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February 1, 2007

VIA EMAIL: [secretary@cftc.gov](mailto:secretary@cftc.gov)

Ms. Eileen Donovan  
Acting Secretary of the Commission  
Commodity Futures Trading Commission  
3 Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: HedgeStreet® Certification – Amendments to certain Terms and Conditions surrounding HedgeStreet's Real-Time Account Funding Program**

Dear Secretary Donovan:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended ("Act"), and §40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (the "Commission") under the Act, HedgeStreet, Inc. ("HedgeStreet") hereby submits to the Commission amendments to the HedgeStreet Real-Time Account Funding Program ("Amended Funding Program"). This program was originally submitted to the Commission on June 9, 2005 and further amended on July 6, 2005. The June 9<sup>th</sup> and July 6<sup>th</sup> submissions are both collectively referred to herein as the "Initial Funding Program." The Initial Funding Program and the Amended Funding Program may collectively be referred to herein as "Funding Program."

#### **Funding Program**

HedgeStreet initially introduced the Funding Program in order to allow members who have recently funded their accounts to have a certain amount of funds immediately made available to trade on HedgeStreet with the effect of promoting liquidity and orderliness on the market, while still abiding by its obligation of full collateralization in accordance with its order of registration as a derivatives clearing organization ("DCO").

HedgeStreet currently offers the Initial Funding Program to i) New Members and ii) Members who have not yet funded their HedgeStreet account with the ability to have immediate access to \$100 worth of their initial deposit for trading purposes. Currently, only \$100 of the total amount of any Member's initial deposit is immediately made available for trading purposes as long as the deposits are made Monday-Friday (excluding Exchange holidays) between the times of 11:00AM and 8:00PM ET. If a member initially deposits more than \$100 into his/her account (e.g. \$500), the remainder of the funds (e.g. the remaining \$400) are not made immediately available requiring the member to wait an additional 3-5 business days for such funds to clear at the HedgeStreet settlement bank. An email notification is sent immediately upon the availability of the real-time funds, totaling no more than \$100.



HedgeStreet would like to amend the terms and conditions of the Funding Program in order to broaden the scope of such program and promote more liquidity on the exchange by implementing the following new terms and conditions;:

- (a) A member that initially funds his/her account on HedgeStreet will now be permitted to immediately receive \$250 instead of \$100 of his/her initial deposit. All other terms and conditions relating to initial deposits will remain the same as defined in the Initial Funding Program.
- (b) Another new term included in the Amended Funding Program allows existing members that are currently in good-standing with HedgeStreet to also have a limited amount of funds immediately made available to such members for trading purposes. If an existing member is in good standing, such member will be permitted to immediately receive a maximum of \$1000 in available cash depending on the total amount deposited and received by HedgeStreet. For example, if Member A is in good standing and deposits \$500 with HedgeStreet, HedgeStreet will only make \$500 immediately available to Member A. If Member B is in good standing and deposits \$2000 with HedgeStreet, Member B will only be permitted to immediately receive \$1000. Member B would receive the remaining \$1000 once the funds clear with HedgeStreet's settlement bank which generally takes between 3-5 business days. A member in "Good Standing" means a member who has i) previously deposited funds with HedgeStreet without issue (e.g. no bounced checks); ii) not provided HedgeStreet with new bank account information within the previous two (2) weeks, and iii) not violated any of HedgeStreet's rules.
- (c) Upon receipt of a member's i) initial deposit in an amount of up to \$250 or ii) subsequent deposit of up to \$1000, the Amended Funding Program allows members to receive up to \$250 or \$1000 in available cash, respectively, and to immediately trade Contracts on the market without waiting the requisite period of time for all of the member's funds to clear at the HedgeStreet settlement bank.<sup>1</sup>

#### **Full-Collateralization Requirement**

HedgeStreet is registered as a DCO with the Commission and has been designated as a contract market by the Commission. Pursuant to its amended order<sup>2</sup> as a DCO, HedgeStreet's activities are currently limited, inter alia, to clearing fully collateralized, cash-settled, futures and options contracts listed for trading on the contract market, HedgeStreet, Inc. Contracts will be considered "fully-collateralized" if HedgeStreet holds, at all times, sufficient funds of each HedgeStreet member to cover the maximum possible loss that may be sustained by such member upon liquidation of any or all HedgeStreet

<sup>1</sup> In order for the full amount of funds deposited by check to be available to members for trading purposes, HedgeStreet procedures require that it wait 3 – 5 business days before the entire amount of funds deposited are placed into a member's account. This waiting period is to protect HedgeStreet against possible fraudulent activity, including checks that are returned due to insufficient funds or otherwise.

<sup>2</sup> HedgeStreet was originally registered as a DCO on February 18<sup>th</sup>, 2004. In order to facilitate the clearing of variable payout hedgelets, HedgeStreet requested that the Commission amend its order of registration as a DCO which was granted by the Commission on December 1, 2004.



contracts to which such member is a party. Therefore, HedgeStreet must at all times have 100% of the necessary collateral to cover the maximum potential loss of all members prior to trade execution.

To ensure compliance with its full-collateralization obligation as well as satisfy the terms of the Amended Funding Program, HedgeStreet will deposit its own funds into the HedgeStreet customer segregated funds account as necessary to ensure that the customer segregated funds account is completely collateralized. The amount of HedgeStreet funds that will be deposited into the customer segregated funds account is the greater of (a) \$20,000 or (b) the total of all member deposits made by check for the preceding ten business day period<sup>3</sup>. This process ensures that HedgeStreet, at all times, has adequate funds immediately available to satisfy the maximum possible loss that may be sustained by any member upon liquidation of any or all HedgeStreet contracts to which such member is a party, while allowing HedgeStreet to implement the Funding Program in accordance with its order of registration as a DCO.

No substantive opposing views were expressed in offering the Amended Funding Program.

HedgeStreet intends to commence offering the Amended Funding Program on Friday, February 2, 2007.

Should you have any questions or require additional information, please do not hesitate to contact the undersigned at (650) 638-3511 or [sford@hedgestreet.com](mailto:sford@hedgestreet.com).

Sincerely,

Stephanie Ford  
Vice President, Legal & Compliance

cc: Ms. Riva Adriance – CFTC  
Mr. Bob Wasserman – CFTC  
Clarissa Manansala – HedgeStreet, Inc.

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<sup>3</sup> The total amount of all member deposits includes the \$250 for initial deposits and up to \$1000 for subsequent deposits HedgeStreet makes immediately available to members. For example, if Member A makes an initial deposit by check in an amount of \$8,000 and Member B makes a subsequent deposit by check in an amount of \$13,000 on the same business day (assuming no other deposits are made on this same business day), HedgeStreet will deposit an additional \$1250 in to the customer segregated funds account (totaling \$21,250 in the customer segregated funds account) which would adequately cover the \$250 that is immediately made available to Member A and the \$1000 immediately available to Member B.