

Effective Date: ~~03.124.23~~.2020

TW SEF LLC

SWAP EXECUTION FACILITY

RULES

enforce a Breakage Agreement with another Participant or Trading Customer, or require such an agreement as a condition to trading with such other Participant or Trading Customer on or pursuant to the Rules of the SEF in respect of a Cleared Swap.

1005. Execution and Submission to Clearing of New Swap/Old Terms and New Swap/Corrected Terms

- (a) A New Swap/Old Terms or New Swap/Corrected Terms may be executed, exempt from the prohibitions in Rule 614(b), and submitted for clearing, only in accordance with the provisions of this Rule 1005.
- (b) Definitions.
 - (i) *DCO Rejected Swap.* A “DCO Rejected Swap” means a Swap (other than a New Swap/Old Terms) intended to be cleared that is executed on or pursuant to the Rules of the SEF and is either:
 - (A) rejected from clearing by the relevant DCO as a result of a clerical or operational error or omission made by the Company, a counterparty to the Cleared Swap or a Participant, Trading Customer or other agent acting on behalf of such counterparty, or
 - (B) a component of a Package Transaction rejected from clearing by the relevant DCO because of the sequencing of the submission to the DCO of the components of the Package Transaction for clearing and not because the cleared components of the Package Transaction as a whole breached or would have breached a credit limit.
 - (ii) *Cleared Error Swap.* A “Cleared Error Swap” means a Cleared Swap executed on the SEF with respect to which the counterparties identify an error after the Swap is accepted for clearing by the relevant DCO.
 - (iii) *New Swap/Old Terms.* A “New Swap/Old Terms” means:
 - (A) with respect to a DCO Rejected Swap, a swap executed on or pursuant to the Rules of the SEF and submitted for clearing in accordance with the provisions of Rule 1005(c), whose terms are identical, other than as to time of execution, to the terms of the related DCO Rejected Swap;
 - (B) with respect to a Cleared Error Swap, a swap executed on or pursuant to the Rules of the SEF and submitted for clearing in accordance with the provisions of Rule 1005(d), for the purpose of offsetting and extinguishing the Cleared Error Swap, whose terms, other than time of execution, are identical to the terms of the related Cleared Error Swap, but on the opposite side of the market.
 - (iv) *New Swap/Corrected Terms.* A “New Swap/Corrected Terms” means, with respect to a Cleared Error Swap, including a Cleared Error Swap that is a component Swap of a Package Transaction, a swap executed on or pursuant to the Rules of the SEF and submitted for clearing in accordance with the provisions of Rule 1005(d), whose terms, other than time of execution, reflect the terms to which the original counterparties or intended counterparties mutually assented when they executed the related Cleared Error Swap.

(c) New Swap/Old Terms following a DCO Rejected Swap.

(i) A counterparty (or, if applicable, the Introducing Agent or Account Manager acting on behalf of a counterparty) to a DCO Rejected Swap may, either: (a) enter into an offsetting trade to correct the DCO Rejected Swap, as quickly as technologically practicable (but no later than one hour after the DCO Rejected Swap was rejected from clearing or (b) as quickly as technologically practicable after receipt from the Company of notice of the Cleared Swap's rejection from clearing (but in any case no later than 30 minutes from the issuance of a notice of rejection by the relevant DCO to such Clearing Member), provide to the Company:

(A) a description of the clerical or operational error or omission that caused the DCO Rejected Swap to be rejected from clearing or, in the case of a component Swap of a Package Transaction, a description of the clearing sequencing that caused the rejection of such component Swap from clearing;

(B) the unique swap identifier (as that term is defined in CFTC Regulations) for the DCO Rejected Swap and any additional information reasonably requested by the Company; and

(C) a representation that the swap qualifies as a DCO Rejected Swap, which, subject to Section 1005(c)(iii)(A), shall be accompanied by a request by both counterparties (or, if applicable, the Introducing Agent or Account Manager acting on behalf of any such counterparty) for submission by the Company to the relevant DCO of a New Swap/Old Terms, to correct such clerical or operational error or omission.

~~(ii) Upon receipt of the information listed in Rule 1005(c)(i) above, Upon electing to enter into an offsetting trade, as described in Rule 1005(c)(i), a counterparty (or, if applicable, the Introductory Agent or Account Manager acting on behalf of a counterparty) must provide the Company:~~

~~(A) the information requested in Rule 1005(c)(i)(A)-(B);~~

~~(B) a representation that the Swap qualifies as a DCO Rejected Swap and that the DCO Rejected Swap contained clerical or operational errors; and~~

~~(C) the material terms of the DCO Rejected Swap, offsetting trade and correct Swap~~

~~(iii) Upon receipt of the information listed in Rule 1005(c)(ii), the Company shall promptly conduct an ex post facto review of the DCO Rejected Swap, the offsetting trade, and the correct Swap on a T+1 basis. The ex post facto review shall be consistent with the standards set forth in Rule 407(c) and the Company shall make an affirmative finding that an operational or clerical error occurred with respect to the DCO Rejected Swap.~~

~~(ii)(iv) Upon receipt of the information listed in Rule 1005(c)(i), the Company shall promptly make an affirmative finding as to whether the original Swap qualifies as a DCO Rejected Swap consistent with the standards set forth in Rule 407(c).~~

~~(iii)(v) Upon making an affirmative finding that the original Swap qualifies as a DCO Rejected Swap, and that the execution of a New Swap/Old Terms would be~~

consistent with the standards set forth in Rule 407(c), the Company will determine whether it is able to determine how to correct the error.

- (A) If the Company is able to determine how to correct the error, the Company may execute a New Swap/Old Terms, without obtaining the consent of the counterparties, and submit it to the relevant DCO for clearing, as soon as technologically practicable.
- (B) If the Company is not able to determine how to correct the error, it may seek guidance from the counterparties to the original Cleared Swap on how to address the error, and in such case, shall only submit a New Swap/Old Terms after obtaining consent from the counterparties.
- (C) In no event shall a New Swap/Old Terms be executed pursuant to this Rule 1005(c)(i) later than 60 minutes from the issuance of a notice of rejection by the relevant DCO to the relevant Clearing Members.
- (D) Execution of a New Swap/Old Terms must comply with the obligations set out in Rule 1003, including that any New Swap/Old Terms be screened against applicable Risk-Based Limits in accordance with Rule 1003.

~~(iv)~~(vi) Upon making an affirmative finding that the original Swap does not qualify as a DCO Rejected Swap, the Company shall provide notice of such determination to the counterparties to the DCO Rejected Swap.

~~(v)~~(vii) If a New Swap/Old Terms is rejected from clearing by the relevant DCO, it shall be deemed void ab initio, and the Company will not provide the parties to such New Swap/Old Terms a second opportunity to enter into a New Swap/Old Terms.

(d) New Swap/Old Terms and New Swap/Corrected Terms following a Cleared Error Swap.

(i) A counterparty (or, if applicable, the Introducing Agent or Account Manager acting on behalf of a Trading Customer or Client Account) to a Cleared Error Swap may, ~~as quickly as technologically practicable~~ either: (a) enter into an offsetting trade to correct the Cleared Error Swap, as quickly as technologically practicable (but no later than 24 hours after the Cleared Error Swap was executed); provided that, the procedures described in Rule 1005(d)(ii) are followed or (b) as quickly as technologically practicable, after its determination of the existence of such Cleared Error (but in any case no later than 3 days after the Cleared Error Swap was executed), provide to the Company:

- (A) a description of the clerical or operational error or omission in the terms of the Cleared Error Swap;
- (B) the unique swap identifier (as that term is defined in CFTC Regulations) for the DCO Rejected Swap and any additional information reasonably requested by the Company; and
- (C) a representation that the Swap qualifies as a Cleared Error Swap, which shall be accompanied by a request by both counterparties (or, if applicable, the Introducing Agent or Account Manager acting on behalf of any such counterparty) for submission by the Company to the relevant DCO of a New Swap/Old Terms to offset and extinguish the Cleared Error Swap and, if the counterparties so elect, a New

Swap/Corrected Terms to correct such clerical or operational error or omission.

~~(ii)~~ Upon receipt of the information listed in Rule 1005(d)(i) above, Upon electing to enter into an offsetting trade, as described in Rule 1005(d)(i), a counterparty (or, if applicable, the Introducing Agent or Account Manager acting on behalf of a Trading Customer or Client Account) must provide the Company:

(A) the information requested in Rule 1005(d)(i)(A)-(B);

(B) a representation that the Swap qualifies as a Cleared Error Swap and that the Cleared Error Swap contained clerical or operational errors; and

(C) the material terms of the Cleared Error Swap, offsetting trade and correct Swap.

~~(iii)~~ Upon receipt of the information listed in Rule 1005(d)(ii), the Company shall promptly conduct an ex post facto review of the Cleared Error Swap, the offsetting trade, and the correct Swap on a T+1 basis. The ex post facto review shall be consistent with the standards set forth in Rule 407(c) and the Company shall make an affirmative finding that an operational or clerical error occurred with respect to the Cleared Error Swap.

~~(iv)~~ Upon receipt of the information listed in Rule 1005(d)(i), the Company shall promptly make an affirmative finding as to whether the original Swap qualifies as a Cleared Error Swap and whether the execution of a New Swap/Old Terms and, if applicable, a New Swap/Corrected Terms would be consistent with the standards set forth in Rule 407(c).

~~(v)~~ Upon making an affirmative finding that the original Swap is a Cleared Error Swap, and that the execution of a New Swap/Old Terms and, if applicable, a New Swap/Corrected Terms would be consistent with the standards set forth in Rule 407(c), the Company will determine whether it is able to determine how to correct the error.

(A) If the Company is able to determine how to correct the error, the Company may execute a New Swap/Old Terms and New Swap/Corrected Terms, as necessary, without obtaining the consent of the counterparties, and submit such Swaps to the relevant DCO for clearing, as soon as technologically practicable.

(B) If the Company is not able to determine how to correct the error, it may seek guidance from the counterparties to the original Cleared Error Swap on how to address the error, and in such case, shall only submit a New Swap/Old Terms and, if applicable, a New Swap/Corrected Terms after obtaining consent from the counterparties.

(C) In no event, shall a New Swap/Old Terms or a New Swaps/Corrected Terms be executed pursuant to this Rule 1005(d)(i) later than 3 days after the Cleared Error Swap was executed.

(D) Execution of a New Swap/Old Terms or a New Swap/Corrected Terms must comply with the obligations set out in Rule 1003, including that any New Swap/Old Terms or New Swap/Corrected Terms be screened against applicable Risk-Based Limits in accordance with Rule 1003.

~~(iv)~~(vi) Upon making an affirmative finding that the original Swap does not qualify as a Cleared Error Swap, the Company shall provide notice of such determination to the counterparties to the Cleared Error Swap.

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- (e) Upon execution of a New Swap/Old Terms or New Swap/Corrected Terms pursuant to Rule 1005(c)(i) or 1005(d)(i) the Company shall report to the SDR to which it reported data for the original DCO Rejected Swap(s) or Cleared Error Swap(s), as applicable, the swap transaction data for the New Swap/Old Terms and New Swap/Corrected Terms pursuant to Parts 43 and 45 of the CFTC's Regulations, as well as the unique swap identifier (as that term is defined in CFTC Regulations) for the original DCO Rejected Swap(s) or Cleared Error Swap(s) and any termination, cancellation or other reporting event applicable to such swaps, as applicable.
 - (f) A counterparty (or, if applicable, the Introducing Agent or Account Manager acting on behalf of a Trading Customer or Client Account) to a DCO Rejected Swap or Cleared Error Swap shall promptly provide any and all information that the Company determines is necessary to allow the Company to execute a New Swap/Old Terms or New Swap/Corrected Terms in respect of such DCO Rejected Swap or Cleared Error Swap, as applicable.