

December 16, 2013

**VIA EMAIL SUBMISSION: [submissions@cftc.gov](mailto:submissions@cftc.gov)**

Ms. Melissa Jurgens  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Re: INFX SEF, Inc. – Amendments to Rulebook – Notice 13-06

Dear Ms. Jurgens:

Pursuant to Commodity Futures Trading Commission (the “Commission”) Regulation 40.6(a), INFX SEF, Inc. (“ISEF”) hereby self-certifies the amendments to its Rulebook identified in Exhibit A. The Rulebook has been amended in order to incorporate changes based on discussions with market participants. The amended Rulebook will become effective on December 31, 2013.

A concise explanation and analysis of the amendments to the Rulebook and their compliance with applicable provisions of the Commodity Exchange Act (the “CEA”) is attached hereto as Exhibit A. A redlined copy of the rule amendments is attached hereto as Exhibit B.

ISEF hereby certifies that: (i) the amended Rulebook complies with the CEA and the Commission’s regulations thereunder, and (ii) a notice and copy of this submission is being concurrently posted on ISEF’s website. No substantive opposing views were expressed with respect to the amendments to the Rulebook.

Please contact Stephanie Feldt or Peter Y. Malyshev using the information below if you have any questions regarding this submission.

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Sincerely,

Handwritten signature of Stephanie Feldt in black ink.

Stephanie Feldt  
Chief Compliance Officer

cc: Nancy Markowitz, Deputy Director, Division of Market Oversight, Exchange and Data  
Repository Branch  
(Commodity Futures Trading Commission)

Peter Y. Malyshev  
Jonathan T. Ammons  
(Latham & Watkins LLP)

**EXHIBIT A**  
**Explanation and Analysis**

**Summary:** The Rulebook has been amended in order to incorporate changes based on discussions with market participants. A concise explanation and analysis of the amendments to the Rulebook and their compliance with applicable provisions of the Commodity Exchange Act (the “CEA”) is attached hereto as Exhibit A. A redlined copy of the rule amendments is attached hereto as Exhibit B.

Capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Rulebook.

<b>Amendment</b>	<b>Explanation</b>
<u>Rule 211</u> Amended this rule to allow for consultation with the CFTC in emergency situations, where practicable.	Response to Participants’ comments
<u>Rule 215</u> Amended this rule to make it consistent with the Participant Agreement.	Response to Participants’ comments
<u>Rule 302</u> Amended this rule to make the numbering consistent with the rest of the rulebook.	Clerical correction
<u>Rule 309</u> Amended this rule to specify that INFX SEF Notices will be published 10 days prior to effectiveness, when practicable.	Clarification
<u>Rule 313</u> Amended this rule to make the rule relevant to publicly traded companies.	Response to Participants’ comments
<u>Rule 314(b)</u> Amended this rule to give INFX SEF reasonable discretion to condition an acceptance of a Participant’s withdrawal.	Clarification
<u>501(a)(11)</u> Amended this rule to limit the scope of books and records required to be kept by Participants to those related to Swaps governed by INFX SEF rules and transacted by Participants on INFX SEF.	Core Principle 5
<u>502(a)(3),(4), (6)</u> Amended Rule 502(a)(3) to limit the scope of the types of disclosures a Participant is required to provide to INFX SEF. Specifically, the scope is limited to providing disclosures that relate to relevant financial products such as Swaps, futures, options on futures, securities,	Response to industry comments Core Principles 2, 5

<p>commodities and Swap-related investment banking. Amended Rule 502(a)(4) to increase the fine amount to require disclosures of fines that are more substantive. Amended Rule 502(a)(6) to limit the scope of the disclosure to those judicial or administrative proceedings that are material in nature.</p>	
<p><u>Rule 503(a)</u> Amended this rule to allow for reasonable notice to Participants of inspections by INFX SEF or its regulatory service provider, where practicable.</p>	Core Principles 2, 5
<p><u>Rule 602(d)(4)</u> Amended this rule to correct a typographical error and to delete a rule reference that is no longer applicable.</p>	Administrative
<p><u>Rule 703(a)</u> Amended this rule to add the requirement of a credit support arrangement</p>	Clarification
<p><u>Rule 703 (b)</u> Amended this rule to add “existing” similar to the language in Rule 703(a).</p>	Administrative
<p><u>Rule 915(a)</u> Amended this rule to add the standard of negligence</p>	Clarification
<p><u>Rule 925</u> Amended this rule to state that INFX SEF i) has the authority to establish position limit; ii) would not impose limits that are higher than any limits established by the CFTC; and iii) would apply the limits only to contracts traded on INFX SEF.</p>	Core Principle 6
<p><u>Rule 928</u> Amended this rule to provide indemnification to Participants against any claim that the Platform infringes on any intellectual property.</p>	Legal process
<p><u>Rule 929(a)</u> Amended this rule to add the standard of gross negligence to limit the scope of INFX SEF’s protections under its limitation of liability.</p>	Legal process
<p><u>Rule 929(d)</u> Amended this rule to change the jurisdiction from CA to NY.</p>	Legal process
<p><u>Rule 1206(a)(5)</u> Amended this rule to limit INFX SEFs rights in market data and intellectual property.</p>	Legal process
<p><u>Rule 1209(a)</u> Amended this rule to change the governing law from CA to NY.</p>	Legal process

**Exhibit B**  
**Rule Amendments**

**Rule 211      Emergency Rules**

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(a) During an Emergency, the Regulatory Oversight Committee (or the CEO, if he or she determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Regulatory Oversight Committee can reasonably be convened) may implement temporary emergency procedures and rules ("**Emergency Rules**"), subject to the applicable provisions of the CEA and CFTC Regulations. Pursuant to the Emergency Rules, INFX SEF will have the authority to intervene as necessary to respond to the Emergency, whether the need for intervention arises exclusively from INFX SEF's market or as part of a coordinated, cross-market intervention. Emergency Rules may require or authorize INFX SEF, the Board, any committee of the Board, the Chief Executive Officer, or any other Officer to take actions necessary or appropriate to respond to the Emergency, in consultation with the CFTC, as warranted or practicable, including, but not limited to, the following actions:

- (1) imposing or modifying position limits, imposing or modifying price limits;
- (2) imposing or modifying intraday market restrictions;
- (3) imposing special margin requirements;
- (4) ordering the liquidation or transfer of open positions in any Contract;
- (5) ordering the fixing of a settlement price;
- (6) extending or shortening the expiration date or the Trading Hours;
- (7) suspending or curtailing trading in any Contract;
- (8) transferring customer Contracts and the margin, or altering any Contract's settlement terms or conditions; or
- (9) if applicable, providing for the carrying out of such actions through its agreements with the Regulatory Services Provider.

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**Rule 215      Services Agreement with a Technology Services Provider**

(a) INFX SEF may contract with a Technology Services Provider to provide certain technology services to INFX SEF pursuant to a Technology Services Agreement. In accordance with a Technology Services Agreement, a Technology Services Provider may perform certain functions under the INFX SEF Rules and INFX SEF may provide information to the Technology Services Provider in connection with the performance by the Technology Services Provider of those functions.

(b) INFX SEF shall retain ultimate decision-making authority with respect to any functions that are contracted to a Technology Services Provider.

(b)(c) Any Technology Services Provider shall be bound by the same confidentiality obligations as INFX SEF as contained within the Participant Agreement and Rulebook.

**Rule 302** Participant Application Process

(a) Any Person who desires to become a Participant shall:

~~(a)~~(1) enter into a Participant Agreement;

~~(b)~~(2) establish a clearing relationship with a Clearing Member, except as provided in INFX SEF Rule 301(d);

~~(c)~~(3) agree to abide by the INFX SEF Rules and Applicable Law;

~~(d)~~(4) provide details of its disciplinary history;

~~(e)~~(5) provide such information and documentation as may be requested by INFX SEF pertaining to the Participant or the Participant's Clients if Participant is an Account Manager, and follow the procedures established by INFX SEF for admission; and,

~~(f)~~(6) if Participant is organized or located outside of the United States, enter into a Written agreement acceptable to INFX SEF appointing a third party as its U.S. agent for service of process for purposes of CFTC Regulation 15.05, and shall provide INFX SEF with a copy of the agreement.

\* \* \* \* \*

**Rule 309** Notice to Participants

(a) INFX SEF shall publish a Notice to Participants 10 days prior to effectiveness, when practicable, with respect to each addition to, modification of, or clarification of, the INFX SEF Rules or of any action to implement any INFX SEF Rules on INFX SEF's website and/or via an electronic mail distribution to enable each Participant to become aware of and familiar with, and to implement any necessary preparatory measures to be taken by it with respect to, such addition or modification, prior to the effective date thereof. For purposes of publication in accordance with the first sentence of this Rule 309, it shall be sufficient (without limiting the discretion of INFX SEF as to any other reasonable means of communication) if a Notice to Participants is published on INFX SEF's website.

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**Rule 313** ~~Death, or Dissolution, or Change in Ownership~~ of a Participant

(a) All rights and privileges of a Participant terminate upon, and all obligations of a Participant shall survive, the death or incapacity of the Participant (if an individual) or the dissolution of the Participant (if an entity).

~~(b) If a Participant is an entity and any Person holds, or has a direct or indirect beneficial~~

~~interest in, the Participant of (i) ten percent (10%) or more of any class of equity or other membership, partnership or similar interest, or (ii) ten percent (10%) or more of any class of equity or other membership, partnership or similar interest in a company that directly or indirectly holds, or has a beneficial interest in, ten percent (10%) or more of any class of equity or other membership, partnership or similar interest of the Participant, then the Participant must notify INFX SEF in writing within seven (7) calendar days of learning the identity of the Person or any change in the identity, holdings or interest of the Person.~~

- ~~(c) Once INFX SEF receives a notice from a Participant pursuant to Rule 313(b), INFX SEF shall determine the continued eligibility of the Participant to continue as a Participant on INFX SEF. In connection with the determination of the Participant's continued eligibility, INFX SEF may require the Participant to use the form, provide the information, and follow the procedures established by INFX SEF. If, after completing its review, INFX SEF determines that the Participant does not continue to satisfy the applicable criteria in Rule 301, INFX SEF shall terminate the rights of the Participant.~~

**Rule 314**      Withdrawal of Participant

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- (b) INFX SEF may, in its reasonable discretion, ~~condition its acceptance of~~ ~~refuse to accept~~ a Participant's withdrawal request or may postpone the effective date of withdrawal of a Participant if INFX SEF considers it necessary for the protection of other Participants or otherwise in the interests of INFX SEF.

**Rule 501**      Duties and Responsibilities of Participants

- (a) Each Participant shall (and shall cause all of its Authorized Persons and Clients or Customers, if applicable to):
- (1) use the Platform in a responsible manner and not for any improper purpose;
  - (2) use the Platform only to conduct Platform Activity;
  - (3) conduct all Platform Activity in a manner consistent with the INFX SEF Rules and Obligations;
  - (4) comply with all INFX SEF Rules and Obligations and act in a manner consistent with each INFX SEF Rule of INFX SEF and Obligation;
  - (5) comply with all rules of the Regulatory Service Provider, if any, to the extent applicable to it, and act in a manner consistent with the rules of the Regulatory Service Provider, if any, to the extent applicable;
  - (6) observe high standards of integrity, market conduct, commercial honor, fair dealing, and just and equitable principles of trade while conducting or attempting to conduct any Platform Activity, or any aspect of any business connected with or concerning INFX SEF;

- (7) not knowingly mislead or conceal any material fact or matter in any dealings or filings with INFX SEF or in response to any INFX SEF Proceeding;
- (8) be fully liable for all trading losses, all Orders, all transactions in Contracts effected by such Participant, all transactions effected on INFX SEF and for any use of the Platform made by Participant or the Participant's Authorized Persons, and all trades even if the Orders received via the Platform: (1) were entered as a result of a failure in the security controls and/or credit controls, other than due to the gross negligence of INFX SEF; or (2) were entered by an unknown or unauthorized user;
- (9) employ practices to monitor and enforce compliance with risk limits;
- (10) be responsible for promptly informing INFX SEF of any material changes to the information provided to INFX SEF by the Participant pursuant to Rule 301; and
- (11) keep, or cause to be kept, complete and accurate books and records, including, without limitation, all books and records of his or her Platform Activity and his or her activity in the underlying commodity and related derivatives markets relating to Swaps governed by these Rules and transacted by Participants, and all books and records required to be maintained pursuant to the CEA, the CFTC Regulations or the INFX SEF Rules, for at least five (5) years, and make such books and records available for inspection by a representative of INFX SEF, the Regulatory Services Provider, the CFTC or the United States Securities and Exchange Commission.

**Rule 502** Required Disclosures to INFX SEF

- (a) Each Participant shall immediately notify the Chief Compliance Officer (or other appropriately designated INFX SEF Official) upon becoming aware of any of the following events:
  - (1) any material change to the contact information provided to INFX SEF;
  - (2) any damage to, or failure or inadequacy of, the systems, facilities or equipment of the Participant to effect transactions pursuant to the INFX SEF Rules or to timely perform the Participant's financial obligations under or in connection with Contracts;
  - (3) any refusal of admission to, or involuntary withdrawal by the Participant of any application for membership in, any Self-Regulatory Organization, Contract Market or Derivatives Clearing Organization which relates to transactions in Swaps, futures, options on futures, securities, commodities, or Swaps-related banking;
  - (4) any expulsion, suspension or fine in excess of \$25,000 (whether through an adverse determination, voluntary settlement or otherwise) imposed on the Participant by any Self-Regulatory Organization;
  - (5) any denial or withdrawal of any application for any registration or license by or from any Governmental Agency, and any revocation, suspension or conditioning of any

registration or license granted by any Governmental Agency which may adversely or materially impact Participant's ability to trade on INFX SEF;

- (6) the commencement of any **material** judicial or administrative proceeding against the Participant or the imposition of any fine, cease and desist order, denial of trading privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any Governmental Agency with respect to Platform Activity, provided, however, that any non-public initial inquiries by Governmental Agencies shall not be subject to disclosure requirements of this Rule 502(a)(6);
- (7) any indictment or conviction of, or any confession of guilt or plea of guilty or nolo contendere by, the Participant (or, if the Participant is an entity, by any of its principals or senior officers) for any felony or misdemeanor involving, arising from, or related to, the purchase or sale of any commodity, Futures contract, Option, security, securities futures product or other financial instrument, or involving or arising from fraud or moral turpitude;
- (8) the Participant becoming the subject of a petition for bankruptcy;
- (9) the appointment of a receiver, trustee or administrator for the Participant;
- (10) the presentment of a petition, or the passing of a resolution, for the winding-up of Participant;
- (11) the commencement of proceedings for the dissolution of Participant; or
- (12) the occurrence of an event of insolvency with respect to the Participant.

**Rule 503**      Inspections by INFX SEF

- (a) INFX SEF (or the Regulatory Services Provider or other authorized representatives), shall have the right, **with reasonable notice when practicable**, in connection with determining whether all INFX SEF Rules and Obligations are being, will be, or have been complied with by the Participant, to:
  - (1) inspect systems, equipment and software operated by the Participant in connection with Platform Activity, wherever located;
  - (2) access such systems, equipment, software, and the premises on which such systems, equipment, and software are located, any data related to SEF activity stored in any of the systems or equipment, during the regular business hours and the Trading Hours of INFX SEF, without prior notice to Participants; and/or
  - (3) copy or reproduce any data to which INFX SEF has access under this Rule 503.
- (b) The SEF Regulation Department may require a Participant to furnish (periodically or on a particular occasion) information concerning the Participant's Platform Activity. Such

information includes but is not limited to, the Participant's open trading positions or Contracts to which the Participant is a party.

- (c) The SEF Regulation Department may examine (periodically or on a particular occasion) the books and records of any Participant or any Customer or Client of a Participant.
- (d) Each Participant shall provide the Regulatory Services Provider with the same access to their books and records and offices as they are required to provide INFX SEF under the INFX SEF Rules and Applicable Law.
- (e) INFX SEF shall provide information in its possession to the CFTC or the Regulatory Services Provider upon request. INFX SEF shall also share information with other regulatory organizations, data repositories, and reporting services as required by the CFTC or as otherwise necessary and appropriate to fulfill its self-regulatory and reporting responsibilities. Appropriate information-sharing agreements can be established with such entities or the CFTC can act in conjunction with INFX SEF to carry out such information sharing.

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**Rule 602** Request for Quote Platform

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(d) Effectiveness of an RFQ Transaction.

- (1) By sending a Responsive Order, the RFQ Requester agrees that such Responsive Order shall result in a Transaction upon acceptance by a RFQ Recipient.
- (2) Each Responsive Order that is Accepted by the RFQ Recipient on INFX SEF shall result in a Transaction between the RFQ Requester and RFQ Recipient.
- (3) Each Responsive Order that is matched against a resting bid/offer from the Order Book Platform on INFX SEF shall result in a Transaction between the RFQ Requester and the submitter of the resting bid/offer.
- (4) Each Transaction shall be a fully effective and enforceable contract between the Participant parties thereto except as provided ~~in provided in Rule 404(e)~~, this Rule 602(d)(4), or Chapter 12 of these INFX SEF Rules.
- (5) If any Transaction is determined by INFX SEF to be:
  - (a) prohibited by, or otherwise in violation of, these INFX SEF Rules;
  - (b) not in compliance with all provisions of the Participant Agreement and these INFX SEF Rules;
  - (c) prohibited by, or otherwise in violation of the CEA and the CFTC regulations; or

(d) such transaction is entered into between RFQ Requester and the RFQ Recipient for illegitimate purposes,

then INFX SEF may in its sole discretion decline to confirm such Transaction or cancel such transaction at any time before such Transaction is submitted for Settlement.

**Rule 703** Settlement of Uncleared Transactions

- (a) Permitted Transactions submitted on the INFX SEF RFQ Platform may only be executed among Participants that have an existing bilateral agreement, including any relevant credit support arrangement documentation, in place governing the settlement of Swaps.
- (b) Permitted Transactions submitted on the INFX SEF Order Book Platform may only be executed among Participants that have an existing bilateral agreement in place governing the settlement of Swaps.

\* \* \* \* \*

**Rule 915** Errors and Omissions in Handling Orders

- (a) A Participant who inadvertently, through negligent error or omission, fails to execute an Order at the time it should have been executed may, upon discovery of such error or omission, execute such Order at the best obtainable price. Such Order shall be competitively executed and should be executed in the next available trading session for the applicable listed Contract, but in any event must be executed no later than the close of the next trading day, if possible, and shall be reported to the Customer at the price at which actually executed. If such price is to the advantage of the Customer, the Customer shall receive the benefit thereof; if not, the Customer shall receive such monetary adjustment as will afford the Customer the equivalent of the price at which such Order should and could have been executed.

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**Rule 925** Position Limit and Position Accountability Table

- (a) INFX SEF shall have the authority to establish position limits for any Swap. Where the CFTC has established a position limit for any Swap, INFX SEF's position limit for that Swap shall not be higher than such limit established by the CFTC. Such limits will apply only with respect to trading on the SEF operated by INFX SEF.
- (b) The threshold levels for all Contracts are set forth in the Position Limit and Position Accountability Table on the INFX website at [www.infxsef.com](http://www.infxsef.com).

**RULE 928 Indemnification**

PARTICIPANT WILL INDEMNIFY AND HOLD HARMLESS INFX SEF AND ALL OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND AFFILIATES FROM ANY LOSSES, CLAIMS, DAMAGES, COSTS OR INJURY (INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES) OF WHATEVER NATURE (WHETHER

FORESEEABLE OR NOT) AND HOWEVER CAUSED ARISING FROM OR IN CONNECTION WITH PARTICIPANT'S FAILURE TO COMPLY WITH ANY LEGAL OR REGULATORY REQUIREMENT APPLICABLE TO PARTICIPANT PURSUANT TO THE COMMODITY EXCHANGE ACT OR CFTC REGULATIONS PROMULGATED THEREUNDER, ANY VIOLATION OF THE RULES CONTAINED HEREIN OR USE BY THE PARTICIPANT OF THE PLATFORM (WHETHER OR NOT SUCH USE IS IN ACCORDANCE WITH THE INFX SEF RULES), INCLUDING RESULTING FROM OR RELATING TO THE USE BY INFX SEF OF OR RELIANCE BY INFX SEF ON INFORMATION PROVIDED TO IT BY PARTICIPANT THAT SHALL NOT HAVE BEEN ACCURATE AND COMPLETE OR THAT IS MISLEADING IN ANY MATERIAL RESPECT; *PROVIDED, HOWEVER*, THAT THE TERMS OF THIS RULE 928 SHALL NOT APPLY TO THE EXTENT THAT ANY SUCH CLAIM ARISES BY REASON OF ANY GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT ON THE PART OF INFX SEF.

INFX SHALL INDEMNIFY PARTICIPANTS FOR ANY CLAIM AGAINST SUCH PARTICIPANT THAT THE PLATFORM INFRINGES ON ANY PATENT, TRADEMARK OR COPYRIGHT OF A THIRD-PARTY.

**Rule 929      LIMITATION OF LIABILITY, NO WARRANTIES**

- (a) EXCEPT AS PROVIDED BELOW, AND EXCEPT IN INSTANCES WHERE A PARTY HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT OR GROSS NEGLIGENCE, IN WHICH CASE THE PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE 929, NEITHER INFX SEF (INCLUDING ITS SUBSIDIARIES AND AFFILIATES AND ANY CONTRACTORS PROVIDING SERVICES TO INFX SEF), NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS (THE "DISCLAIMING PARTY" OR "DISCLAIMING PARTIES") SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM: ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER EVENT, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE PLATFORM, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY PARTICIPANTS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, AND FIRMWARE RELATING THERETO; OR

- (1) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER EVENT, OF ANY SYSTEM OR SERVICE OF INFX SEF, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
- (2) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY INFX SEF OR ANY OF INFX SEF'S SYSTEMS, SERVICES OR FACILITIES; OR
- (3) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF INFX SEF'S SYSTEMS, SERVICES, EQUIPMENT OR FACILITIES BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE CEA AND REGULATIONS THEREUNDER.

- (b) NOTWITHSTANDING SUBSECTION (a), (e), or (f) OF THIS RULE 929, IN NO EVENT SHALL ANY PERSON BRING ANY LEGAL ACTION (WHETHER IN TORT, NEGLIGENCE, OR BREACH OF CONTRACT) FOR ANY LOSSES DAMAGES, COSTS OR EXPENSES INCLUDING, BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, DIRECT, SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THE PLATFORM.
- (c) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) PROVIDED BY THE DISCLAIMING PARTY OR DISCLAIMING PARTIES RELATING TO ANY SYSTEMS OR SERVICES OF INFX SEF OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE INFX SEF PLATFORM.
- (d) ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF INFX SEF OR SERVICES, EQUIPMENT, OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH THE DISCLAIMING PARTY OR DISCLAIMING PARTIES IS A PARTY SHALL BE ARBITRATED PURSUANT TO CHAPTER 11. ANY ARBITRATION SHALL BE BROUGHT WITHIN THE PERIOD PRESCRIBED BY CHAPTER 11. ANY OTHER ACTIONS, SUITS OR PROCEEDINGS AGAINST THE DISCLAIMING PARTY OR DISCLAIMING PARTIES MUST BE BROUGHT WITHIN TWO (2) YEARS FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. THIS PARAGRAPH (d) SHALL IN NO WAY BE CONSTRUED TO LIMIT A PARTY'S OBLIGATION TO ARBITRATE ITS CLAIM OR

TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY THE INFX SEF RULES. IF FOR ANY REASON, A COURT OF COMPETENT JURISDICTION FINDS THAT A DISPUTE IS NOT ARBITRABLE, SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF ~~CALIFORNIA~~NEW YORK WITHOUT REGARD TO ANY PROVISIONS OF ~~CALIFORNIA~~NEW YORK LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION.

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**Rule 1206 Market Data and Intellectual Property**

- (a) All Participants and all employees, agents, vendors, and other Persons affiliated with the foregoing understand and acknowledge that INFX SEF has a proprietary interest in:
- (1) the price and quantity data from each and every transaction executed on the Platform, including the time at which the transaction was executed by, or submitted to, the Platform;
  - (2) the price and quantity data for each and every bid and offer submitted for entry into the Platform, including the time at which the bid and offer was entered into the Platform;
  - (3) the Daily Settlement Price of each Contract;
  - (4) any data and information derived from (1), (2) and (3) and the format and presentation thereof; and
  - (5) the transmission and dissemination of the data and information, in an aggregated or anonymous form, to Participants by any publisher of the data with whom INFX SEF has a Written agreement .

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**Rule 1209 Governing Law, Jurisdiction and Dispute Resolution**

- (a) The law of the State of ~~California~~New York governs the INFX SEF Rules, without regard to ~~California~~New York's conflict of laws principles.
- (b) Any dispute between INFX SEF and a Participant arising from or in connection with the INFX SEF Rules will be settled by arbitration pursuant to Chapter 11. All Participants unconditionally and irrevocably waive any and all right to trial by jury in connection with any such dispute.