



GEMINI TITAN, LLC
EXHIBIT M

*Attach as **Exhibit M**, a copy of the Applicant's rules (as defined in § 40.1 of the Commission's regulations) and any technical manuals, other guides or instructions for users of, or participants in the market, including minimum financial standards for members or market participants.*

GEMINI DESIGNATED CONTRACT MARKET RULEBOOK

BY ACCESSING, OR ENTERING ANY ORDER INTO, THE EXCHANGE, AND WITHOUT ANY NEED FOR ANY FURTHER ACTION, UNDERTAKING OR AGREEMENT, A PARTICIPANT OR AUTHORIZED USER AGREES (I) TO BE BOUND BY, AND COMPLY WITH, THE RULES AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT, HIM OR HER, (II) TO BECOME SUBJECT TO THE JURISDICTION OF THE EXCHANGE WITH RESPECT TO ANY AND ALL MATTERS ARISING FROM, RELATED TO, OR IN CONNECTION WITH, THE STATUS, ACTIONS OR OMISSIONS OF SUCH PARTICIPANT OR AUTHORIZED USER, AND (III) TO ASSIST THE EXCHANGE IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE EXCHANGE AND THE CFTC IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING AND AUTHORIZE THE EXCHANGE TO PROVIDE INFORMATION REGARDING IT TO THE REGULATORY SERVICES PROVIDER, THE CFTC OR ANY SELF-REGULATORY ORGANIZATION. SEE CHAPTER 3 AND THE RELATED DEFINITIONS IN THIS RULEBOOK.

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CHAPTER 1 DEFINITIONS

Rule 101 Definitions

Unless the Rules specifically provide otherwise or the context otherwise requires, the following terms shall have the meanings as follows:

Affiliate. A Person who directly or indirectly, controls, is controlled by, or is under common control with another Person.

Appeals Panel. A panel appointed by the Board to consider appeals under CHAPTER 7.

Applicable Law. With respect to any Person, any statute, law, regulation, rule or ordinance of any governmental or self-regulatory authority applicable to such Person, including the CEA and CFTC Regulations.

Audit Trail has the meaning set forth in RULE 410.

Authorized User. A natural person who is either employed by or is an agent of a Participant and who is authorized by the Exchange as an Authorized User in accordance with RULE 307.

Board. The Board of Managers of the Exchange.

Business Day. Any day on which the Exchange is open for trading.

CEA or Commodity Exchange Act. The Commodity Exchange Act, as it may be amended from time to time.

CFTC or Commission. The Commodity Futures Trading Commission.

CFTC Regulations. The regulations of the CFTC, as they may be amended from time to time.

Chief Executive Officer. The individual appointed by the Board to serve as the Exchange's chief executive officer.

Chief Regulatory Officer. The individual appointed by the Board to serve as the Exchange's chief regulatory officer.

Clearing House. LedgerX LLC ("LedgerX") or such additional or successor central counterparties that are registered with the Commission as a derivatives clearing organization pursuant to Section 1a(15) of the CEA with open access rules as the Exchange may designate from time to time to provide clearing services with respect to any or all of its Contracts.

Contract. Any contract, agreement or Transaction approved for trading on the Exchange pursuant to these Rules.

Contract Specifications has the meaning set forth in RULE 403.

Cross Trade has the meaning set forth in RULE 602.

CTI has the meaning set forth in RULE 411.

Director. An individual serving on the Board of Exchange.

Disciplinary Action has the meaning set forth in RULE 701.

Disciplinary Offense has the meaning attributed to it in CFTC Regulation § 1.63(a)(6).

Disciplinary Panel. A panel responsible for conducting hearings, rendering decisions and imposing sanctions with respect to Disciplinary Actions pursuant to CHAPTER 7.

Eligible Contract Participant has the meaning set forth in Section 1a(18) of the CEA and in CFTC Regulation § 1.3.

Emergency means the occurrences or circumstances which, in the opinion of the Board, require immediate action to be taken in accordance with RULE 402, and which threaten, or may threaten, the fair and orderly trading in, or the settlement or integrity of, any Contract, including, without limitation, the following:

(a) any circumstance that may materially affect the performance of a Contract, including failure of the Clearing House system;

(b) any action taken by any United States or foreign regulatory, self-regulatory, judicial, arbitral, or governmental (whether national, state or municipal) or quasi-governmental authority, or any agency, department, instrumentality, or sub-division thereof; or other Person exercising, or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or any other contract market, clearing house, board of trade, or other exchange or trade association (foreign or domestic) that may have a direct impact on trading on the Exchange or the settlement legality or enforceability of any Contract;

(c) any actual, attempted or threatened corner, squeeze, congestion, manipulative activity or undue concentration of positions in a Contract;

(d) any circumstance that may have a severe, adverse effect upon the functions and facilities of the Exchange, including, but not limited to, acts of God, fire, flood or other natural disasters, bomb threats, acts of terrorism or war, severely inclement weather, or failure or malfunction of all or a portion of the Gemini System, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;

(e) the bankruptcy or insolvency of any Participant or the imposition of any injunction or other restraint by any Governmental Authority, clearing house, court or arbitrator upon a Participant which may affect the ability of a Participant to trade in or perform on a Contract;

(f) any circumstance in which it appears to the Board that a Participant or any other Person:

(i) has failed to perform on a Contract;

(ii) is insolvent; or

(iii) is in a financial or operational condition or is conducting business such that the Participant or Person cannot be permitted to continue in business without jeopardizing the safety of other Participants, the Exchange or the Clearing House; or

(g) any other unusual, unforeseeable or adverse circumstance as determined by the Exchange.

Emergency Rules has the meaning set forth in RULE 402.

Exchange Official. Any Officer, any member of the Board, a committee established by the Board, a Disciplinary Panel or Appeals Panel, or any individual employed by the Exchange, or any individual rendering similar services to the Exchange under an administrative or similar

agreement.

Exchange. Gemini Titan, LLC, a Delaware limited liability company designated by the CFTC as a contract market. References to the Exchange include reference to the Gemini System, as appropriate.

Exchange Panel has the meaning set forth in RULE 209.

Exchange Requirements. The Rules; other requirements implemented by the Exchange pursuant to the Rules; each term of a Contract; and the Participant documentation and other contractual obligations between a Participant (including its Authorized Users) and the Exchange.

Executing Firm. An Executing Firm is either (i) a futures commission merchant (“**FCM**”) as defined in Section 1a(28) of the CEA and CFTC Regulation § 1.3 and registered with the CFTC as such, or (ii) an introducing broker (“**IB**”) as defined in Section 1a(31) of the CEA and CFTC Regulation § 1.3 and registered with the CFTC as such.

Gemini System. The Exchange’s electronic trade execution system that is used for trading Contracts, including any licensed software that is a part thereof from time to time, and any successor electronic trading system thereto.

Governmental Authority. Any domestic or foreign government (or political subdivision), governmental or regulatory authority, agency, court, commission or other governmental or regulatory entity (including any Self-Regulatory Organization).

Independent Software Vendor means a Person that offers services to Participants that provide access to the Gemini System. In order to provide access to the Gemini System, the Independent Software Vendor must be approved by the Exchange [and must be a Participant of the Exchange].

Insolvency and **Insolvent** means the occurrence of any of the following events with respect to a Person:

(a) the Person is determined to be insolvent by a Governmental Authority or Self-Regulatory Organization;

(b) if the Person is a member of the Securities Investor Protection Corporation, a court of competent jurisdiction finds that the Person meets any one of the conditions set forth in clauses (A), (B), (C) or (D) of Section 5(b)(1) of the Securities Investor Protection Act of 1970;

(c) in the event of the entry or the making of a decree or order by a court, Governmental Authority or other supervisory authority of competent jurisdiction (i) adjudging the Person as bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization, arrangement, liquidation, dissolution, adjustment or composition of or in respect of the Person under the U.S. Bankruptcy Code or any other applicable federal, state or other U.S. or non-U.S. law, including any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar law, (iii) appointing a receiver, custodian, liquidator, provisional liquidator, administrator, provisional administrator, assignee, trustee, sequestrator or other similar official for the Person or for any substantial part of its property, (iv) ordering the winding up or liquidation of the Person’s affairs or (v) consenting to the institution by the Person of proceedings to be adjudicated as a bankrupt or insolvent;

(d) the filing by the Person of a petition, or any case or proceeding, seeking reorganization or relief under the Bankruptcy Code or any other applicable federal, state or other U.S. or non-U.S. law, including any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar law, or the consent by the Person to the filing of any such petition, case or proceeding or to the

appointment of a receiver, custodian, liquidator, provisional liquidator, administrator, provisional administrator, assignee, trustee, sequestrator or other similar official for the Person or for any substantial part of its property, or the making by the Person of an assignment for the benefit of its creditors, or the admission by the Person in writing of its inability to pay its debts generally as they become due, or the taking of corporate or similar action by the Person in furtherance of the foregoing.

Interested Persons has the meaning set forth in RULE 211.

Investigation Report has the meaning set forth in RULE 703.

LLC Agreement. The LLC Agreement for Gemini Titan, LLC, as amended or restated from time to time.

Market Price has the meaning set forth in RULE 409.

Material Relationship. With respect to a director, has the meaning set forth in Appendix B to CFTC Part 38.

NFA. The National Futures Association.

No Bust Range. The price range specified with respect to each Contract traded on the Gemini System, as such range is published by the Exchange from time to time, within which trades that are reviewed pursuant to RULE 408 will not be busted or adjusted, except as set forth in the Rules of the Exchange.

Notice to Participants has the meaning set forth in RULE 316.

Officer has the meaning set forth in RULE 204.

Order. Any order to buy or sell a Contract on or subject to the Rules of the Exchange.

Participant. A Person entering into Transactions on the Gemini System subject to these Rules. Participants must either be approved as a clearing member of the Clearing House before becoming eligible to trade on the Exchange, or be party to an agreement with a clearing member of the Clearing House in accordance with RULE 304(g).

Participant Agreement. An agreement between the Exchange and a Participant which must be signed in order for a Participant to access the Gemini System for the execution of Transactions.

Person has the meaning set forth in Section 1a(38) of the CEA and CFTC Regulation § 1.3. Any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange in relation to such transactions, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes.

Position Transfer. A transaction in a Contract(s) that is executed by Exchange personnel for administrative purposes outlined in RULE 407.

Proprietary Information has the meaning set forth in RULE 902.

Public Director. A Director who has been found by the Board, on the record, to have no Material Relationships with the Exchange in accordance with RULE 203.

Regulatory Compliance Department. All Exchange Officials or agents of the Exchange that assist the Exchange in the implementation, surveillance and enforcement of the Rules and Applicable Law.

Regulatory Oversight Committee has the meaning set forth in RULE 206.

Respondent. A Participant under investigation for alleged Rule violation(s) or against which charges have been filed.

Rules. Any rule, interpretation, stated policy, or instrument corresponding to any of the foregoing, including these Rules, in each case as adopted from time to time by the Exchange.

Self-Regulatory Organization. has the meaning given to that term in CFTC Regulation § 1.3.

Settlement Price. The price for each Contract supplied by the Exchange to the Clearing House at the end of each trading day.

Supervised Person. means, with respect to a Participant, any Authorized User, director, officer, employee or agent of such Participant as the case may be.

Technology Services Providers. The organization(s), if any, that provide technology services to the Exchange, together with any such organization's employees and agents.

Transaction. Any purchase or sale of any Contract made on the Exchange.

Transfer Trade. has the meaning set forth in RULE 409.

Trading Hours. For any Business Day, the hours specified on the trading calendar at [Gemini WEBSITE].

Trading Privileges. Any right granted to a Participant to access the Gemini System.

User ID. A unique identification number assigned by the Exchange to a Participant to access the Gemini System to place Orders.

Rule 102 Construction

Unless the Rules specifically provide otherwise or the context otherwise requires, the following rules of construction shall apply:

- (a) References to any juridical person or Governmental Authority include any successor to such juridical person or Governmental Authority.
- (b) References to any agreement, policy, statute or regulation refer to such agreement, policy, statute or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and references to any section of any agreement, policy, statute or regulation include any successor to such section.
- (c) Terms defined in these Rules include the plural as well as the singular and vice versa.
- (d) References to any gender include all genders.
- (e) References to "include", "includes", or "including" shall be deemed to be followed by the words "without limitation."

(f) Headings are for convenience only and do not affect the construction of the Rules.

Rule 103 **Amendment of Rules**

New Rules of the Exchange may be adopted, and existing Rules of the Exchange may be amended or repealed by the Board. All such new Rules, amendments, or repeals shall become effective on such date (after any required filing with, or approval thereof by, the CFTC) as may be determined by the Exchange. The Exchange shall provide notice to Participants at least [] hours before the new or amended rule goes into effect.

CHAPTER 2 GOVERNANCE

Rule 201 Management

(a) The Exchange is a Delaware limited liability company. The management and operation of the Exchange is governed by the Exchange's LLC Agreement.

Rule 202 Board Powers

(a) The Board shall manage the day-to-day business operations of the Exchange, including determining which Contracts are available from time to time for trading subject to the Rules.

(b) The Board shall have the power and authority to call for review, and to affirm, modify, suspend or overrule, any and all decisions and actions of committees or special committees of the Board or any panel of the Exchange's officers related to the day-to-day business operations of the Exchange.

(c) The Board may act only by the decision of 80 percent of the Directors present at a meeting at which a quorum is present.

(d) The Board shall have procedures, as may be further set forth in policies that the Exchange may adopt, to remove a member from the Board where the conduct of such member is likely to be prejudicial to the sound and prudent management of the Exchange.

(e) The Board shall establish arrangements to permit consideration of Participants in connection with the functioning of the Exchange and with additions or amendments to the Rules and shall make a description of such arrangements available to the public and to the CFTC.

(f) The compensation of the Public Directors and other non-executive members of the Board shall not be linked to the business performance of the Exchange.

Rule 203 Board Composition

(a) The Board shall consist of seven Directors, at least two of whom shall be Public Directors. At all times not less than 35 percent of the Directors, and never fewer than two Directors, shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the LLC Agreement, and shall serve until his or her successor is duly appointed, or until his or her earlier resignation or removal, with or without cause.

(b) To qualify as a Public Director, an individual must be found, by action of the Board, to have no Material Relationship with the Exchange. The Board must make such finding upon the nomination or appointment of the Director and as often as necessary in light of all circumstances relevant to such Director, but in no case less than annually.

(c) Each Director is entitled to indemnification pursuant to the LLC Agreement with respect to matters relating to the Exchange.

Rule 204 Officers

- (a) Subject to the oversight of the Board, the Exchange shall appoint from time to time one or more individuals to serve as the Chief Executive Officer, Chief Regulatory Officer and such other officers of the Exchange or any subsidiary of the Exchange (each, an “**Officer**”) as it may deem necessary or appropriate, with such titles, duties, and authority as the Exchange shall approve, to carry out the business of the Exchange or any subsidiary of the Exchange, and upon such terms and conditions as the Board shall determine.
- (b) Any Officer may also be a director, officer, partner or employee of the Exchange or of any of its Affiliates.
- (c) The Officers shall have such powers and duties in the management of the Exchange as the Board may prescribe from time to time, subject to the terms of the LLC Agreement.
- (d) Each Officer is entitled to indemnification pursuant to the LLC Agreement with respect to matters relating to the Exchange.

Rule 205 Eligibility/Fitness

- (a) An individual may not serve as a Board member, or serve on a committee established by the Board, a Disciplinary Panel or an Appeals Panel, or hold a ten percent or more ownership interest in the Exchange, if the individual:
 - (i) was found, within the past three years, by a final decision in any action or proceeding brought in a court of competent jurisdiction, the CFTC, or any Self-Regulatory Organization, to have committed a Disciplinary Offense;
 - (ii) has entered into, within the past three years, a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged, included a Disciplinary Offense;
 - (iii) is currently suspended from trading on a contract market, is suspended or expelled from membership in a Self-Regulatory Organization, is serving any sentence or probation, or owes any portion of a fine or penalty related to either: (A) a finding of a Disciplinary Offense by a final decision in any action or proceeding brought in a court of competent jurisdiction, the CFTC, or any Self-Regulatory Organization; or (B) a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged included a Disciplinary Offense;
 - (iv) is currently subject to an agreement with the CFTC or Self-Regulatory Organization not to apply for registration with the CFTC or for membership in the Self-Regulatory Organization;
 - (v) is currently, or within the past three years has been, subject to a revocation or suspension of registration by the CFTC;
 - (vi) has been convicted of a felony listed in Section 8a(2)(D)(ii) through (iv) of the CEA;
 - (vii) is currently subject to a denial, suspension or disqualification from serving on a disciplinary committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in Section 3(a)(26) of the Securities Exchange Act of 1934; or
 - (viii) is subject to a statutory disqualification pursuant to Section 8a(2) of the CEA.
 - (ix) For purposes of RULE 205(a), the terms “final decision” and “settlement

agreement” have the meaning given those terms in CFTC Regulation § 1.63(a).

(b) Each Director nominee shall certify to the Board that the nominee is not disqualified pursuant to paragraph (a) above. Each Director must certify to the Board that it is not disqualified pursuant to paragraph (a) above at least annually. Additionally, each Director shall inform the Exchange of any changes in registration information within thirty days. The Exchange shall verify information supporting Board compliance with eligibility criteria.

(c) Each director shall satisfy all fitness standards and otherwise meet all eligibility requirements for serving as a director of a designated contract market under the CEA and CFTC Regulations, including sufficient expertise, where applicable, in financial services, risk management, and clearing services.

Rule 206 Standing Committees

(a) The Board shall have a standing Regulatory Oversight Committee (“**Regulatory Oversight Committee**”) with the roles and responsibilities set forth in RULE 207.

(b) The Board may, from time to time, create and appoint or terminate such additional standing committees of the Board as it may deem necessary or advisable.

Rule 207 Regulatory Oversight Committee

(a) The Regulatory Oversight Committee shall consist of the Public Directors.

(b) The Regulatory Oversight Committee shall report to the Board.

(c) The Regulatory Oversight Committee shall oversee the Exchange’s regulatory program on behalf of the Board and shall have the authority and responsibility to perform the following functions:

(i) Monitor the regulatory program of the Exchange for sufficiency, effectiveness, and independence.

(ii) Oversee all facets of the regulatory program, including:

(A) trade practice and market surveillance; audits, examinations, and other regulatory responsibilities with respect to Participants (including compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping, and other requirements);

(B) the conduct of investigations;

(C) reviewing the size and allocation of the regulatory budget and resources, and the number, hiring, termination, and compensation of regulatory personnel;

(D) supervising and reviewing the Chief Regulatory Officer of the Exchange, who will report directly to the Regulatory Oversight Committee;

(E) recommending changes that would ensure fair, vigorous, and effective regulation;

(F) reviewing all regulatory proposals prior to implementation and advising the Board as to whether and how such changes may impact regulation; and

(G) reviewing such other matters and performing such additional activities, within the scope of its responsibility, as the Board or the committee deems appropriate or necessary.

(iii) Prepare an annual report assessing, for the Board and CFTC, the regulatory program of the Exchange. Such report shall: (A) describe the self-regulatory program; (B) set forth the expenses of the regulatory program; (C) describe the staffing and structure of the same; (D) catalogue investigations and disciplinary actions taken during the year; and (E) review the performance of disciplinary committees and panels.

(d) In the event that the Board rejects a recommendation or supersedes an action of the Regulatory Oversight Committee, the Exchange shall submit a written report to the CFTC detailing: (i) the recommendation or action of the Regulatory Oversight Committee; (ii) the rationale for such recommendation or action; (iii) the rationale of the Board for rejecting such recommendation or superseding such action; and (iv) the course of action that the Board decided to take contrary to such recommendation or action.

Rule 208 Chief Regulatory Officer

(a) It shall be the duty of the Chief Regulatory Officer to enforce the Rules.

(b) The Chief Regulatory Officer shall have available to it at all times the resources of the Exchange as may be necessary to conduct investigations of alleged rule violations and market conditions.

(c) The Chief Regulatory Officer shall report to, and shall be supervised by, the Regulatory Oversight Committee.

(d) The Chief Regulatory Officer shall have the authority to inspect the books and records of all Participants in connection with their activity on the Exchange and the authority to require any such entity to appear before him or her and produce its books and records and answer questions regarding alleged violations of Rules, at the time, place and in the manner he or she designates. The Chief Regulatory Officer may also delegate such authority to staff of the Regulatory Compliance Department.

(e) The Chief Regulatory Officer shall, in consultation with the Regulatory Oversight Committee, resolve any conflict of interest pursuant to RULE 211.

Rule 209 Additional Board Committees and Exchange Panels

(a) In addition to the standing committees, subject to the LLC Agreement, the Board may from time to time constitute and appoint, special committees of the Board and designate their composition, responsibilities and powers. If any standing committee constituted by the Board shall exercise the functions of an executive committee then at least 35 percent and no fewer than two of such committee's members shall be Public Directors.

(b) The Exchange may create panels of the Exchange, for such purposes as may from time to time be necessary or advisable (each, an "**Exchange Panel**"). Members of each such panel may be Directors, natural persons who are Supervised Persons of a Participant and such other natural persons as may be qualified to serve on such panel.

(c) Except as otherwise specifically provided in the Rules or the LLC Agreement, the members of any special committee or panel shall be appointed as determined by the Board. Each special committee and panel shall have a chairperson who shall be designated by the Board.

(d) Each additional committee established pursuant to RULE 209(a) or panel established pursuant to RULE 209(b) may supervise, manage or control the affairs of the Exchange to the extent it is duly authorized to do so by the Board.

(e) Subject to the authority of the Board, each additional committee or panel shall determine the manner and form in which its proceedings shall be conducted. Each additional committee or panel may act only by the decision of an absolute majority in number of the members of such committee or panel, either by vote at a meeting or by unanimous written consent without a meeting.

Rule 210 Material Non-Public Information

(a) No member of the Board or any committee established by the Board or by or pursuant to the Rules will use or disclose any material non-public information obtained in connection with such member's participation in the Board or such committee for any purpose other than the performance of his or her official duties as a member of the Board or such committee.

(b) Absent prior written consent from the Exchange, a direct or indirect owner of the Exchange, Director, Officer, member of any committee or panel established by the Board (including any Disciplinary Panel and Appeals Panel), member of the Regulatory Compliance Department, employee or agent of the Exchange shall not during his or her association with the Exchange or thereafter:

(i) trade, directly or indirectly, any Contracts traded on the Exchange;

(ii) trade, directly or indirectly, in a contract, which is related to any Contract, traded on or cleared by contract markets or clearing organizations other than the Exchange if the person has access to material, non-public information concerning such contract;

(iii) trade, directly or indirectly, in any commodity interest if such officer, employee or agent obtained material non-public information concerning such financial instrument in connection with such employee's, Officer's or agent's employment; or

(iv) disclose to any other Person material non-public information obtained in connection with such employee's, Officer's or agent's employment, if such employee, Officer or agent could reasonably expect that such information might assist another Person in trading any commodity interest.

The written consent from the Exchange shall specify the scope of information that may be disclosed, whom such information may be disclosed to, and the conditions, if any, that the recipient of such information must agree to prior to receiving such information.

(c) With prior written consent from the Exchange, a direct or indirect owner of the Exchange, and each Director, Officer, member of any committee or panel established by the Board (including any Disciplinary Panel and Appeals Panel), member of the Regulatory Compliance Department, and other employee of the Exchange may participate in a pooled investment vehicle or other investment vehicle whose investments are directed by a third-party advisor if the individual has no direct or indirect control over transactions executed by the investment vehicles.

(d) Each employee of the Exchange shall be required to adhere to the policies and guidelines of the Exchange as in effect from time-to-time and shall, when and as requested, execute an acknowledgement of the Exchange's conflict of interest policy in the form provided by the Exchange.

(e) Any employee that trades in a commodity interest, under the limited circumstances as permitted by this RULE 210, shall provide to the Exchange an annual certification that the

employee has not traded in any Exchange Contracts or in any related commodity interest or other commodity interest covered by this RULE 210, and shall provide records of the commodity interest trades conducted by the employee in the past year.

(f) Notwithstanding anything to the contrary in this RULE 210, any direct or indirect owner of the Exchange, and any Director, Officer, member of any committee or panel established by the Board (including any Disciplinary Panel and Appeals Panel), member of the Regulatory Compliance Department, and other employee of the Exchange may disclose any non-public information to any (i) Director, Officer, member of any committee or panel established by the Board (including any Disciplinary Panel and Appeals Panel), member of the Regulatory Compliance Department, or any other employee of the Exchange to the extent necessary or useful for such person to perform his or her official duties for the Exchange, (ii) any outside advisor to the Exchange to the extent necessary or useful for such outside advisor to perform his or her official duties for the Exchange provided that such outside advisor is subject to confidentiality obligations substantively the same as those imposed on employees of the Exchange by this RULE 210, (iii) if required by the CFTC or another Governmental Authority or Self-Regulatory Organization, or (iv) if compelled to do so by valid legal process, provided that the individual or entity making such disclosure promptly notifies the Exchange.

(g) For the purposes of this RULE 210, the terms “material information,” “non-public information,” “linked exchange,” “commodity interest” and “pooled investment vehicle” shall each have the meaning set forth in CFTC Regulation § 1.59(a).

Rule 211 Conflicts of Interest

(a) Named Party In Interest Conflict

(i) No member of the Board, any Disciplinary Panel, any Appeals Panel or any other disciplinary committee of the Exchange will knowingly participate in such body’s deliberations or voting in any matter involving a named party in interest where such member (A) is the named party in interest in the matter, (B) is an employer, employee or fellow employee of a named party in interest, (C) has any other significant, ongoing business relationship with a named party in interest, excluding relationships limited to Contracts, (D) has a family relationship with a named party in interest, or (E) otherwise has personal interests that may be prejudiced by a fair and impartial exercise of such member’s authority.

(ii) Prior to consideration of any matter involving a named party in interest, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Regulatory Officer whether such member has one of the relationships listed in clause (i) above with a named party in interest.

(iii) The Chief Regulatory Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under this clause (iii). Such determination will be based upon a review of the following information: (A) information provided by such member pursuant to clause (ii) above; and (B) any other source of information that is held by and reasonably available to the Exchange.

(b) Financial Interest in a Significant Action Conflict

(i) No member of the Board, any Disciplinary Panel, any Appeals Panel or any other disciplinary committee of the Exchange will participate in such body’s deliberations and voting on any significant action if such member has a direct and substantial financial interest in the result of the vote, as determined pursuant to clause (iii) below.

(ii) Prior to consideration of any significant action, each member of the deliberating body who does not choose to abstain from deliberations and voting will disclose to the Chief Regulatory Officer any information that may be relevant to a determination of whether such member has a direct and substantial financial interest in the result of the vote.

(iii) The Chief Regulatory Officer will determine whether any member of the relevant deliberating body who does not choose to abstain from deliberations and voting is subject to a conflicts restriction under this clause (iii). Such determination will be based upon a review of the following information: (A) the most recent large trader reports and clearing records available to the Exchange; (B) information provided by such member pursuant to clause (ii) above; and (C) any other information reasonably available to the Exchange, taking into consideration the exigency of the significant action being contemplated.

(iv) Any member of the Board, any Disciplinary Panel, any Appeals Panel or any other disciplinary committee of the Exchange who would otherwise be required to abstain from deliberations and voting pursuant to clause (i) above may participate in deliberations, but not voting, if the deliberating body, after considering the factors specified below, determines that such participation would be consistent with the public interest; provided, however, that before reaching any such determination, the deliberating body will fully consider the information specified in clause (ii) above which is the basis for such member's substantial financial interest in the significant action that is being contemplated. In making its determination, the deliberating body will consider: (A) whether such member's participation in the deliberations is necessary to achieve a quorum; and (B) whether such member has unique or special expertise, knowledge or experience in the matter being considered.

(c) The minutes of any meeting to which the conflicts determination procedures set forth in this Rule apply will reflect the following information:

(i) the names of all members of the relevant deliberating body who attended such meeting in person or who otherwise participated in such meeting;

(ii) the name of any member of the relevant deliberating body who voluntarily recused himself or herself or was required to abstain from deliberations or voting on a matter and the reason for the recusal or abstention, if stated;

(iii) the information that was reviewed for each member of the relevant deliberating body; and

(iv) any determination made in accordance with clause (iv) of paragraph (b) above.

(d) If a determination is made that all Directors are Interested Persons with respect to a matter subject to a vote by the Board, the Chief Executive Officer will appoint a panel of individuals who are not Interested Persons with respect to such matter, which will have the same authority and powers over such matter that the Board would have if the Directors were not Interested Persons with respect to such matter.

For purposes of this provision, "**Interested Persons**" means a Director, Officer, Disciplinary Panel member or other Person authorized to exercise the Exchange's authority concerning any inquiry, investigation, disciplinary proceeding (including any summary proceeding or Emergency Disciplinary Action) or appeal from any of the foregoing (any such action, an "Exchange Proceeding"), or Emergency Action taken pursuant to Rule 213 (each such Exchange Proceeding or Emergency Action, a "Self-Regulatory Action") who knowingly has a "material conflict of interest" between his or her position as a Director, Officer, panel member or exercise of authority concerning a Self-Regulatory Action and his or her personal interests

(each, an “Interested Person”).

Rule 212 Maintenance of Books and Records by the Exchange

(a) The Exchange shall keep, or cause to be kept, complete and accurate books and records of accounts of the Exchange, including all books and records required to be maintained pursuant to the CEA, and the CFTC Regulations.

(b) The Exchange shall retain all such books and records for at least five years, and shall make such books and records readily accessible for inspection by the CFTC and the U.S. Department of Justice during the first two years of such five-year period.

Rule 213 Information-Sharing Arrangements

(a) The Exchange may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets on which financial instruments related to the Contracts trade. As part of any information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule, the Exchange may:

- (i) provide market surveillance reports to other markets;
- (ii) share information and documents concerning current and former Participants with other markets;
- (iii) share information and documents concerning ongoing and completed investigations with other markets; or
- (iv) require its current or former Participants to provide information and documents to the Exchange at the request of other markets with which the Exchange has an information-sharing agreement or other arrangements or procedures.

(b) The Exchange may enter into any arrangement with any Person or body (including the CFTC, the **NFA**, any Self-Regulatory Organization, any exchange, market, or clearing organization, or foreign regulatory authority) if the Exchange considers such arrangement to be in furtherance of the Exchange’s purpose or duties under the Rules or any law or regulation.

(c) The Exchange may provide information to a duly authorized foreign Governmental Authority, as directed by the CFTC, in accordance with an information-sharing agreement executed with the CFTC.

Rule 214 [RESERVED]

Rule 215 Technology Services Provider

(a) The Exchange may contract with one or more Technology Services Providers to provide certain technology services to the Exchange pursuant to a technology services agreement. In accordance with a technology services agreement, a Technology Services Provider may perform certain functions under the Rules and the Exchange may provide information to the Technology Services Provider in connection with the performance by the Technology Services Provider of those functions.

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

Rule 216 Use of Proprietary Data and Personal Information

(a) The Exchange may not use for business or marketing purposes any proprietary data or personal information collected or received, from or on behalf of any Person, for the purpose of fulfilling its regulatory obligations; provided, however, that the Exchange may use such data or information for such purposes with the consent of the Person from whom such data or information is collected or received.

(b) Notwithstanding the provisions of paragraph (a) above, the Exchange may share such proprietary data or personal information with one or more registered entities (as such term is defined in CFTC Regulations).

(c) Access to the Exchange may not be conditioned upon the use of proprietary data or personal information for business or marketing purposes.

CHAPTER 3 TRADING PRIVILEGES

Rule 301 **Jurisdiction**

(a) BY ACCESSING, OR ENTERING ANY ORDER INTO, THE EXCHANGE, AND WITHOUT ANY NEED FOR ANY FURTHER ACTION, UNDERTAKING OR AGREEMENT, A PARTICIPANT, EXECUTING FIRM, OR AUTHORIZED USER AGREES (I) TO BE BOUND BY, AND COMPLY WITH, THE RULES AND APPLICABLE LAW, IN EACH CASE TO THE EXTENT APPLICABLE TO IT, HIM OR HER, AND (II) TO BECOME SUBJECT TO THE JURISDICTION OF THE EXCHANGE WITH RESPECT TO ANY AND ALL MATTERS ARISING FROM, RELATED TO, OR IN CONNECTION WITH, THE STATUS, ACTIONS OR OMISSIONS OF SUCH PARTICIPANT OR AUTHORIZED USER, AND (III) TO ASSIST THE EXCHANGE IN COMPLYING WITH ITS LEGAL AND REGULATORY OBLIGATIONS, COOPERATE WITH THE EXCHANGE AND THE CFTC IN ANY INQUIRY, INVESTIGATION, AUDIT, EXAMINATION OR PROCEEDING AND AUTHORIZE THE EXCHANGE TO PROVIDE INFORMATION REGARDING IT TO ANY REGULATORY SERVICES PROVIDER, THE CFTC OR ANY SELF-REGULATORY ORGANIZATION. SEE THIS CHAPTER 3 AND THE RELATED DEFINITIONS IN THIS RULEBOOK.

(b) Any Participant or Authorized User whose Trading Privileges are revoked or terminated pursuant to these Rules will remain bound by the Rules and Applicable Law, in each case to the extent applicable, and subject to the jurisdiction of the Exchange with respect to any and all matters arising from, related to, or in connection with, the status, actions or omissions of such Participant or Authorized User prior to such revocation or termination.

Rule 302 **Trading Privileges**

By virtue of obtaining Trading Privileges, a Participant will not become a limited liability company member of the Exchange and will not obtain any equity or other interest in the Exchange, including voting rights or rights to receive any dividends or other distributions, whether arising from a dissolution, merger or consolidation involving the Exchange or otherwise.

Rule 303 **Participants**

(a) Each Participant will have the right to access the Gemini System, including the right to place Orders for each of its proprietary accounts, provided that such Participant is eligible for and has applied and received Trading Privileges.

(b) Subject to this CHAPTER 3, Trading Privileges shall be offered to all applicants from time to time approved by the Exchange as eligible to be Participants, subject to any limitation, restriction or revocation from time to time imposed by the Exchange. The Trading Privileges and access rights of a Participant hereunder may not be transferred, assigned, sold or leased.

Rule 304 **Eligibility for Trading Privileges**

(a) In order to obtain access to the Gemini System, a Participant must be granted Trading Privileges and deliver an executed Participant Agreement.

(b) If the applicant is a natural person, that person must:

- (i) have attained the age of majority in his or her state of residence; and
- (ii) have satisfied other requirements as may be adopted from time to time by the Exchange.

(c) If the applicant is not a natural person (e.g., a corporation, partnership, sole

proprietorship or trust), to be eligible for Trading Privileges, the Participant must demonstrate to the Exchange that it:

- (i) is of good reputation and business integrity;
- (ii) complies with the financial responsibility, recordkeeping and reporting requirements set out in RULE 306;
- (iii) is validly organized, in good standing, and authorized by its governing body and, if relevant, documents of organization, to trade Contracts;
- (iv) is not Insolvent;
- (v) is not prohibited from using the services of the Exchange for any reason whatsoever;
- (vi) holds all registrations required under Applicable Law, if any, including any Executing Firms and/or Associated Person (as such term is defined in CFTC Regulation 17 C.F.R. § 1.3) registration, as applicable;
- (vii) is not subject to statutory disqualification under Section 8a(2) of the CEA;
- (viii) satisfies any other criteria that the Exchange may from time to time require from a Participant.

(d) As part of the application procedure, the Exchange may request such information and documentation as it may reasonably require in order to determine whether the Exchange's eligibility requirements have been satisfied. Any Participant organized or located outside of the United States shall enter into a written agreement acceptable to the Exchange appointing a third party as its U.S. agent for service of process for purposes of CFTC Regulation § 15.05, and shall provide the Exchange with a copy of the agreement.

(e) The Exchange may deny, condition, suspend, or terminate the Trading Privileges of any entity that:

- (i) is unable to satisfactorily demonstrate its ability to satisfy the eligibility criteria to become or remain compliant as a Participant;
- (ii) is unable to meet any condition placed by the Exchange on such Trading Privileges or association;
- (iii) violates any agreement with the Exchange;
- (iv) is unable to satisfactorily demonstrate its capacity to adhere to all applicable Rules of the Exchange, Rules of the Clearing House and other applicable rules including, as applicable, registration, record-keeping, reporting, finance and trading procedures;
- (v) would bring the Exchange into disrepute as determined by the Exchange in its sole discretion; or
- (vi) shows such other cause as the Exchange may reasonably determine.

(f) If the Exchange decides to deny or condition an applicant's application, the Exchange shall promptly notify the applicant in writing to the address provided by the applicant on the Exchange application form. Any Person denied Trading Privileges or granted only conditional Trading Privileges pursuant to this RULE 304, and any Person not permitted to keep its Trading

Privileges or whose Trading Privileges are conditioned pursuant to this RULE 304 may appeal the Exchange's decision in accordance with the provisions of RULE 715 relating to disciplinary proceeding appeals. No determination of the Exchange to discontinue or condition a Person's Trading Privileges or pursuant to this RULE 304 shall take effect until the review procedures under RULE 715 have been exhausted or the time for review has expired.

(g) Participant understands that it will be denied access to the Gemini System unless Participant has either been approved as a clearing member of the Clearing House before becoming eligible to trade on the Exchange or has obtained and delivered to the Exchange the applicable documentation evidencing that Participant is party to an agreement with a clearing member of the Clearing House.

(h) A person approved as a Participant shall be subject to all of the Rules of the Exchange.

(i) Each applicant and each Participant agrees (i) promptly to provide, or procure the provision of, such information and documents as the Exchange may reasonably request, and (ii) that the Exchange, without being prevented by any duty of confidentiality by any holder of information, may obtain such information and documents from the Clearing House.

(j) Consistent with CFTC Regulation § 38.151(b), the Exchange shall grant access to independent software vendors that meet the requirements for Participants set out in this RULE 304 in an impartial, transparent, fair, and nondiscriminatory manner. A Person seeking to act as an Independent Software Vendor must satisfy the Exchange's technological requirements and not adversely affect the Exchange's ability to comply with the CEA and CFTC Regulations.

(k) Each application to become a Participant shall be in such form as may from time to time be prescribed by the Exchange. Each applicant to become a Participant shall promptly update the application materials if any of the information provided therein becomes inaccurate or incomplete after the date of submission and prior to any approval of the application. The Exchange shall act upon, and approve or disapprove, any such application without unreasonable delay.

(l) Each applicant to become a Participant shall:

(i) submit to the Exchange a complete Participant application form in the manner prescribed by the Exchange;

(ii) agree in writing to abide by the Rules of the Exchange and Applicable Law; and

(iii) furnish all documents as may be requested by the Exchange and answer completely and accurately all questions posed by the Exchange.

(m) Upon the Exchange's approval of an applicant's Participant application, the applicant shall become a Participant and shall obtain Trading Privileges. If the application process is not completed within six months of the applicant's initial submission, the application shall be deemed to be withdrawn, unless extended by the Exchange.

Rule 305 Minimum Financial Requirements

(a) A Participant that is an Executing Firm must remain in compliance with CFTC Regulation § 1.17 and other Applicable Law, including the minimum financial and related reporting requirements of CFTC Regulations. A copy of any notice or written report that a Participant is required to file with the Commission pursuant to CFTC Regulations §§ 1.10 and 1.12 must also be filed with the Exchange within the time periods prescribed for such filing or delivery in CFTC Regulations §§ 1.10 and 1.12. A Participant that violates any of the aforementioned CFTC Regulations will be deemed to have violated this RULE 305.

(b) A Participant that is registered with or authorized or supervised by a Governmental Authority shall comply with the rules and regulation of such Governmental Authority relating to minimum financial and related reporting and recordkeeping requirements and shall provide to the Exchange and to the Regulatory Services Provider, if any, a copy of such Participant's regulatory capital report, reasonably contemporaneously with the filing of such report and substantially in the form such report was filed with such Governmental Authority. A Participant that is not subject to such filing requirements shall provide the Exchange with such financial information as the Exchange may require from time to time.

Rule 306 Duties and Responsibilities of Participants

(a) Each Participant shall, and shall cause its Authorized Users to:

(i) access the Gemini System in a responsible manner and not for any improper purpose;

(ii) access the Gemini System only to conduct business that is subject to the Rules and the Exchange Requirements and in a manner consistent with the Rules and the Exchange Requirements;

(iii) comply with the Rules and the Exchange Requirements and act in a manner consistent with the Rules and the Exchange Requirements;

(iv) comply with the rules of the Clearing House that accepts for clearing a Contract traded by the Participant on the Exchange, to the extent applicable to such Participant and such Contract;

(v) observe high standards of integrity, market conduct, commercial honor, fair dealing, and just and equitable principles of trade while conducting or seeking to conduct any business connected with or concerning the Exchange;

(vi) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the Exchange or in connection with a Disciplinary Action;

(vii) cooperate promptly and fully with the Exchange in any Investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules or any Disciplinary Action or arbitration;

(viii) comply with any order issued by the Exchange;

(ix) keep all User IDs, account numbers and passwords related to the Gemini System and the Exchange confidential;

(x) be subject to the pre-trade risk controls provided by the Gemini System to ensure each Order is fully collateralized when entered; and

(xi) keep, or cause to be kept, complete and accurate books and records, including, without limitation, all books and records required to be maintained pursuant to the Applicable Law, for at least five years, and make such books and records available for inspection by a representative of the Exchange, the CFTC or the U.S. Department of Justice.

(b) In addition to the requirements of paragraph (a) above, each Participant shall employ practices to monitor and enforce compliance with its internal risk limits and shall be responsible for all Orders and Transactions effected on the Gemini System or the Exchange by or for the account of such Participant, its Authorized Users or by any Person using its or their User IDs.

Rule 307 **Authorized Users**

- (a) Each Participant that is not a natural Person must designate at least one employee or agent as an Authorized User.
- (b) By agreeing to become an Authorized User, an individual agrees to be bound by the duties and responsibilities of an Authorized User set out in RULE 308 and to be subject to, and comply with Applicable Law and the Rules.
- (c) To designate an Authorized User, a Participant must follow the procedures established by the Exchange. The Exchange may establish criteria that individuals must fulfill to become an Authorized User. Without limiting the generality of the foregoing, each Participant will ensure on an ongoing basis that (i) none of its Authorized Users is subject to a disqualification pursuant to any Applicable Law (unless an appropriate exemption has been obtained with respect thereto) and (ii) each of its Authorized Users is technically proficient and conducts its business in a fair and equitable manner.
- (d) The Exchange will promptly notify a Participant in writing of the approval of designated Authorized User(s) or if the Exchange declines to approve the nomination of an Authorized User.
- (e) The Exchange will maintain a list of all designated Authorized Users for each Participant.
- (f) The Exchange may, in its sole discretion revoke or suspend the designation of an individual as an Authorized User and shall promptly notify the Participant of such action.
- (g) Each Participant may, from time to time, grant its User IDs to any other Person, and any such Person shall be entitled to exercise Trading Privileges subject to the terms and conditions of these Rules.
- (h) Each Participant may, at any time, revoke an authorization granted by it to an any Authorized User or a User ID granted to any other Person by providing written notice of such revocation to the Exchange. A Participant shall take immediate measures appropriate to ensure that, after such revocation, (1) the affected Authorized User shall not have access to the Gemini System or (2) the affected Person shall not utilize its User ID, and the Exchange shall act promptly, but in any event within one Business Day of receiving notice from the Participant, to disallow Order entries by any such Person.
- (i) The obligations of Participants under these Rules shall also apply to each Authorized User and Supervised Person, and each Participant shall be responsible for the actions and omissions of the Authorized Users and Supervised Persons and any other Person using any of the Participant's User IDs. Each Participant will ensure on an ongoing basis that none of its Authorized Users or other Supervised Persons and no other Person using any of its User IDs is subject to a disqualification pursuant to any Applicable Law (unless an appropriate exemption has been obtained with respect thereto) and that each of its Authorized Users and other Supervised Persons (as applicable) and any other Person using any of its User IDs will be technically proficient in respect of the use of the Gemini System. Each Participant shall have procedures for performing day-to-day monitoring of its Authorized Users and other Supervised Persons and any other Person using any of its User IDs to ensure that each will conduct its business in a fair and equitable manner and in accordance with the Rules of the Exchange.
- (j) Under these Rules, references to (1) the Trading Privileges of a Participant shall also be deemed to refer and apply to the Trading Privileges by any Person using that Participant's User IDs, (2) a Participant submitting or receiving Orders, bids, offers or message traffic into or from the Gemini System or engaging in transactions in Contracts on the Gemini System, shall be deemed to refer and apply to any such actions engaged in by any Person using any of such Participant's User IDs and (3) the knowledge of, or matters known to, any Participant shall be

deemed to also refer to and include the knowledge of, or matters known to, its Authorized Users and other Supervised Persons.

(k) To request the termination of the designation of an individual as an Authorized User, the Participant must follow the procedures established by the Exchange. The Exchange may, in its sole discretion, refuse to accept a request to terminate the registration of an Authorized User or may postpone the effective date of the termination of registration if the Exchange considers it necessary for the protection of the Participant or in the Exchange's best interest. Based on the information provided to, and other information gathered by, the Exchange regarding the request to terminate the registration of an Authorized User, the Exchange will determine whether to:

- (i) accept the request to terminate such registration;
- (ii) postpone the effective date of termination of the registration; and/or
- (iii) impose any terms or conditions before or after the effective date of termination of the registration.

Rule 308 Duties and Responsibilities of Authorized Users

(a) By agreeing to act as an Authorized User, such Person agrees to be bound by the duties and responsibilities of an Authorized User and to be subject to, and comply with, the Rules.

(b) An Authorized User must:

- (i) ensure that activity conducted under the User IDs assigned to it and any of its personnel complies with Applicable Law and the Rules;
- (ii) have the authority, at the Exchange's request, to adjust or withdraw any Order submitted under such User IDs;
- (iii) have and maintain all necessary regulatory approvals and/or licenses to operate as an Authorized User;
- (iv) cooperate promptly and fully with the Exchange in any Investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules or any Disciplinary Action or arbitration proceeding;
- (v) comply with any order issued by the Exchange; and
- (vi) agree to such other terms and conditions as may be established by the Exchange from time to time.

Rule 309 [RESERVED]

Rule 310 Required Notices

(a) Each Participant shall immediately notify the Exchange upon becoming aware of any of the following events:

- (i) any material changes to the information provided to the Exchange by the Participant;
- (ii) any damage to, or failure or material inadequacy of, the systems, facilities or equipment of the Participant used to effect Transactions on the Exchange;

(iii) any refusal of admission to, or withdrawal by the Participant of any application for membership in, any Self-Regulatory Organization;

(iv) any denial or withdrawal of an application for registration or license by or from any Governmental Authority, and any revocation, suspension or conditioning of a registration or license granted by any Governmental Authority;

(v) the commencement of any judicial or administrative proceeding against the Participant by a Governmental Authority 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 Authority;

(vi) the indictment or conviction of, or any confession of guilt or plea of guilty or nolo contendere by, the Participant or any of its officers for any felony or misdemeanor involving, arising from, or related to, the purchase or sale of any commodity, security, futures contract, option or other financial instrument, or involving or arising from fraud or moral turpitude; and

(vii) the Insolvency of the Participant or any of its Affiliates.

(b) Each Participant that is not a natural person shall notify the Exchange at least ten business days prior to any merger, acquisition, consolidation, combination, sale or other material change of ownership.

(c) Nothing in this RULE 310 is intended to substitute for or limit any other reporting obligations that a Participant may have to the Exchange or any regulatory agency or Self-Regulatory Organization.

Rule 311 Access Requirements and Terms

(a) Access to the Gemini System will be Internet-based. Participant accounts will be issued user names, passwords, and digital certificates for secure access. The Participant is responsible for the security of these items, and any misuse is the responsibility of the Participant.

(b) Certificates and passwords are for the Participant's use only and shall not be shared with other parties.

(c) A Participant must notify the Exchange immediately upon any suspicion of theft of a password or certificate, or any unauthorized access.

Rule 312 Dues and Fees

(a) The Board shall have the sole authority to set the times and amounts of any dues, assessments or fees to be paid by Participants, which dues, assessments or fees shall be paid to the Exchange when due. If a Participant fails to pay when due any Exchange dues, assessments or fees levied on such Participant, and such payment obligation remains unsatisfied for thirty days after its due date, the Exchange may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of such Participant as it deems necessary or appropriate.

(b) In addition to such Exchange fees or dues, Exchange may cause and/or instruct Clearing House to deduct from the Participant's account fees or expenses incurred in connection with the Participant's trading or account activity.

(c) All dues and fees are posted at **[Gemini WEBSITE]** and updated from time to time.

Rule 313 **Inspections by the Exchange**

(a) The Exchange and the Regulatory Services Provider, if any, shall have the right, in connection with determining whether the Rules are being, will be, or have been complied with by the Participant, to:

(i) inspect systems, equipment and software operated by the Participant in connection with business that is or may be subject to the Rules, wherever located;

(ii) access the systems, equipment, software, and the premises on which the systems, equipment, and software are located, any data stored in any of the systems or equipment, during the regular business hours of the Exchange, without prior notice to the Participant; and/or

(iii) copy and/or reproduce any data to which the Exchange has access under this RULE 313.

(b) Each Participant shall provide the Regulatory Services Provider with the same access as it would be required to provide to the Exchange.

(c) The Exchange may require a Participant to furnish such information concerning the Participant's business that is subject to the Rules of the Exchange as the Exchange deems necessary to enable the Exchange to perform its obligations under Applicable Law, including information relating to (i) Contracts executed on the Exchange and in related derivatives markets, including in the products underlying those Contracts, and (ii) information requested by a Governmental Authority relating to the Exchange's business as a designated contract market and/or the Exchange's compliance with Applicable Law that the Exchange believes is maintained by, or otherwise in the possession of, a Participant.

Rule 314 **Liquidity Provider Program**

At its discretion, the Exchange may offer a liquidity provider program that provides incentives to Participants willing to supply substantial numbers of bids and offers or traded volume in the market. The liquidity provider program may offer reduced fees, amongst other incentives, for qualified liquidity providers as determined by the Exchange.

Rule 315 **[RESERVED]**

Rule 316 **Notices to Participants**

The Exchange shall publish a notice with respect to each addition to, modification of, or clarification of, the Rules of the Exchange or of any action to implement any Rules of the Exchange, in a form and manner that is reasonably designed 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 (each a "**Notice to Participants**"); provided that any failure of the Exchange to so publish a Notice to Participants shall not affect the effectiveness of the addition or modification in question. For purposes of publication in accordance with the first sentence of this RULE 316, it shall be sufficient (without limiting the discretion of the Exchange as to any other reasonable means of communication) if a Notice to Participants is published on the Exchange's website. Any Notice to Participants shall also be deemed to have been made to all Authorized Users and Supervised Persons.

Rule 317 **Treatment of Customer Funds**

Each Participant that is registered with the CFTC as an FCM shall comply with the provisions

of CFTC Regulations, the Clearing House rules and other Applicable Law related to the protection of customer funds, including the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures and related recordkeeping, including CFTC Regulations §§ 1.20 through 1.32. Any violation of the aforementioned CFTC Regulations, Clearing House Rules or other Applicable Law by a Participant shall be a violation of this RULE 317.

CHAPTER 4 MARKET OPERATIONS

Rule 401 **Market Hours and Operation**

(a) The Exchange will be open for trading on all Business Days during the Trading Hours, as from time to time set forth by the Exchange and specified in the trading calendar, which is available at [**Gemini WEBSITE**]. Trading Hours may vary among different Contracts. No Person may make any bid or offer for, or engage in any transaction in, any Contract before or after such hours. Notice shall be issued pursuant to RULE 316 or other means as appropriate for any modification to or establishment of Business Days or Trading Hours.

(b) With respect to trading on or through the Exchange, the Exchange may adopt, without limitation, procedures relating to Transactions in Contracts and trading on the Exchange, including procedures to:

- (i) disseminate the prices of bids and offers and the prices of trades in Contracts;
- (ii) record and account for Contracts;
- (iii) perform market surveillance and regulation on matters affecting Contracts;
- (iv) establish limits on the number and/or size of Orders that may be submitted or the number of and size of trades executed by a Participant or Authorized User to the Exchange;
- (v) establish limits on the number of Contracts that may be held by a Participant or customer on the Exchange;
- (vi) establish a limit on the maximum daily price fluctuations for any Contracts and provide for any related restriction or suspension of trading in such Contracts; and
- (vii) require a suspended or expelled Participant, or a Participant with restricted trading rights, to cause Contracts to be executed for such Participant's account to reduce or eliminate such Participant's open positions.

Rule 402 **Market Suspension and Emergencies**

(a) The Exchange reserves the right to adjust Trading Hours and suspend market activities for all or a subset of Contracts in the case of extenuating market circumstances which include, but are not limited to, any occurrence or circumstance which threatens or may threaten such matters as the fair and orderly trading in, or the liquidation of or delivery pursuant to, any Contracts, and which is determined by the Exchange to require immediate action.

(b) In the event of an Emergency, the Exchange may implement temporary emergency procedures and rules ("**Emergency Rules**"), subject to the applicable provisions of the CEA and CFTC.

(c) Emergency Rules may require or authorize the Exchange, the Board, any committee of the Board, the Chief Executive Officer or, in his or her absence, any other Officer to take actions necessary or appropriate to respond to the Emergency, including, but not limited to, the following actions:

- (i) suspending or curtailing trading or limiting trading to liquidation only (in whole or in part);
- (ii) extending or shortening the last trading date for Contracts;

- (iii) providing alternative settlement mechanisms;
- (iv) ordering the liquidation or transfer of Transactions, the fixing of a Settlement Price, or the reduction of positions;
- (v) extending, limiting or changing the Trading Hours;
- (vi) temporarily modifying or suspending any provision of the Rules;
- (vii) imposing or modifying trading limits, price limits and/or position limits; and/or
- (viii) any other action as directed by the CFTC.

(d) Before any Emergency Rule may be adopted and enforced, a required vote of the Board must approve the enforcement of such Emergency Rule at a duly convened meeting. Directors may attend such a meeting by teleconference. If the Chief Executive Officer, or another authorized Officer, determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, then the Chief Executive Officer or such other authorized Officer shall have the authority, without Board action, to implement any Emergency Rules with respect to such Emergency that he or she deems necessary or appropriate to respond to such Emergency. In such circumstances, the Chief Executive Officer or such other authorized Officer must convene a meeting as soon as practicable.

(e) Whenever the Exchange, the Board, any committee of the Board, the Chief Executive Officer or other authorized Officer takes actions necessary or appropriate to respond to an Emergency a duly authorized representative of the Exchange, where possible, will post an announcement in a notice to Participants. When the Board, any committee of the Board, the Chief Executive Officer or other authorized Officer determines that the Emergency has been reduced sufficiently to allow the Exchange to resume normal functioning, any such actions responding to an Emergency will be terminated and the Exchange, the Board, any committee of the Board, the Chief Executive Officer or authorized Officer will post an announcement in a notice to Participants.

(f) The Exchange will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not possible or practicable, the Exchange will notify the CFTC as soon as possible or reasonably practicable, but in any event no longer than 24 hours after implementing, modifying or terminating such rule.

(g) Upon taking any action in response to an Emergency, the Exchange will document the decision-making process related to such action and maintain such documentation for at least five years following the date on which the Emergency ceases to exist or to affect the Exchange, and all such documentation will be provided to the CFTC upon request.

(h) The Exchange shall not be obligated to perform its obligations under the Rules or any agreement with a Participant, or to compensate any Person for losses occasioned by any delay or failure of performance, to the extent a delay or failure of performance is the result of an Emergency.

Rule 403 **Contracts Offered**

The Exchange shall determine, from time to time, which Contracts are available for trading subject to the Rules of the Exchange and approval rules containing the specifications for such Contracts (“**Contract Specifications**”), provided that certifications or applications with respect to such Contracts shall be submitted to the CFTC as required by the CEA and CFTC Regulations.

Rule 404 Use of User IDs

- (a) Each Participant and its Authorized Users must have a unique, Exchange-assigned, registered User ID.
- (b) Each Order entered will contain an Exchange-assigned User ID that identifies the Authorized User that entered the Order.
- (c) No Person may use a User ID to place any Order except as permitted by these Rules, nor may any Person knowingly permit or assist the unauthorized use of a User ID. Each Participant and Authorized User shall ensure that no User ID is used by any Person not authorized by these Rules. Each Participant that is not an individual must have in place policies and procedures acceptable to the Exchange to ensure the proper use and protection of User IDs, including:
 - (i) Restricting access through password protection to any system capable of submitting Orders to the Exchange to individual users authorized by the relevant Participant and having a User ID;
 - (ii) Requiring creation, maintenance and retention, as required in RULE 410, of accurate and complete records regarding each individual that is issued, or authorized to use, a User ID;
 - (iii) Requiring that their Supervised Persons protect and maintain the security of all User IDs; and
 - (iv) Prohibiting the use of User IDs by any Person, including any subsidiary, affiliate, division or business unit of Participant, except as permitted by this Rulebook.
- (d) Each Participant shall ensure the accuracy of the registration information of its Authorized Users at all times.
- (e) Each Participant shall be solely responsible for controlling and monitoring the use of all User IDs issued to it and its Authorized Users of the Exchange.
- (f) Each Participant shall notify the Exchange promptly upon becoming aware of:
 - (i) any unauthorized disclosure or use of any User ID assigned to it or any of its Authorized Users and of any other reason for deactivating a User ID; and
 - (ii) any unauthorized access to the Exchange by any Authorized User or by any Person using a User ID assigned to such Participant or Authorized User.
- (g) Each Participant and its Authorized Users shall be bound by any actions taken through the use of a User ID assigned to such Participant or Authorized User (other than any such actions resulting from the fault or negligence of the Exchange), including the submission of Orders and/or execution of Transactions, whether or not such actions were taken or authorized by such Participant or Authorized User, as the case may be.
- (h) The Exchange establishes and maintains profile for each Participant that leverages session-based authentication to collect records of access, including user log-ins, IP addresses, and transaction records. The User IDs and profiles will be incorporated into the Exchange audit trail to be used for surveillance. The Regulatory Compliance Department will examine such records on a routine, but not less than monthly, basis in order to detect unauthorized activity and ensure that each Participant is in compliance with its policies and procedures regarding the proper use and protection of User IDs.

Rule 405 Trading

(a) Order Submission. Each Participant shall be responsible for any and all Orders entered using such Participant's User ID.

(b) Order Types. The following Order types are available on the Gemini System and may be amended from time to time:

(i) "Market" means a simple Order to buy or sell immediately executed at the best price currently available in the system.

(ii) "Limit" means a simple Order executed when a specific price is met.

(iii) "Stop Limit" means a market Order whose activation is dependent upon a specific rate being reached or surpassed (i.e. similar to a Stop-Loss Order), but that will be deactivated once a second rate (i.e. the limit) is reached or surpassed.

(c) "Order Qualifiers" means the following Order duration qualifiers supported by the Gemini System. An Order eligible to be entered into the Gemini System that does not contain a duration qualifier will be cancelled if not filled during the trading day in which it was received or, if it was received between trading days, during the next trading day. An Order may specify one of the following duration qualifiers:

(i) "Good Till Cancel" (GTC) means an Order that will remain in the market until executed or manually cancelled.

(ii) "Immediate or Cancel" (IOC) means an Order placed with the intention that it gets executed that will either be immediately executed or cancelled.

(iii) "Maker or Cancel (MOC)" means an Order that rests on the continuous order book at a specified price. If any quantity of the order can be filled immediately, the entire order is canceled.

(iv) "Fill or Kill (FOK)" means an order that is filled immediately at or better than the specified price. If the order cannot be filled in full immediately, the entire quantity of the order is canceled. The order does not rest on the continuous order book.

(d) Order Cancellation

(i) Previously submitted Orders can be cancelled unless and until such Order has been executed or has otherwise expired. Any such cancellation requires that a cancellation Order with respect to the original Order be entered into the Exchange. Such cancellation will become effective upon receipt by the Exchange of the cancellation Order.

(ii) Every Order automatically expires at the end of the Trading Hours on the calendar day such Order is placed, in the event of any suspension or curtailment of trading, or in the case of any failure of the Exchange.

(e) Trading Information. The Exchange shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market. Trading information will be published on the Exchange website at the end of each day.

Rule 406 [RESERVED]

Rule 407 Position Transfers

The Exchange may permit transfer trades to move positions between accounts of the same Participant for administrative purposes (“**Position Transfers**”) where no change in ownership is involved. Participants must obtain approval from the Exchange for a Position Transfer; such approval to be granted at the sole discretion of the Exchange. Position Transfers will not contribute to any reported volume, price, or trading range.

Rule 408 Trade Cancellations; Trade Reviews; Price Adjustments

(a) The Exchange may adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the Exchange or by system defects or malfunctions. Notwithstanding any other provision of this RULE 408, the Exchange may adjust trade prices or cancel any trade if the Exchange determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market. Any Transaction executed on the Exchange but rejected by the Clearing House will be cancelled. Any decision of the Exchange with respect to an adjustment or cancellation subject to this RULE 408 shall be final.

(b) The Exchange may review a trade based on its analysis of market conditions or a request for review by a user of the Exchange. A request for review must be made within five minutes of the execution of the trade. The Exchange shall promptly determine whether the trade will be subject to review, and upon deciding to review a trade, the Exchange will promptly issue an alert to all Participants on the Exchange indicating that the trade is under review. In the case of Contracts determined by the Exchange to be illiquid, the Exchange may initiate a review up to one hour after the execution of the trade, and has the authority, but not the obligation, to review trades reported more than one hour following execution if it determines that the trade price was significantly out of line with fair value. In the course of its review of any trade, the Exchange may, but is not obligated to, inform any of the parties to the trade of the identity and contact information of any other party to the trade.

(c) In reviewing a trade, the Exchange will first determine whether the trade price is within the No Bust Range for the Contract. In applying the No Bust Range, the Exchange shall determine the fair value market price for that Contract at the time the trade under review occurred (the “**Market Price**”). The Exchange may consider any relevant information, including, but not limited to, the last trade price in the contract or a better bid or offer price on the Exchange, a more recent price for a different maturity date, the price of the same or related contract established in another venue or another market and the market conditions at the time of the trade. If the Exchange determines that the price of the trade is inside the No Bust Range, then it will issue an alert indicating that the trade shall stand.

(d) With the approval of the Exchange, parties to a trade that is price adjusted may instead mutually agree to cancel the trade. With the approval of the Exchange, parties to a trade that is busted may instead mutually agree to price adjust the trade to a price consistent with the adjustment provisions of RULE 408(c). Subject to this RULE 408(d), parties to a trade that is cancelled or price adjusted may mutually agree to a cash adjustment provided that such adjustments are reported to the Exchange and the parties maintain a record of the adjustment. An executed trade may not be reversed via transfer except where such trade is determined by the Exchange to be outside of the No Bust Range but not reported timely, subject to agreement of the parties and approval of the Exchange. Any such transfer must occur at the original trade price and quantity; however the parties may mutually agree to a cash adjustment.

(e) A party entering an Order that results in a price adjustment or trade bust shall be responsible for demonstrated claims of realized losses incurred by persons whose trade prices were adjusted or busted; provided, however, that a claimant shall not be entitled to compensation for losses incurred as a result of the claimant’s failure to take reasonable actions to mitigate the loss.

(i) A claim for a loss pursuant to this section must be submitted to the Exchange

on an Exchange claim form within one business day of the event giving rise to the claim. The Exchange will reject any claim that is not filed in a timely manner and such decisions shall be final. Eligible claims shall be forwarded by the Exchange to the party responsible for the Order(s) that resulted in a trade bust or a price adjustment. Such party shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. Failure to respond to the claim within ten business days shall be considered a denial of liability.

(ii) To the extent that liability is admitted, payment shall be made within ten business days. Unless otherwise agreed upon in writing by the parties, failure to make the payment within ten business days shall be considered a denial of liability for purposes of this rule. A copy of any such written agreement must be provided to the Exchange.

(iii) To the extent that liability is denied, the party making the claim may submit the claim for arbitration pursuant to CHAPTER 8. Such claims must be submitted to the Exchange within ten business days of the date the party was issued notification that liability was denied.

(f) When the Exchange busts or price adjusts a trade, the party responsible for entering the Order into the Exchange that gave rise to the trade bust or price adjustment shall pay an administrative fee to the Exchange in the amount of \$500 for each such occurrence.

(g) When a trade outside of the No Bust Range is busted in accordance with this RULE 408, the parties to the trade may agree voluntarily to reestablish the trade but to adjust its price and make a cash adjustment provided that all of the following conditions are met:

(i) The Exchange approves the adjustment.

(ii) The quantity of the position being reestablished is the same as the quantity of the trade that was busted.

(iii) In the case of a trade below the Market Price, the adjusted price must be the lowest price that traded at or about the time of the trade without being busted. In the case of a trade above the Market Price, the adjusted price must be the highest price that traded at or about the time of the trade without being busted.

(iv) The parties to the adjusted trade must report it to the Exchange not later than the close of business on the Business Day after the trade occurred.

(v) In the event that the matching engine malfunctions with live Orders in the queue waiting to be matched, such Orders may be matched when the system is restored before the Exchange halts the matching engine. The Exchange is authorized to bust trades resulting from such matches if the price of such trades is outside of the No Bust Range at the time that a confirmation of the trades was sent.

Rule 409 Settlement

The Exchange will provide the Clearing House with Settlement Prices for use by the Clearing House in settling trades and positions. Settlement Prices will be calculated as outlined in the Contract Specifications on the **[Gemini WEBSITE]**.

The Exchange reserves the right to adjust Settlement Prices as it deems necessary if it detects an anomaly between the convergence of a Contract's Settlement Price and the market price in the underlying spot market.

Rule 410 Recordkeeping; Audit Trail

(a) Orders must be entered by electronic transmission to the Exchange, and the Exchange shall maintain an electronic record of those entries. Each Participant entering Orders into the Exchange shall input for each Order:

- (i) the User ID identifying the individual placing such Order;
- (ii) its type, price or yield, quantity, product, maturity or expiration month or date, customer type indicator (“**CTI**”) code and account number (except as provided in RULE 410(e)); and
- (iii) such additional information as may be prescribed from time to time by the Exchange.

(b) With respect to Orders received by a Participant that are immediately entered into the Gemini System, no record other than that set forth above need be made. If a Participant receives an Order that cannot be immediately entered into the Platform, such Participant must (x) prepare a written Order ticket in non-erasable ink and include the account designation, date, an electronic timestamp reflecting the time of receipt, an Order number and other identifying information (y) enter such Order into the Gemini System when such Order becomes executable and (z) if such Order is for a customer, retain all consents and instructions from such customer to delay entry of such Order.

(c) Participants that access the Gemini System electronically are responsible for maintaining or causing to be maintained an audit trail for all electronic Orders, which shall include Order entry, modification, and cancellation (the “**Audit Trail**”). Such Audit Trail shall include Orders submitted and the times of Order entry and of any Order modification or cancellation. Times that are so captured must not be capable of being modified by the Person entering the Order and must reflect all necessary data fields specified by the Exchange from time to time. For executed Orders, the Audit Trail must record the execution time of the trade along with all award information.

(d) Participants shall maintain Audit Trail information for a minimum of five years and must have the ability to produce Audit Trail data in a standard format upon request of the Exchange. This electronic Audit Trail must contain all Order receipt, Order entry, Order modification, Order cancellation and response/receipt times to the highest level of precision achievable by the operating system, but at least to the hundredth of a second. The times captured must not be able to be modified by the Person entering the Order. The data must also contain all FIX Tag information and fields which should include, but are not limited to the following: a record of all fields relating to Order entry, including transaction date, product, Exchange code, expiration month, quantity, Order Type, Order Qualifier, price, buy/sell indicator, stop/trigger price, Order number, unique transaction number, account number, session ID, operator ID, host Order number, trader Order number, type of action, action status code, customer type indicator, origin, and timestamps. For executed Orders the audit trail must record the execution time of the trade along with all fill information.

(e) *Customer Type Indicator (CTI) Codes*. Each Participant must identify each transaction executed on the Exchange on the record of transactions submitted to the Exchange with the correct CTI code. The CTI codes are as follows:

- (i) CTI 1: Transactions initiated and executed by an individual member for his own account, for an account he controls or for an account in which he has ownership or financial interest;
- (ii) CTI 2: Transactions executed for the proprietary account of a Participant;
- (iii) CTI 3: Transactions where an individual member or Authorized User executes for the personal account of another individual member, for an account the other

individual member controls or for an account in which the other individual member has ownership or financial interest;

(iv) CTI 4: Any transaction not meeting the definition of CTI 1, 2 or 3. (These should be non-member customer transactions).

Rule 411 Reporting of Trade Information

The Exchange shall meet the reporting requirements set forth in CFTC Regulation 17 C.F.R. § 38.451.

Rule 412 Information Regarding Orders

(a) The Exchange will make information regarding Orders (including prices bid or offered), trades and any other matters it may deem appropriate available to Participants and other Persons at such times and in such manner (whether through the Exchange, financial information services or otherwise) as it may consider necessary or advisable from time to time.

(b) Each Participant or other Person receiving any such information referred to in paragraph (a) above shall not redistribute such information other than to the extent and in the manner as may be expressly permitted by the Exchange in writing from time to time.

Rule 413 Disaster Recovery; Business Continuity

(a) Each Participant shall have written disaster recovery and business continuity policies and procedures in place to ensure it is able to perform certain basic operational functions in the event of a significant internal or external interruption to its operations. At a minimum, the following areas must be addressed in the Participant's policies and procedures:

(i) the Participant must have procedures in place to allow it to continue to operate during periods of stress or to transfer accounts to another fully operational Participant with minimal disruption to the Exchange.

(ii) the Participant must perform periodic testing of disaster recovery and business continuity plans, duplication of critical systems at back up sites and periodic back-up of critical information and provide the Exchange with information regarding the foregoing upon request; and

(iii) the Participant must maintain and, at the request of the Exchange, provide accurate and complete information for its key personnel. A Participant must inform the Exchange in a timely manner whenever a change to its key personnel is made.

(b) The Exchange may prescribe additional and/or alternative requirements for a Participant's compliance with this Rule.

CHAPTER 5 CLEARING

Rule 501 **Submission to Clearing House**

All Contracts shall be cleared through the Clearing House in accordance with applicable Clearing House Rules and the Rules set forth in this CHAPTER 5.

Rule 502 **Clearing Members**

Each Participant must be a member of the Clearing House or be party to an agreement with a clearing member of the Clearing House at all times.

Rule 503 **Clearing Services**

Whenever the Exchange designates a clearing organization other than the Clearing House for the clearance of Contracts with respect to which there are open positions, each Participant must, as of the close of business on the second Business Day prior to the effective date of such designation, either become a clearing member of such new organization, or cause any such open Contracts carried by it either to be transferred to a clearing member of such new clearing organization or to be liquidated.

Rule 504 **Rules of the Clearing House**

- (a) The clearing services provided by the Clearing House with respect to any Contract, and the rights and obligations of purchasers and sellers under cleared Contracts (including rights and obligations in respect of clearing and settlement, variation payments and performance at maturity), will be governed by the Rules of the Clearing House.
- (b) Open positions in any Contract may only be offset by opposite Transactions in the same Contract that are executed either (i) on the Exchange or (ii) as Position Transfers pursuant to Rule 407.
- (c) The Clearing House Rules shall prevail in the event of any conflict or inconsistency between these Rules and such Clearing House Rules with respect to any responsibilities or obligations of a Participant under such Clearing House Rules. Each Participant is bound by the Clearing House Rules.

Rule 505 **Additional Terms Applicable to Clearing**

- (a) The Clearing House shall have the right to reject Contracts and to suspend clearing of such Contracts without notice, in accordance with the rules of the Clearing House; and
- (b) A Participant may transfer a Contract to another Participant only upon notice to the Exchange, in accordance with the rules of the Clearing House and provided:
 - (i) the transfer merely constitutes a change from one account to another account, provided the underlying beneficial ownership in said accounts remains the same; or
 - (ii) an error has been made in the clearing of a trade and the error is discovered and the transfer is completed within two Business Days after the trade date.

(c) Subject to the limitations of RULE 507, Exchange Officials may, upon request by the Participant(s), approve a transfer of existing trades either on the books of the same Participant, or from the books of one Participant to the books of another Participant if the transfer is in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-

recurring transaction between two or more entities where one or more entities become the successor in interest to one or more other entities.

(d) Provided that the transfer is permitted pursuant to Sections (b) or (c) above, the transactions must be recorded and carried on the books of the receiving Participant at the original trade dates. Trades may be transferred using either the original trade price or the most recent settlement price.

(e) All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The Participants involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

Rule 506 Concurrent Long and Short Positions

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

(a) Concurrent long and short positions in the same commodity and month may be held by the account of a Participant at the direction of a Person that directs the trading of such account by power of attorney or otherwise; however it shall be the duty of the Participant to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the relevant Clearing House.

(b) Participants which, pursuant to this rule, carry concurrent long and short positions, must report to the Exchange both sides as open positions.

(c) The Exchange takes no position regarding the internal bookkeeping procedures of its Participants which, for the convenience of a customer, may "hold open" a position only on their books. However, Participants must accurately report to the Exchange and the relevant Clearing House, as appropriate, large trader positions, long positions eligible for delivery and open interest.

Rule 507 Revocation of Clearing Authorization: Trade Nullification

In the event that a Clearing House terminates a Participant's authorization, the Exchange shall nullify and cancel any trade to be cleared by such Clearing House that is guaranteed by such Participant after the Exchange actually receives and processes notice of such termination at the price at which the nullified transaction was executed. The Exchange shall process such notice promptly, but in any event within one Business Day of actually receiving written notice.

Rule 508 [RESERVED]

Rule 509 Facilitating Transactions Submitted for Clearing

(a) The Exchange will coordinate with the Clearing House to establish systems that enable the Participant, or the Clearing House to accept or reject each trade submitted to the Clearing House for clearing as soon as would be technologically practicable if fully automated systems were used. The Exchange will coordinate with the Clearing House in developing rules and procedures facilitating the prompt, efficient, and accurate processing of all transactions submitted to the Clearing House for clearing, in accordance with Commission regulation 39.12(b)(7).

(b) Upon the successful matching of Orders on the Gemini System, the Clearing House shall immediately, through the process of novation, be substituted as seller to every buyer and the buyer to every seller of each Transaction. Upon such substitution, the buyer and

seller of the Transaction on the Gemini System shall be released from their obligations to each other, and each buyer and seller shall be deemed to have bought the Contracts from or sold the Contracts to the Clearing House, as the case may be, and the Clearing House shall have all the rights and be subject to all the liabilities of such buyer and seller with respect to such Transaction. Such substitution shall be effective in law for all purposes.

CHAPTER 6 PARTICIPANT DUTIES AND STANDARDS

Violations of the Participant duties and standards set forth in this Chapter may result in penalties including, but not limited to, temporary or permanent loss of access to the Exchange.

Rule 601 **Ethical Standards**

Each Participant shall act, and shall cause its Authorized Users to act, in accordance with these standards of ethics with regard to its Exchange activity:

(a) *Good Faith.* No Participant (or any of its Authorized Users) shall knowingly enter, or cause to be entered, bids or offers into the Gemini System other than in good faith for the purpose of executing bona fide transactions

(b) *Transaction Integrity.* Participants (and their Authorized Users) shall honor the terms and conditions of the Participant Agreement and will transact in Contracts only for legitimate business purposes, such as managing business risk, or that otherwise have economic substance.

(c) *Risk Management.* Participants (and their Authorized Users) shall adopt, adhere to and enforce risk management and other policies and structures that are designed to ensure that trading activities are conducted in accordance with the Rules. In addition, each Executing Firm that is registered with the CFTC as an FCM must comply with and adopt a risk management program at least as stringent as the requirements set forth in CFTC Regulation § 1.11.

Rule 602 **Sound Trading Practices**

Participants will act in accordance with these standards of sound trading practices with regard to its Exchange activity:

(a) *Rules.* The Exchange will provide updates to these Rules and memos regarding the application and interpretation of these Rules. It is the obligation of each Participant to ensure these documents are read and understood. It shall be prohibited for a Participant or any of its Authorized Users to violate any Rule or any agreement made with the Exchange, or to engage in fraud, dishonorable or dishonest conduct, or conduct which is inconsistent with just and equitable principles of trade.

(b) *Price Manipulation, Fictitious, Non-Competitive or Artificial Transactions.* No Participant shall effect or induce the purchase or sale of any Contract for the purpose of creating or inducing a false, misleading, or artificial appearance of activity in such Contract, or for the purpose of unduly or improperly influencing the market price of such Contract or for the purpose of making a price which does not reflect the true state of the market in such Contract. No Participant shall arrange and execute simultaneous offsetting buy and sell Orders in a Contract with intent to artificially affect reported revenues, trading volumes or prices.

(c) *Fraudulent Acts.* No Participant shall engage in any fraudulent act or engage in any scheme to defraud, deceive, trick, or mislead in connection with or related to any Exchange activity or activity related to the Clearing House.

(d) *Market Manipulation.* No Participant shall manipulate or attempt to manipulate the market in any Contract. Furthermore, no Participant shall intentionally or recklessly engage, or attempt to engage, in the following in connection with any Contract: use manipulation to defraud, make an untrue or misleading statement or omit a material fact, engage in fraudulent or deceitful business practices, or deliver misleading or inaccurate reports concerning market information that affect the price of any Contract. No Participant shall directly or indirectly participate in or have any interest in the profit of a manipulative operation or knowingly manage

or finance a manipulative operation. This includes any pool, syndicate, or joint account, whether in corporate form or otherwise, organized or used intentionally for the purposes of unfairly influencing the market price of any Contract.

(e) *Market Disruption.* No Participant shall engage in any trading, practice, or conduct that violates bids or offers or demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period, or is of the character of, or is commonly known to the trade as, “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution), as described in Section 4c of the CEA.

(f) *Orders.* Orders entered on the Exchange for the purpose of upsetting the equilibrium of the market in any Contract or creating a condition in which prices do not or will not reflect fair market values are prohibited, and any Participant who makes or assists in entering any such Order with knowledge of the purpose thereof or who, with such knowledge, in any way assists in carrying out any plan or scheme for the entering of any such Order, will be deemed to have engaged in an act detrimental to the Exchange.

(g) *Gratuities.* Except with the prior written approval of the Chief Regulatory Officer, no Participant shall, directly or indirectly, give or permit to be given anything of value, including gifts and gratuities, to an Exchange Official in an amount that exceeds the maximum value permitted by the Exchange’s gifts and entertainment policy.

(h) *Disruptive Trading Practices.* No Participant shall engage in any trading, practice, or conduct that constitutes a “disruptive trading practice,” as such term is defined by the CEA or CFTC Regulations. Disruptive trading practices shall include any Exchange activity that (i) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period, (ii) consists of placing one or more Order(s) with an intent to cancel such Order(s) prior to execution, (iii) submitting or cancelling Orders with an intent to overload the Exchange, (iv) submitting or cancelling bids or offers with an intent to delay another person’s execution of trades, or (v) submitting or cancelling multiple bids or offers to create an appearance of false market depth.

(i) *False Reports.* No Participant shall knowingly make any misstatement of a material fact to the Exchange, any Exchange Official, or any Board committee or Exchange panel. No Participant shall knowingly disseminate false or misleading reports regarding Transactions, the Exchange or one or more markets.

(j) *Wash Sales.* No Participant shall place or accept buy and sell Orders in the same product and expiration month, where the Participant knows or reasonably should know that the Order is to avoid taking a bona fide market position exposed to market risk (transactions commonly known or referred to as wash sales). Buy and sell Orders by Participants that are entered with the intent to negate market risk or price competition shall be deemed to violate the prohibition on wash trades. Additionally, no Participant shall knowingly execute or accommodate the execution of such Orders by direct or indirect means.

(k) *Acts Detrimental to the Exchange.* No Participant shall engage in any act that is detrimental to the Exchange. It shall be deemed an act detrimental to the Exchange to permit

unauthorized use of the Exchange, to assist any Person in obtaining unauthorized access to the Exchange, to trade on the Exchange without an agreement and an established account with or as a Participant, to alter the equipment associated with the Exchange (except with the Exchange's consent), to interfere with the operation of the Exchange, to intercept or interfere with information provided thereby, to damage the name or reputation of the Exchange, its Board, its Officers or any of their Affiliates or in any way to use the Exchange in a manner contrary to the Rules.

(l) *Supervision.* A Participant shall establish, maintain and administer reasonable supervisory procedures to monitor the compliance of Authorized Users, and Supervised Persons with the Rules and any applicable provisions of the CEA or CFTC Regulations, and such Participant may be held accountable for the actions of such Authorized Users or Supervised Persons.

(m) *Disclosing Order Information.* No Participant shall disclose an Order to buy or sell, except to a designated Exchange Official or the CFTC or as necessary to efficiently execute the Order, nor shall any Participant solicit or induce another Participant to disclose Order information. No Person shall take action or direct another to take action based on non-public Order information, however acquired. The mere statement of opinions or indications of the price at which a market may open or resume trading does not constitute a violation of this rule.

(n) *Priority of Customers' Orders.* No Participant shall enter an Order into the Gemini System for its own account, an account in which it has a direct or indirect financial interest or an account over which it has discretionary trading authority, including an Order allowing discretion as to time and price if such Participant is in possession of any unsubmitted Order from a customer that the Gemini System is capable of executing unless such customer provides such Participant with written consent to delay such Order.

(o) *Disclosing Orders Prohibited.* No Participant or Authorized User shall disclose any customer Order to buy or sell except to a designated Exchange Official or the CFTC, and no Subject Person shall solicit or induce a Participant or Authorized User to disclose any customer's Order information. No Person shall take action or direct another to take action based on non-public Order information, however acquired. The mere statement of opinions or indications of the price at which a market may open or resume trading does not constitute a violation of this rule.

(p) *Simultaneous Buy And Sell Orders For Different Beneficial Owners.*

(i) No Person shall enter through the Gemini System into a pre-discussed transaction for illegal or improper purposes (including, without limitation, any conduct prohibited by this CHAPTER 6) or knowingly assume on its own behalf or on behalf of a customer account the opposite side of its own Order or its customer's Order (a "**Cross Trade**"), except (A) where the Person is entering into both sides of a customer Order on a non-discretionary basis, or (B) the Person (y) has obtained prior written blanket or transaction specific consent has been obtained in respect of any relevant customer; and (x) has waited for a reasonable period of time, which shall be presumed to be not less than 5 seconds, after the initial Order is submitted before submitting the opposite side Order.

(ii) Notwithstanding the foregoing, a Participant shall not be in violation of this RULE 602(p) due to Cross Trades executed by two Participants trading for the same account, or for separate accounts of the same beneficial owner, where neither Participant has knowledge of the other's Order and there is no coordination or prearrangement of the Cross Trade, provided that the relevant Participant shall be responsible, upon the request of the Exchange, to demonstrate to the reasonable satisfaction of the Exchange, that neither Participant had knowledge of the other's Order.

Rule 603 Pre-Arranged, Pre-Negotiated and Noncompetitive Trades Prohibited

- (a) No Person shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any Transaction, except as provided in paragraph (b) of this RULE 603 below.
- (b) Participants and Authorized Users may engage in pre-execution communications with regard to transactions executed or to be executed on the Exchange if one party (the first party) wishes to be assured that a contra party (the second party) will take the opposite side of the first party's Order, subject to the following restrictions:
- (i) A Participant may not engage in pre-execution communications with other Participants on behalf of another party unless the party for whose benefit the trade is being made has previously consented to permit such communications.
 - (ii) Parties to pre-execution communications shall not disclose to a non-party the details of such communications or enter an Order to take advantage of information conveyed during such communications except in accordance with this Rule.
 - (iii) The first party's Order must be entered into the Exchange first, and the second party's Order may not be entered into the Exchange until a period of fifteen seconds has elapsed from the time entry of the first Order.

Rule 604 Disciplinary Procedures; Termination of Connection

- (a) All access denials, suspensions, expulsions and other restrictions imposed upon a Participant or any of its Authorized Users by the Exchange pursuant to a Disciplinary Action shall restrict with equal force and effect, access to, and use of, the Exchange.
- (b) The Exchange, at its sole discretion, shall have the right to summarily terminate the connection of any Participant or the access of any User ID to the Gemini System and the Exchange. Additionally, the Exchange, at its sole discretion, shall have the right to direct a Participant to immediately terminate access to the Exchange for any of such Participant's Authorized Users.

Rule 605 Position Limits and Exemptions

- (a) To reduce the potential threat of market manipulation or congestion, the Exchange shall adopt position limits for each of the Contracts, as is necessary and appropriate.
- (b) Except as otherwise provided by the Exchange Rules, no Person, including a Participant, may hold or control a position in excess of such position limits and a Participant may not maintain a position in excess of such position limits for a customer if such Participant knows, or with reasonable care should know, that such position will cause such customer to exceed the applicable position limits.
- (c) Position limits shall apply to (i) all positions in accounts for which any Person, by power of attorney or otherwise, directly or indirectly holds positions or controls trading, and (ii) positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by, or the trading of the positions were done by, a single Person.
- (d) Any Person seeking an exemption from the position limits referred to above must file an application with the Exchange. The Exchange shall notify the applicant whether the exemption has been approved and whether the Exchange has imposed any limitations or conditions on the exemption. The decision of the Exchange shall be final.

Rule 606 **Position Accountability**

- (a) To reduce the potential threat of market manipulation or congestion, the Exchange shall adopt position accountability levels for each of the Contracts, as is necessary and appropriate.
- (b) For purposes of this Rule, all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly controls trading shall be included with the positions held by such Person. The provisions of this Rule shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by a single Person.

Rule 607 **Reports of Large Positions**

- (a) Upon request, Participants must provide the Regulatory Compliance Department with information, in a form and manner acceptable to the Regulatory Compliance Department, identifying the owner, any controlling parties and any additional required information for each reportable account.
- (b) Participants shall submit to the Exchange a daily report of all positions required to be reported as set forth in the table in Appendix A.
- (c) Positions in Contracts at or above the reportable level prescribed in Appendix A trigger reportable status. For a person in reportable status, all positions, regardless of size, in relevant Contracts must be reported.
- (d) All large trader reports shall be submitted in a form acceptable to the Regulatory Compliance Department. The Exchange may require that more than one large trader report be submitted daily. The Regulatory Oversight Committee or the Regulatory Compliance Department may require reports from any Participant on a lesser number of positions than reflected in the table in Appendix A.
- (e) Participants must provide the Regulatory Compliance Department with the required CFTC Form 102 (the "Identification of Special Accounts" form) identifying the owner, any controlling parties and any additional required information for each reportable account. The form must be submitted to the Regulatory Compliance Department no later than the business day following the date on which the account becomes reportable. Additionally, Participants must submit a revised form reflecting any material changes to the information previously provided to the Regulatory Compliance Department within three business days of such changes becoming effective.

Rule 608 **Aggregation of Positions**

For purposes of RULE 605 and RULE 606, positions in Contracts shall be aggregated in accordance with CFTC Regulations.

Rule 609 **Reporting Levels and Position Limits**

The reporting levels and position limits for Contracts are found in Appendix A.

Rule 610 **Information Disclosure and Documentation**

- (a) Participants shall provide information relating to Contracts to regulators in compliance with all applicable CFTC and NFA rules and regulations and any additional disclosure requirements imposed by these Rules and continue to cooperate with regulators as reasonably necessary to assist in their understanding of the markets.
- (b) Participants shall ensure that any information disclosed to the Exchange is accurate and

consistent. No existing or prospective Participant shall make any false statements or misrepresentations in any application, report or other communication to the Exchange.

CHAPTER 7 DISCIPLINE AND ENFORCEMENT

Rule 701 **Disciplinary and Enforcement Procedures – General**

(a) All Participants and their Authorized Users are subject to the Exchange's jurisdiction. All Participants are subject to this CHAPTER 7 if they, or with respect to a Participant, any other Person (including any Supervised Person of such Participant) using any User ID assigned to such Participant, are alleged to have violated, to have aided and abetted a violation, to be violating, or to be about to violate, any Rule of the Exchange or any provision of Applicable Law for which the Exchange possesses disciplinary jurisdiction.

(b) No Exchange Official will interfere with or attempt to influence the process or resolution of any inquiry, investigation, disciplinary proceeding, appeal from a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action (collectively, "**Disciplinary Action**"), except to the extent provided under Exchange Rules with respect to a proceeding in which the Exchange Official is a member of the relevant Appeals Panel.

(c) Participants may be represented by counsel during any Disciplinary Action pursuant to this CHAPTER 7, provided however that no such counsel shall be an employee of the Exchange or any person substantially related to the underlying investigation.

(d) Any of the functions of the Exchange, the Chief Regulatory Officer, the Regulatory Compliance Department or the Disciplinary Panel under this CHAPTER 7 may be performed by the Regulatory Services Provider pursuant to a delegation of such functions by the Exchange, and references to the Exchange, the Chief Regulatory Officer, the Regulatory Compliance Department or the Disciplinary Panel, shall be deemed to be references to such Regulatory Services Provider, as applicable. Nevertheless, the Exchange will retain exclusive authority in all substantive decisions made by any Regulatory Services Provider. The Exchange will document any instances where its actions differ from those recommended by the Regulatory Services Provider.

(e) At the discretion of the Exchange, any Participant found in violation of the Rules may be required to pay to the Exchange any and all expenses incurred as a result of the investigation and disciplinary proceeding. This assessment is in addition to any monetary fines imposed for the Rule violation(s).

(f) *Joint and Controlling Person Liability.*

(i) The Exchange may hold a Participant liable for, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation as well as for the acts and omissions that constitute a violation by (A) a Supervised Person of such Participant, and (B) any Person using a User ID assigned to a Supervised Person of such Participant, or (C) any employee, agent or representative of such Participant, in each case (A), (B) and (C), as if such violation were that of the Participant.

(ii) The Exchange may hold an Authorized User liable for, and impose sanctions against such Authorized User for such Authorized User's own acts and omissions that constitute a violation as well as or for the acts and omissions of any other agent or representative of such Authorized User that constitute a violation as if such violation were that of the Authorized User.

(g) *Ex Parte Communications.*

(i) A Person subject to a disciplinary proceeding or an appeal from a disciplinary proceeding (and any counsel or other representative of such Person) and the

Regulatory Compliance Department (and any counsel or other representative of the Regulatory Compliance Department) shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any member of the Disciplinary Panel or the Appeals Panel hearing such proceeding.

(ii) Members of a Disciplinary Panel or Appeals Panel shall not knowingly make or cause to be made an *ex parte* communication relevant to the merits of a disciplinary proceeding or an appeal from a disciplinary proceeding to any Person subject to such proceeding (and any counsel or representative of such Person) and the Regulatory Compliance Department (and any counsel or representative of the Regulatory Compliance Department).

(iii) Any Person who receives, makes or learns of any communication that is prohibited by this rule shall promptly give notice of such communication and any response thereto to the Regulatory Compliance Department and all parties to the proceeding to which the communication relates.

(iv) A Person shall not be deemed to have violated this rule if the Person refuses an attempted communication concerning the merits of a proceeding as soon as it becomes apparent the communication concerns the merits.

Rule 702 **Investigations**

(a) The Regulatory Compliance Department will investigate any matter within the Exchange's jurisdiction of which it becomes aware. The Regulatory Compliance Department will commence an investigation upon receipt of a request from the Commission or upon the discovery or receipt of information that, in the judgment of the Regulatory Compliance Department, indicates a possible basis for finding that a violation may have occurred or will occur. The Regulatory Compliance Department shall determine the nature and scope of its investigations in its sole discretion and will operate independently of the commercial interests of the Exchange. Absent mitigating circumstances, the Regulatory Compliance Department must complete each investigation within twelve months after the date the investigation is opened. Permissible mitigating circumstances include the complexity of the investigation, the number of Participants involved as potential respondents, the number of potential violations to be investigated and the volume of documentation and data to be analyzed.

(b) The Regulatory Compliance Department has the authority to:

(i) initiate and conduct inquiries and investigations;

(ii) prepare Investigation Reports and make recommendations concerning initiating disciplinary proceedings;

(iii) prosecute alleged violations within the Exchange's disciplinary jurisdiction; and

(iv) represent the Exchange on appeal from any disciplinary proceeding, summary imposition of fines, summary suspension or other summary action.

(c) Upon request by a member of the Regulatory Compliance Department, each Participant:

(i) is obligated to appear and testify and respond in writing to interrogatories within a reasonable specified time period in connection with: (A) the Rules, (B) any inquiry or investigation, or (C) any preparation by and presentation during a Disciplinary Action;

(ii) is obligated to produce books, records, papers, documents or other tangible evidence in its, his or her possession, custody or control within a reasonable specified

time period in connection with: (A) the Rules, (B) any inquiry or investigation, or (C) any preparation by and presentation during a Disciplinary Action; and

(iii) may not impede or delay any Disciplinary Action.

Rule 703 Investigation Reports

(a) The Regulatory Compliance Department will submit a written report of each investigation (an “**Investigation Report**”) and maintain a log of all investigations and their disposition. Each Investigation Report will include the reasons for initiating the investigation, a summary of the complaint, if any, all relevant facts and evidence, analysis and conclusions, the Participant’s disciplinary history at the Exchange, and a recommendation as to whether disciplinary action should be pursued. Each Investigation Report will consist of one of the following recommendations:

- (i) closing the investigation without further action;
- (ii) settlement;
- (iii) summary action;
- (iv) the preparation and service of a notice of charges for instituting a disciplinary proceeding; or,
- (v) resolving the investigation through an informal disposition, including the issuance of a warning letter. An informal disposition (including the issuance of a warning letter) will not constitute a finding of a violation or a sanction, however, the Investigation Report must include a copy of any warning letter and no more than one warning letter for the same potential violation may be issued to the same Participant during a rolling twelve month period.

(b) The Investigation Report will be provided to the Chief Regulatory Officer for a determination as to whether the Investigation Report is complete. The Chief Regulatory Officer will then provide the completed Investigation Report to the Disciplinary Panel.

Rule 704 Review of Investigation Reports

The Chief Regulatory Officer will determine whether a reasonable basis exists to believe that a violation within the Exchange’s jurisdiction has occurred or is about to occur. The Chief Regulatory Officer will determine for each Respondent whether to authorize:

- (i) the informal disposition of the investigation (by issuing a warning letter or otherwise) because disciplinary proceedings are unwarranted;
- (ii) the closing of the investigation without any action because no reasonable basis exists to believe that a violation within the Exchange’s jurisdiction has occurred or is about to occur; or
- (iii) the commencement of disciplinary proceedings because a reasonable basis exists to believe that a violation within the Exchange’s jurisdiction has occurred or is about to occur.

Rule 705 Opportunity to Respond

At the discretionary authority of the Chief Regulatory Officer, the Regulatory Compliance Department may notify the Respondent(s) that formal disciplinary charges are recommended and allow the Respondent to submit, within a specified time period, an offer of settlement or a written statement explaining why disciplinary proceedings should not be instituted or why one

or more of the charges should not be brought.

Rule 706 **Service of Notice of Charges**

Once the Chief Regulatory Officer authorizes **disciplinary** proceedings, the Regulatory Compliance Department will prepare and serve a notice of charges that will:

- (i) state the acts, practices or conduct that the Respondent is alleged to have engaged in;
- (ii) state the Exchange Rule or provision of applicable law alleged to have been violated or about to be violated;
- (iii) state the proposed sanctions for each violation;
- (iv) advise the Respondent of its right to a hearing;
- (v) advise the Respondent that it has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process;
- (vi) state the period of time within which the Respondent can request a hearing on the notice of charges, which will not be less than twenty days after service of the notice of charges;
- (vii) advise the Respondent that any failure to request a hearing within the period stated, except for good cause, will be deemed to constitute a waiver of the right to a hearing; and
- (viii) advise the Respondent that any allegation in the notice of charges that is not expressly denied will be deemed to be admitted.
- (ix) The service of notice upon the Respondent shall be deemed complete either personally or by leaving the notice at his or her place of business; by deposit in the United States mail, postage prepaid, via registered or certified mail addressed to the Respondent at the address as it appears in the Participant Agreement. Service will be deemed complete via electronic mail to the electronic mail address as it appears on the books and records of the Exchange or in the Participant Agreement.

Rule 707 **Answer to Service of Notice of Charges**

(a) If the Respondent decides to answer a notice of charges, the Respondent must file answers within twenty days after being served with such notice, or within such other time period as stated in such notice of charges. To answer the notice of charges the Respondent must in writing:

- (i) specify the allegations that the Respondent denies or admits;
- (ii) specify the allegations that the Respondent does not have sufficient information to either deny or admit;
- (iii) specify any specific facts that contradict the notice of charges;
- (iv) specify any affirmative defenses to the notice of charges; and
- (v) sign and serve the answer on the Chief Regulatory Officer via personal service, mail or email.

(b) Any allegation in a notice of charges that the Respondent fails to expressly deny will be deemed admitted. A general denial by the Respondent, without more, will not satisfy the requirements herein, and will be deemed to be an admission of allegations in such notice. Failure by the Respondent to timely serve an answer to the notice of charges will be deemed an admission to the allegations in such notice.

(c) Respondents may request a formal hearing in front of a Disciplinary Panel on charges denied in the Respondent's answer to the notice of charges.

(d) If all charges are admitted or Respondent fails to timely serve an answer to the notice of charges, the Respondent shall be deemed to have waived its right to a hearing on the charges, and the Disciplinary Panel shall (i) find that the violations alleged in the notice of charges have been committed and (ii) determine the sanction, if any, to be imposed. The Exchange shall serve upon the Respondent the information required by RULE 712.

Rule 708 Settlement Offers

(a) At any time after a notice of charges has been issued, a Respondent may submit to the Regulatory Compliance Department a written offer of settlement related to anticipated or instituted disciplinary proceedings. A Respondent may withdraw a written offer of settlement at any time before acceptance.

(b) The Chief Regulatory Officer may, in its discretion, permit the Respondent to settle disciplinary proceedings without admitting or denying the rule violations if the Respondent consents to the entry of findings and sanctions imposed. If an offer of settlement is accepted, the disciplinary committee shall issue a written decision specifying the rule violations it has reason to believe were committed and any penalties to be imposed, which must take into account the Respondent's disciplinary history. In the event of demonstrated customer harm, any sanction must also include full customer restitution.

(c) If an offer of settlement is accepted and the related order of disciplinary proceedings becomes final, the respondent's submission of the offer will be deemed to constitute a waiver of the right to notice, opportunity for a hearing and review and appeal under the Rules.

(d) If the offer of settlement is not accepted by the Regulatory Compliance Department or fails to become final, or is withdrawn by the Respondent, the matter will proceed as if the offer had not been made such that the Respondent shall not be deemed to have made any admissions by reason of the settlement offer and shall not be otherwise prejudiced by having submitted the settlement offer.

Rule 709 Disciplinary Panel

(a) A Disciplinary Panel, consisting of at least three individuals, at least one of whom would qualify to serve as Public Director, appointed by the Board at the recommendation of the Chief Regulatory Officer, will conduct hearings requested pursuant to RULE 707. No member of any Disciplinary Panel may have a financial, personal or other direct interest or involvement in the matter under such Disciplinary Panel's consideration.

(b) The Respondent will be notified of the appointment of the Disciplinary Panel and must respond within ten days by serving notice to the Chief Regulatory Officer if the Respondent seeks to disqualify any individual named to the Disciplinary Panel for reasonable grounds, including that such individual has a financial interest in the matter. Legal counsel to the Exchange, other than the Chief Regulatory Officer, will decide the merits of any request for disqualification within his or her sole discretion. Such decision will be final and not subject to appeal.

(c) No Person shall serve on the Disciplinary Panel unless that Person has agreed in writing that he or she will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or any other information which may be obtained while serving as a member of the Disciplinary Panel, except for disclosures when reporting to the Board, the Regulatory Compliance Department, upon request by the Commission or other Governmental Authority, or when compelled to testify in a judicial or administrative proceeding.

(d) All information, records, materials and documents provided to the Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Investigation or as required by law.

Rule 710 Respondent Review of Evidence

Prior to the commencement of the hearing, the Respondent will be given the opportunity to review all books, records, documents, transcripts of testimony and other tangible evidence in the possession of the Exchange or under the control of the Exchange, as determined in the Exchange's sole discretion, including any information obtained during the course of the Exchange's investigation, to be used by the Regulatory Compliance Department to support the allegations and proposed sanctions in the notice of charges, except for information protected by attorney-client privilege. The Regulatory Compliance Department may redact, edit or code information that could adversely affect the competitive position of the person providing the information or if such information might compromise other investigations being conducted by the Regulatory Compliance Department. However, the Regulatory Compliance Department may not redact, edit or code information that would impair the Respondent's ability to defend against allegations or proposed sanctions in the notice of charges. For purposes of this RULE 710, information that could adversely affect competitive positions include positions in Contracts currently held, trading strategies employed in establishing or liquidating positions, the identity of any Participant, and the personal finances of any Person.

Rule 711 Conducting Hearings of Disciplinary Proceedings

(a) Each hearing conducted in connection with a disciplinary proceeding will be conducted privately and confidentially. Notwithstanding the confidentiality of the hearings, the Disciplinary Panel may appoint an expert to attend any hearing and assist in deliberations if such expert agrees to be subject to an appropriate confidentiality agreement.

(b) After reasonable notice to each Respondent, the Disciplinary Panel will promptly convene a hearing to conduct the disciplinary proceedings with respect to such Respondent. Parties to a disciplinary proceeding include each Respondent and the Regulatory Compliance Department.

(c) The chair of the Disciplinary Panel shall conduct the hearing as he or she may deem appropriate. The chair of the Disciplinary Panel will determine all procedural and evidentiary matters, including the admissibility and relevance of any evidence proffered. Legal counsel, other than the Chief Regulatory Officer, will provide guidance to the chair of the Disciplinary Panel on the conduct of the hearing.

(d) At each hearing, the Regulatory Compliance Department will present its case supporting the allegations and proposed sanctions in the notice of charges to the Disciplinary Panel and each Respondent that has timely filed an answer to the notice of charges in accordance with RULE 707 will be entitled to attend and participate in the hearing.

(e) Both the Regulatory Compliance Department and each Respondent may (i) present facts and evidence deemed relevant by the Disciplinary Panel, (ii) call and examine witnesses, and (iii) cross-examine witnesses called by other parties.

- (f) The formal rules of evidence will not apply during any hearing.
- (g) Each Respondent has the choice of being represented by legal counsel or other representatives, provided that no such counsel or representative shall be an employee of the Exchange or any person substantially related to the underlying investigation.
- (h) If the Respondent fails to file an answer, has filed a general denial, or if any or all of the allegations in the notice of charges are not expressly denied in the Respondent's answer, the chair of the Disciplinary Panel may limit evidence concerning any allegations not expressly denied in determining the sanctions to impose. If a Respondent fails to file an answer but appears at the hearing, the Respondent may not participate in the hearing (by calling or cross-examining witnesses, testifying in defense, presenting evidence concerning the notice of charges, or otherwise) unless the Disciplinary Panel determines that the Respondent had a compelling reason for failing to timely file an answer. If the Disciplinary Panel determines that the Respondent had a compelling reason for failing to timely file an answer, the Disciplinary Panel will adjourn the hearing and direct the Respondent to promptly file a written answer.
- (i) Reasonable notice, confirmed in writing, specifying the date, time, and place of the hearing will be given to Persons entitled or required to appear before the Disciplinary Panel. The Disciplinary Panel may impose sanctions on any Person that impedes or delays the progress of the hearing. Interlocutory appeals of rulings by the Disciplinary Panel or the chair of the Disciplinary Panel are not permitted.
- (j) If during any disciplinary proceedings the Disciplinary Panel determines that a reasonable basis exists to believe that the Respondent violated or is about to violate a Rule of the Exchange or a provision of Applicable Law other than the violations alleged in the notice of charges, the Disciplinary Panel may consider those apparent violations after providing the Respondent with an opportunity to answer the additional allegations in accordance with RULE 707. In connection with considering apparent violations pursuant to this RULE 711(j), the Disciplinary Panel may request that the Regulatory Compliance Department provide the Disciplinary Panel with any additional information related to the violations at issue.
- (k) The Exchange will arrange for any hearing conducted in connection with disciplinary proceedings to be recorded verbatim, or substantially verbatim, in a manner capable of accurate transcription. If a transcript of the hearing is requested by the CFTC staff or the Respondent, the decision of the Disciplinary Panel is appealed pursuant to RULE 715, or is reviewed by the CFTC pursuant to Section 8c of the CEA or part 9 of Chapter 38 of the CFTC Regulations, the Exchange shall produce a transcript of the hearing; provided, however, that the costs of transcribing the hearing shall be borne by the Respondent if the Respondent requests the transcript, appeals the decision of the Disciplinary Panel pursuant to RULE 715, or submits an application for the decision of the hearing panel to be reviewed by the CFTC and such application is granted.
- (l) No interlocutory appeals of any rulings made by a Disciplinary Panel or a chair of a Disciplinary Panel are permitted.

Rule 712 Decision of a Disciplinary Panel

- (a) As promptly as reasonable following a hearing, the Disciplinary Panel will issue a written order rendering its decision based on the weight of the evidence contained in the record of the disciplinary proceedings. A decision by a majority of the Disciplinary Panel will constitute a decision of the Disciplinary Panel.
- (b) The Exchange will serve each of the Respondents and the Regulatory Compliance Department with a copy of the order of the Disciplinary Panel. The order will include:
- (i) The notice of charges or summary of the charges;

- (ii) The answer, if any, or a summary of the answer;
 - (iii) A brief summary of the evidence introduced at the hearing or, where appropriate, incorporation by reference of the Investigation Report;
 - (iv) A statement of findings and conclusions concerning each charge, including a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;
 - (v) An indication of each specific Rule that the Respondent was found to have violated;
 - (vi) A declaration of all sanctions imposed against the Respondent, including the basis for such sanctions and the effective date of such sanctions; and
 - (vii) Notice of the Respondent's right to appeal pursuant to RULE 715.
- (c) The decision of the Disciplinary Panel will become final upon expiration of twenty days after the order is served on the Respondent unless a timely notice of appeal is filed in accordance with RULE 715.

Rule 713 Sanctions

- (a) After notice and opportunity for hearing in accordance with Exchange Rules, the Exchange will impose sanctions if any Participant, Authorized User, or other Person using any of the Participant's User IDs is found to have violated or to have attempted to violate a Rule of the Exchange or provision of applicable law for which the Exchange possesses disciplinary jurisdiction. All sanctions must take into account the Respondent's disciplinary history. In the event of demonstrated customer harm, any sanction must also include full customer restitution. The Exchange may impose one or more of the following sanctions or remedies:
- (i) warning letter, provided that no more than one warning letter may be issued to the same person found to have committed the same rule violation within a rolling twelve month period;
 - (ii) censure;
 - (iii) limitation on, suspension of or termination of Trading Privileges, ability to otherwise access the Gemini System and the Exchange, and/or other activities, functions or operations;
 - (iv) fine of up to \$1,000,000 for each violation of Exchange Rules or a provision of applicable law;
 - (v) restitution or disgorgement;
 - (vi) order(s) to (A) cease and desist violative conduct, (B) liquidate open positions, (C) provide additional margin or capital and/or (D) undertake to implement certain policies or procedures to reduce the likelihood of future violations; or
 - (vii) any other sanction or remedy deemed to be appropriate.
- (b) If a fine or other amount is not paid within thirty days of the date that it becomes payable, then interest will accrue on the sum from the date that it became payable at the quoted prime rate plus three percent. The Exchange has sole discretion to select the bank on whose quotations to base the prime rate. The Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its traders or supervisors.

Rule 714 **Summary Actions**

(a) Summary Suspensions. At any time, the Chief Regulatory Officer, in consultation with the Regulatory Oversight Committee, may summarily suspend, revoke, limit, or condition a Participant's Trading Privileges. The Chief Regulatory Officer must reasonably believe that suspension, revocation, limitation or condition is necessary to protect the best interest of the Exchange or the marketplace, based on relevant circumstances including (but not limited to) any of the following reasons:

- (i) failure to satisfy applicable requirements under the CEA and/or the regulations of the CFTC;
- (ii) failure to pay fees or fines or arbitration awards; and/or
- (iii) a reasonable basis for believing the best interest of the public or the Exchange is at risk and immediate action is necessary.
- (iv) Any Participant that is suspended by the Chief Regulatory Officer as a result of a summary action is to be notified at the earliest possible opportunity as appropriate considering the best interest of the marketplace. Such notice shall state:
 - (v) the exact action taken,
 - (vi) the reasons for the action, and
 - (vii) the time and date the action has or is to become effective as well as the duration of the action.
- (viii) The Respondent may file a notice of appeal pursuant to RULE 715 seeking reinstatement within twenty days after the notice of action is served on the Respondent. Otherwise, the summary action becomes final twenty days after the notice of action is served on the Respondent. The Respondent shall have the right to be represented by legal counsel in all proceedings subsequent to summary action taken pursuant to this paragraph (a).

(b) Summary Imposition of Fines. The Regulatory Compliance Department may summarily impose a fine, not to exceed \$5,000 for each violation, against any Participant for:

- (i) failure to cooperate with the Regulatory Compliance Department as required by Exchange Rules;
- (ii) failure to make timely and accurate submissions to the Exchange of notices, reports or other information required by Exchange Rules; or
- (iii) failure to keep any books and records required by Exchange Rules.
- (iv) The Regulatory Compliance Department will give notice of any fine imposed that will specify:
 - (v) the violation of the Exchange Rule for which the fine is being imposed;
 - (vi) the date of the violation for which the fine is being imposed; and
 - (vii) the amount of the fine.

Within twenty days of the service of the notice of the fine imposed, the Participant may either pay the fine or file a notice of appeal pursuant to Rule 715. Unless timely notice of appeal is filed, the fine will become final upon expiration of twenty days after the notice of fine is served

on the Participant. The Respondent shall have the right to be represented by legal counsel in all proceedings subsequent to summary action taken pursuant to this paragraph (b).

Rule 715 Appeal from Disciplinary Panel Decisions and Summary Actions

(a) Appeal Procedures. A Respondent found by the Disciplinary Panel to have violated an Exchange Rule or Applicable Law or who is subject to any summary action imposed pursuant to RULE 714 may appeal the decision within twenty days of receiving the order of the Disciplinary Panel decision or notice of summary action by filing a notice of appeal with the Chief Regulatory Officer. Except for summary suspensions imposed pursuant to paragraph (a) of RULE 714, Disciplinary Panel decisions and summary imposition of fines shall be suspended while the appeal is pending.

The Regulatory Compliance Department may request an appeal regarding a decision of or sanction imposed by the Disciplinary Panel, which decision will be suspended while the appeal is pending.

The notice of appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the appellant objects. The appellant may give notice of appeal on the grounds that:

- (i) the order or decision was arbitrary, capricious, an abuse of discretion, or not in accordance with Exchange Rules;
- (ii) the order or decision exceeded the authority or jurisdiction of the Disciplinary Panel, the disciplinary committee or the Exchange;
- (iii) the order or decision failed to observe required procedures;
- (iv) the order or decision was unsupported by the facts or evidence; or

the imposed sanctions, remedies or costs are inappropriate or unsupported by the record. The Chief Regulatory Officer will forward copies of any notice of appeal received by it to all parties to the disciplinary proceeding or summary action, as the case may be, except the appellant. On or before the twentieth day after filing a notice of appeal, the appellant must file with the Chief Regulatory Officer and serve on the Regulatory Compliance Department (or the Respondent, as applicable) a brief supporting the notice of appeal and documents supporting the brief. On or before the twentieth day after the date on which the appellant serves its supporting brief, the appellee must file and serve its brief in opposition with the Regulatory Compliance Department (or the Respondent, as applicable).

In connection with any appeal, the Regulatory Compliance Department will furnish to the Chief Regulatory Officer and to the Respondent a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal and briefs filed to support and oppose the appeal.

Within thirty days after the last submission is filed, the Board will appoint an Appeals Panel at the recommendation of the Chief Regulatory Officer, which shall be composed of not less than three individuals, at least one of whom would qualify to serve as Public Director and all of whom did not participate in any prior stage of the disciplinary proceeding. No member may serve on the Appeals Panel if such person or any person or firm with whom such person is affiliated has a financial, personal, or other direct interest or involvement in the matter. The individuals on the Appeals Panel will serve until the related proceedings are completed. The chair of the Appeals Panel will be an individual qualified to be a Public Director.

Within ten days of being notified of the appointment of the Appeals Panel, an appellant may seek to disqualify any individual named to the Appeals Panel for the reasons identified in RULE 211 or for any other reasonable grounds, by serving written notice on the Chief Regulatory Officer. By not timely filing a request for disqualification, the appellant will be deemed to have

waived any objection to the composition of an Appeals Panel. The legal counsel of the Exchange will decide the merits of any request for disqualification within his or her sole discretion.

(b) **Review by the Appeals Panel** The Appeals Panel will hold a hearing to allow parties to present oral arguments. Except for good cause shown, the review by the Appeals Panel shall only consider the record before the Disciplinary Panel, the written exceptions filed by the parties, and the oral and written arguments of the parties.

Upon completing its review, the Appeals Panel may affirm, or, only if it finds that the decision of the Disciplinary Panel that is under review meets one of the criteria listed immediately below modify or reverse the Disciplinary Panel decision or summary action under appeal. Modifications by the Appeals Panel may include increasing, decreasing or eliminating any sanction or remedy imposed, imposing any other sanction or remedy authorized by Exchange Rules, remanding the matter to the same or a different Disciplinary Panel for further disciplinary proceedings, or ordering a new hearing.

As described in the immediately preceding paragraph, the Appeals Panel may modify or reverse any decision of the Disciplinary Panel or summary action under appeal only if it finds that the decision was:

- (i) Arbitrary, capricious, or an abuse of the discretion of the Disciplinary Panel;
- (ii) In excess of the authority or jurisdiction of the Disciplinary Panel, or;
- (iii) Based on a clearly erroneous application or interpretation of the Rules.

As promptly as reasonably possible following its review, the Appeals Panel will issue a written decision based on the weight of the evidence before the Appeals Panel. The decision of the Appeals Panel will include a statement of findings of fact and conclusions for each finding, sanction, remedy and cost reviewed on appeal, including each specific Exchange Rule and provision of applicable law that the Respondent is found to have violated, if any, and the imposition of sanctions, remedies and costs, if any, and the effective date of each sanction, remedy or cost. The order by the Appeals Panel will be the final action of the Exchange and will not be subject to further appeal within the Exchange.

Rule 716 Rights and Responsibilities After Suspension or Termination

(a) When the Participant's right to access the Exchange, or the association of an Authorized User with a Participant, is suspended for a period of twelve months or less, none of its rights (including the right to hold oneself out to the public as a Participant; enter Orders into the Exchange; and receive Participant rates for fees, costs, and charges) will apply during the period of the suspension, except for the right of the Participant or Authorized User in question to assert claims against others as provided in the Rules. Any such suspension will not affect the rights of creditors under the Rules or relieve the Participant or Authorized User in question of its, his, or her obligations under the Rules to perform any Transactions entered into before the suspension, or for any Exchange fees, costs, or charges incurred during the suspension. The Exchange may discipline a suspended Participant or Authorized User under this CHAPTER 7 for any violation of Applicable Law committed by the Participant before, during, or after the suspension.

(b) When the Participant's right to access the Exchange, or the association of an Authorized User with a Participant, is terminated, all of its rights will terminate, except for the right of the Participant or Authorized User in question to assert claims against others, as provided in the Rules. Any such termination will not affect the rights of creditors under the Rules. A terminated Participant or Authorized User may only seek to reinstate its right to access the Exchange by filing an application in accordance with CHAPTER 3 of the Rules. The Exchange will not consider the application of a terminated Participant or Authorized User if such Participant or

Authorized User continues to fail to appear at Disciplinary Actions without good cause, or continues to impede the progress of Disciplinary Actions.

(c) A suspended or terminated Participant or Authorized User remains subject to the Rules and the jurisdiction of the Exchange for acts and omissions prior to the suspension or termination, and must cooperate in any inquiry, investigation, Disciplinary Actions, appeal of Disciplinary Actions, summary suspension, or other summary action as if the suspended or terminated Participant or Authorized User still had the right to access the Exchange, or was still associated with a Participant, as the case may be.

(d) In the event of the suspension or revocation of a Participant's Trading Privileges or ability to otherwise access the Exchange, the Exchange shall seek to facilitate the transfer of any customer accounts traded by such Participant to other Participants with Trading Privileges or ability to otherwise access the Exchange (as applicable).

Rule 717 Notice to the Respondent, the CFTC, and the Public

The Exchange will provide written notice of Disciplinary Actions to the parties, the CFTC and any Regulatory Services Provider consistent with applicable CFTC Regulations. Whenever the Exchange suspends, expels, fines, or otherwise disciplines, or denies any Person access to the Exchange, the Exchange will make the public disclosures required by CFTC Regulations.

CHAPTER 8 ARBITRATION

Rule 801 In General

- (a) Participants shall arbitrate through JAMS all disputes, controversies or claims between or among themselves that relate to or arise out of any Contract or otherwise arise out of one or more Transactions made or to be made on the Exchange or subject to the Rules and that are based upon facts and circumstances that occurred at a time when the parties were Participants.
- (b) The arbitration will be conducted in New York, New York, by an arbitrator operating in accordance with the JAMS Comprehensive Arbitration Rules & Procedures in effect at the time of filing of the claim for arbitration. The arbitrator shall have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including the issuance of an injunction.
- (c) The fees and expenses of such arbitration shall be borne by the non-prevailing party, as determined by such arbitration.
- (d) Except as necessary in court proceedings to enforce this arbitration provision or an award rendered hereunder, or to obtain interim relief, neither party may disclose the existence, content or results of any arbitration hereunder without the prior written consent of the other party.

Rule 802 Customer Arbitration

- (a) Except as otherwise provided in RULE 703(b), any dispute between a Participant or any of its Supervised Persons, on the one hand, and a customer of such Participant, on the other hand, arising out of or in connection with the solicitation or acceptance of any order for execution of any Contract shall be subject to arbitration by the JAMS program in accordance with its customer arbitration rules. Except as otherwise provided in RULE 802(b), any dispute between two or more customers, or between a Participant and a customer that is not a customer of such Participant, arising out of or in connection with the solicitation or acceptance of any order for execution of any Contract shall be subject to arbitration by the JAMS arbitration program in accordance with the then prevailing JAMS Comprehensive Arbitration Rules & Procedures.
- (b) Notwithstanding RULE 802(a), the submission of any dispute involving a customer who is not an Eligible Contract Participant to arbitration shall be voluntary on the part of such customer.

Rule 803 Claims Relating to Trade Cancellations or Price Adjustments

All claims relating to trade cancellations or price adjustments pursuant to RULE 408 shall be resolved in accordance with this CHAPTER 8.

Rule 804 Notice

The Exchange will ensure that Persons subject to arbitration under this CHAPTER 8 will be provided with adequate notice of the claims presented against such Person, as well as any fees and costs that may be assessed against such Person.

Rule 805 Right to Counsel

Every Person is entitled to represent his or her own interests, be represented by counsel of his or her choosing and at his or her own expense who is admitted to practice before the highest

court in any State, by a family member, or be represented by any other non-compensated representative. An entity must be represented by an officer or owner of the entity or by counsel.

Rule 806 **Exceptions**

This CHAPTER 8 does not apply in any respect to (i) disputes between Participants that: (x) such Participants are required by the rules of a Self-Regulatory Organization to submit to the dispute resolution procedures of that Self-Regulatory Organization; or (y) that such Participants have, by valid and binding agreement, committed to negotiate or litigate in a forum other than the JAMS arbitration program; or (ii) disputes between any party and the Exchange or any Director, Officer, other employee or other associated person of the Exchange, as all such disputes are addressed by arbitration provision in the Exchange "User Agreement".

Rule 807 **Penalties.**

(a) Any failure on the part of a Participant to arbitrate a dispute subject to this CHAPTER 8, or the commencement by any such person of a suit in any court prior to arbitrating a case subject to this CHAPTER 8, violates the Rules and shall subject such Participant to Disciplinary Action pursuant to CHAPTER 7.

(b) The Exchange may summarily suspend, pursuant to RULE 714, a Participant that fails to timely satisfy an arbitration award rendered in any arbitration pursuant to this CHAPTER 8.

**CHAPTER 9
MISCELLANEOUS**

Rule 901 Trading by Exchange Officials Prohibited; Misuse of Material, Non-Public Information

(a) Terms used in this RULE 901 and not otherwise defined in the Rules shall have the meanings set forth in CFTC Regulations §§ 1.3 and 1.59. As used in this RULE 901, the term “Exchange Official” does not include any member of the Board, a committee established by the Board, a Disciplinary Panel or Appeals Panel if such Person is not also an officer or employee of the Exchange.

(b) No Exchange Official may trade, directly or indirectly, (i) any Contract traded on or subject to the Rules or any related financial instrument, or (ii) any Contract or financial instrument where such Exchange Official has access to material non-public information concerning such Contract or financial instrument.

(c) The Chief Regulatory Officer (or, in the case of the Chief Regulatory Officer, the Board) may grant exemptions from the provisions of paragraph (a) to Exchange Officials on a case-by-case basis under circumstances which are not contrary to the purposes of this Rule and CFTC Regulation § 1.59. Such circumstances may include, but are not necessarily limited to:

(i) participation in pooled investment vehicles where such Exchange Official has no direct or indirect control over Transactions effected by or for the account of the pool;

(ii) service by such Exchange Official as an executor or administrator of an estate;

(iii) service by such Exchange Official in any other fiduciary capacity, such as an officer of a charitable organization, in which such Exchange Official receives no pecuniary benefit from the trading of Contracts or other financial instruments;

(iv) trading in Contracts or financial instruments executed on or subject to the rules of a swap execution facility, a designated contract market or a national securities exchange under circumstances in which such Exchange Official’s access to material non-public information in respect of such financial instruments is sufficiently minimal or attenuated so as to be insignificant; and

(v) such other circumstances as the Chief Regulatory Officer (or, in the case of the Chief Regulatory Officer, the Board) may determine.

(d) For the avoidance of doubt, participation by an Exchange Official in a retirement plan sponsored by the Exchange shall not be deemed to constitute trading directly or indirectly in a Contract or financial instrument, notwithstanding such plan’s trading of Contracts or financial instruments.

(e) Any Exchange Official that has received an exemption under clause (ii) of paragraph (c) must:

(i) furnish to the Exchange (or, in the case of the Chief Regulatory Officer, to the Board) account statements and other documents relevant to the trading activities that are so exempted; and

(ii) inform the Chief Regulatory Officer (or, in the case of the Chief Regulatory Officer, the Board) within one business day of any material change of information that may affect such Exchange Official’s qualification for such exemption.

(f) Exchange Officials, agents and independent contractors of the Exchange are prohibited from disclosing material non-public information obtained as a result of their employment,

agency relationship or engagement with the Exchange where the Exchange Official, agent or independent contractor expected or should have reasonably expected that the information disclosed may assist a Person in trading any Contract, any Contract traded on another designated contract market or other market, or any related underlying commodity or security.

Rule 902 Proprietary Information

(a) Each Participant, on behalf of itself and each of its Affiliates, Authorized Users and other Persons affiliated with any of the foregoing, hereby acknowledges and agrees that the Exchange owns and shall retain all rights, including but not limited to intellectual property rights, title and interest in and to the Exchange, all components thereof, including without limitation all related applications, all application programming interfaces, user interface designs, software and source code, and all data or information of any kind transmitted onto the Exchange, including, without limitation all registered or unregistered, as applicable (i) copyright, (ii) trade mark, (iii) service mark, (iv) trade secret, (v) trade name, (vi) data or database rights, (vii) design rights, (viii) moral rights, (ix) inventions, whether or not capable of protection by patent or registration, (x) rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, (xi) patent, and (xii) other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Exchange and all other related proprietary rights of the Exchange and/or any of its Affiliates (together, with any and all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing, the “**Proprietary Information**”). Each Participant, on behalf of itself and each of its Affiliates, Authorized Users and other Persons affiliated with any of the foregoing, further acknowledges and agrees that the Proprietary Information is the exclusive, valuable and confidential property of the Exchange. Each Participant acknowledges and agrees that it shall not and shall not permit its Affiliates, Authorized Users and other Persons affiliated with any of the foregoing to, reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Exchange or the Proprietary Information. Each Participant, further agrees to and to cause each of its Affiliates, Authorized Users and other Persons affiliated with any of the foregoing to, keep the Proprietary Information confidential and not to transfer, rent, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Exchange or any Proprietary Information.

(b) All Participants and all employees, agents, vendors, and other Persons affiliated with the foregoing understand and acknowledge that the Exchange has a proprietary interest in:

(i) the price and quantity data from each and every Transaction, including the time at which the Transaction was executed by, or submitted to, the Exchange and the User ID under which it was entered (as well as other information identifying persons involved in the Transaction);

(ii) the price and quantity data of each bid and offer submitted to the Exchange, including the time at which such bid or offer was submitted to the Exchange;

(iii) the yield curves prepared by the Exchange;

(iv) any data and information derived from (i), (ii) and (iii) and the format and presentation thereof; and

(v) the transmissions and dissemination of the data and information to Participants, any publisher of the data or information with whom the Exchange has a written agreement, and any other Persons.

(c) Notwithstanding any other provision of this RULE 902, each Participant retains only such rights as it may enjoy under applicable law with respect to market data solely in the form such market data was submitted to the Exchange by such Participant and its Authorized Users.

(d) Subject to the provisions of paragraph (a), all Participants, Authorized Users and other Persons affiliated with either of the foregoing hereby acknowledge and agree that the Exchange is the owner of all rights, title and interest in and to all intellectual property and other proprietary rights (including all copyright, patent, trademark or trade secret rights) in market data, and all derivative works based thereon, and further agree not to distribute, create derivative works based on, or otherwise use or commercially exploit market data and any such derivative works, provided that Participants, Authorized Users and such other Persons may use market data for their own internal business purposes. Without limiting the generality of the foregoing, Participants, Authorized Users and other Persons affiliated with any of the foregoing may not distribute, sell or retransmit market data from the Exchange to any third party.

(e) Notwithstanding any other provision of this RULE 902, except as may otherwise be required by law or permitted by RULE 216 or in any written agreement between the Exchange and such Participant, the Exchange shall not disclose market data other than on an aggregated basis that does not directly or indirectly identify individual Participants.

Rule 903 Recording of Communications

The Exchange or the Regulatory Services Provider may record conversations and retain copies of electronic communications between Exchange Officials and Participants, their Authorized Users or other agents. Any such recordings may be retained by the Exchange or the Regulatory Services Provider in such manner and for such periods of time as the Exchange may deem necessary or appropriate, including as may be required by Applicable Law.

Rule 904 Communications between the Exchange and Participants

Each Participant must provide the Exchange with its current electronic mail address and the electronic mail address of any of its Authorized Users and immediately (and in any event within 24 hours) update that address whenever it changes. All communications between the Exchange and the Participant will be transmitted by electronic mail and/or posted on the Exchange website, except as otherwise specified by the Exchange. The Participant shall be responsible for conveying such communications to Persons to whom the Participant has given its User IDs. Each Participant will be responsible for promptly reviewing and, if necessary, responding to all electronic communications from the Exchange to the Participant or any of its Authorized Users, its other Supervised Persons or any Person to whom it has given User ID(s) assigned to it by the Exchange. The Regulatory Services Provider will have access to such communications to the extent required to perform certain regulatory services to the Exchange pursuant to the Regulatory Services Agreement. All communications made to Participants shall also be deemed to have been made to all Authorized Users and Supervised Persons.

Rule 905 Confidentiality

Except as provided in RULE 902, all information provided by a Participant to the Exchange shall be held in confidence and shall not be made known to any other Person except as follows:

- (a) with the consent of the Participant providing such information;
- (b) to a Governmental Authority or the regulatory authority of any foreign jurisdiction, if the Exchange is requested or legally required to do so by such Governmental Authority;
- (c) pursuant to legal process;
- (d) to a Clearing House in connection with the clearing of a Contract;
- (e) subject to appropriate confidentiality requirements, to any Person providing services to the Exchange, including but not limited to the Regulatory Services Provider;

(f) to the Board, any committee, Exchange Officials, attorneys and auditors, and to agents and independent contractors that have been engaged by the Exchange who require such information in connection with the discharge of their duties to the Exchange; and

(g) as otherwise permitted under the Rules.

Rule 906 Extension or Waiver of Rules

The Exchange may, in its sole discretion, waive, or extend the time period for performing, any act or acts designated by the Rules, but only to the extent such waiver or extension is not inconsistent with Applicable Law.

Rule 907 Signatures

Rather than rely on an original signature, the Exchange may elect to rely on a signature that is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, photocopying, electronic mail, electronic data interchange, telegram, or telex) as if it were (and the signature shall be considered and have the same effect as) a valid and binding original.

Rule 908 Governing Law; Legal Proceedings

The Rules, and the rights and obligations of the Exchange and Participants under the Rules, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed wholly within the State of New York without regard to any provisions of New York law that would apply the substantive law of a different jurisdiction.

(a) Any action, suit or proceeding against the Exchange, its officers, directors, limited liability company members, employees, agents, or any member of any committee must be brought within one year from the time that a cause of action has accrued. Any such action, suit or proceeding shall be brought in the State or Federal courts located within New York, New York. Each Participant expressly consents, for itself and its Authorized Users, to the jurisdiction of any such court, waives any objection to venue therein, and waives any right it may have to a trial by jury.

(b) In the event that a Participant or an Affiliate of such Participant who fails to prevail in a lawsuit or other legal proceeding instituted by such Participant or such Affiliate against (i) the Exchange or (ii) any Affiliate of the Exchange or any of their respective officers, directors, equity holders, employees, agents, or any member of any committee, and related to the business of the Exchange, such Participant shall pay to the Exchange all reasonable expenses, including attorneys' fees, incurred by the Exchange in the defense of such proceeding. This paragraph (c) shall not apply to Exchange disciplinary actions, appeals thereof, or an instance in which the Board has granted a waiver of the provisions hereof.

Rule 909 LIMITATION OF LIABILITY; NO WARRANTIES

PARTICIPANT'S USE OF THE SERVICES, THE GEMINI SYSTEM, THE GEMINI EXCHANGE AND ANY OTHER INFORMATION AND MATERIALS PROVIDED BY GEMINI, IS AT PARTICIPANT'S OWN RISK, AND THE SERVICES, THE GEMINI EXCHANGE AND ANY OTHER INFORMATION AND MATERIALS PROVIDED BY GEMINI HEREUNDER ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, BY STATUTE, COMMON LAW OR OTHERWISE INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. GEMINI DOES NOT GUARANTEE THAT (I) THE GEMINI EXCHANGE OR THE SERVICES WILL OPERATE IN AN ERROR FREE, SECURE OR UNINTERRUPTED MANNER, (II) ANY

INFORMATION OR MATERIALS PROVIDED BY GEMINI OR ACCESSIBLE THROUGH THE GEMINI EXCHANGE WILL BE ACCURATE, COMPLETE, RELIABLE, OR TIMELY, OR (III) THE GEMINI EXCHANGE OR ANY ASPECTS OF THE SERVICES WILL BE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. GEMINI SHALL HAVE NO LIABILITY FOR THE CREDITWORTHINESS OF ANY PARTICIPANT OR FOR THE ACTS OR OMISSIONS OF ANY AUTHORIZED USER UTILIZING THE SERVICES OR ANY ASPECT OF THE SERVICES OR GEMINI SYSTEM. PARTICIPANT ACKNOWLEDGES THAT PARTICIPANT'S ACCESS TO THE GEMINI SYSTEM AND THE SERVICES IS INTERNET- BASED AND THAT GEMINI HAS NO CONTROL OVER THE INTERNET OR PARTICIPANT'S CONNECTIONS THERETO. PARTICIPANT FURTHER ACKNOWLEDGES THAT THE INTERNET, COMPUTER NETWORKS, AND COMMUNICATIONS LINKS AND DEVICES NECESSARY TO ENABLE PARTICIPANT TO ACCESS AND USE THE GEMINI SYSTEM AND THE SERVICES ARE INHERENTLY INSECURE AND VULNERABLE TO ATTEMPTS AT UNAUTHORIZED ENTRY AND THAT NO FORM OF PROTECTION CAN ENSURE PARTICIPANT'S DATA, HARDWARE, OR SOFTWARE OR THE GEMINI SYSTEM OR OTHER GEMINI EXCHANGE WILL BE FULLY SECURE. FURTHERMORE, GEMINI SHALL HAVE NO OBLIGATION TO MONITOR OR VERIFY ANY INFORMATION DISPLAYED THROUGH THE GEMINI SYSTEM.

EXCLUDING ANY LIABILITY FOR SUCH PARTY'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, AND EXCLUDING, IN THE CASE OF PARTICIPANT, PARTICIPANT'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 10 OF THE PARTICIPANT AGREEMENT, EACH PARTY AGREES THAT IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OR CORRUPTION OF DATA, TRADING LOSSES OR BUSINESS INTERRUPTION AND THE LIKE, ARISING IN ANY MANNER WHATSOEVER OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY USE (WHETHER OR NOT AUTHORIZED) OR INABILITY TO USE THE GEMINI EXCHANGE OR ANY OTHER INFORMATION OR MATERIALS PROVIDED TO PARTICIPANT BY GEMINI OR ACCESSIBLE THROUGH THE SERVICES, INCLUDING THE ACCURACY, COMPLETENESS, RELIABILITY, TIMELINESS, QUALITY, SECURITY, PERFORMANCE, OR PRICING OF THE SERVICES OR ANY FAILURES, DEGRADATIONS OR DELAYS ASSOCIATED THEREWITH, REGARDLESS OF WHETHER SUCH DAMAGES ARISE IN TORT, CONTRACT, OR OTHERWISE, AND EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, IF A COURT OR OTHER TRIBUNAL OF COMPETENT JURISDICTION SHOULD FIND GEMINI LIABLE FOR ANY LOSS, DAMAGE OR EXPENSES UNDER THIS AGREEMENT, THE AGGREGATE LIABILITY OF GEMINI UNDER THE AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL IN NO EVENT EXCEED THE GREATER OF (i) \$10,000 OR (ii) THE TOTAL COMMISSIONS, FEES, OR OTHER AMOUNTS (EXCLUDING ANY APPLICABLE TAXES AND DUTIES) PAID TO GEMINI BY PARTICIPANT DURING THE SIX MONTHS PRECEDING THE DATE ON WHICH THE EVENTS GIVING RISE TO SUCH LIABILITY AROSE.

ANY CLAIM FOR REDRESS OR DAMAGES HEREUNDER SHALL BE FILED IN A COURT OF COMPETENT JURISDICTION WITHIN TWO YEARS OF THE DATE ON WHICH SUCH CLAIM ALLEGEDLY AROSE. FAILURE TO INSTITUTE LITIGATION WITHIN SUCH TIME PERIOD SHALL BE DEEMED TO BE A WAIVER OF SUCH CLAIM AND THE CLAIM SHALL BE OF NO FURTHER FORCE OR EFFECT. THE ALLOCATIONS OF LIABILITY IN THIS RULE 909 REPRESENT THE AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES, AND EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTY'S RIGHTS AND OBLIGATIONS HEREUNDER REFLECT SUCH ALLOCATIONS. THE PARTIES AGREE THAT THEY WILL NOT ALLEGE THAT THIS REMEDY FAILS ITS ESSENTIAL PURPOSE.

PARTICIPANT FURTHER AGREES THAT THE PROVISIONS OF THE RULES OF THE CLEARING HOUSE LIMITING THE LIABILITY OF THE CLEARING HOUSE TO ITS MEMBERS SHALL APPLY TO PARTICIPANT AS FULLY AS IF PARTICIPANT WERE A

MEMBER OF THE CLEARING HOUSE MUTATIS MUTANDIS.

[APPENDIX A – REPORTING LEVELS AND POSITION LIMITS]

Position Limits and Reporting Levels

Exchange Contract	Spot Month Position Limit	Reportable Level