

U.S. COMMODITY FUTURES TRADING COMMISSION

AMENDED CHARTER OF THE ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE

- (1) **Committee's Official Designation.**
The advisory committee's official designation is the Energy and Environmental Markets Advisory Committee ("EEMAC").
- (2) **Authority.**
The EEMAC was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, and subsequently codified in the Commodity Exchange Act, 7 U.S.C. §§ 1 *et seq.*, at 7 U.S.C. § 2(a)(15). Pursuant to 7 U.S.C. § 2(a)(15)(E), the EEMAC is not subject to the Federal Advisory Committee Act, 5 U.S.C. App. II.
- (3) **Objectives and Scope of Activities.**
As set forth in 7 U.S.C. § 2(a)(15)(A)(iii), the EEMAC's objectives and scope of activities shall be to:
 - (a) conduct public meetings;
 - (b) submit reports and recommendations to the Commission (including dissenting or minority views, if any); and
 - (c) otherwise serve as a vehicle for discussion and communication on matters of concern to exchanges, firms, end users, and regulators regarding energy and environmental markets and their regulation by the Commission.
- (4) **Description of Duties.**
The duties of the EEMAC shall be solely advisory. The EEMAC may, by simple majority vote, call for reports and/or recommendations by the EEMAC or EEMAC subcommittee(s), adopt reports and/or recommendations, transmit reports to the Commission, and make recommendations to the Commission. Reports and/or recommendations shall be developed in consultation with all EEMAC Members and any transmission to the Commission shall include dissenting or minority views, if any. No determination of fact or policy shall be made by the EEMAC on behalf of the Commission. Determinations of actions to be taken and policy to be expressed in response to the reports or recommendations of the EEMAC shall be made solely by the Commission.
- (5) **Agency or Official to Whom the EEMAC Reports.**
As set forth in 7 U.S.C. § 2(a)(15)(A)(iii), the EEMAC shall provide its reports and recommendations directly to the Commission.
- (6) **EEMAC Sponsor.**
The EEMAC shall have a "Sponsor," who may be the Chairman of the Commission, a Commissioner, or a designee of the Commission. The Commission shall appoint and remove the Sponsor of EEMAC.

The Sponsor's role for this non-FACA committee shall be, among other things, to:

- (a) approve all meeting agendas;
- (b) approve or call all EEMAC or subcommittee meetings;
- (c) attend all EEMAC or subcommittee meetings;
- (d) adjourn any meeting when s/he determines it to be in the public interest;
- (e) ensure that reports and recommendations made by the EEMAC are provided to the Commission (including dissenting or minority views, if any);
- (f) ensure that the Commission provides the necessary staff and other support for the EEMAC;
- (g) assist the Commission with identifying Members, Associate Members, and subcommittee members; and
- (h) otherwise assist the Commission with carrying out its responsibilities regarding the EEMAC.

(7) Support.

The Commission shall provide necessary support, including staff support, for the EEMAC.

(8) EEMAC Secretary.

At the request of the Sponsor, the Commission shall appoint a Commission employee to serve as the Secretary of the EEMAC. The Commission may appoint an additional Commission employee to serve as an Alternate Secretary for the EEMAC or any established subcommittees if necessary. The Sponsor may also request that the Commission remove the Secretary or Alternate Secretary.

The Secretary and Alternate Secretary, if appointed, shall, among other things, assist the EEMAC and Sponsor in carrying out the day-to-day activities of the EEMAC, including to:

- (a) prepare meeting agendas;
- (b) assist with Member, Associate Member, and subcommittee member appointment and removal paperwork;
- (c) assist with scheduling and coordinating EEMAC and subcommittee meetings;
- (d) ensure that meetings are publicly noticed and meeting agendas are available for public inspection;
- (e) attend all EEMAC and subcommittee meetings;
- (f) record reports and recommendations made by the EEMAC to the Commission (including dissenting or minority views, if any);
- (g) record reports and recommendations (including dissenting or minority views, if any) made by the EEMAC subcommittees to the EEMAC; and
- (h) arrange for the preparation and maintenance of EEMAC records, including meeting transcripts.

In the absence of the Sponsor, the Secretary is authorized to call EEMAC and subcommittee meetings and adjourn any meeting when the Secretary determines adjournment to be in the public interest. In the absence of the Sponsor and the Secretary,

an Alternate Secretary is authorized to call and adjourn any EEMAC and subcommittee meetings when the Alternate Secretary determines adjournment to be in the public interest.

(9) Members.

(a) Number.

As set forth in 7 U.S.C. § 2(a)(15)(A)(ii), the EEMAC shall have nine Members.

(b) Appointment and Removal.

Members shall be appointed by the Commission. Members may be removed for cause by a vote of the Commission. 7 U.S.C. § 2(a)(15)(B)(ii). The Sponsor shall designate a Member of the EEMAC or EEMAC subcommittee to serve as the Chair absent the objection of a majority of the Commission. The Sponsor may also designate another Member to serve as a co-Chair absent the objection of the majority of the Commission.

(c) Term.

Members shall be appointed to three-year terms. 7 U.S.C. § 2(a)(15)(B)(ii).

(d) Selection and Vacancies.

As set forth in 7 U.S.C. § 2(a)(15)(C), the Commission shall appoint Members that represent a wide diversity of opinions and a broad spectrum of interests, including hedgers and consumers. Members may represent viewpoint categories, including, but not limited to:

- i. Exchanges: includes designated contract markets, swap execution facilities, and/or foreign boards of trade;
- ii. Derivatives clearing organizations;
- iii. Swap data repositories;
- iv. Firms: includes, but is not limited to: swap dealers, major swap participants, futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, floor brokers, floor traders, and other service providers to market participants within the energy and environmental derivatives markets;
- v. End-users: includes, but is not limited to: energy producers, processors, transporters, manufacturers, merchandisers, purchasers, distributors, or other entities which use the energy and environmental markets to hedge;
- vi. Consumers: includes, but is not limited to: retail customers and public interest groups;
- vii. Regulators; and
- viii. Academics.

With the assistance of the EEMAC Secretary or Alternate Secretary, the EEMAC Sponsor identifies EEMAC Member candidates through a variety of methods. Such methods may include public requests for nominations for membership; recommendations sought from existing advisory committee members; consultations

with knowledgeable persons outside the CFTC (industry, consumer groups, other state or Federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the energy and environmental markets.

Following the identification process, the Secretary or Alternate Secretary assists the EEMAC Sponsor with developing a list of proposed Members with the relevant points of view. The proposed Members are then submitted by the Secretary or Alternate Secretary to appropriate CFTC Staff for review. Finally, the Secretary or Alternate Secretary with the support of Office of General Counsel staff assists the EEMAC Sponsor with making membership recommendations to the Commission. The Commission, by vote, authorizes membership on the EEMAC.

Each Member who is not a regular government employee shall serve on the EEMAC either as a special government employee ("SGE") or a representative of an organization or identifiable group of persons under the jurisdiction of, or with interests affected by, Commission regulation.

SGE Members provide advice to the Commission on the basis of their expertise and best, independent judgement in a manner free from conflicts of interest. The Commission shall not appoint any federally registered lobbyist to serve as an SGE on the EEMAC.

Representative Members serve on the EEMAC primarily to convey to the Commission and to the EEMAC the views and interests of the organizations or groups that they represent.

If there is any Member vacancy, the Commission will make a replacement appointment, using the same procedures and with the same considerations as set forth above for other Member appointments.

(e) Travel Expenses Reimbursement and Per Diem.

Each Member shall be entitled to per diem and travel expense reimbursement by the Commission, pursuant to 7 U.S.C. § 2(a)(15)(D), unless a Member chooses to waive his or her right to receive per diem and travel expenses reimbursement.

(10) Associate Members.

(a) Number.

The EEMAC shall may approximately 9-20 Associate Members.

(b) Appointment and Removal.

The Commission may appoint or remove Associate Members at any time.

(c) Term.

Associate Members may be appointed to one, two, or three-year terms.

(d) Selection.

The Commission shall appoint Associate Members that represent a wide diversity of opinions and a broad spectrum of interests, including hedgers and consumers. Associate Members may represent viewpoint categories, including, but not limited to:

- i. Exchanges: includes designated contract markets, swap execution facilities, and/or foreign boards of trade;
- ii. Derivatives clearing organizations;
- iii. Swap data repositories;
- iv. Firms: includes, but is not limited to: swap dealers, major swap participants, futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, floor brokers, floor traders, and other service providers to market participants within the energy and environmental derivatives markets;
- v. End-users: includes, but is not limited to: energy producers, processors, transporters, manufacturers, merchandisers, purchasers, distributors, or other entities which use the energy and environmental markets to hedge;
- vi. Consumers: includes, but is not limited to: retail customers and public interest groups;
- vii. Regulators; and
- viii. Academics.

With the assistance of the EEMAC Secretary or Alternate Secretary, the EEMAC Sponsor identifies Associate Member candidates through a variety of methods. Such methods may include public requests for nominations for membership; recommendations sought from existing advisory committee members; consultations with knowledgeable persons outside the CFTC (industry, consumer groups, other state or Federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the energy and environmental markets.

Following the identification process, the Secretary or Alternate Secretary assists the EEMAC Sponsor with developing a list of proposed Associate Members with the relevant points of view. The proposed Associate Members are then submitted by the Secretary or Alternate Secretary to appropriate CFTC Staff for review. Finally, the Secretary or Alternate Secretary with the support of Office of General Counsel staff assists the EEMAC Sponsor with making membership recommendations to the Commission. The Commission, by vote, authorizes Associate Members of the EEMAC.

Each Associate Member who is not a regular government employee shall serve as either an SGE or a representative of an organization or identifiable group of persons under the jurisdiction of, or with interests affected by, Commission regulation.

SGE Associate Members provide advice to the Commission on the basis of their expertise and best, independent judgment in a manner free from conflicts of interest.

The Commission shall not appoint any federally-registered lobbyist to serve as an SGE Associate Member of the EEMAC.

Representative Associate Members will serve on the EEMAC primarily to convey to the EEMAC the views and interests of the organizations or groups that they represent.

If there is an Associate Member vacancy, the Commission may make a replacement appointment. The Commission shall use the same procedures and with the same considerations as set forth above for other Associate Member appointments.

(e) Travel Expenses Reimbursement and Per Diem.

Associate Members will not be compensated by the Commission for their services and will not be reimbursed or receive per diem from the Commission for travel-related expenses to attend EEMAC meetings.

(f) Reporting.

Associate Members shall provide their reports and recommendations directly to the EEMAC and not the Commission, Commissioners, Commission staff, or other Federal employees. Associate Members shall not have the right to vote on matters before the EEMAC and may not sign or otherwise formally approve reports or recommendations made by the EEMAC to the Commission.

(11) Subcommittees.

(a) Establishment.

The Commission may establish and dissolve subcommittees composed of Members, Associate Members, and/or other persons appointed by the Commission as subcommittee members to support the work of the EEMAC. The number of individuals on any EEMAC subcommittee will not exceed the total number of Members and Associate Members.

(b) Membership.

EEMAC subcommittee membership shall be selected, appointed, and removed in the same manner as Associate Members. Current EEMAC Members and Associate Members may, with the Sponsor's approval, serve on any EEMAC subcommittee without reappointment to a subcommittee. EEMAC subcommittee members shall be subject to the same restrictions and limitations that apply to Associate Members set forth above (*i.e.*, term, selection, and travel expenses reimbursement and per diem).

(c) Reporting.

EEMAC Subcommittees shall report directly to the EEMAC and not to the Commission, Commissioners, Commission staff, or other Federal employees. An EEMAC subcommittee may, by simple majority vote, adopt its reports and/or recommendations, transmit reports to the EEMAC, and make recommendations to the EEMAC. Reports and/or recommendations shall be developed in consultation with all membership of the EEMAC subcommittee and any transmission to the EEMAC

shall include dissenting or minority views, if any. EEMAC subcommittees shall have no authority to make decisions on behalf of the EEMAC. No determination of fact or policy shall be made by any EEMAC subcommittee on behalf of the Commission. EEMAC subcommittee members shall not have the right to vote on matters before the EEMAC and may not sign or otherwise formally approve reports and/or recommendations made by EEMAC to the Commission.

(12) Estimated Number and Frequency of Meetings.

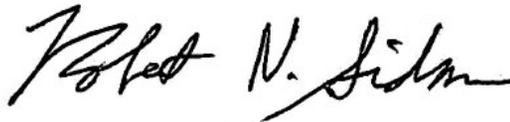
The EEMAC shall meet at such intervals as are necessary to carry out its functions, but as required by 7 U.S.C. § 2(a)(15)(B)(i), shall not meet less frequently than two times per year.

(13) Notice for Public Meetings.

The Commission shall provide public notice of each EEMAC meeting at least 14 calendar days in advance of the meeting through either a Federal Register notice and/or by announcing the meeting on the Commission's website. The meeting notice will include the time, date, and purpose of the meeting; a summary of the agenda and/or topics to be discussed, and the name of a Commission employee who can be contacted with questions about the meeting.

(14) Recordkeeping.

Records of the EEMAC and any subcommittees are maintained in accordance with the General Records Schedule and other Commission records guidance.



Robert N. Sidman
Deputy Secretary of the Commission

Dated: September 30, 2020
Washington, D.C.