eligible CDX.NA Untranching Indexes.

26A-309. Acceptance of CDX.NA Untranching Contracts by ICE Trust.

- (a) A CDS Participant shall make all reasonable efforts to not submit a Trade for clearance as a CDX.NA Untranching Contract, and any such Trade shall not be a Conforming Trade, if the Novation Time would be:
 - (i) at a time when the Fallback Settlement Method is applicable to a Credit Event with respect to such CDX.NA Untranching Contract; or
 - (ii) at or after the close of business on the calendar day following the Auction Final Price Determination Date for a Credit Event with respect to such CDX.NA Untranching Contract;

(such time with respect to any CDX.NA Untranching Contract, the "Clearance Cut-off Time"); provided that ICE Trust may, by written notice to all CDS Participants following consultation with the Risk Committee, designate a time other than the time determined pursuant to clauses (i) or (ii) above as the Clearance Cut-off Time with respect to any CDX.NA Untranching Contract. CDS Participants may again submit Trades for clearance as such CDX.NA Untranching Contract, and such Trades shall again be Conforming Trades,

following receipt of notice from ICE Trust that a Fungibility Date (as defined in Rule 26A-316) has occurred with respect to such CDX.NA Untranching Contract.

- (b) A CDS Participant shall as soon as reasonably practicable notify ICE Trust if any Trade it has submitted for clearance was not at the time of submission, or ceases to be prior to the Novation Time, a Conforming Trade.

26A-315. Terms of the Cleared CDX.NA Untranching Contract.

- (a) Any capitalized term used in this Subchapter 26A but not defined in these CDX.NA Untranching Rules shall have the meaning provided in the Relevant CDX.NA Untranching Terms Supplement.
- (b) For purposes of the CDS Committee Rules, the CDS Region for each CDX.NA Untranching Contract is the North American Region.
- (c) Each CDX.NA Untranching Contract will be governed by the Relevant CDX.NA Untranching Terms Supplement, as modified by these CDX.NA Untranching Rules. In the event of any inconsistency between the Relevant CDX.NA Untranching Terms Supplement or the Confirmation (including in electronic form) for a CDX.NA Untranching Contract and these CDX.NA Untranching Rules, these CDX.NA Untranching Rules will govern.

26A-316. Updating Index Version of Fungible Contracts After a Credit Event or a Succession Event.

- (a) Where the CDX.NA Untranching Publisher of an Eligible CDX.NA Untranching Index publishes one or more subsequent versions or annexes of the relevant series following a Credit Event or a Succession Event with respect to a Reference Entity included in such series, and the Board or its designee determines that CDX.NA Untranching Contracts referencing the earlier version or annex of such series are fungible with CDX.NA Untranching Contracts referencing a later version or annex of such series that is an Eligible CDX.NA Untranching Index and so notifies CDS Participants, CDX.NA Untranching Contracts referencing the earlier version or annex of such series shall become CDX.NA Untranching Contracts referencing such later version or annex of such series on the date determined by the Board or its designee (the “**Fungibility Date**”). Any CDX.NA Untranching Contracts referencing the earlier version or annex of such series submitted for clearing after the related Fungibility Date shall, upon acceptance for clearing, become a CDX.NA Untranching Contract referencing the latest version or annex of such series that the Board or its designee has determined is fungible with such earlier version or annex.
- (b) The Board or its designee may determine a different Fungibility Date applicable to individual CDX.NA Untranching Contracts or groups of CDX.NA Untranching Contracts or may determine a Fungibility Date applicable to all CDX.NA

Untranching Contracts referencing the earlier version or annex of a series described in clause (a) of this Rule, as it deems appropriate.

26A-317. Terms of CDX.NA Untranching Contracts Governed by March 2008 Supplement.

With respect to each CDX.NA Untranching Contract for which the March 2008 Supplement is the Relevant CDX.NA Untranching Terms Supplement, the following terms will apply:

- (a) The terms of the March 2008 Supplement are hereby amended as follows:
 - (i) deleting the last sentence of the definition of "Reference Entity" beginning "For the avoidance of doubt"; and
 - (ii) in the definition of "Reference Obligation(s)": deleting the "," from the fourth line of the first paragraph thereof and replacing it with "and"; deleting the words "and the following paragraph:" from the end of the first paragraph thereof and replacing them with a period; and deleting the second paragraph thereof in its entirety.
- (b) If a Convened DC (as defined in the DC Rules) resolves, pursuant to Section 3.8(a) of the DC Rules, (i) a question of interpretation regarding the provisions of the July 2009 Protocol (as defined in the DC Rules) or (ii) to make any amendments to Schedule 1 of the July 2009 Protocol, in each case that affect a CDX.NA Untranching Contract, ICE Trust shall, as promptly as practicable, make conforming changes to these Rules in order to implement such resolutions. Notwithstanding anything to the contrary in Rule 616, any change made to the Rules in accordance with this paragraph (b) shall not constitute a Contract Modification.
- (c) Section 3.2(c)(i) of the Credit Derivatives Definitions is hereby amended by replacing the "or" at the end of subparagraph (B) thereof with an "and" and adding the following as a new subparagraph (C):

"(C) the tenth calendar day after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such CDX.NA Untranching Contracts; or".
- (d) Any reference in a CDX.NA Untranching Contract to the 2003 ISDA Credit Derivatives Definitions (including any reference to the 2003 ISDA Credit Derivatives Definitions as supplemented or otherwise modified, including by incorporation of any additional provisions thereto (howsoever described) (the "Existing Supplements")) shall be deemed to be a reference to the 2003 ISDA

Credit Derivatives Definitions as so supplemented and as further supplemented by the July 2009 Supplement. In the event of any inconsistency between the terms of the July 2009 Supplement and the terms of the 2003 ISDA Credit Derivatives Definitions (including any Existing Supplements), the terms of the July 2009 Supplement shall prevail for the purposes of such CDX.NA Untranching Contract.

- (e) For the purposes of any determination as to whether a Credit Event has occurred in respect of a Reference Entity or an Obligation thereof:
 - (i) at any time up to but excluding June 20, 2009; or
 - (ii) if (A) a Credit Event Resolution Request Date occurs or (B) a Credit Event Notice and a Notice of Publicly Available Information are deemed delivered pursuant to Rule 2101-02(f) by a Notifying Party, in either case before June 20, 2009,

the Credit Event Backstop Date with respect to such determination shall be deemed to be the Effective Date.

- (f) For the purposes of any determination as to whether a Succession Event has occurred in respect of a Reference Entity:
 - (i) at any time up to but excluding June 20, 2009; or
 - (ii) if (A) a Succession Event Resolution Request Date occurs or (B) a Succession Event Notice is deemed delivered pursuant to Rule 2101-02(f), in either case before June 20, 2009,

the Succession Event Backstop Date with respect to such Reference Entity shall be deemed to be the Effective Date.

- (g) Except for purposes of Rule 26A-317(e) and Section 1.23 of the Credit Derivatives Definitions, a Credit Event Notice and Notice of Publicly Available Information with respect to a CDX.NA Untranching Contract will be deemed to have been effectively delivered by the Notifying Party on the relevant Event Determination Date determined under the CDS Committee Rules only when the Resolution is effective, under the CDS Committee Rules, that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such CDX.NA Untranching Contract. Notwithstanding anything to the contrary in the Credit Derivatives Definitions, any delivery of a Credit Event Notice and/or Notice of Publicly Available Information by a CDS Participant (other than the deemed delivery as provided in this Rule 26A-317(g)) shall not be valid.
- (h) (i) Section 1.8(a)(ii)(A)(I)(3)(y) of the Credit Derivatives Definitions is hereby modified by replacing the term "Auction Final Price Determination Date"

with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.

- (ii) Section 1.30 of the Credit Derivatives Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” in clause (ii) of the last sentence thereof with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
- (i) The Settlement Method for particular CDX.NA Untranchéd Contracts will be Auction Settlement and the Fallback Settlement Method will be Physical Settlement in accordance with the CDS Physical Settlement Rules.
- (j) With respect to CDX.NA Untranchéd Contracts for which it is Resolved by the North American Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii) or the DC Rules, as applicable, Buyer may not deliver a Notice of Physical Settlement until after it is determined that the method of settlement for a particular Credit Event is the Fallback Settlement Method due to the occurrence of one of the events in Section 12.1 of the Credit Derivatives Definitions and as further provided in the CDS Physical Settlement Rules. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 6.5 and 9.1(c)(iii) of the Credit Derivatives Definitions.
- (k) ICE Trust is deemed an Index Party for purposes of Paragraph 6.1(b) of the March 2008 Supplement.
- (l) The following terms will apply to each CDX.NA Untranchéd Contract for which the March 2008 Supplement is the Relevant CDX.NA Untranchéd Terms Supplement:
 - (i) The “Agreement” is the CDS Master Agreement between the relevant CDS Participant and ICE Trust.
 - (ii) The “Source of Relevant Annex” is “Publisher”.
 - (iii) The “Effective Date” is the date specified in the List of Eligible CDX.NA Indexes for the relevant Index.
 - (iv) The “Calculation Agent” is ICE Trust, except as provided in the CDS Committee Rules.
 - (v) There are no “Excluded Reference Entities”.
 - (vi) “De Minimis Cash Settlement” is not applicable.

- (vii) The “Fixed Rate” is the rate specified in the List of Eligible CDX.NA Indexes for the relevant Index and Scheduled Termination Date.
- (m) For each CDX.NA Untranching Contract for which the March 2008 Supplement is the Relevant CDX.NA Untranching Terms Supplement, the following terms will be determined according to the particular CDX.NA Untranching Contract submitted for clearing:
 - (i) Which of the Eligible CDX.NA Untranching Indexes is the “Index”.
 - (ii) The “Annex Date”.
 - (iii) The “Trade Date”.
 - (iv) Which of the eligible Scheduled Termination Dates specified for the Index in the List of Eligible CDX.NA Untranching Indexes is the “Scheduled Termination Date”.
 - (v) The “Original Notional Amount”.
 - (vi) The “Floating Rate Payer”.
 - (vii) The “Fixed Rate Payer”.

26B. Standard North American Corporate Single Name.

The rules in this Subchapter 26B apply to the clearance of SNAC Contracts.

26B-102. Definitions.

Eligible SNAC Reference Entities

Each particular Reference Entity included from time to time in the List of Eligible SNAC Reference Entities. For the avoidance of doubt, if there are multiple Reference Entity Database codes (as published by Markit Group Limited or any successor thereto, such codes "**RED Codes**") for a particular Reference Entity listed in the List of Eligible SNAC Reference Entities, each such RED Code shall be treated as a separate Eligible SNAC Reference Entity.

Eligible SNAC Reference Obligations

With respect to any SNAC Contract Reference Obligation for any Eligible SNAC Reference Entity, the Reference Obligations listed under the heading "Eligible Reference Obligations" for such SNAC Contract Reference Obligation and Eligible SNAC Reference Entity in the List of Eligible SNAC Reference Entities.

List of Eligible SNAC Reference Entities

The list of Eligible SNAC Reference Entities, maintained, updated and published from time to time by the Board or its designee, specifying the following information with respect to each Eligible SNAC Reference Entity:

- (a) the name of such Eligible SNAC Reference Entity and the RED Code(s) for such Eligible SNAC Reference Entity;
- (b) each Relevant Physical Settlement Matrix;
- (c) each SNAC Contract Reference Obligation and each Eligible SNAC Reference Obligation for each such SNAC Contract Reference Obligation;
- (d) each eligible "Scheduled Termination Date";
- (e) whether "Restructuring" is an eligible "Credit Event";
- (f) whether the 2005 Monoline Supplement is applicable;
- (g) whether the Additional Provisions for a Secured Deliverable Obligation Characteristic, as published by ISDA on June 16, 2006 (the "**Secured Deliverable Obligation Characteristic Supplement**") is applicable; and

- (h) whether the Additional Provisions for Reference Entities with Delivery Restrictions, as published by ISDA on February 1, 2007 (the “**Delivery Restrictions Supplement**”) is applicable.

Permitted SNAC Fixed Rates

The Fixed Rates permitted for a SNAC Contract, as determined from time to time by the Board or its designee and notified to CDS Participants.

Relevant Physical Settlement Matrix

With respect to a SNAC Contract, the “Credit Derivatives Physical Settlement Matrix” applicable to such SNAC Contract, as specified in the combination of characteristics listed as eligible for the relevant Eligible SNAC Reference Entity in, and permitted by, the List of Eligible SNAC Reference Entities.

SNAC Contract

A credit default swap in respect of any Eligible SNAC Reference Entity having a combination of characteristics listed as eligible for such Eligible SNAC Reference Entity in, and permitted by, the List of Eligible SNAC Reference Entities. A SNAC Contract is a CDS Contract for purposes of Chapter 20.

SNAC Contract Reference Obligations

With respect to any Eligible SNAC Reference Entity, the Reference Obligation(s) listed under the heading “SNAC Contract Reference Obligations” for such Eligible SNAC Reference Entity in the List of Eligible SNAC Reference Entities.

SNAC Rules

The rules set forth in Chapters 1 through 8, 20 through 22, inclusive, and the CDS Restructuring Rules, as modified by the provisions of this Subchapter 26B.

26B-203. Restriction on Activity.

- (a) In addition to the other rights granted to ICE Trust in Rule 203, in the event a CDS Participant is subject to an event or agreement described in Rule 26B-206 or in the event such CDS Participant submits a Trade of the type described in Rule 26B-309(c) that is not a Conforming Trade and such Trade is cleared pursuant to these Rules (in each case, an “**SR CDS Participant**”), ICE Trust may conduct an auction process to replace all of the SR CDS Participant’s Open CDS Positions in the affected CDS Contracts (each auction in such process, an “**SR Auction**”). ICE Trust shall have the authority to determine the timing and other particular characteristics of each SR Auction in consultation with the CDS Default Committee and as provided in the ICE Trust Procedures, including determining the size of the bid/offer spread and/or of the CDS Contracts to be auctioned,

whether one or more SR Auctions are to be held and the timing and structure of such auctions and whether CDS Participants other than the SR CDS Participant will be required to submit actionable quotations in an SR Auction.

- (b) ICE Trust shall enter into Trades in one or more CDS Contracts with the CDS Participant(s) and in the amount determined pursuant to the SR Auction, at which time the corresponding Open CDS Positions of the SR CDS Participant shall be reduced or terminated, as applicable. The SR CDS Participant and the other CDS Participants shall be obligated to submit to Deriv/SERV or another service specified by ICE Trust the terms of such reduction, termination or Trade, as applicable. Amounts owed by the SR CDS Participant to (or receivable by the SR CDS Participant from) ICE Trust in connection with any such reduction or termination shall be determined by ICE Trust using the prices determined pursuant to the SR Auctions. In addition, any Initial Payments, Margin, or other payments or deliveries owed (including the dates of settlement with respect thereto) relating to the Open CDS Positions increased, created, reduced or terminated pursuant to this Rule 26B-203(b) shall be as determined by ICE Trust with reference to the SR Auction in accordance with the ICE Trust Procedures and, notwithstanding Rules 301 or 303, Initial Payments may be owed in respect to CDS Contracts entered into by ICE Trust pursuant to an SR Auction.

26B-206. Notices Required of Participants with respect to SNAC Contracts.

In addition to the notice requirements contained in Rule 206, a CDS Participant shall provide notice to ICE Trust in the event that such CDS Participant or an Eligible SNAC Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all of its assets to, the Eligible SNAC Reference Entity or such CDS Participant, as applicable, or such CDS Participant and an Eligible SNAC Reference Entity are the same entity or are or become Affiliates, or, subject to any restrictions on such disclosure imposed by law or regulation, such CDS Participant is subject to an agreement pursuant to which any of the foregoing is reasonably likely to occur.

26B-303. SNAC Contract Adjustments.

In addition to the adjustments described in Rule 303, upon clearance of a Trade otherwise equivalent to a SNAC Contract but that:

- (a) specifies an Eligible SNAC Reference Obligation as the "Reference Obligation", such Trade shall become an Open CDS Position in the SNAC Contract with the SNAC Contract Reference Obligation specified for such Eligible SNAC Reference Obligation in the List of Eligible SNAC Reference Entities;
- (b) an Event Determination Date has occurred with respect to a Restructuring, such Trade shall become an Open CDS Position in the SNAC Contract for which no such Event Determination Date has occurred; and/or

- (c) specifies a Transaction Type other than Standard North American Corporate, such Trade shall become an Open CDS Position in the SNAC Contract otherwise equivalent to such Trade but specifying Standard North American Corporate as the Transaction Type.

26B-309. Acceptance of SNAC Contracts by ICE Trust.

- (a) In addition to the acceptance process described in Rule 309, ICE Trust's notice to the relevant CDS Participants that it has accepted a Trade submitted for clearance shall include any adjustment that will be made by ICE Trust pursuant to Rule 26B-303. Such CDS Participants' resubmission of the terms of such Trade, as provided in Rule 309, shall include the adjustments described by ICE Trust in such notice.

- (b) A CDS Participant shall make all reasonable efforts to not submit a Trade for clearance as a SNAC Contract, and any such Trade shall not be a Conforming Trade, if the Novation Time would be:

- (i) at a time when the Fallback Settlement Method is applicable to such SNAC Contract;
- (ii) at or after the close of business on the calendar day following the Auction Final Price Determination Date for such SNAC Contract; or
- (iii) on or after the calendar day following the day on which the Final List (as defined in the DC Rules) is published for a Restructuring CDS Contract and at or before the close of business on the calendar day following the CDS Regional Business Day following the latest possible Exercise Cut-off Date for the related Restructuring Credit Event under such Restructuring CDS Contract;

(such time with respect to any SNAC Contract, the "**Clearance Cut-off Time**"); *provided* that ICE Trust may, by written notice to all CDS Participants following consultation with the Risk Committee, designate a time other than the time determined pursuant to clauses (i) through (iii) above as the Clearance Cut-off Time with respect to any SNAC Contract.

- (c) A CDS Participant may not submit a Trade for clearance as a SNAC Contract, and any such Trade shall not be a Conforming Trade, if the time of submission of the Trade or the Novation Time would be at a time when the CDS Participant is, or is an Affiliate of, the Eligible SNAC Reference Entity for such SNAC Contract or is subject to an agreement under which it is reasonably likely that the CDS Participant will become, or will become an Affiliate of, the Eligible SNAC Reference Entity for such SNAC Contract.

- (d) A CDS Participant shall as soon as reasonably practicable notify ICE Trust if any Trade it has submitted for clearance was not at the time of submission, or ceases to be prior to the Novation Time, a Conforming Trade.
- (e) If ICE Trust determines that any Trade submitted for clearance would have been subject to a Succession Event but will no longer be subject to such Succession Event upon clearance because of the Trade Date that would be specified with respect to the related Open CDS Position, ICE Trust shall take such action as it deems necessary to ensure that such Succession Event is given effect with respect to such Trade, including, without limitation, declining to accept such Trade for clearance or specifying an alternate Trade Date for purposes of Section 2.1 of the Credit Derivatives Definitions with respect to the relevant portion of the related Open CDS Position.

26B-315. Terms of the Cleared SNAC Contract.

- (a) Any capitalized term used in this Subchapter 26B but not defined in these SNAC Rules shall have the meaning provided in the Credit Derivatives Definitions.
- (b) For purposes of the CDS Committee Rules, the CDS Region for each SNAC Contract is the North American Region.
- (c) The definitions and provisions contained in the 2003 ISDA Credit Derivatives Definitions as supplemented by each of the 2005 Matrix Supplement and the July 2009 Supplement and, if applicable to the relevant SNAC Contract, the 2005 Monoline Supplement, the Secured Deliverable Obligation Characteristic Supplement and/or the Delivery Restrictions Supplement, each as published by ISDA (as so supplemented, for the purposes of the SNAC Rules only, the “**Credit Derivatives Definitions**”), are incorporated into the SNAC Rules. In the event of any inconsistency between the terms of the July 2009 Supplement and the terms of any other portion of the Credit Derivatives Definitions, the terms of the July 2009 Supplement shall prevail for purposes of the relevant SNAC Contract. In the event of any inconsistency between the Credit Derivatives Definitions or the Confirmation (including in electronic form) for a SNAC Contract and these SNAC Rules, these SNAC Rules will govern.
- (d) If a Convened DC (as defined in the DC Rules) resolves, pursuant to Section 3.8(a) of the DC Rules, (i) a question of interpretation regarding the provisions of the July 2009 Protocol (as defined in the DC Rules) or (ii) to make any amendments to Schedule 1 of the July 2009 Protocol, in each case that affect a SNAC Contract, ICE Trust shall, as promptly as practicable, make conforming changes to these Rules in order to implement such resolutions. Notwithstanding anything to the contrary in Rule 616, any change made to the Rules in accordance with this paragraph (d) shall not constitute a Contract Modification.

- (e) Section 3.2(c)(i) of the Credit Derivatives Definitions is hereby amended by replacing the “or” at the end of subparagraph (B) thereof with an “and” and adding the following as a new subparagraph (C):
- “(C) the tenth calendar day after the date of the actual decision by the relevant Regional CDS Committee (or Dispute Resolver) to Resolve (i.e., determined without regard to any Effectiveness Convention or any time of effectiveness specified in a Presented Position) that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such SNAC Contracts; or”.
- (f) Except for purposes of Section 1.23 of the Credit Derivatives Definitions, a Credit Event Notice and Notice of Publicly Available Information with respect to a SNAC Contract will be deemed to have been effectively delivered by the Notifying Party for a Credit Event other than Restructuring on the relevant Event Determination Date determined under the CDS Committee Rules only when the Resolution is effective, under the CDS Committee Rules, that a Credit Event other than Restructuring has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii), with respect to such SNAC Contract. Notwithstanding anything to the contrary in the Credit Derivatives Definitions, any delivery of a Credit Event Notice and/or Notice of Publicly Available Information by a CDS Participant (other than (i) the deemed delivery as provided in this Rule 26B-315(f) or (ii) notices with respect to a Restructuring Credit Event as provided in the CDS Restructuring Rules) shall not be valid.
- (g) (i) Section 1.8(a)(ii)(A)(I)(3)(y) of the Credit Derivatives Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
- (ii) Section 1.30 of the Credit Derivatives Definitions is hereby modified by replacing the term “Auction Final Price Determination Date” in clause (ii) of the last sentence thereof with the phrase “date that is one Relevant City Business Day prior to the Auction Settlement Date”.
- (h) The Settlement Method for particular SNAC Contracts will be Auction Settlement and the Fallback Settlement Method will be Physical Settlement in accordance with the CDS Physical Settlement Rules.
- (i) With respect to SNAC Contracts for which it is Resolved by the North American Regional CDS Committee (or applicable Dispute Resolver) or Credit Derivatives Determinations Committee that a Credit Event has occurred for which there is Publicly Available Information, as described in CDS Committee Rule 2101-02(a)(iii) or the DC Rules, as applicable, Buyer may not deliver a Notice of Physical Settlement until after it is determined that the method of settlement for a

particular Credit Event is the Fallback Settlement Method due to the occurrence of one of the events in Section 12.1 of the Credit Derivatives Definitions and as further provided in the CDS Physical Settlement Rules. For the avoidance of doubt, the effectiveness of any Notice of Physical Settlement and obligations relating thereto are subject to the suspension and finality provisions of Sections 6.5 and 9.1(c)(iii) of the Credit Derivatives Definitions.

- (j) Notwithstanding Section 2.9 of the Credit Derivatives Definitions, the initial Fixed Rate Payer Calculation Period shall commence on, and include, the Fixed Rate Payer Payment Date falling on or immediately prior to the calendar day immediately following the Trade Date.

For purposes of this provision, Section 2.10 of the Credit Derivatives Definitions shall be deemed amended by deleting the words “during the term of the transaction”.

- (k) The following terms will apply to each SNAC Contract:
 - (i) The “Agreement” is the CDS Master Agreement between the relevant CDS Participant and ICE Trust.
 - (ii) The “Calculation Agent” is ICE Trust, except as provided in the CDS Committee Rules.
 - (iii) The “Transaction Type” is Standard North American Corporate.
 - (iv) The “Fixed Rate Payer Payment Dates” will be March 20, June 20, September 20 and December 20.
 - (v) The 2005 Monoline Supplement will apply if specified as applicable in the List of Eligible SNAC Reference Entities for the relevant SNAC Contract.
 - (vi) The Secured Deliverable Obligation Characteristic Supplement will apply if specified as applicable in the List of Eligible SNAC Reference Entities for the relevant SNAC Contract.
 - (vii) The Delivery Restrictions Supplement will apply if specified as applicable in the List of Eligible SNAC Reference Entities for the relevant SNAC Contract.
- (l) For each SNAC Contract, the following terms will be determined according to the particular SNAC Contract submitted for clearing, subject to Rule 26B-303:
 - (i) Which of the Eligible SNAC Reference Entities is the “Reference Entity”.

- (ii) Which of the SNAC Contract Reference Obligations specified for the Reference Entity in the List of Eligible SNAC Reference Entities is the “Reference Obligation”.
- (iii) The “Trade Date”.
- (iv) The “Effective Date”.
- (v) Which of the eligible Scheduled Termination Dates specified for the “Reference Entity” in the List of Eligible SNAC Reference Entities is the “Scheduled Termination Date”.
- (vi) The “Floating Rate Payer Calculation Amount”.
- (vii) The “Floating Rate Payer”.
- (viii) The “Fixed Rate Payer”.
- (ix) The “Fixed Rate”.
- (x) Whether “Restructuring” is an applicable “Credit Event”.
- (xi) If applicable, the Matrix Publication Date for the Relevant Physical Settlement Matrix.

26B-316. Relevant Physical Settlement Matrix Updates.

- (a) Where ISDA publishes a version of the Credit Derivatives Physical Settlement Matrix (a “**New Matrix**”) that is subsequent to the version that is specified as the Relevant Physical Settlement Matrix for any SNAC Contract(s) (the “**Existing Matrix**”), and the Board or its designee determines that updating such SNAC Contract(s) to reference the New Matrix would not constitute a Contract Modification as provided in Rule 616 (the date of such determination, the “**Matrix Update Date**” and each prior Credit Derivatives Physical Settlement Matrix subject to such determination, a “**Superseded Matrix**”) and so notifies CDS Participants, such SNAC Contracts shall, as of the close of business on the Matrix Update Date, become SNAC Contracts referencing the New Matrix as the Relevant Physical Settlement Matrix and the List of Eligible SNAC Reference Entities shall be updated accordingly. Any Trade referencing a Superseded Matrix submitted for clearing as a SNAC Contract shall, upon acceptance for clearing, become a SNAC Contract referencing the New Matrix.
- (b) The Board or its designee may determine a different Matrix Update Date applicable to individual SNAC Contracts or groups of SNAC Contracts or may determine a Matrix Update Date applicable to all SNAC Contracts referencing a Superseded Matrix, as it deems appropriate.

26B-502. Specified Actions.

Notwithstanding anything to the contrary in Rule 502(a) but without limiting the application of Rule 616 to any Modification (including the requirement of consultation with the Risk Committee, as provided in Rule 502(a), prior to determining that a Modification is not a Contract Modification), none of the following shall constitute a Specified Action: (a) adding and/or Modifying Permitted SNAC Fixed Rates, (b) adding new Eligible SNAC Reference Entities, and adding and/or Modifying any other entries in any of the fields in the List of Eligible SNAC Reference Entities or (c) an update to the List of Eligible SNAC Reference Entities, as described in Rules 26B-316 and 26B-616.

26B-616. Contract Modification.

It shall not constitute a Contract Modification if the Board or its designee updates the List of Eligible SNAC Reference Entities (and modifies the terms and conditions of related SNAC Contracts) to give effect to determinations by the North American Regional CDS Committee (or applicable Dispute Resolver) or a Credit Derivatives Determinations Committee, including, without limitation, determinations of Succession Events or Substitute Reference Obligations.

Schedule 502: List of Pre-Approved Products

- 1) CDX.NA.IG.11 – 5 year and 10 year durations
- 2) CDX.NA.IG.10 – 5 year and 10 year durations
- 3) CDX.NA.IG.HVOL.11 – 5 year duration
- 4) CDX.NA.IG.HVOL.10 – 5 year duration
- 5) CDX.NA.HY.11 – 5 year duration
- 6) CDX.NA.HY.10 – 5 year duration

Schedule 503: Form of Confidentiality Agreement

Confidentiality Agreement

THIS CONFIDENTIALITY AGREEMENT (this “Agreement”) is made as of this [___] day of [_____], 200[___], by and between ICE Trust U.S. LLC (the “Company”) and [CLEARINGHOUSE MEMBER] (the “Clearinghouse Member”).

WHEREAS, the Company and the Clearinghouse Member wish to enter into this Agreement in connection with the Clearinghouse Member’s appointment of a member (the “Committee Member”) of the Risk Committee (as defined in the Rules of ICE Trust U.S. LLC (the “Rules”); capitalized terms used but not defined in this Agreement shall have the meanings given to them in the Rules); and

WHEREAS, in connection with the Committee Member’s appointment to the Risk Committee, the Company may furnish, or cause to be furnished, Confidential Information (defined below) to the Clearinghouse Member or the Committee Member;

NOW THEREFORE, the parties agree as follows:

1. The term “Confidential Information” means all confidential information relating to (a) the Company or (b) other Clearinghouse Members made available in connection with (i) such other Clearinghouse Members’ equity interest in the Company or its Affiliates or (ii) such other Clearinghouse Members’ status as a Participant (as defined in the Rules) that is proprietary to the Company or other Clearinghouse Members, as applicable.

2. The term “Representatives” means the Committee Member, the Clearinghouse Member's Affiliates and the respective officers, directors, employees, attorneys, accountants, and auditors of the Clearinghouse Member and its Affiliates, to the extent such Persons have received any Confidential Information.

3. In addition to any other confidentiality obligation to the Company, the Clearinghouse Member, (a) shall, and shall direct its Representatives to, maintain in confidence any and all Confidential Information, except as otherwise permitted in this Agreement, (b) shall not disclose, and shall direct its Representatives not to disclose, Confidential Information to any Person, except as otherwise permitted in this Agreement and (c) shall use the same degree of care in protecting the confidentiality of the Confidential Information as it uses in protecting its own information of a similar type.

4. Notwithstanding the foregoing, the Clearinghouse Member and its Representatives may disclose Confidential Information or portions thereof (i) if, in the case of Confidential Information relating to the Company, the Company gives its prior written consent thereto and if, in the case of Confidential Information relating to another Clearinghouse Member, such other Clearinghouse Member gives its prior written consent thereto, (ii) in the event that the Clearinghouse Member or any of its Representatives becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process, including by any regulator with oversight responsibility for the Clearinghouse or the Clearinghouse Member or its Affiliates) to disclose, or is advised by legal counsel that it is required by applicable law to disclose, any of the Confidential Information, or (iii) if disclosure of such Confidential Information is requested or required by any governmental

authority or self-regulatory agency or organization or by any rule or regulation applicable to the Clearinghouse Member. To the extent reasonably practicable and/or permitted under applicable law, prior to any such disclosure under clause (ii) of this paragraph, the Clearinghouse Member or its Representatives, as applicable, will use commercially reasonable efforts to provide the Company or the applicable other Clearinghouse Member with prompt notice of such requirement so that the Company or the applicable other Clearinghouse Member may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this paragraph, and, if, in the absence of a protective order or other remedy or the receipt of a waiver by the Company or the applicable Clearinghouse Member, the Clearinghouse Member or its Representatives is or are nonetheless legally compelled to disclose Confidential Information, the Clearinghouse Member or its Representatives may, without liability hereunder, disclose such Confidential Information.

5. At such time as the Clearinghouse Member ceases to be a member of the Clearinghouse or no longer has a right to appoint a member to the Risk Committee, the Clearinghouse Member, at its option, shall return or destroy all Confidential Information in its or its Representatives' possession. Notwithstanding anything to the contrary in this Agreement, the Clearinghouse Member and its Representatives may retain (i) Confidential Information such Person is required to retain to comply with applicable law, (ii) any Confidential Information that is contained in an archived computer system back up in accordance with the security and/or disaster recovery procedures of such Person, and (iii) one copy of Confidential Information for use solely in connection with any litigation, arbitration or like action with respect to any disputes arising out of this Agreement; provided, however, that any such retained Confidential Information shall remain subject to the ongoing obligations to treat and hold the same as confidential in accordance with the terms and conditions of this Agreement.

6. In the event that the Clearinghouse Member shall provide Confidential Information to any Person in violation of this Agreement, the Clearinghouse Member shall be responsible for the breach of this Agreement by such other Person.

7. Notwithstanding Section 3 of this Agreement:

a. The Clearinghouse Member and its Representatives may disclose any Confidential Information for bona fide business purposes on a strict "need to know" basis to the Clearinghouse Member and its Representatives, including the Clearinghouse Member's board of directors (or equivalent governing body); and

b. The provisions of Section 3 of this Agreement shall not apply to, and Confidential Information shall not include:

i. any information that is or has become generally available to the public other than as a result of a disclosure by the Clearinghouse Member or its Representatives in breach of any of the provisions of this Agreement, provided, that information disclosed by a Person to a governmental authority or self-regulatory agency or organization in connection with the formation, ownership and operation of the

Clearinghouse shall not be deemed “generally available to the public” as a result of such disclosure;

ii. any information that has been independently developed by the Clearinghouse Member or its Representatives without violating any of the provisions of this Agreement or any other similar contract to which the Clearinghouse Member or its Representatives is or are bound;

iii. any information that was available to the Clearinghouse Member or its Representatives on a non-confidential basis prior to disclosure; or

iv. any information made available to the Clearinghouse Member or its Representatives on a non-confidential basis by any third party unless the Clearinghouse Member or its Representatives has or have actual knowledge that such third party breached an obligation of confidentiality to the Company or any other Person by making such information available to the Clearinghouse Member or its Representatives.

8. The parties hereto agree that irreparable damage may occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties hereto shall be entitled to seek equitable relief in addition to any other remedy at law.

9. The obligations of the Clearinghouse Member under this Agreement shall survive until the eighteen (18) month anniversary of the time at which the Clearinghouse Member ceases to be a member of the Clearinghouse.

10. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. Any claim, action, suit or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be heard and determined in any state courts of the State of New York or the United States District Court located in the Southern District of New York, and each of the parties hereto hereby consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such claim, action, suit or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such claim, action, suit or proceeding in any such court or that any such claim, action, suit or proceeding which is brought in any such court has been brought in an inconvenient forum.

ICE Trust U.S. LLC

By _____

Name:

Title:

[CLEARINGHOUSE MEMBER]

By _____

Name:

Title:

Exhibit I: Standard Clearing Annex

ICE TRUST U.S. LLC
STANDARD TERMS ANNEX
TO THE ISDA MASTER AGREEMENT

WHEREAS, ICE Participant and Counterparty have previously entered into that certain ISDA Master Agreement, dated as of the date specified in Schedule I hereto, as amended, modified or supplemented from time to time (together with any Schedule and Credit Support Annex thereto, the “**ISDA Agreement**”).

WHEREAS, ICE Participant is a “Participant” pursuant to the Rules and procedures of ICE Trust U.S. LLC, as amended, modified or supplemented from time to time (the “**Rules**”) and is thereby permitted to submit certain transactions approved by ICE Trust U.S. LLC (“**ICE Trust**”) for the purpose of clearing such transactions.

WHEREAS, ICE Participant and Counterparty desire to provide that certain Transactions between them shall be deemed “Non-Participant Contracts” for purposes of the Rules.

WHEREAS, the parties have agreed to establish a separate ISDA Master Agreement with respect to such Transactions, based on the terms of the ISDA Agreement as amended and supplemented by this Standard Terms Annex (the “**Standard Terms Annex**”).

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. **Defined Terms.** Terms used but not otherwise defined in this Standard Terms Annex or Schedule I hereto shall have the meaning set forth in the ISDA Agreement or the Rules, as applicable.
2. **Covered Transactions.** The parties may designate in the manner specified under the ICE Trust Procedures that certain Transactions (each, a “**Covered Transaction**”) reflecting terms equivalent to Contracts under the Rules shall constitute Non-Participant Contracts and shall be subject as such to the terms of this Standard Terms Annex and the Rules. All Covered Transactions shall be deemed to be subject to the terms of a separate ISDA Master Agreement between Counterparty and ICE Participant on the terms of the ISDA Agreement (excluding the terms of any Credit Support Annex or other collateral arrangement with respect to the ISDA Agreement except as expressly provided herein) (the “**Incorporated ISDA Agreement**”) together with this Standard Terms Annex (collectively, the “**Covered Transaction Master Agreement**”). Each Covered Transaction shall supplement, form a part of, and be subject to the Covered Transaction Master Agreement. For purposes of the Covered Transaction Master Agreement only, in the event of any inconsistency among or

between the Incorporated ISDA Agreement, the Standard Terms Annex (including the Covered Transaction Margin Terms) and the Rules with respect to Covered Transactions, the following provisions shall prevail in the following order: (i) first, the Rules, (ii) second, this Standard Terms Annex and (iii) third, the Incorporated ISDA Agreement. Counterparty agrees that Covered Transactions shall be subject to the provisions of the Rules applicable to Non-Participant Contracts and (except as the context otherwise requires) shall be subject to the additional terms specified for cleared CDS Contracts under Chapter 21, Rule 2202 and Chapter 26 of the Rules. Notwithstanding the foregoing, where ICE Participant is obligated under the ICE Rules to physically settle a Client-Related Position that corresponds to one or more Covered Transactions of Counterparty and Non-Participant Contracts of other Non-Participant Parties, ICE Participant shall be entitled to allocate physical settlement responsibility among such contracts in a commercially reasonable manner. For purposes of the Covered Transaction Master Agreement, a "Business Day" or "Local Business Day" shall be an ICE Trust Business Day. As used herein, "**Non-Covered ISDA Agreement**" shall mean the ISDA Agreement applicable to Transactions other than Covered Transactions ("**Non-Covered Transactions**").

3. **Margin Requirements.**

(a) All collateral and margining requirements relating to Covered Transactions shall be governed by this Standard Terms Annex (including in Schedule I hereto) and the Rules.

(b) The collateral requirements with respect to Covered Transactions shall consist of (i) the amount of Minimum ICE Trust Required Initial Margin (as defined in the Rules) applicable to the Covered Transactions, to be posted by Counterparty to ICE Participant; (ii) the aggregate amount of required mark-to-market margin determined by ICE Trust under the Rules with respect to the Covered Transactions, to be posted by Counterparty or ICE Participant, as applicable, to the other (the "**Covered Transaction Mark-to-Market Margin Requirement**"); and (iii) any additional collateral required to be posted by Counterparty to ICE Participant as agreed between Counterparty and ICE Participant as set forth in Schedule I or as otherwise agreed (or determined pursuant to a methodology or procedure agreed) from time to time (the "**Participant-Required Additional Margin**"). Such collateral requirements shall be implemented as set forth in this Section 3.

(c) Except as provided in subsection (d) below, Covered Transactions shall be excluded from the margin calculations (including calculations of "Exposure") under any Credit Support Annex or other collateral arrangement with respect to the ISDA Agreement (an "**Existing Collateral Arrangement**"). Collateral requirements in respect of Covered Transactions may be netted or offset against those under the Existing Collateral Arrangement as provided in Section 6(b) below.

(d) Any Participant-Required Additional Margin shall be treated in one of the following manners, as agreed between Counterparty and ICE Participant: (i) as

required collateral under the Existing Collateral Arrangement (which may be as an “Independent Amount” (or similar concept) thereunder or in another manner agreed between Counterparty and ICE Participant), in which case the obligations of Counterparty under the Covered Transaction Master Agreement shall constitute “Obligations” for purposes of the Existing Collateral Arrangement; (ii) as “**Additional Segregated Initial Margin**” in accordance with subsection (e) below; or (iii) in another manner agreed between Counterparty and ICE Participant.

(e) With respect to the Minimum ICE Trust Required Initial Margin, Covered Transaction Mark-to-Market Margin Requirement and any Additional Segregated Initial Margin, the parties will be deemed to have entered into a separate bilateral Credit Support Annex in the form of the 1994 ISDA Credit Support Annex (New York law) (the “**Covered Transaction Margin Terms**”), provided that for such purpose the following provisions shall apply:

(i) Two separate sets of Delivery Amounts and Return Amounts will be calculated for any Valuation Date, one in respect of the Credit Support Amounts (as defined below) and one in respect of the Independent Amount (for which calculation the term “Credit Support Amount” in Paragraph 3 shall be deemed to mean the Independent Amount).

The Independent Amount applicable to Counterparty in respect of the Covered Transactions as of any Valuation Date (the “**Initial Margin Credit Support Amount**”) will equal the sum of (a) the amount of Minimum ICE Trust Required Initial Margin applicable to the Covered Transactions as of such date and (b) the amount of any required Additional Segregated Initial Margin as of such date. The Independent Amount applicable to ICE Participant shall be zero, unless otherwise agreed by Counterparty and ICE Participant.

As used in the Covered Transaction Margin Terms, the “**Credit Support Amount**” for any Valuation Date shall be (i) the Secured Party’s Exposure for that Valuation Date minus (ii) the Pledgor’s Threshold; provided that the Credit Support Amount will be deemed to be zero whenever the calculation of Credit Support Amount would otherwise result in an amount less than zero.

Transfers of Eligible Collateral or Posted Collateral by both Counterparty and ICE Participant on the same day arising under these separate calculations of Delivery Amounts and Return Amounts may be netted or offset as provided in Section 6(b) below.

(ii) The amount of “Exposure” with respect to the Covered Transactions for any Valuation Date shall equal the amount of the Covered Transaction Mark-to-Market Margin Requirement for such transactions under the Rules (expressed as a positive number if such Covered Transaction Mark-to-

Market Margin Requirement is in favor of the applicable Secured Party and expressed as a negative number if such Covered Transaction Mark-to-Market Margin Requirement is in favor of the applicable Pledgor).

(iii) "Obligations" will be limited to the obligations under the Covered Transaction Master Agreement.

(iv) Paragraph 5 will not apply (provided that Counterparty and ICE Participant may agree that Paragraph 5 will apply in respect of the calculation of any Participant-Required Additional Margin only). For the avoidance of doubt, the amount of the Minimum ICE Trust Required Initial Margin or Covered Transaction Mark-to-Market Margin Requirement as determined by ICE Trust or in accordance with the ICE Trust designated methodology will be conclusive for purposes of the determination of the Credit Support Amount absent manifest error. The Value of Posted Collateral that is Eligible Margin or Eligible Custodial Assets under the Rules shall be determined based on the ICE Trust valuation of such asset in accordance with the ICE Trust Procedures as of the relevant Valuation Date.

(v) Except as otherwise agreed by Counterparty and ICE Participant, Eligible Collateral Transferred in respect of the Secured Party's Exposure will be limited to USD cash or (if agreed between the parties) other applicable currency in which the relevant Covered Transaction is denominated. Except as otherwise agreed by Counterparty and ICE Participant, Eligible Collateral Transferred in respect of the Initial Margin Credit Support Amount will be limited to Eligible Margin and Eligible Custodial Assets under the Rules (subject to any percentage limitations on each type of asset agreed between the parties). In addition, the parties may agree that ICE Participant may invest Eligible Margin in the form of cash in other Eligible Margin or Eligible Custodial Assets in accordance with the ICE Trust Custodial Asset Policies, in which case such investments shall be deemed to be Posted Collateral Transferred by Counterparty for purposes hereof. Where Counterparty and ICE Participant have agreed that Counterparty may provide Eligible Collateral that is not Eligible Margin or Eligible Custodial Assets (including by indicating in Schedule 1 that Counterparty may provide assets that would be eligible collateral under the terms of any Existing Collateral Arrangement) ("**Non-Conforming Collateral**"), such Non-Conforming Collateral shall be exchanged into Eligible Margin or Eligible Custodial Assets as agreed by the parties, in which case such Eligible Margin or Eligible Custodial Assets shall be deemed to be Posted Collateral Transferred by Counterparty for purposes hereof and such Non-Conforming Collateral shall become the property of ICE Participant.

(vi) Valuation Percentages for Eligible Collateral and Posted Collateral will be determined based on the applicable haircuts under the ICE Trust Procedures (or, in the case of Additional Segregated Initial Margin, based on haircuts agreed between ICE Participant and Counterparty). Valuation Percentages for any Non-Conforming Collateral shall be as set forth in the Existing Collateral Arrangement or as otherwise agreed between Counterparty and ICE Participant.

(vii) Unless otherwise set forth in Schedule 1, (i) with respect to Counterparty, the Threshold and Minimum Transfer Amount shall be zero; and (ii) with respect to ICE Participant, the Threshold and Minimum Transfer Amount shall be as set forth in the Existing Collateral Arrangement.

(viii) The Valuation Agent shall be ICE Participant; provided that all determinations by the Valuation Agent with respect to the amount of Minimum ICE Trust Required Initial Margin, Covered Transaction Mark-to-Market Margin Requirement and the value of Posted Collateral shall be made on the basis of applicable determinations made by ICE Trust or otherwise in accordance with the Rules.

(ix) Unless otherwise set forth in Schedule 1, the Notification Time shall be as set forth in the Existing Collateral Arrangement.

(x) Unless otherwise set forth in Schedule 1, the Valuation Time shall be the applicable time as is used by ICE Trust for purposes of end-of-day (or, if applicable, intraday) margin and settlement calculations.

(xi) The Valuation Dates shall be each ICE Trust Business Day (provided that if ICE Trust makes intraday margin calls on an ICE Trust Business Day, each relevant portion of the ICE Trust Business Day will constitute a separate Valuation Date).

(xii) Unless otherwise set forth in Schedule 1, the provisions of the Existing Collateral Arrangement with respect to the timing of Transfer of Eligible Collateral (including any modifications to Paragraph 4(b) thereof) shall apply; provided that Paragraph 4(a)(i) will be deemed amended by deleting the words "Potential Event of Default" therefrom.

(xiii) Unless otherwise set forth in Schedule 1, Specified Conditions shall be as set forth in the Existing Collateral Arrangement, if any (but only to the extent such Specified Conditions are Termination Events under the Covered Transaction Master Agreement).

(xiv) Substitutions of collateral pursuant to Paragraph 4(d) shall not require the consent of the Secured Party.

(xv) ICE Participant shall distinguish on its books and records between Posted Collateral provided in respect of the Secured Party's Exposure (the "**Mark-to-Market Posted Collateral**") and Posted Collateral provided to it in respect of the Initial Margin Credit Support Amount (the "**Initial Margin Posted Collateral**"). With respect to Mark-to-Market Posted Collateral, Paragraph 6 (and the elections applicable thereto set forth in the Existing Collateral Arrangement) shall apply, except as otherwise set forth in Schedule 1.

(xvi) With respect to Initial Margin Posted Collateral that is transferred to the Custodial Client Omnibus Margin Account, Distributions shall be payable by ICE Participant to the extent received from ICE Trust and shall be distributed to Counterparty as set forth in Schedule I or as otherwise agreed between Counterparty and ICE Participant (subject to payment or deduction of any applicable fees or other amounts in respect thereof owed to ICE Participant). With respect to such Initial Margin Posted Collateral in the form of cash, Distributions shall be determined based on the return paid by ICE Trust with respect to such cash (and, for the avoidance of doubt, not on the basis of any interest rate specified in the Existing Collateral Arrangement). Unless otherwise set forth in Schedule 1, Distributions shall be paid at the times specified in the Existing Collateral Arrangement following receipt from ICE Trust.

(xvii) With respect to Initial Margin Posted Collateral, Paragraphs 6(b), 6(c) and 6(d)(ii) of the Covered Transaction Margin Terms will not apply. ICE Participant shall receive the Eligible Collateral Transferred (or deemed Transferred) by Counterparty in respect of the Initial Margin Credit Support Amount as agent and custodian for the benefit of Counterparty, subject to the security interest, lien and right of setoff in favor of ICE Participant hereunder. Such Initial Margin Posted Collateral shall be separately accounted for and segregated from the assets and accounts of ICE Participant and its Affiliates, which segregation may be on an omnibus basis for similar margin posted by other clients of ICE Participant with respect to transactions intended to be Non-Participant Contracts under the Rules. ICE Participant acknowledges and agrees that such Initial Margin Posted Collateral shall constitute the property of Counterparty, subject to ICE Participant's security interest therein. Except as provided in clause (v) above or clause (xviii) below, Counterparty authorizes ICE Participant to, and ICE Participant shall, transfer such Initial Margin Posted Collateral to ICE Trust for credit to the Custodial Client Omnibus Margin Account, subject (in the case of securities) to a security interest, lien and right of setoff in favor of ICE Trust, in each case in accordance with the Rules, and ICE Participant shall not otherwise be entitled to use, transfer or rehypothecate such Initial Margin Posted Collateral. Without limiting the foregoing, for purposes of ICE Participant's

obligation to Transfer Initial Margin Posted Collateral and any rights or remedies authorized under the Covered Transaction Margin Terms, ICE Participant as secured party will be deemed to hold any Initial Margin Posted Collateral so transferred and to receive Distributions thereon (to the extent such Distributions are received from ICE Trust). With respect to such Initial Margin Posted Collateral in the form of securities, ICE Participant shall at all times reflect on its books and records that such Initial Margin Posted Collateral that has been transferred to the Custodial Client Omnibus Margin Account, remains held or credited for the benefit of the relevant Counterparty(ies) (subject to the security interest therein in favor of ICE Participant and ICE Trust). With respect to Initial Margin Posted Collateral in the form of cash that has been transferred to the Custodial Client Omnibus Margin Account, ICE Participant shall treat the obligation of ICE Trust in respect of the repayment as being held as agent and custodian for the benefit of the relevant Counterparty(ies). Any Initial Margin Posted Collateral or proceeds thereof returned from the Custodial Client Omnibus Margin Account shall be received and held by ICE Participant as agent and custodian for the benefit of Counterparty, subject to the security interest, lien and right of setoff in favor of ICE Participant hereunder, and shall be held as described in the third and fourth sentences of this subparagraph above pending return to Counterparty or application as permitted hereunder. Without prejudice to the foregoing, the parties may specify in Schedule 1 further details as to the manner in which ICE Participant shall provide such segregation.

(xviii) In accordance with the Rules, where ICE Participant has transferred its own funds or assets ("**ICE Participant Property**") as a collateral advance to the Custodial Client Omnibus Margin Account in respect of Client-Related Positions arising from Covered Transactions of Counterparty, (i) Counterparty will be obligated to provide to ICE Participant Eligible Collateral with a Value equal to the Value of such ICE Participant Property, (ii) ICE Participant shall be entitled to substitute Counterparty's Posted Collateral when received for such ICE Participant Property, in which case such obligation shall be deemed satisfied, (iii) alternatively, if agreed between them, ICE Participant and Counterparty may exchange such ICE Participant Property and related Posted Collateral (or, where such ICE Participant Property and Posted Collateral are in the form of cash, such property may be deemed to be exchanged), such that the ICE Participant Property becomes the property of Counterparty and such Posted Collateral becomes the property of ICE Participant, in which case such obligation shall be deemed satisfied and such ICE Participant Property shall be deemed to be Posted Collateral Transferred by Counterparty hereunder, and (iv) to the extent such obligation is not satisfied, such obligation will constitute an "Obligation" for purposes of the Covered Transaction Margin Terms and Existing Collateral Arrangement (without prejudice to any other rights or remedies

of ICE Participant, including in the event of an Event of Default under the Covered Transaction Master Agreement).

(xix) With respect to a Backloaded Client Trade that has been accepted for clearing by ICE Trust but for which the relevant Open Positions with ICE Trust have not yet been established under the Rules, ICE Participant shall be entitled to designate as Participant-Required Additional Margin the amount of Minimum ICE Trust Required Initial Margin that would be applicable to such Backloaded Client Trade had the related Covered Transaction been established at such time (“**Backloading Additional Collateral**”). For the avoidance of doubt, such Participant-Required Additional Margin shall secure the obligations of Counterparty in respect of existing Covered Transactions. Notwithstanding anything to the contrary in the Standard Terms Annex, ICE Participant may designate the time by which such Backloading Additional Collateral must be Transferred by Counterparty. Following any such Transfer, such Backloading Additional Collateral shall be held in the same manner as other Participant-Required Additional Collateral under the Covered Transaction Master Agreement; provided that upon the clearing of the relevant Backloaded Client Trade and establishment of the related Covered Transaction, such amount of Backloading Additional Collateral will be taken into account in the calculation of Minimum ICE Trust Required Initial Margin and will cease to be Participant-Required Additional Margin.

Except to the extent expressly provided herein, the provisions set forth in this subsection (e) with respect to the Covered Transaction Margin Terms shall not affect the terms of any Existing Collateral Arrangement. With respect to any elections under the Existing Collateral Arrangement that are to be applicable to the Covered Transaction Margin Terms as set forth herein, the parties shall set forth any necessary corrections to defined terms or other cross-references in Schedule 1.

(f) Counterparty hereby agrees that it shall be bound by the terms and conditions set forth in Rule 405 of the Rules.

4. **Events of Default and Termination.**

(a) For purposes of the Covered Transaction Master Agreement, only the following Events of Default and Termination Events with respect to ICE Participant (each a “**Participant Default**”) shall apply: (i) the occurrence of an event described in Section 5(a)(i) of the Incorporated ISDA Agreement, (ii) the occurrence of an event described in Paragraph 7(i) of the Covered Transaction Margin Terms (taking into account any applicable grace period); (iii) the occurrence of an event described in Section 5(a)(iii)(2) or Section 5(a)(iii)(3) of the standard form of the 1992 ISDA Master Agreement, provided that in case of an event described in Section 5(a)(iii)(2), such event will only constitute a Participant Default if the relevant Credit Support Document is a guarantee of ICE Participant’s obligations under the Covered Transaction Master

Agreement by a parent company of ICE Participant and such Credit Support Document is not immediately replaced by reasonably equivalent credit support; (iv) the occurrence of an event described in Section 5(a)(vii)(1), (3), (4)(A), (5), (6) or (7) or Section 5(a)(viii) of the standard form of the 2002 ISDA Master Agreement, (v) the occurrence of an event described in Section 5(b)(i), 5(b)(ii) or Section 5(b)(iii) of the standard form of the 1992 ISDA Master Agreement, subject to the requirements and prerequisites for termination set forth in Section 6(b) of the Covered Transaction Master Agreement and provided that the Counterparty, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv) of the Covered Transaction Master Agreement, shall have been unable, after the exercise of good faith, reasonable efforts, to transfer its Covered Transactions to another Participant in accordance with Rule 20A-01, and (vi) the determination by ICE Trust that a Default under the Rules has occurred with respect to ICE Participant (a Participant Default pursuant to this clause (vi), an “**ICE-Declared Default**”, and, for purposes of the Covered Transaction Master Agreement, an ICE-Declared Default will constitute an Additional Termination Event with ICE Participant as the sole Affected Party (or, if such event would otherwise constitute an Event of Default with respect to ICE Participant, such an Event of Default)).

(b) For purposes of the Covered Transactions, the Events of Default and Termination Events with respect to Counterparty set forth in the Incorporated ISDA Agreement shall apply (except as otherwise agreed); provided that any extension of the grace period set forth in Section 5(a)(i) of the Incorporated ISDA Agreement beyond 3 Business Days shall not apply for Covered Transactions. Unless a Participant Default has occurred and is continuing, nothing in this Standard Terms Annex will limit ICE Participant’s remedies under the Incorporated ISDA Agreement in the event of an Event of Default or Termination Event with respect to Counterparty, subject to subsection (c) below.

(c) For the avoidance of doubt, (i) the determination of whether an Event of Default or Termination Event has occurred, (ii) any designation of an Early Termination Date and (iii) the determination of the amount payable pursuant to Section 6(e) of the Incorporated ISDA Agreement (as modified hereby) in respect of any such Early Termination Date shall be made separately in respect of the Covered Transactions under the Covered Transaction Master Agreement, on the one hand, and Non-Covered Transactions under the Non-Covered ISDA Agreement, on the other hand.

5. Portability; Termination and Valuation of Covered Transactions.

(a) Counterparty shall indicate in Schedule I hereto (or such other manner as ICE Trust may direct) (i) Counterparty’s election as to whether, in the event of an ICE-Declared Default, ICE Trust may apply its Default Portability Rules to the Counterparty’s Covered Transactions (any such election to have the Default Portability Rules apply, a “**Portability Election**”) and (ii) the identity of any one or more designated “backup” or “transfer” Participant(s) to which its Covered Transactions will be permitted to be transferred (or replaced) pursuant to the Default Portability Rules in the case of an ICE-Declared Default.

(b) In the event of a an ICE-Declared Default (whether or not any other Participant Default has also occurred), Counterparty shall not be entitled to exercise any remedies with respect to Covered Transactions pursuant to Section 6(a) or 6(b) of the Covered Transaction Master Agreement or otherwise except as provided herein (and any other remedies being exercised at the time of the declaration of such ICE-Declared Default shall cease and be superseded by the applicable provisions hereof). For the avoidance of doubt, this provision shall not affect Counterparty's ability to exercise remedies with respect to Non-Covered Transactions under the Non-Covered ISDA Agreement, but any such exercise of remedies with respect to the Non-Covered ISDA Agreement shall not cause a default under or otherwise affect the Covered Transaction Master Agreement.

(c) Counterparty hereby consents and agrees that in the event of an ICE-Declared Default, if Counterparty has made a Portability Election, the following provisions in this subsection (c) shall apply: ICE Trust shall be entitled to apply its Default Portability Rules with respect to Counterparty's Covered Transactions, including by (i) assigning and transferring its Covered Transactions to another Participant or (ii) arranging for replacements of its Covered Transactions with another Participant and in either case by transferring Posted Collateral of the Counterparty held in the Custodial Client Omnibus Margin Account of ICE Participant to the corresponding accounts of the new Participant. In the event that ICE Trust arranges for a replacement Covered Transaction pursuant to clause (ii) above, the replaced Covered Transaction shall be deemed terminated at the time the replacement Covered Transaction is entered into. Counterparty shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of ICE Trust to take action contemplated by the Default Portability Rules, including, without limitation, the transfer or replacement of positions and the transfer of related margin or collateral. Counterparty hereby appoints ICE Trust as its lawful agent and attorney-in-fact to take such actions on behalf of the Counterparty as ICE Trust determines necessary or appropriate in order to effectuate the Default Portability Rules with respect to the Counterparty's Covered Transactions, including executing any document or instrument with respect to the transfer or replacement of the Covered Transaction and/or exercising rights and remedies to terminate or transfer Covered Transactions. In connection with any termination and replacement of Covered Transactions pursuant to the Default Portability Procedures, each of Counterparty and ICE Participant agrees that any termination payments owed between such parties in respect of the terminated Covered Transactions (determined in accordance with the Rules and the provisions hereof), any termination payments owed between ICE Participant and ICE Trust in respect of the related Client-Related Positions (which in each case shall be determined by ICE Trust pursuant to the Closing-out Process), any upfront payments owed between Counterparty and the replacement Participant with respect to the initiation of the replacement transactions and any upfront payments owed between such replacement Participant and ICE Trust with respect to the initiation of replacement Client-Related Positions shall be equal and (after application of any relevant collateral) shall be netted and offset in accordance with the Rules. In furtherance thereof, Counterparty hereby

assigns and transfers its right to payment of any net termination amount owed by ICE Participant in respect of a Covered Transaction to the new Participant designated by ICE Trust in satisfaction of Counterparty's obligation, if any, to make a payment to the new Participant in respect of the establishment of the replacement for the Covered Transaction (but solely to the extent needed to satisfy such obligation). Following any such transfer or termination and replacement of a Covered Transaction, Counterparty shall make appropriate submissions to Deriv/SERV or another service specified by ICE Trust to reflect such transfer or termination and replacement.

(d) In the event of an ICE-Declared Default:

(i) If (A) as of the end of the Transfer Period, the Covered Transactions (if subject to a Portability Election) have not been transferred or replaced pursuant to the Default Portability Rules, or (B) Counterparty has not made a Portability Election, such Covered Transactions shall be deemed to have been terminated pursuant to Section 6(a) of the Covered Transaction Master Agreement, and in such case the Early Termination Date shall be the applicable date on which ICE Trust terminates the related Client-Related Positions pursuant to the Closing-out Process under the Rules.

(ii) Notwithstanding anything to the contrary in the Incorporated ISDA Agreement or any other agreement or arrangement between the parties, the amount payable pursuant to Section 6(e) of the Covered Transaction Master Agreement in respect of the termination of the Covered Transactions (the "**Covered Transaction Termination Amount**") shall be determined on the basis of the termination value calculated by ICE Trust for the corresponding Client-Related Positions pursuant to the Closing-out Process under the Rules, adjusted for any Unpaid Amounts under the Covered Transaction Master Agreement not otherwise taken into account in such termination value. Counterparty hereby agrees and acknowledges that any determination made by ICE Trust with respect to the termination value of a Counterparty-Related Transaction or a Covered Transaction shall be conclusive and binding upon Counterparty for this purpose absent manifest error.

(iii) Counterparty and ICE Participant agree that any Covered Transaction Termination Amount payable by Counterparty (a "**Counterparty Termination Payment**") shall be satisfied by application (A) first, of any Mark-to-Market Posted Collateral posted (or deemed posted) by Counterparty; (B) second, of Initial Margin Posted Collateral in respect of the Initial Margin Credit Support Amount (calculated before any application thereof by ICE Trust); and (C) third, of any Participant-Required Additional Margin not otherwise applied pursuant to clause (B). Counterparty shall pay any remaining portion of the Counterparty

Termination Payment not so satisfied directly to or as directed by ICE Trust for application as set forth in the Rules.

(iv) Counterparty acknowledges and agrees that the allocation and return of available amounts in the Custodial Client Omnibus Margin Account (including the application thereof to any Covered Transaction Termination Amount owed in favor of Counterparty) shall be governed by the Rules in accordance with its Net Termination Claim and Excess Margin Return Amount.

(e) In the event all Client-Related Positions are terminated under Rule 805 as a result of an ICE Trust Default, an Early Termination Date will be deemed to have occurred under the Covered Transaction Master Agreement in respect of all Covered Transactions, and the provisions of subsections (d)(ii), (iii) and (iv) above shall apply.

6. **Netting and Offsets.** (a) At the election of ICE Participant or as otherwise agreed between Counterparty and ICE Participant, if Counterparty and ICE Participant have entered into Covered Transactions that constitute opposite positions on terms equivalent to a single Contract which are identical in all material respects (other than notional or other reference amount), the second such Covered Transaction shall be deemed pro tanto a settlement or adjustment of the prior transaction and, therefore, a reduction in the relevant Open Position. Thereupon, Counterparty and ICE Participant shall possess no further rights and be under no further liability with respect thereto to the extent of such settlement or adjustment, other than in respect of any unpaid upfront payments under such Covered Transactions (which shall be payable as and when originally due). In such case, each of Counterparty and ICE Participant shall make appropriate submissions to Deriv/SERV or another service specified by ICE Trust to reflect such adjustment and settlement.

(b) Prior to the occurrence of a Participant Default, if agreed by ICE Participant and Counterparty (including by designation on Schedule 1), either ICE Participant or Counterparty may net or offset any obligation of Counterparty to transfer collateral, credit support or other payment to ICE Participant under the Covered Transactions Margin Terms, Existing Collateral Arrangement or other agreement or arrangement against any obligation of ICE Participant to transfer collateral, credit support or other payment to Counterparty under the Covered Transaction Margin Terms, Existing Collateral Arrangement or any other agreement or arrangement, and to the extent of such netting or offset, each of Counterparty and ICE Participant will be deemed to have satisfied their obligations in respect thereof. In the event of such an offset of an obligation of Counterparty to Transfer Eligible Collateral in respect of the Initial Margin Credit Support Amount, ICE Participant shall transfer an amount of Eligible Margin with a value equal to the amount of such offset to the Custodial Client Omnibus Margin Account, and such asset shall be deemed to be Initial Margin Posted Collateral Transferred on behalf of Counterparty for purposes of the Covered Transaction Margin Terms.

(c) Notwithstanding anything to the contrary in the Incorporated ISDA Agreement or any other agreement or arrangement between the parties, in the event of a Participant Default, (i) any Counterparty Termination Payment shall not be netted or offset against any amount owed by ICE Participant to Counterparty under the Non-Covered ISDA Agreement or any other agreement or instrument and (ii) Counterparty shall be entitled to net and offset any Covered Transaction Termination Amount owed by ICE Participant to Counterparty against any amount owed by Counterparty to ICE Participant under the Non-Covered ISDA Agreement or (if so previously agreed between Counterparty and ICE Participant) any other agreement or instrument.

(d) In the case of an Event of Default or Termination Event with respect to Counterparty where no Participant Default has occurred, (i) without prejudice to any other right of netting or setoff, ICE Participant shall be entitled to net and offset any amount payable pursuant to Section 6(e) of the Covered Transaction Master Agreement in respect of Covered Transactions against any amount payable pursuant to Section 6(e) of any Non-Covered ISDA Agreements in respect of non-Covered Transactions or (if so previously agreed between Counterparty and ICE Participant) any amount payable under any other agreements or instruments; and (ii) ICE Participant shall be entitled to apply or otherwise exercise the rights and remedies of a secured party with respect to Posted Collateral under the Covered Transaction Margin Terms (to the extent released by ICE Trust under the Rules, in the case of Posted Collateral other than Additional Segregated Initial Margin) to obligations of Counterparty under any Non-Covered ISDA Agreements in respect of Non-Covered Transactions or (if so previously agreed between Counterparty and ICE Participant) other agreements or instruments as though such obligations were "Obligations" for purposes of the Covered Transaction Margin Terms.

7. **Consent to Disclosure.** Counterparty consents to the disclosure by ICE Participant to ICE Trust of Counterparty's identity and information concerning its Covered Transactions and margin as set forth in the Rules.

8. **Consent to Pledge.** Counterparty consents to the pledge of and grant of a security interest by ICE Participant in accordance with the Rules in ICE Participant's right, title and interest in and to the Covered Transaction Master Agreement, the Covered Transactions and the margin or collateral or other supporting obligations with respect thereto and all proceeds thereof (without prejudice to, and after giving effect to, any contractual netting or set-off provision under the Covered Transaction Master Agreement), in the following order of priority, (i) first, in favor of ICE Trust as security for ICE Participant's obligations in respect of Client-Related Positions and (ii) second, in favor of other clients of ICE Participant with respect to transactions that are Non-Participant Contracts under the Rules and that have executed a Standard Terms Annex in the form approved under the Rules ("**Other Counterparties**") as security for ICE Participant's obligations in respect of such Non-Participant Contract with Other Counterparties.

9. **Executing Dealer Documentation.** Counterparty hereby agrees to the terms and conditions of the ICE Trust DCM Standard Terms. Each applicable Executing Dealer (as defined therein) shall be a third party beneficiary of this Section 9.

10. **Status of Covered Transactions.** A transaction shall constitute a Covered Transaction for purposes hereof when the related Client-Related Position submitted for clearing to ICE Trust is novated or established with ICE Trust as provided in the Rules.

11. **Modification of ICE Provisions and Contract Modification.** ICE Participant and Counterparty agree that in the event ICE Trust effects a Modification of the ICE Provisions, a Contract Modification or other amendment to the Rules in accordance with the Rules, corresponding amendments or modifications will be deemed to be made (to the extent applicable) to the relevant terms of the Covered Transaction Master Agreement and each Covered Transaction hereunder. ICE Participant may (but will not be obligated to) provide to Counterparty a written confirmation of the terms of any such deemed amendment or modification.

12. **Acknowledgement Regarding Certain Position Transfers.** Counterparty acknowledges and agrees that in the event of a request by the Counterparty for the transfer pursuant to Rule 20A-01 of its Covered Transactions with ICE Participant, such transfer will be subject to the satisfaction by Counterparty of any applicable margin requirements in respect of any remaining Covered Transactions and any additional margin or collateral requirements ICE Participant may require for other Transactions under the Non-Covered ISDA Agreement or other applicable agreement, in either case as a result of such transfer of Covered Transactions, and in the event of a transfer of less than all of its Covered Transactions, such transfer will be subject to the consent of ICE Participant.

13. **Certain Limitations.** Counterparty agrees and acknowledges for the benefit of ICE Trust that (a) the liability of ICE Trust with respect to the matters contemplated herein shall be limited as set forth in Rule 312 and 20-605(k) of the Rules and specifically that ICE Trust shall have no liability or obligation to Counterparty in respect of a Covered Transaction or otherwise (without prejudice to its obligation under the Rules to return collateral and distributions thereon to a Participant in accordance with the Rules), and (b) in no event shall Counterparty attempt to interfere with the ability of ICE Trust to exercise its rights hereunder or as set forth in the Rules. Counterparty agrees and acknowledges that ICE Participant does not guarantee ICE Trust's performance of any of ICE Trust's obligations under the Rules, and in the event that ICE Trust defaults in the payment or performance of any obligation owed by it in respect of a Client-Related Position corresponding to a Covered Transaction, ICE Participant shall be entitled to make a corresponding deduction from any payment or performance otherwise owed by it under such corresponding Covered Transactions (and where such deduction may be attributable to both Covered Transactions and to Non-Participant Contracts of other Non-Participant Parties, ICE Participant shall allocate such deduction among such contracts on a pro rata basis); provided that if such defaulted payment or performance is subsequently obtained by ICE Participant from ICE Trust (in whole or in

part), ICE Participant shall thereupon make the corresponding payment or performance (or portion thereof) to Counterparty. Each of Counterparty and ICE Participant represents and agrees that it shall not create or permit to exist, and hereby waives and agrees to cause any of its affiliates to waive, any liens or rights of setoff with respect to Posted Collateral or its rights under the Covered Transaction Master Agreement except to the extent created or permitted by this Standard Terms Annex or the Rules.

14. **Certain Tax Matters.** Notwithstanding anything to the contrary in the Covered Transaction Master Agreement, (i) if ICE Participant is required to pay to ICE Trust an Additional Amount (as defined in Rule 613) with respect to a Client-Related Position corresponding to a Covered Transaction, Counterparty shall be obligated to pay to ICE Participant an amount equal to such Additional Amount (or the applicable portion thereof), but without duplication of any additional amount payable by Counterparty under Section 2(d)(i)(4) of the Covered Transaction Master Agreement; (ii) if ICE Trust deducts or withholds any amount otherwise payable to ICE Participant on a Client-Related Position pursuant to Rule 613, ICE Participant shall be entitled to make a corresponding deduction from any amount otherwise payable by ICE Participant to Counterparty under a corresponding Covered Transaction; and (iii) where such Additional Amount or deduction may be attributable to both Covered Transactions and to Non-Participant Contracts of other Non-Participant Parties, ICE Participant shall allocate such additional amount or deduction among such contracts on a pro rata basis.

15. **Representations.** (a) Each party represents to the other party that all representations contained in the Incorporated ISDA Agreement, as amended, are true and accurate as of the date of this Standard Terms Annex, and that such representations are deemed to be given or repeated by each party, as the case may be, on the date of this Standard Terms Annex.

(b) Each party represents and warrants that it is an “eligible contract participant” as defined in Section 1a(12)(A) or (B) under the Commodity Exchange Act, as amended.

16. **Third Party Beneficiary.** ICE Trust shall be an express third party beneficiary of the representations, warranties, agreements and covenants of Counterparty under this Standard Terms Annex.

17. **Miscellaneous.**

a. **Entire Agreement.** This Standard Terms Annex constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.

b. **Counterparts.** This Standard Terms Annex may be executed and delivered in counterparts (including by facsimile transmission) each of which will be deemed an original.

- c. **Headings.** The headings used in this Standard Terms Annex are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Standard Terms Annex.
- d. **Governing Law.** Notwithstanding anything to the contrary in the Incorporated ISDA Agreement, the Covered Transaction Master Agreement will be governed by and construed in accordance with the laws of the State of New York.
- e. **Amendments.** This Standard Terms Annex may not be amended or modified except in a writing signed by the parties hereto and with the written consent of ICE Trust in its discretion.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Standard Terms Annex on the respective dates specified below with effect from the date specified in this Standard Terms Annex.

[ICE PARTICIPANT], as the ICE [NON-PARTICIPANT PARTY], as the Participant Counterparty

By: _____

By: _____

Name:

Title:

Date:

Name:

Title:

Date:

**SCHEDULE I
TO
ICE TRUST U.S. LLC
STANDARD TERMS ANNEX**

1. Name of ICE Participant _____

2. Name of Counterparty _____

3. Date of Standard Terms Annex _____

4. Form of ISDA Agreement (CIRCLE ONE) 1992 / 2002

5. Date of ISDA Agreement _____

6. Portability Election:

Upon the occurrence of an ICE-Declared Default, Counterparty (**check one**):

(a) ____ ICE Trust may attempt to transfer or replace any Covered Transactions in accordance with Default Portability Rules; or

(b) ____ ICE Trust may not attempt to transfer or replace Covered Transactions under the Default Portability Rules.

Name of Backup CP(s) (in order of preference)

7. Participant-Required Additional Margin Terms: []

8. Fees or Deductions from Distributions on Posted Collateral in respect of Initial Margin Credit Support Amount: []

9. Notification and Transfer Timing Provisions, if different from Existing Collateral Arrangement: []

10. Applicability of Netting Pursuant to Section 6(b): [Applicable]/[Inapplicable]