

**GFI FUTURES EXCHANGE LLC  
RULEBOOK**

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## CHAPTER 1 DEFINITIONS

### 101. Definitions

Unless otherwise specifically provided in the Rules or the context otherwise requires, the terms defined in this Chapter have the meanings specified herein for all purposes of the Rules.

“**Affiliate**” means an “Affiliate” of, or a Person “Affiliated” with, another Person is a Person who, directly or indirectly, controls, is controlled by, or is under common control with, such other Person.

“**Appeal Panel**” means an appeal panel the members of which will be appointed in accordance with Rule 701(g).

“**Applicable Law**” means, with respect to any Person, any statute, law, regulation, rule or ordinance of any Regulatory Authority applicable to such Person, including the CEA, CFTC Regulations and, to the extent applicable to such Person, similar foreign laws or regulations.

“**Block Trade**” means a privately negotiated transaction in Contracts of the type and exceeding the minimum quantity set forth in Rule 601.

“**Board**” means the board of directors of the Exchange constituted in accordance with the limited liability company agreement of the Exchange and these rules.

“**Business Day**” means any day on which the Exchange is open for trading.

“**CEA**” means the Commodity Exchange Act.

“**CFTC**” means the Commodity Futures Trading Commission.

“**CFTC Regulations**” means the rules, regulations and orders promulgated by the CFTC.

“**Chairman**” means the individual serving as chairman of the board of the Exchange from time to time.

“**Chief Executive Officer**” means the individual appointed by the Board as the Exchange’s chief executive officer.

“**Chief Regulatory Officer**” means the individual appointed by the Board as the Exchange’s chief regulatory officer.

“**Clearing Firm**” means a member or participant of the Derivatives Clearing Organization that is authorized pursuant to the rules of the Derivatives Clearing Organization to clear trades in any or all Contracts.

“**Commodity**” has the meaning set forth in Section 1a(4) of the CEA.

“**Compliance Department**” means employees of the Exchange designated by the Exchange as members of the Compliance Department and agents of the Exchange (including any Regulatory Services Provider) that assist the Exchange in the implementation, surveillance, and enforcing of its rules and related obligations.

“**Contract**” means any Swap or any other contract, agreement or transaction approved for trading on or pursuant to the Rules of the Exchange.

“**CTI code**” has the meaning given to it in Rule 506(e).

“**Customer**” means any Person for whom a Participant carries an account (other than a “proprietary account,” as such term is defined in CFTC Regulations) or from whom a Participant solicits or accepts an Order.

“**Derivatives Clearing Organization**” has the meaning given that term in the CEA and CFTC Regulations and, as used in these Rules, means a derivatives clearing organization that is registered or exempt from registration as such with the CFTC and that is engaged in the clearing of one or more Contracts.

“**Director**” means any member of the Board.

“**Disciplinary Panel**” means, as the context requires, either or both of a Review Panel and a Hearing Panel.

“**Eligible Contract Participant**” has the meaning given that term in section 1a(18) of the CEA and in CFTC Regulation 1.3(m).

“**Emergency**” means 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, or the timely collection and payment of funds in connection with clearing and settlement by a Derivatives Clearing Organization, and which, in the opinion of the Chief Executive Officer or his or her designee, requires immediate action, including: any manipulative or attempted manipulative activity; any actual, attempted or threatened corner, squeeze, congestion or undue concentration of positions; any circumstances which may materially affect the performance of Contracts traded on the Trading Platform, including failure of the payment system or the bankruptcy or insolvency of any Participant or any other Person; any action taken by any Regulatory Authority or any other board of trade, market, facility or clearing organization which may have a direct impact on trading on the Exchange or clearing and settlement by a Derivatives Clearing Organization; and any other circumstance which may have a severe, adverse effect upon the functioning of the Exchange or a Derivatives Clearing Organization.

“**Exchange**” means GFI Futures Exchange LLC, or any successor thereto.

**“Exchange Business”** means any business with respect to which a Participant is subject to the Rules of the Exchange, which is purportedly conducted subject to the Rules of the Exchange, or which should have been conducted subject to the Rules of the Exchange.

**“Exchange Official”** means any Director or Officer of, or individual employed directly by, the Exchange, or any individual rendering similar services to the Exchange under an administrative or similar agreement.

**“Exchange Proceeding”** means any disciplinary proceeding, appeal from a disciplinary proceeding, summary suspension or other summary action taken by the Exchange pursuant to Chapter 7 of the Rules.

**“Exchange Requirements”** means (i) the Rules of the Exchange, (ii) other requirements implemented by the Exchange under the Rules of the Exchange, (iii) each term of a Contract, and (iv) the participant documentation and other contractual obligations between a Participant (including its Registered Users and its Registered Traders) and the Exchange.

**“FCM Participant”** has the meaning given to it in Rule 411.

**“Hearing Panel”** means a disciplinary panel that will, pursuant to the procedures set forth in Chapter 7, adjudicate disciplinary cases pursuant to a notice of charges authorized by the Review Panel and execute other duties as provided for in Chapter 7. The members of the Hearing Panel will be appointed in accordance with Rule 701(g).

**“ISV”** means a Person that makes available to Participants and Registered Users a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide Participants or Registered Users the ability to effect transactions on the Trading Platform.

**“Market Data”** means any and all data and other information contained in, displayed on, generated by or derived from the Trading Platform and/or transactions in Contracts entered into via the Trading Platform, including without limitation bids, offers, prices and volumes.

**“NFA”** means the National Futures Association.

**“Nominating Committee”** means the committee of the Board constituted pursuant to Rule 205.

**“Officer”** has the meaning given to it in Rule 202(a).

**“Operating Agreement”** means the Limited Liability Company Agreement of the Exchange, as it may be amended or restated from time to time.

**“Order”** means any order to buy or sell a Contract on or pursuant to the Rules of the Exchange.



**“Participant”** means a Person (other than an individual) that has been authorized by the Exchange to have access to the Trading Platform pursuant to Rule 301 and to permit Registered Users and Registered Traders to have access to the Trading Platform pursuant to Rules 304 and 304.

**“Participant Data”** means any and all data and other information submitted to the Trading Platform by a Participant regarding any and all transactions entered into by Participant.

**“Person”** means any natural person, association, partnership, limited liability company, joint venture, trust or corporation.

**“Public Director”** means an individual having the qualifications set out in Rule 201(d).

**“Registered Trader”** means an individual who is employed by or is an agent of a Participant or a Registered User and who has been authorized to access the Trading Platform pursuant to Rule 304 and to place Orders and execute transactions on behalf of such Participant. When used in reference to a Participant, “Registered Trader” means and includes (i) such Participant’s Registered Traders and (ii) employees and agents of the Participant’s Registered Users who have been designated by the Registered User as Registered Traders.

**“Registered User”** means a Person (other than an individual) that is authorized by a Participant to access the Trading Platform pursuant to Rule 304.

**“Regulatory Authority”** means 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).

**“Regulatory Oversight Committee”** means the committee of the Board constituted pursuant to Rule 206(b).

**“Regulatory Services Agreement”** means the agreement(s) between the Exchange and the Regulatory Service Provider(s) whereby certain functions mandated under the CEA, such as market monitoring and trade practice surveillance, are delegated to the Regulatory Services Provider(s).

**“Regulatory Services Provider”** means NFA and such other organizations, if any, that provide regulatory services to the Exchange, together with any such organization’s employees and agents.

**“Required Swap Creation Data”** has the meaning given that term in CFTC Regulation 45.1.

**“Responsible Person”** has the meaning ascribed to it in Rule 409(a).

**“Reporting Counterparty”** means, for purposes of Rule 601 and Part 45 of CFTC Regulations, the Participant or Registered User that is designated as such pursuant to Rule 545.

**“Review Panel”** means a disciplinary panel that will, pursuant to the procedures set forth in Chapter 7, review investigation reports submitted to it by the Compliance Department to determine (a) whether a reasonable basis exists to believe that a violation of a Rule of the Exchange has occurred and (b) whether commencing disciplinary proceedings in respect of such potential violation is warranted. The members of the Review Panel will be appointed in accordance with Rule 701(g).

**“Rules”** and **“Rules of the Exchange”** means any rule adopted or amended, from time to time, by the Exchange related to or in respect of transactions in Contracts or the operation of or business conducted on the Exchange.

**“Secretary”** means the individual appointed by the Board from time to time to serve as secretary of the Exchange.

**“Self-Regulatory Organization”** has the meaning given that term in CFTC Regulation 1.3(ee) and in section 3(a)(26) of the Securities Exchange Act of 1934.

**“Supervised Person”** means: (i) with respect to a Participant, a Registered Trader, director, officer, employee or agent of such Participant; (ii) with respect to a Clearing Firm, a director, officer, employee or agent of such Clearing Firm.

**“Swap”** has the meaning given that term in the CEA and the CFTC Regulations (after giving effect to the Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act by the Secretary of the Treasury pursuant to Section 1b of the CEA).

**“Swap Data Repository”** has the meaning given that term in section 1a(48) of the CEA and CFTC Regulation 1.3(qqqq).

**“Trader ID”** means the unique identifier that is assigned by the Exchange to each Registered Trader and to each automated trading system employed by a Participant or Registered User and, in the case of such an automated trading system, linked to the Trader ID that is assigned to a single Registered Trader or to an identified group of Registered Traders.

**“Trader Information”** has the meaning ascribed to it in Rule 409(b).

**“Trading Hours”** means, for any Business Day, the hours during which the Trading Platform is scheduled to operate.

**“Trading Platform”** means the electronic systems administered by or on behalf of the Exchange for the trading of Contracts.

**“Trading Privileges”** means the right, granted to a Participant, such Participant’s Registered Users and Registered Traders, to access the Trading Platform.

## CHAPTER 2 GOVERNANCE

### 201. Board

(a) Unless otherwise specified by the Board, all Rules of the Exchange and amendments thereto from time to time adopted by the Board will become effective on such date (after any required filing with, or approval thereof by, the CFTC) as may be determined by the Board.

(b) The Board will determine which Contracts are available from time to time for trading subject to the Rules of the Exchange, and will approve Rules of the Exchange containing specifications for such Contracts; provided that the Board may delegate the authority to approve such rules to an Exchange committee or to one or more officers of the Exchange; provided, further, that certifications or applications with respect to such rules will be submitted to the CFTC as required by Applicable Law and any regulations thereunder.

(c) At least 35%, but no fewer than two, of the Directors shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the Operating 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.

(d) 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 shall 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 frequently than annually. For these purposes, a “material relationship” is one that could reasonably be expected to affect the independent judgment or decision-making of the Director. A Director shall be considered to have a “material relationship” with the Exchange if any of the following circumstances exist or have existed within the past year:

(i) such Director is or was an Officer or an employee of the Exchange, or an officer or an employee of an Affiliate of the Exchange;

(ii) such Director is or was a Participant, or a director, officer or employee of a Participant;

(iii) such Director is or was an officer of another entity, which entity has a compensation committee (or similar body) on which any Officer of the Exchange serves;

(iv) such Director, or an entity of which the Director is a partner, officer, employee or director, receives or has received more than \$100,000 in combined annual payments for legal, accounting, or consulting services from the Exchange or the Exchange’s Affiliates, any Participant, or the Affiliates of one or more Participants; provided, that compensation for services as a Director of the Exchange or as a director of an Affiliate thereof does not count toward the

\$100,000 payment limit, nor does deferred compensation for services rendered prior to becoming a Director, so long as such compensation is in no way contingent, conditioned, or revocable; or

(v) Any of the relationships set forth in paragraphs (i) through (iv) apply to the “immediate family” (i.e., the spouse, parents, children, and siblings, in each case, whether by blood, marriage, or adoption) of such Director, or any person residing in the home of the Director or that of his or her “immediate family.”

(e) 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.

(f) 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.

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

## **202. Officers**

(a) The Board shall appoint a Chief Executive Officer, a Chief Regulatory Officer, and such other officers of the Exchange (each, an “Officer”) as it may deem necessary or appropriate from time to time, in accordance with the Operating Agreement.

(b) Any Officer may also be a director, officer, partner or employee of the Exchange or 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 Operating Agreement.

## **203. Eligibility**

(a) No Person may serve as a Director, Officer, member of a Disciplinary Panel or Appeal Panel, or hold a 10% or greater ownership interest in the Exchange, if the Person:

(i) was found within the past three years by a final decision of a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or the CFTC to have committed a disciplinary offense;

(ii) entered into a settlement agreement within the past three years in which any of the findings or, in absence of such findings, any of the acts charged, included a disciplinary offense;

(iii) is currently suspended from trading on any trading market, is suspended or expelled from membership with any Self-Regulatory Organization, is serving any sentence of probation or owes any portion of a fine imposed pursuant to either:

(A) a finding by a final decision of a Self-Regulatory Organization, an administrative law judge, a court of competent jurisdiction or the CFTC that such person committed a disciplinary offense; or

(B) a settlement agreement in which any of the findings or, in absence of such findings, any of the acts charged, included a disciplinary offense;

(iv) is currently subject to an agreement with the CFTC or any Self-Regulatory Organization not to apply for registration with the CFTC or membership in any Self-Regulatory Organization;

(v) is currently subject to or has had imposed on him or her within the past three years a CFTC registration revocation or suspension in any capacity for any reason, or has been convicted within the past three years of any of the felonies listed in section 8a(2)(D)(ii) through (iv) of the CEA;

(vi) 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

(vii) is subject to a statutory disqualification pursuant to Section 8a(2) or 8a(3) of the CEA.

(b) Upon the occurrence of an event listed in Rule 203(a) with respect to a member of the Board, Disciplinary Panel or Appeal Panel, such member shall disclose the occurrence of such event to the Chief Regulatory Officer or his or her designee.

(c) For purposes of Rule 203(a), the terms “disciplinary offense,” “final decision” and “settlement agreement” have the meaning given those terms in CFTC Regulation 1.63(a).

#### **204. Confidentiality**

(a) No member of the Board or any committee established by the Board or by or pursuant to the Rules of the Exchange 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) No officer, employee or agent of the Exchange will (i) trade 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 (ii) 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.

## **205. Conflicts of Interest**

(a) *Named Party in Interest Conflict.*

(i) *Prohibition.* No member of the Board, any Disciplinary Panel, any Appeal 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 a named party in interest, (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, or (D) has a family relationship with a named party in interest. For purposes of this clause (i), a "family relationship" exists between a named party in interest and a member if such party is the member's spouse, former spouse, parent, stepparent, child, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

(ii) *Disclosure.* 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) *Procedure and Determination.* 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 paragraph (a). 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) *Prohibition.* No member of the Board, any Disciplinary Panel, any Appeal 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) *Disclosure.* 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) *Procedure and Determination.* 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 paragraph (b). 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) *Deliberation Exemption.* Any member of the Board, any Disciplinary Panel, any Appeal 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) *Documentation.* The minutes of any meeting to which the conflicts determination procedures set forth in this Rule 205 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.

## **206. Committees**

(a) The committees provided for in this Chapter shall be appointed as provided in the Operating Agreement or as set out in this Chapter. Except as otherwise required by rules in this Chapter, the Chairman shall designate the chairman and one or more vice chairmen of each such committee. A temporary member of any such committee may be appointed, using the same process required for regular appointments to the committee, during the absence or inability to act of a regular member; such temporary appointee shall have all the rights, power, authority, duties and obligations of the regular committeeman until the latter is again present and able to act.

(b) The Exchange shall have a Regulatory Oversight Committee which shall consist entirely of Public Directors and shall be responsible for reporting to the Board. In general, the Regulatory Oversight Committee shall assist the Board in monitoring the design, implementation and effectiveness of the Exchange's programs to promote and enforce compliance with Applicable Law and the rules. More specifically, the Regulatory Oversight Committee shall:

(i) Monitor the sufficiency, effectiveness and independence of the Exchange's regulatory program; and

(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 ensuring compliance with, if applicable, financial integrity, financial reporting, sales practice, recordkeeping and other requirements); and the conduct of investigations;

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

(C) reviewing the performance of the Chief Regulatory Officer, who will report directly to the Regulatory Oversight Committee, and making recommendations with respect to such performance to the Board;

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

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

(F) preparing an annual report assessing, for the Board and the CFTC, the regulatory program of the Exchange. Such report shall:

(1) describe the Exchange's regulatory program;

(2) set forth the expenses of the regulatory program;

(3) describe the staffing and structure of the regulatory program;

(4) catalogue investigations and disciplinary actions taken during the year; and

(5) review the performance of disciplinary committees and panels, as well as the performance of the Chief Regulatory Officer.

(c) The Exchange shall have a Nominating Committee which shall consist of a majority of Public Directors and shall be responsible for reporting to the Board. The Nominating Committee shall (a) annually nominate directors for the class of directors standing for election at the annual meeting of the Exchange for that year; and (b) periodically review the organization and governance structure of the Exchange, and make such recommendations to the Board with respect thereto as it may deem appropriate. The Exchange shall also have a participant nominating committee which shall consult with the Nominating Committee and the Chief Executive Officer, and shall solicit comments from Participants for the purpose of approving and submitting names of candidates for election to the position of Director that is acting on behalf of Participants.

(d) The Exchange shall have a Participation Committee (the "Participation Committee") which shall consist of not less than thirty-five percent (35%) of Public Directors and shall be responsible for reporting to the Board. The Participation Committee shall:

- (i) determine the eligibility standards and requirements for initial and continuing participation in the Exchange;
- (ii) approve rules that would result in different categories or classes of participants receiving access to the Exchange; and
- (iii) review appeals of staff denials of participant applications.

In reviewing appeals of staff denials of participant applications, the Participation Committee shall not uphold any staff denial if the relevant application meets the standards and requirements prescribed by such Committee. The Participation Committee shall not, and shall not permit the Exchange to, restrict access or impose burdens on access in a discriminatory manner, within each category or class of participants or between similarly situated categories or classes of participants.

(e) One-half of the members, including the ex officio members, shall constitute a quorum of each committee provided for in this Chapter, except for the Regulatory Oversight Committee. For the Regulatory Oversight Committee, a quorum for the transaction of business shall consist of one-half of the committee members, including not less than 50 percent of the Public Directors serving as members of such committee. If at least 50 percent of the Public Directors committee members (i) are present at or (ii) have filed a waiver of attendance for a meeting after receiving an agenda prior to such meeting, the requirement that not less than 50 percent of the Public Directors committee members be present to constitute the quorum shall be deemed satisfied.

(f) Should Applicable Law establishing minimum thresholds relating to the number or percentage of Public Directors that must serve on the Board or any committee pursuant to this Rule 206 be amended, this Rule shall be deemed amended to comply with such Applicable Law without any further action of the Exchange to the extent permissible by law.

#### **207. 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 Compliance Department and such other Exchange resources 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 and the authority to require any Participant 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 it designates. The Chief Regulatory Officer may also delegate such authority to staff of the Compliance Department.

(e) The Chief Regulatory Officer shall, in consultation with the Regulatory Oversight Committee or a senior compliance officer, resolve any conflict of interest pursuant to Rule 205.

#### **208. 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 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.

#### **209. Reporting Requirements**

In the event the Board rejects a recommendation or supersedes an action of the Regulatory Oversight Committee or the Participation Committee, the Exchange shall submit a written report to the CFTC detailing:

(a) the recommendation or action of the Regulatory Oversight Committee or the Participation Committee;

(b) the rationale for such recommendation or action;

(c) the rationale of the Board for rejecting such recommendation or superseding such action; and

(d) the course of action that the Board decided to take contrary to such recommendation or action.

## **CHAPTER 3**

### **ACCESS TO TRADING PLATFORM**

#### **301. Participants**

(a) Each Participant will have the right to access the Trading Platform, including the right to place Orders for each of its proprietary accounts and, if otherwise registered in any required capacity and authorized to act on behalf of Customers in accordance with Applicable Law, for the accounts of such Customers. The access rights of a Participant hereunder may not transferred, assigned, sold or leased.

(b) A Participant will not be 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.

#### **302. Qualifications of Participants**

(a) To be eligible for admission as a Participant, an applicant must:

(i) deliver an executed Participant Agreement in which it affirms that it is an Eligible Contract Participant;

(ii) hold all registrations required under Applicable Law;

(iii) be authorized by a Derivatives Clearing Organization to clear the Contracts it effects on the Trading Platform or have an arrangement with a Clearing Firm of such a Derivatives Clearing Organization that meets the requirements of Rule 1001;

(iv) be in compliance with any financial responsibility, recordkeeping and reporting requirements set forth under Applicable Law and Rule 403;

(v) consent to the Exchange's jurisdiction;

(vi) not be subject to statutory disqualification under Section 8a(2) of the CEA; and

(vii) satisfy such other criteria that the Exchange may require.

(b) The Exchange may permit a Person to become a Participant subject to such conditions, restrictions or limitations that it deems necessary or appropriate. The Exchange may deny the application of a Person to be a Participant if such Person is unable satisfactorily to demonstrate a capacity to adhere to Applicable Law or the Rules or for such other cause as the Exchange reasonably may determine.

(c) The Exchange may revoke, suspend or limit a Participant's or Registered User's access to the Trading Platform if such Participant or Registered User:

(i) fails to meet any of the qualification requirements for access after such access has been approved;

(ii) fails to meet any condition placed by the Exchange on such access;  
or

(iii) violates any Applicable Law, the Rules or any agreement between the Participant and the Exchange.

(d) The Exchange may create different classes of Participants that have different rights and obligations under the rules pursuant to criteria that are impartial, transparent and applied in a fair and non-discriminatory manner.

(e) A Participant or Registered User whose access to the Trading Platform is revoked, suspended or otherwise limited pursuant to the Rules may appeal the Exchange's decision in accordance with the provisions of Chapter 7. A determination of the Exchange to revoke, suspend or limit a Person's access to the Trading Platform pursuant to this Rule 302 shall not take effect until the review procedures under Chapter 7 have been exhausted or the time for review has expired.

(f) A Person whose application to become a Participant has been denied pursuant to this Rule 302 shall not be eligible for re-application during the six months immediately following such denial.

### **303. Application**

(a) Each Person that applies to become a Participant must submit an application to the Exchange in a form and manner prescribed by the Exchange. Each applicant must promptly update any application materials previously provided to the Exchange 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.

(b) Each Person approved as a Participant in accordance with paragraph (a) above shall:

(i) pay to the Exchange any applicable application fee in such amount as may be prescribed by the Exchange from time to time; and

(ii) agree in writing to abide by the Rules and consent to the jurisdiction of the Exchange.

(c) Upon satisfaction of the requirements and procedures set forth in paragraphs (a) and (b) above, the Exchange will grant a Person's application to become a Participant. If the application process is not completed within six months of submission of an application and payment of any applicable fee, the application will be deemed to be withdrawn.

### 304. Registered Users

(a) A Participant may grant permission to one or more Registered Users to enter Orders, access the Trading Platform and effect transactions in Contracts in accordance with the criteria and procedures established by the Exchange.

(b) By agreeing to act as a Registered User, such Person agrees to be bound by the duties and responsibilities of a Registered User, to be subject to, and comply with, the Rules, and to be deemed to have represented and warranted to the Exchange that it is an Eligible Contract Participant and that it has all registrations, licenses and consents required by its constituent documents and by Applicable Law to trade Contracts.

(c) A Registered User must at all times:

(i) agree to abide by the Rules and consent to the Exchange's jurisdiction;

(ii) effect transactions pursuant to the Rules, and permit its Registered Traders to effect transactions pursuant to the Rules, solely from within the United States or, except as may be expressly permitted by the Exchange in writing from time to time, a jurisdiction in which the Exchange is permitted by Applicable Law to offer trading on the Exchange;

(iii) ensure that activity conducted under the Trader IDs assigned to it and its Registered Traders complies with the Rules;

(iv) have the authority, at the Exchange's request, to adjust or withdraw any Order submitted under such Trader IDs;

(v) have and maintain all necessary regulatory approvals and/or licenses to operate as a Registered User and not be subject to any trading ban, prohibition or suspension issued by the CFTC or the NFA; and

(vi) cooperate promptly and fully with the Exchange in any investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules or any Exchange disciplinary or arbitration proceeding; and

(vii) agree to such other terms and conditions as may be established by the Exchange from time to time.

(d) The Exchange will promptly notify a Participant in writing of its approval, or refusal to approve, the designation of a Registered User. The Exchange may, in its sole discretion, revoke or suspend the designation of a Registered User, and shall promptly notify the Participant of such action in accordance with procedures established by the Exchange. Any action taken by the Exchange pursuant to this paragraph (d) shall be enforced impartially.

(e) A Participant that seeks to terminate the designation of a Registered User shall notify the Exchange in writing, providing such information as the Exchange may require. The Exchange shall terminate the Trading Privileges of such Registered User and its Registered Traders in accordance with procedures established by the Exchange.

(f) A Clearing Firm that is not also a Participant or a Registered Trader shall appoint at least one of its employees to act as a Registered User, provided that such Registered User shall not have Trading Privileges and such Registered User's access and use of the Trading Platform shall be restricted to administrative and credit control functionalities.

### **305. Registered Traders**

(a) Each Participant and each Registered User shall designate one or more Registered Trader(s).

(b) Each Registered Trader must consent, in a form satisfactory to the Exchange, to abide by the Rules of the Exchange and Applicable Law prior to accessing the Trading Platform. Each Registered Trader must satisfy such requirements as may be prescribed by the Exchange from time to time and shall be subject to the disciplinary authority of the Exchange and possible fine or restriction or revocation of Trading Privileges.

(c) To designate a Registered Trader, a Participant must follow the procedures established by the Exchange. The Exchange may establish criteria that individuals must fulfill to become a Registered Trader. Without limiting the generality of the foregoing, each Participant will ensure on an ongoing basis that (i) none of its Registered Traders 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 Registered Traders is technically proficient and conducts its business in a fair and equitable manner.

(d) The Exchange will promptly notify a Participant and, as applicable, a Registered User in writing of the approval of Registered Trader(s) or if the Exchange declines to approve the nomination of a Registered Trader.

(e) The Exchange will maintain a list of all designated Registered Traders for each Participant, and as applicable, each Registered User.

(f) The Exchange may, in its sole discretion, revoke or suspend the designation of a Registered Trader, which shall be enforced impartially, and shall promptly notify the Participant and, as applicable, the Registered User of such action.

(g) To request the termination of the designation of an individual as a Registered Trader, the Participant must follow the procedures established by the Exchange. The Exchange may, in its sole discretion, 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 a Registered User, the Exchange will determine whether to: (i) postpone the effective date of termination of the registration, and/or (ii) impose any terms or conditions before or after the effective date of termination of the registration. The Participant and, as applicable, the Registered User shall take immediate measures appropriate to ensure that, after the effective date of any such revocation the affected Registered Trader shall not have access to the Trading Platform or utilize its Trader ID, as applicable. The Exchange shall act promptly, but in any event within one Business Day of the effective date of such revocation, to disallow Order entry by the affected Registered Trader.

### **306. 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 Trading Platform;

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

(iv) any expulsion, suspension or fine in excess of \$100,000 (whether through an adverse determination, voluntary settlement or otherwise) imposed on the Participant by any Self-Regulatory Organization;

(v) any denial or withdrawal of an application for registration or license by or from any governmental agency, and any revocation, suspension or conditioning of a registration or license granted by any governmental agency;

(vi) the commencement of any judicial or administrative proceeding against the Participant by a governmental agency or the imposition of any fine, cease and desist Order, denial of trading privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any governmental agency;

(vii) 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

(viii) 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.

### **307. Dues, Assessments and Fees**

(a) The Exchange has the sole power to set the dates and amounts of any dues, assessments or fees to be levied on Participants, which dues, assessments or fees will be paid to the Exchange when due. The Exchange shall charge comparable fees to Persons that receive comparable access to and services from the Trading Platform.

(b) If a Participant fails to pay when due any Exchange dues, assessments or fees levied on such Participant, and any such payment obligation remains unsatisfied for thirty days after its due date, the Exchange may suspend, revoke, limit, condition, restrict or qualify the Participant's access to the Trading Platform as the Exchange deems necessary or appropriate.

### **308. Trading Privileges**

(a) Subject to the requirements and procedures set forth in this Chapter 3, Trading Privileges and electronic access to the Trading Platform shall be offered to Participants, subject to any limitation, restriction or revocation from time to time imposed by the Exchange and subject to the conditions set forth in Rule 302. Trading Privileges are non-transferable, non-assignable and may not be sold or leased. By virtue of obtaining Trading Privileges, a Participant shall 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, consolidation involving the Exchange or otherwise.

(b) The Exchange may deny Trading Privileges to any Person:

(i) if such Person is unable satisfactorily to demonstrate a capacity to adhere to the Rules and Applicable Law;

(ii) if such Person would bring the Exchange into disrepute, as determined by the Exchange in its sole discretion; or

(iii) for such other cause as the Exchange reasonably may decide.

(c) The Exchange may determine not to permit any Person to keep its Trading Privileges, or may condition such Trading Privileges if such Person:

(i) fails to meet any of the qualification requirements for Trading Privileges after such Trading Privileges have been approved;

(ii) fails to meet any condition placed by the Exchange on such Trading Privileges; or

(iii) violates any agreement with the Exchange, a Clearing Firm or a Derivatives Clearing Organization; or

(iv) is a Participant through which a Customer trades and, in any such case, any such Customer maintains a position in any Contract that, when considered in light of the other positions maintained by the Participant through which such Customer trades and any other factors that the Exchange reasonably deems relevant, including, as applicable, (A) the positions maintained by such Participant, such Participant's Registered Traders and such Participant's other Customers, (B) financial information provided by such Participant; and (C) the level of margin maintained by such Participant at such Participant's Clearing Firm, the Exchange reasonably believes could jeopardize the financial safety of such Participant or any of such Participant's other Customers.

(v) For the avoidance of doubt, any limitation, suspension or revocation of Trading Privileges pursuant to paragraph (iv) may, in the sole discretion of the Exchange, (A) take the form of (x) a full suspension or revocation of Trading Privileges, (y) a requirement that the positions at issue be immediately liquidated in full or reduced to a reasonable level to be set by the Exchange as a condition to the Trading Privileges remaining in effect or (z) a prohibition on the use of such Trading Privileges in respect of the trades of any Customer identified by the Exchange, and (B) be applied to the Trading Privileges of the Participant at issue, its Registered Traders and Registered Users, in each case, as deemed reasonably necessary by the Exchange for the protection of such Persons and other Participants of the Exchange.

(d) In the case of any suspension, revocation or limitation of the Trading Privileges of any Participant pursuant to this Rule 308 or Rule 309, the Exchange, in its sole discretion, may also suspend, revoke or limit the Trading Privileges of such Participant's Registered Traders and Registered Users as the Exchange deems necessary to protect other Participants, Customers and the integrity of the Exchange.

(e) In the case of any suspension, revocation or limitation of the Trading Privileges of any Registered Trader or Registered User of any Participant pursuant to this Rule 308 or Rule 309, the Exchange, in its sole discretion, may also suspend, revoke or limit the Trading Privileges of such Participant or such Participant's other Registered Traders or Registered Users as the Exchange deems necessary to protect other Participants and the integrity of the Exchange.

(f) Any action taken by the Exchange pursuant to this Rule 308 shall be impartially enforced.

### **309. Limitations**

Upon notice that a Clearing Firm has revoked any authorization granted and guarantee made by it to a Participant pursuant to Rule 1003(b), such Participant's right to access to the Trading Platform will be automatically terminated, and such Participant

must obtain another guarantee from a Clearing Firm before the Participant's right to access to the Trading Platform will be reinstated.

### **310. Application of Rules and Jurisdiction**

(a) By accessing, or entering any Order into, the Trading Platform, and without any need for any further action, undertaking or agreement, a Participant, Registered User or Registered Trader 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, Registered User or Registered Trader.

(b) Any Participant, Registered User or Registered Trader whose right to access the Trading Platform is revoked or terminated, whether pursuant to Rule 302, Rule 306 or Chapter 7, 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, Registered User or Registered Trader prior to such revocation or termination.

### **311. Notices**

The Exchange will publish a notice with respect to each addition to, modification of, or clarification of the Rules of the Exchange at the time the Exchange files such Rules with the Commission. The Exchange also will publish notice of any action taken to implement any Rule of the Exchange, in a form and manner that is reasonably designed to enable each Participant and Registered User to become aware of and familiar with, and to implement any necessary preparatory measures to be taken by it with respect to, such addition or modification, prior to the effective date thereof. For purposes of this Rule 311, it will be sufficient (without limiting the discretion of the Exchange as to any other reasonable means of communication) if notice is published on the Exchange's website.

### **312. Withdrawal of Participant**

(a) To withdraw from the Exchange, a Participant must notify the Exchange, following such procedures as may be established by the Exchange.

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

(c) Based on the information provided to, and other information gathered by, the Exchange regarding a Participant's withdrawal request, the Exchange will determine whether to (i) accept the withdrawal request; (ii) postpone the effective date of the withdrawal; or (iii) impose any terms or conditions before or after the effective date of withdrawal.

(d) If the Exchange refuses to accept a Participant's withdrawal request or postpones the effective date of withdrawal of a Participant, the Exchange may waive the obligation to pay some or all of the fees, costs and charges that the Exchange would have imposed during the period after the date on which the requested withdrawal would have otherwise taken effect.

(e) When the Exchange accepts the withdrawal of a Participant, all rights and privileges of such Participant terminate (including the Trading Privileges and ability to access the Trading Platform). The accepted withdrawal of a Participant shall not affect the rights of the Exchange under the Rules or relieve the former Participant of its Obligations (including any contractual obligations relating to any Contracts entered into by such Participant, or the payment of any Exchange fees, costs, or charges incurred prior to such withdrawal). Notwithstanding the accepted withdrawal of a Participant, the withdrawn Participant remains subject to the jurisdiction of the Exchange for acts done and omissions made while a Participant, and must cooperate in any disciplinary proceeding under Chapter 7 as if such withdrawal had not taken place.

### **313. Independent Software Vendors**

A Person seeking to act as an ISV must satisfy the Exchange's technological integrity requirements and not adversely affect the Exchange's ability to comply with the CEA and CFTC Regulations. The Exchange will provide ISVs with impartial access to services based on criteria that are transparent and applied in a non-discriminatory manner.

## CHAPTER 4 BUSINESS CONDUCT

### 401. Duties and Responsibilities of Participants

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

(i) use the Trading Platform in a responsible manner and not for any improper purpose;

(ii) use the Trading Platform only to conduct business that is subject to the Rules of the Exchange and in a manner consistent with the rules and Exchange Requirements;

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

(iv) comply with the rules of the Derivatives Clearing Organization that accepts for clearing a Contract traded by the Participant on the Trading Platform, 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 an Exchange Proceeding;

(vii) cooperate promptly and fully with the Exchange in any investigation, inquiry, audit, examination or proceeding regarding compliance with the Rules of the Exchange or any Exchange disciplinary or arbitration proceeding;

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

(ix) keep all Trader IDs, account numbers and passwords related to the Trading Platform confidential; and

(x) 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 Rule 401(a), 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 Trading Platform by or for

the account of such Participant, its Registered Users or by any Person using its or their Trader IDs.

#### **402. Inspections by the Exchange**

(a) The Exchange and the Regulatory Services Provider shall have the right, in connection with determining whether the Rules of the Exchange and Exchange Requirements 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 of the Exchange, 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.

(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 and Exchange Requirements 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 Trading Platform and in related derivatives markets, including in the products underlying those Contracts, and (ii) information requested by a government agency 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.

(d) All data and information provided to or obtained by the Exchange pursuant to this Rule 402 shall be subject to the provisions of Rule 905.

#### **403. Minimum Financial and Related Reporting Requirements**

(a) Each FCM Participant shall comply with the provisions of CFTC Regulation 1.17.

(b) Each FCM Participant shall provide to the Exchange and to the Regulatory Services Provider, if any, a copy of such FCM Participant's Form 1-FR or FOCUS Report, reasonably contemporaneously with, and substantially in the form such report was filed with, such a Regulatory 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.

(c) Each Participant must notify the Exchange immediately upon becoming aware that it fails to satisfy the minimum financial requirements applicable to it. A Participant that is unable to demonstrate to the Exchange that it is in compliance with the minimum financial requirements shall not engage in transactions subject to the Rules of the Exchange except for the purpose of closing open positions.

(d) A Participant that is an organization but that is not registered with the CFTC must submit to the Exchange and the Regulatory Service Provider annual audited financial statements certified by a certified independent public accountant (or by a Person having similar qualifications if the Participant's books of account are kept outside the United States) within 90 calendar days of the Participant's fiscal year-end.

#### **404. Restrictions on Activity**

If the Exchange determines that the financial or operational condition of a Participant or one of its Affiliates is such that to allow that Participant to continue to have access to the Trading Platform would adversely affect the Exchange or the financial markets (including but not limited to such participant being subject to the notification requirements of CFTC Regulation 1.12 or similar requirements of another Regulatory Authority to which such Participant is subject), the Exchange may limit or restrict the number or type of Contracts that may be traded by such Participant on the Trading Platform or terminate the Participant's trading privileges.

#### **405. Treatment of Customer Funds and Securities**

An FCM Participant must comply with the provisions of Applicable Law relating to the treatment of Customer funds and the maintenance of books and records with respect thereto.

#### **406. CFTC Registration**

No Participant may solicit or accept from any other Person an Order for the purchase or sale of a Contract unless such Participant is registered with or exempt from registration with the CFTC as a futures commission merchant or as an introducing broker, as applicable.

#### **407. Confirmations**

Each Participant that enters into a trade on behalf of a Customer must promptly furnish, or cause to be furnished, to such Customer, no later than the Business Day immediately following the day on which such trade is entered into, a written confirmation of such trade containing the data and information required by Applicable Law.

#### **408. Responsibility for Customer Orders**

(a) A Participant is prohibited from directly or indirectly guaranteeing the execution of an Order or any of its terms such as the quantity or price; provided that this



sentence will not be construed to prevent a Participant from assuming or sharing in any losses resulting from an error or the mishandling of an Order.

(b) A Participant shall not adjust the price at which an Order was executed, nor will it be held responsible for executing or failing to execute an Order unless such Participant, as the case may be, was negligent or is settling a bona fide dispute regarding negligence, or as otherwise permitted by the Exchange's error trade policy.

#### **409. System Security**

(a) Each Participant must at all times have at least one employee or agent (the "**Responsible Person**") designated as its administrator with respect to the use of the Trading Platform by such Participant (including its Registered Users). The Exchange may prescribe such qualification standards for Responsible Persons as it may from time to time determine necessary or advisable. Among other things, each Responsible Person shall (i) control access to the Trading Platform by the Participant (including its Registered Users) and (ii) be able to access, directly or through the Exchange and, if required, modify and withdraw, any and all Orders placed, or purported to be placed, by such Participant (including its Registered Users). The Responsible Person or Responsible Persons of any Participant will also be solely responsible for any and all communications between the Exchange and such Participant, and any and all notices or other communications sent to such Responsible Person or Responsible Persons by the Exchange will be binding on such Participant. Each Participant must notify the Exchange promptly of any change regarding any of its Responsible Persons.

(b) Each Participant will be solely responsible for controlling and monitoring the use of all user identification codes and passwords to access the Trading Platform (collectively, "**Trader Information**") issued to its Responsible Person or Responsible Persons by the Exchange, may provide the Trader Information only to its Registered Users, and must notify the Exchange promptly upon becoming aware of any unauthorized disclosure or use of the Trader Information or access to the Exchange or of any other reason for deactivating Trader Information. Each Participant will be bound by any actions taken through the use of its Trader Information (other than any such actions resulting from the fault or negligence of the Exchange), including the execution of transactions, whether or not such actions were authorized by such Participant or any of its directors, officers or employees.

(c) Each Participant will be solely responsible for ensuring that access to the Trading Platform is not granted to any Person located outside the United States, except as otherwise expressly permitted by the Exchange. To the extent necessary to ensure the operational integrity of the Trading Platform, the Exchange may at any time restrict or limit the access of Persons to specified locations, and each Participant must ensure prompt compliance by itself and its Registered Users with any such limitation.

#### 410. Customer Margin Requirements

(a) A Participant that is registered with the CFTC as a futures commission merchant (an “**FCM Participant**”) shall not effect a transaction or carry an account for a Customer without obtaining margin at the times, in the amounts, and in the forms required by the Exchange and the applicable Derivatives Clearing Organization. An FCM Participant must collect at least the minimum margin requirements established by the Exchange and the applicable Derivatives Clearing Organization for its Contracts in a Customer account. Money, securities and property accepted by an FCM Participant to meet a Customer’s margin requirements must be and remain unencumbered by third-party claims.

(b) The Exchange will publish the minimum initial and maintenance margin requirements for each Contract or combination of Contracts, which shall be no less than that established by the applicable Derivatives Clearing Organization. Any changes in Contract margin requirements will apply to both new and existing Contracts in a Customer’s account.

(c) An FCM Participant may only accept the following from Customers as margin:

- (i) U.S. Dollars and major foreign currencies;
- (ii) U.S. Treasury and agency securities;
- (iii) securities traded on a “ready market” as defined in SEC Rule 15c3-1(c)(11);
- (iv) money market mutual funds that meet the requirements of CFTC Regulation 1.25;
- (v) such other forms of margin (performance bond) as may be accepted by the applicable Derivatives Clearing Organization.

Securities and foreign currencies must be valued at no greater than their current market value less any haircuts specified by SEC Rule 15c3-1. Securities, including money market mutual fund shares, may not be issued by the Customer or an affiliate of the Customer.

(d) Except for omnibus accounts, an FCM Participant may calculate margin requirements on a net basis for concurrent long and short Contracts in identically owned accounts; provided, that a Clearing Firm shall calculate margin requirements in compliance with the rules of the applicable Derivatives Clearing Organization. An FCM Participant shall calculate margin requirements for an omnibus account (whether domestic or foreign) on a gross basis and in accordance with the rules of the applicable Derivatives Clearing Organization. An FCM Participant shall obtain written representation of spread or hedge positions from an omnibus account and comply with the rules of the applicable

Derivatives Clearing Organization in order to afford any Contracts in the account spread or hedge margin treatment.

(e) The Exchange, a Derivatives Clearing Organization or an FCM Participant may impose margin requirements for one or more Customers that are in excess of the existing margin requirements imposed by this Rule.

(f) An FCM Participant must adhere to the procedures specified in the Joint Audit Committee's Margins Handbook for the computation, issuance, collection, and offsets for margin calls and corresponding capital charges for the Participant unless the Margins Handbook is inconsistent with the Exchange's Rules, in which case the Exchange's Rules will prevail.

(g) If a Customer fails to deposit the required margin deposit within a reasonable time, an FCM Participant may, but is not required to, liquidate all or a portion of the Customer's Contracts to restore the Customer's account to a properly margined level. The failure of an FCM Participant to liquidate all or a portion of a Customer's Contracts shall not affect any liability of the Customer to the FCM Participant.

(h) An FCM Participant shall not extend or maintain credit to or for a Customer to evade or circumvent any requirements of these Rules. An FCM Participant may extend or maintain (or arrange for the extension or maintenance of) credit or a loan to or for a Customer to meet the margin requirements of these Rules provided the credit or loan is secured as defined by CFTC Regulation 1.17(c)(3) and the proceeds are treated by the FCM Participant in accordance with CFTC Regulation 1.30.

(i) An FCM Participant must make and retain a written record of margin calls to Customers that reflects date, amount and other relevant information for all margin calls made (whether made by telephone, in writing or by other means) as well as margin calls reduced, satisfied or relieved.

#### **411. 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 Trading Platform, 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 through the Trading Platform 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.

#### **412. Publication of Trade Information**

The Exchange shall daily publish on its website information regarding volume, price ranges (based on non-cancelled bids, non-cancelled offers, and sales) subject to such prices accurately reflecting market conditions within the discretion of the Exchange,

and opening and closing prices. The Exchange shall also publish on its website, on a daily basis, the total quantity of Block Trades that are included in the total volume of trading. Information on settlement prices and open interest published on the Exchange's website shall be provided, as applicable, by the relevant Derivatives Clearing Organization.

#### **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 or to any underlying Customers;

(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 TRADING PRACTICES**

### **501. Scope**

This Chapter 5 applies to all transactions in Contracts, except as otherwise specifically provided in Chapter 6.

### **502. Trading Hours**

The Exchange shall from time to time determine the Business Days during any particular calendar year and the Trading Hours in respect of each Contract.

### **503. Procedures**

With respect to trading on or through the Trading Platform, the Exchange may adopt, without limitation, procedures relating to transactions in Contracts and trading on the Trading Platform, including procedures to:

- (a) disseminate the prices of bids and offers and the prices of trades in Contracts;
- (b) record and account for Contracts;
- (c) perform market surveillance and regulation on matters affecting Contracts;
- (d) establish limits on the number and/or size of Orders that may be submitted by a Participant or Registered User or Registered Trader through the Trading Platform;
- (e) establish limits on the number of Contracts that may be traded by a Participant or Customer through the Trading Platform;
- (f) 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
- (g) 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.

### **504. Use of Trader IDs**

(a) Each Registered Trader and each automated trading system employed by a Participant or Registered User must have a Trader ID. Each Participant shall be responsible for controlling and monitoring the use of Trader IDs issued to it and its Registered Users' Registered Traders.

(b) Each Order entered into the Trading Platform must contain a Trader ID that identifies the Registered Trader that entered the Order. Each Participant must specify, and must ensure that its Registered Users and Registered Traders specify, the applicable Trader ID for every Order.

(c) No Person may use a Trader ID to place any Order except as permitted by these Rules, nor may any Person knowingly permit or assist the unauthorized use of a Trader ID. Each Participant and Registered User, on behalf of itself and each of its Registered Traders shall ensure that no Trader ID is used by any Person not authorized by these Rules. Each Participant and Registered Trader must have in place policies and procedures acceptable to the Exchange to ensure the proper use and protection of Trader IDs.

(d) Each Participant and Registered User shall ensure the accuracy of the registration information of its Registered Traders at all times.

(e) Each Participant shall notify the Exchange promptly upon becoming aware of:

(i) any unauthorized disclosure or use of any Trader ID assigned to it or any of its Registered Traders and of any other reason for deactivating a Trader ID; and

(ii) any unauthorized access to the Trading Platform by any Person using a Trader ID assigned to such Participant, its Registered Traders and Registered Users.

(f) Each Participant and Registered User shall be bound by any actions taken through the use of a Trader ID assigned to such Person's Registered Traders (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, Registered User or Registered Trader, as the case may be.

## **505. Orders**

(a) An Order may contain one of the following designations:

(i) *Limit Orders* – Limit Orders are Orders to buy or sell a stated quantity at a specified price, or at a better price, if obtainable. Unless otherwise specified, any residual volume from an incomplete limit Order that is not withdrawn or executed is retained in the central limit order book until the end of the day. All Limit Orders are removed from the central limit order book at the end of the trading session.

(ii) *All or None (AON)* – A Limit Order where only the entire submitted size is available for execution.

(iii) *Time-in-Force (TiF) Orders* – Limit Orders that will be held within a specified time frame.

(iv) *Hidden (Reserve) Size* – Limit Orders that are comprised of two components: a displayed size, which is a conventional Limit Order and a hidden (reserve) size, which is submitted as a new Limit Order when the initial, displayed Order is fully executed. Each Hidden (Reserve) Size Order shall be timestamped at the time the quantity is replenished.

(v) *One Cancels Other (OCO)* – A Limit Order that is linked to one or more other Orders by the Participant, Registered Trader or Registered User, with the linked Order being put on hold when any other Order in the same OCO group is fully or partially executed. Each OCO Order shall be timestamped upon submission and again at the time any hold on such Order is released.

(vi) *Work the Balance* – An Order submitted via hit/lift dialogue that directly aggresses an existing standing Order and any remaining size is placed as a standing Limit Order.

(vii) *Fill and Kill* – An Order submitted via hit/lift dialogue that directly aggresses an existing standing Order and any remaining size is cancelled.

(viii) *Fill or Kill* – An Order submitted via hit/lift dialogue that directly aggresses an existing standing Order. If the full size of the submitted Order is not met, the Order is cancelled.

(ix) *Contingent Orders – Bids*. An instruction to submit a bid to, or cancel an existing bid in, the central limit order book if the price of a given Contract is the same as, greater than (in case of a cancellation) or less than (in case of a submission), the price specified in the Contingent Order. *Offers*. An instruction to submit an offer to, or cancel an existing offer in, the central limit order book if the price of a given Contract is the same as, greater than (in case of a submission) or less than (in case of a cancellation), the price specified in the Contingent Order. Contingent Orders shall be timestamped upon submission and whenever the stated contingency occurs.

(x) *SmartRoute<sup>SM</sup>* – An order type for instruments that may be cleared at more than one Derivatives Clearing Organization. Selection of this order type requires that a trader has previously ranked his preferred hierarchy of Designated Clearing Organizations at which he would prefer to submit his transactions. This order type instructs the Trading Platform to rank offsetting bids or offers based on time/price priority and also takes into account the trader's pre-ranked hierarchy of clearing venues. Thereafter, a SmartRoute order will be executed against bids or offers in ascending order based on this ranking. If no corresponding bid or offer is present at a Derivatives Clearing Organization ranked by the trader, no transaction will occur.

(xi) *Hold Order* – An order type that is subsequently “re-firmed” loses its original priority and is treated in the same manner as a new order submission. Each Hold Order shall be timestamped using the time that the Participant or Registered User re-firmed such Order.

## **506. Order Entry**

(a) Each Participant, Registered User or Registered Trader that submits an Order into the Trading Platform shall do so using its Trader ID and shall include with each Order the price, quantity, product, expiration month or date, CTI code, Clearing Firm, Derivatives Clearing Organization, Order type, buy or sell and account designation, and such Required Swap Creation Data as is known by the Participant, Registered User or Registered Trader at the time it submits the Order.

(b) **Audit Trail Requirements.**

(i) Participants that provide connectivity to the Trading Platform are responsible for maintaining or causing to be maintained a routing/front-end audit trail (“Audit Trail”) for all electronic Orders, which shall include Order entry, modification, cancellation and responses to such messages. Audit Trail information shall be entered into the Trading Platform through any gateway to the Trading Platform, including the times of each message to the highest level of precision achievable by the Participant’s operating system, but at least to the hundredth of a second. Times that are so captured must not be capable of being modified by the Person entering the Order. Audit Trail data must contain, in addition to the information required by paragraph (a), all required FIX Tag information and fields including, as applicable, a record of all fields relating to Order entry, including transaction date, product, Exchange code, expiration, quantity, Order type, Order qualifier, price, buy/sell indicator, stop/trigger price, Order number, unique swap identifier, legal entity identifier, session ID, trader ID, Order number, Clearing Firm, type of action, action status code, account designation, CTI code and timestamps. For executed Orders, the Audit Trail must record the execution time of the trade along with all fill information.

(ii) 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.

(iii) A Participant whose Customer is itself a Participant may agree with such Customer that it is the Customer’s obligation to maintain the Audit Trail for such Customer’s Orders. Any such agreement shall be in writing, and a copy of such agreement shall be provided to the Exchange.

(c) In addition to the requirements set forth in paragraph (b), each Participant, Registered User and Registered Trader that submits an Order to buy or sell a Swap shall include with each such Order the following information (to the extent such information is not provided by the Trading Platform):



- (i) the legal entity identifier of the Participant or Registered User placing the Order;
- (ii) a yes/no indication of whether the Participant or Registered User is a swap dealer with respect to the Swap for which the Order is placed;
- (iii) a yes/no indication of whether the Participant or Registered User is a major swap participant with respect to the Swap for which the Order is placed;
- (iv) a yes/no indication of whether the Participant or Registered User is a financial entity;
- (v) a yes/no indication of whether the Participant or Registered User is a U.S. person; and
- (vi) if the Swap will be allocated:
  - (A) an indication that the Swap will be allocated; and
  - (B) the legal entity identifier of the agent.

Post-allocation Swaps shall be respectively effected and reported in accordance with the rules of the Derivatives Clearing Organization and Swap Data Repository and in accordance with CFTC Regulations.

(d) A suspense account may be used at the time of Order entry provided that a contemporaneous electronic or written record of the Order with the account designation is made, time-stamped and maintained in accordance with this Rule 506, and provided that the correct account designation is provided to the Clearing Firm prior to the end of the trading day. A suspense account may also be used at the time of Order entry for bunched Orders that are eligible for post-trade allocation and that are executed and allocated in accordance with CFTC Regulation 1.35(b)(5). No Person shall allocate executions in any manner other than an equitable manner.

(e) *Customer Type Indicator (CTI) Codes.*

Each Participant must include the correct CTI code with each transaction executed or submitted for execution on the Trading Platform. The CTI codes are as follows:

- (i) CTI 1 – Transactions initiated and executed by an individual Participant for his own account, for an account he controls or for an account in which he has an ownership or financial interest.
- (ii) CTI 2 – Transactions executed for the proprietary account of a Clearing Firm or a Participant that is not an individual.

(iii) CTI 3 – Transactions in which a Participant or Registered User or Registered Trader executes (a) for the personal account of another Participant, (b) for an account the other Participant controls, or (c) for an account in which the other Participant has an ownership or financial interest.

(iv) CTI 4 – Any transaction not meeting the definition of CTI 1, 2 or 3.

(f) As used in this Rule 506, “legal entity identifier,” “swap dealer,” “major swap participant,” “financial entity” and “US person” have the meaning given those terms in the CEA and CFTC Regulations.

### **507. Matching of Orders**

(a) Except as otherwise provided in these Rules, Orders entered into the Trading Platform will be matched in accordance with one or more algorithms, depending on the Contract, the detailed operation of which shall be set out in notices issued by the Exchange.

(b) The Trading Platform supports an auction functionality that matches the trading interest of buyers and sellers at pre-disclosed, transparent, static prices. This functionality is segmented into a fixing component and a matching component. Fixing sessions may last from one minute to fifteen minutes, as determined by the Exchange on a case-by-case basis. Matching sessions are immediately initiated upon the conclusion of a fixing session.

(i) *Fixing:* Under the fixing component, the Exchange will give Participants and Registered Users prior notice that a fixing session will occur during which Participants and Registered Users may submit indicative bids and offers for a Contract designated by the Exchange (“**Designated Contract**”). Once this session commences, Participants and Registered Users may submit undisclosed, indicative bids and offers for the Designated Contract in the minimum size and during the time identified by the Exchange in the notice. Upon the expiration of the fixing session, the Exchange shall calculate the fixing price for the Designated Contract based upon the average of the best bid and offer in the central limit order book during the fixing session, and shall disseminate such fixing price to all Participants and Registered Users.

(ii) *Matching:* After the expiration of the fixing session and the dissemination by the Exchange of the fixing price, a matching session will commence. In the alternative, the Exchange may initiate a matching session that has not been preceded by a fixing session if the order book is imbalanced or the relevant market is too wide or one-sided. Under such circumstances, the Exchange will determine the price that is to be used for the matching session by selecting a midpoint that will be disclosed by notice to Participants in advance of a matching session. Once a matching session commences, Participants and Registered Users may submit firm bids and offers for the Designated Contract at

the matching session price. All such bids and offers must be in the minimum size and be submitted during the time identified by the Exchange in a notice to Participants and Registered Users. The matching session is open to all Participants and Registered Users, but Orders submitted by Participants and Registered Users that participated in a fixing session, if any, will receive priority over Participants and Registered Users that did not so participate. A matching session will terminate if the Designated Contract trades in the central limit order book at a price that is better than the matching session price for such Designated Contract. For purposes of this paragraph, a price is better if (A) with respect to a bid, the price is greater than the price of another bid, and (B) with respect to an offer, the price is less than the price of another offer. Each unexecuted or unmatched Order for the matching session is cancelled upon the expiration of the matching session.

#### **508. Rule Violations**

It shall be prohibited for a Participant or any of its Registered Users or Registered Traders to violate any Rule of the Exchange 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. No Person shall take action or direct another to take action based on nonpublic information regarding Orders, 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.

#### **509. Fraudulent Acts Prohibited**

No Participant or any of its Registered Users or Registered Traders shall engage in any fraudulent act or any scheme to defraud, deceive, trick or mislead in connection with or related to any Exchange activity.

#### **510. Fictitious or Noncompetitive Transactions Prohibited**

No Participant or any of its Registered Users or Registered Traders shall create a fictitious transaction or a noncompetitive transaction (except, in the case of a noncompetitive transaction, as otherwise authorized by the Rules) or execute such an Order with knowledge of its nature.

#### **511. Fraudulent or Misleading Communications**

No Participant shall make any fraudulent or misleading communications relating to any transaction in a Contract.

#### **512. Market Disruption Prohibited**

Orders entered into the Trading Platform 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 a Participant or any of its Registered Users or Registered Traders who makes or assists in entering any such Order

with knowledge of its purpose or who, with such knowledge, in any way assists in carrying out any plan or scheme for the entering of any such Order shall be deemed to have engaged in an act detrimental to the Exchange.

### **513. Market Manipulation Prohibited**

No Participant or any of its Registered Users or Registered Traders shall manipulate or attempt to manipulate the market in any Contract.

### **514. Disruptive Trading Practices Prohibited**

No Participant or any of its Registered Users or Registered Traders shall engage in any trading practice or conduct that constitutes a “disruptive trading practice,” as such term is defined in the CEA and CFTC Regulations.

### **515. Adherence to Law**

No Participant or any of its Registered Users or Registered Traders shall engage in conduct in violation of the Rules of the Exchange or the rules of the Derivatives Clearing Organization (insofar as the rules of the Derivatives Clearing Organization relate to the reporting or clearance of any transaction in Contracts).

### **516. Good Faith Bids and Offers**

No Participant or any of its Registered Users or Registered Traders shall knowingly enter, or cause to be entered, bids or offers into the Trading Platform other than in good faith for the purpose of executing bona fide transactions.

### **517. Disciplinary Procedures**

All access denials, suspensions, expulsions and other restrictions imposed upon a Participant or any of its Registered Users or Registered Traders by the Exchange pursuant to Exchange disciplinary procedures shall restrict, with equal force and effect, access to, and use of, the Trading Platform.

### **518. Termination of Connection**

(a) The Exchange, at its sole discretion, shall have the right to summarily terminate the Trading Privileges of any Participant or the access of any Trader ID to the Trading Platform. Additionally, the Exchange, at its sole discretion, shall have the right to direct a Participant to immediately terminate access to the Trading Platform of any of such Participant’s Registered Traders or Registered Users.

(b) A Participant, Registered Trader or Registered User whose Trading Privileges are revoked or terminated, shall remain bound by the Rules and Applicable Law 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, acts or omissions of such former Participant arising prior to such revocation or termination. Such former Participant,

Registered Trader or Registered User must also cooperate in respect of any disciplinary proceeding arising under Chapter 7 as if such former Participant, Registered Trader or Registered User were still a Participant, Registered Trader or Registered User.

#### **519. Prohibition of Misstatements**

No Participant or any of its Registered Users or Registered Traders shall make any knowing misstatement of a material fact to the Exchange, any Exchange Official, or any committee or Exchange panel.

#### **520. Acts Detrimental to Exchange Prohibited**

No Participant or any of its Registered Users or Registered Traders shall engage in any act that is detrimental to the Exchange or access the Trading Platform in any way which could be expected to bring disrepute upon such Participant, Registered User or Registered Trader, or the Exchange.

#### **521. Supervision**

A Participant shall establish, maintain and administer supervisory procedures that are reasonably designed to monitor the compliance of its Registered Users and Registered Traders with the Rules, and such Participant may be held accountable for the actions of such Registered Users and Registered Traders.

#### **522. Misuse of the Trading Platform**

Misuse of the Trading Platform is strictly prohibited. It shall be deemed an act detrimental to the Exchange to (i) permit unauthorized use of the Trading Platform; (ii) assist any Person in obtaining unauthorized access to the Trading Platform; (iii) trade on the Trading Platform without an agreement and an established account with a Clearing Firm; (iv) alter the equipment associated with the Trading Platform (except with the Exchange's consent); (v) interfere with the operation of the Trading Platform; (vi) intercept or interfere with information provided thereby; or (vii) in any way use the Trading Platform in a manner contrary to the Rules.

#### **523. Errors and Omissions in Handling Orders**

(a) A Participant who inadvertently fails to execute a Customer Order at the time it should have been executed may, upon discovery of such error or omission, execute such Order at the best obtainable price. Unless the Customer that has placed the Order agrees otherwise, such Order shall be executed as promptly as practicable and shall be reported to the Customer at the price at which actually executed. A Participant may not adjust the price at which an Order was executed. A Participant that agrees to compensate a Customer for such an error shall document all such payments, including the amount of any payment and the reason therefor. Such records must be provided to the Exchange upon request.

(b) A Participant may execute an Order to rectify an error as provided in paragraph (a) without prior instructions from the Customer, but this Rule 523 shall not be construed to contravene any instructions received from a Customer respecting any such Order prior to its execution.

#### **524. Liquidity Provider Programs**

The Exchange may from time to time establish programs that provide Participants and others with incentives for meeting trading volume or liquidity thresholds as may be established by the Exchange.

#### **525. Withholding of Customer Orders Prohibited**

No Participant shall withhold or withdraw from the market any Customer Order, or any part of an Order, for the benefit of any Person other than the Customer for whom the Participant is placing the Order.

#### **526. Priority of Customer Orders**

(a) No Participant shall knowingly enter an Order into the Trading Platform 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, without limitation, an Order allowing discretion as to time and price, when such Participant is in possession of a Customer Order that can be but has not been submitted to the Trading Platform.

(b) For purposes of this Rule 526, a Participant will not be deemed to knowingly buy or sell a Contract or execute a discretionary Order if (i) such Participant is a corporate or other legal entity consisting of more than one individual trader, (ii) such Participant has in place appropriate “firewall” or separation of function procedures and (iii) the Registered Trader buying or selling the Contract or executing the discretionary Order in question has no direct knowledge of the Order to buy or sell the same Contract for any other Person at the same price or at the market price or of the Customer Order for the same Contract, as the case may be.

(c) Nothing in this Rule 526 limits the ability of an “eligible account manager” to bunch Orders in accordance with CFTC Regulation 1.35(b)(5).

#### **527. Trading Against Customer Orders**

(a) *General Prohibition.* No Participant in possession of a Customer Order shall knowingly take, directly or indirectly, the opposite side of such Order 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.

(b) *Exceptions.* The foregoing restriction does not prohibit permissible pre-execution discussions conducted in accordance with Rule 533(d) and shall not apply to the following:

(i) Transactions executed pursuant to Chapter 6;

(ii) A trade knowingly made by a Participant on the Trading Platform against a Customer Order 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 if the Customer Order has been entered immediately upon receipt and has first been exposed on the Trading Platform for a minimum of five seconds; or

(iii) Transactions in which the Customer has consented in writing prior to the transaction to waive the application of this Rule 527 as long as: (1) the Participant has clearly notified the Customer that the Participant may take, directly or indirectly, the opposite side of such Customer's Order 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; (2) the Participant has waited for a reasonable period of time, as determined by the Exchange, after first entering the Order received from the Customer into the Trading Platform before taking the opposite side of the transaction; and (3) the Participant maintains a record that clearly identifies, by appropriate descriptive words, all such transactions, including the time of execution, Commodity, date, price, quantity and delivery month and provides a copy of such record to the Exchange.

#### **528. Simultaneous Buying and Selling Orders**

(a) Opposite Orders for different beneficial owners that are simultaneously placed by a Participant with discretion (including time and price discretion) over both accounts may be entered into the Trading Platform, as long as one Order is exposed for a minimum of 5 seconds.

(b) Independently initiated Orders on opposite sides of the market for different beneficial account owners that are immediately executable against each other may be entered without delay provided that the Orders did not involve pre-execution discussions.

#### **529. Disclosing Orders Prohibited**

No Participant shall disclose an Order to buy or sell, except to a designated Exchange Official, the CFTC or as necessary to efficiently execute the Order, and no Participant shall solicit or induce another Participant to disclose Order information.

#### **530. Wash Sales Prohibited**

No Person shall buy and sell a Contract, place or accept buy and sell Orders in the same Contract, or knowingly execute or accommodate the execution of such Orders by direct or indirect means, if the Person knows or reasonably should know that the purpose of the transactions is to avoid taking a bona fide market position exposed to market risk. Buy and sell Orders for different accounts with common beneficial ownership that are entered with the intent to negate market risk or price competition shall also be deemed to violate this rule.

**531. [Reserved]**

**532. Modification and Cancellation of Orders**

Any Order that has been entered into the Trading Platform may be modified or cancelled unless and until it has been executed or has otherwise expired. Any such modification or cancellation requires that a modification Order or cancellation Order, as the case may be, with respect to the original Order be entered into the Trading Platform. Such modification or cancellation will become effective upon receipt by the Trading Platform of the modification Order or cancellation Order. 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 Trading Platform.

**533. Money Passing, Prearranged, Pre-Negotiated and Noncompetitive Trades Prohibited**

(a) No Person may enter Orders the purpose of which is to enter into Contracts without a net change in either party's open positions but a resulting profit to one party and a loss to the other party, commonly known as a "money pass."

(b) No Person shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any transaction, except as provided in paragraphs (c) and (d) below.

(c) The foregoing restriction shall not apply to Block Trades effected pursuant to Rule 601.

(d) Participants and Registered Users or Registered Traders may engage in pre-execution communications with regard to transactions executed or to be executed on the Trading Platform 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 party may not engage in pre-execution communications with other market 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, and Persons involved in, 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 Trading Platform first, and the second party's Order may not be entered into the Trading Platform until a period of fifteen seconds has elapsed from the time entry of the first Order.



### **534. Priority of Execution**

(a) Customer Orders must be entered into the Trading Platform as soon as practicable. A Participant, Registered User or Registered Trader that receives a Customer Order that is not immediately entered into the Trading Platform must create a non-erasable record of the Order, including the Order instructions, account designation, date, time of receipt and any other information that may be required by the Exchange.

(b) Customer Orders received by a Participant shall be entered into the Trading Platform in the sequence received. Customer Orders that cannot be immediately entered into the Trading Platform must be entered when the Orders become executable in the sequence in which the Orders were received.

(c) Nondiscretionary Customer Orders received by a Participant or an Registered User or Registered Trader shall be entered into the Trading Platform in the sequence in which they were received. Nondiscretionary Customer Orders that cannot be immediately entered into the Trading Platform must be entered when the Orders become executable in the sequence in which the Orders were received.

### **535. Responsibility for Customer Orders**

(a) *Standard of Responsibility.*

(i) A Participant must exercise due care in the handling and execution of Customer Orders. In the case of a dispute as to whether a Participant has exercised due care, the Exchange is authorized to determine whether the Participant was negligent and, if applicable, whether an adjustment is owed to the Customer.

(ii) A Participant may not directly or indirectly guarantee the execution of an Order or any of its terms such as the quantity or price and may only report an execution that has been effected through the Trading Platform or has been executed pursuant to the rules in Chapter 6. This rule shall not be construed to prevent a Participant from assuming or sharing in the losses resulting from an error or the mishandling of an Order.

(b) *Liability for Errors.* A Participant may not adjust the price at which an Order was executed or be held responsible for executing or failing to execute an Order unless such Participant was negligent or is settling a bona fide dispute regarding negligence. Participants shall document all adjustments. Participants shall make and retain a record that contains the date the adjustment was made, the name of the Participant making the adjustment, the account to which the adjustment was credited, the amount of the adjustment, the Order number, and the reason for the adjustment. Such records must be provided to the Exchange upon request.

### **536. Discretionary Orders**

No Participant shall submit a discretionary Order to the Trading Platform for the account of another Person without the prior specific written consent of such other Person to the exercise of such discretion. An Order that gives a Participant solely time and price discretion shall not be subject to this rule.

### **537. Position Limits; Exemptions**

(a) The Exchange may establish position limits for one or more Contracts, and grant exemptions from position limits, in accordance with CFTC Regulations. A Person seeking an exemption from position limits must apply to the Market Regulation Department in the form and manner required by the Exchange.

(b) A Person intending to exceed position limits, including limits established pursuant to a previously approved exemption, must file the required application and receive approval from the Exchange prior to exceeding such limits. Notwithstanding the foregoing, a Person who establishes an exemption-eligible position in excess of position limits and files the required application with the Exchange shall not be in violation of this rule provided the filing occurs within one Business Day after assuming the position. In the event the positions in excess of the limits are not deemed to be exemption-eligible, the applicant will be in violation of speculative limits for the period of time in which the excess positions remained open.

(c) The Exchange shall, on the basis of the application and any requested supplemental information, determine whether an exemption from position limits shall be granted. The Exchange may approve, deny, condition or limit any exemption request based on factors deemed by the Exchange to be relevant, including, but not limited to, the applicant's business needs and financial status, as well as whether the positions can be established and liquidated in an orderly manner. A Person that has received an exemption from position limits pursuant to this Rule 537 shall be deemed to have agreed:

- (i) to comply with all terms, conditions or limitations imposed by the Exchange with respect to the exemption;
- (ii) that the Exchange may modify or revoke the exemption at any time;
- (iii) to initiate and liquidate positions in an orderly manner; and
- (iv) to promptly submit a supplemental statement to the Exchange whenever there is a material change to the information provided in the most recent application.

(d) A Participant shall not be in violation of this Rule if it carries positions for its Customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions. For the purposes of this Rule, a reasonable period of time shall generally not exceed one Business

Day. A Customer who exceeds the position limits as a result of maintaining positions at more than one Participant shall be deemed to have waived confidentiality regarding his positions and the identity of the Clearing Firm(s) at which they are maintained. A Participant carrying such positions shall not be in violation of this Rule if, upon notification by the Exchange, it liquidates its pro-rata share of the position in excess of the limits or otherwise ensures the Customer is in compliance with the limits within a reasonable period of time.

(e) Nothing in this Rule 537 shall in any way limit:

(i) the authority of the Exchange to take emergency action; or

(ii) the authority of the Exchange to review at any time any position owned or controlled by any Person and to direct that such position be reduced to the position limit provided for in Rule 541.

(f) A Person who has received written authorization from the Exchange for an exemption from position limits must annually file an updated application on or before the date that is one year following the approval date of the most recent application. Failure to file an updated application shall result in expiration of the exemption.

(g) No Person shall exceed the position limits set forth in the Rule 541, unless an exemption is granted by the Exchange. Any Person making a bid or offer that would, if accepted, cause such person to exceed the applicable position limits shall be in violation of this Rule.

### **538. Position Accountability**

(a) A Person who holds or controls aggregate positions in excess of the position accountability levels set forth in Rule 541 shall:

(i) provide, in a timely manner upon request by the Exchange, information regarding the nature of the position, trading strategy, and hedging information, if applicable;

(ii) be deemed to have consented, when so ordered by the Exchange, not to further increase the positions which exceed the position accountability levels specified in Rule 541; and

(iii) initiate and/or liquidate such positions in an orderly manner.

(b) For purposes of this Rule 538, 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, the same as if the positions were held by or the trading of the positions was controlled by a single Person.

### **539. Position Reports**

(a) Each Participant shall cause its Clearing Firm to submit to the Exchange or the Regulatory Services Provider (i) a daily report of all positions required to be reported as set forth in Rule 541 and (ii) a copy of the CFTC Form 102 (“Identification of Special Accounts”) filed by the Clearing Firm with the CFTC for such Participant’s reportable accounts. The Form 102 shall be submitted to the submit to the Exchange or the Regulatory Services Provider no later than the Business Day following the date on which the account becomes reportable.

(b) Positions in Contracts at or above the reportable level prescribed in Rule 541 trigger reportable status. For a person in reportable status, all positions, regardless of size, in relevant Contracts must be reported.

(c) All large trader reports shall be submitted in the form and manner specified by the Exchange. The Exchange may require that more than one large trader report be submitted daily. The Regulatory Oversight Committee or the Compliance Department may require reports on a lesser number of positions than otherwise required by Rule 541.

### **540. Aggregation of Positions**

For purposes of Rule 537, Rule 538 and Rule 539, positions in Contracts shall be aggregated in accordance with CFTC Regulations.

### **541. Position Limits, Position Accountability Levels and Reporting Levels**

The position limits, position accountability levels and reporting levels for Contracts are as follows:

<b>Contract</b>	<b>Maturity</b>	<b>Position Limit</b>	<b>Position Accountability</b>	<b>Reporting Level</b>
Interest Rate Swap	Up to 30 years	Not applicable	\$20 billion	\$1.7 billion

### **542. Average Price System**

(a) *Application of Average Prices.* A proprietary average price system (“APS”) developed by a Participant or Clearing Firm allows a Participant or Clearing Firm to confirm to Customers an average price when multiple execution prices are received on an Order or series of Orders for the same instrument. An Order or series of Orders executed for the same instrument during the same trading day at more than one price may be averaged pursuant to the APS only if each Order is for the same account or group of accounts and for the same instrument, or for the same instrument, maturity.

(b) *Requirements for APS Trades.* The requirements enumerated below must be met when applying the APS to transactions:

- (i) The Customer must have requested average price reporting.
- (ii) Each individual trade must be submitted to the Exchange at the executed price.
- (iii) A Participant or Clearing Firm must compute and confirm the weighted mathematical average price, as set forth in Section (c).
- (iv) A Participant or Clearing Firm must possess the records to support the calculations and allocations to Customer Accounts and must maintain these records pursuant to CFTC Regulations.
- (v) A Participant or Clearing Firm must ensure that its proprietary trades are not averaged with Customer APS trades.

(c) *Computation of Average Price.* Upon receipt of an execution or match at multiple prices for an APS Order, the weighted mathematical average must be computed by:

- (i) multiplying the number of instruments purchased or sold at each execution price by that price;
- (ii) adding the produces calculated in paragraph (c)(i) together; and
- (iii) dividing the sum calculated in paragraph (c)(ii) by the total number of instruments purchased or sold.

An average price for a series of Orders will be computed based on the average prices of each Order in that series. The actual average price or the average price rounded to the next price increment may be confirmed to Customers. If a Participant or Clearing Firm confirms the rounded average price, the Participant or Clearing Firm must round the average price up to the next price increment for a buy Order or down to the next price increment for a sell Order. The residual created by the rounding process must be paid to the Customer. APS may produce prices that do not conform to whole cent increments. In such cases, any amounts less than one cent may be retained by the Participant or Clearing Firm.

(d) *Disclosure.* Each Participant or Clearing Firm that confirms an average price to a Customer must indicate on the confirmation and monthly statement that the price represents an average price.

### **543. Trade Cancellations and Price Adjustments**

(a) The Exchange may, in its absolute and sole discretion, adjust trade prices or cancel any trade if it believes that allowing the trade or trades to stand as executed could have a material, adverse effect on the integrity of the market. The Exchange may adjust trade prices or cancel trades where, in its absolute and sole discretion, the Exchange believes such action is necessary to mitigate market disrupting events caused by the

improper or erroneous use of the Trading Platform or by system defects. All decisions of the Exchange to adjust trade prices or cancel trades shall be final. The Exchange shall not have any liability for losses resulting from price adjustments or trade cancellations under this Rule. The Exchange retains exclusive authority over all decisions involving the cancellation of trades.

(b) The Exchange may determine to review a trade based on its independent analysis of market activity or upon request for review by a user of the Trading Platform. A request for review must be made within 15 minutes of the execution of the trade. The Exchange shall determine whether or not a trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the Exchange deems it to be appropriate, the Exchange may determine, in its sole discretion, that a trade shall not be subject to review. Upon deciding to review a trade, the Exchange will promptly issue an alert to involved Participants and Registered Users via the Trading Platform or electronic mail indicating that the trade is under review.

(c) If a transaction is submitted to, but not accepted for clearing by, a Derivatives Clearing Organization within the time set forth in the rules of such Derivatives Clearing Organization, such transaction shall be deemed to be void *ab initio* and none of the parties thereto or the Exchange shall have any further responsibility for such transaction under these Rules.

#### **544. Message Traffic**

The Exchange may at any time restrict, or establish utilization fees in respect of, Message Traffic, either with respect to all or any Participants (or some or all of their Registered Traders and/or Registered Users) in order to safeguard the security or operations of the Exchange, or to preserve market integrity, fair and orderly trading, or if otherwise in the public interest.

#### **545. Swap Data Reporting**

(a) The Exchange will report to a Swap Data Repository Required Swap Creation Data for each Swap executed on or pursuant to the Rules. The Exchange may provide such Required Swap Creation Data to Participants, Registered Users and Registered Traders no earlier than the time it transmits such information to a Swap Data Repository and in a form that does not disclose the identities, or otherwise facilitate identification, of the parties to the Swap.

(b) The Reporting Counterparty for each Swap executed on or pursuant to the Rules of the Exchange shall be established pursuant to CFTC Regulation 45.8. If both counterparties to a Swap executed on or pursuant to the Rules of the Exchange are equal in the hierarchy (for example, both are swap dealers), the Reporting Counterparty for such Swap shall be the Participant or Registered User that is the buyer or payer (or equivalent) on the Swap.

**546. Correction or Cancellation of Transaction Data**

Participants and Registered Users that become aware of an error or omission in Required Swap Creation Data for a Swap shall promptly submit corrected data to the Exchange and, if the error or omission relates to a Block Trade, the counterparty to such Block Trade.

**547. Error Trades**

The Exchange shall have the right in its sole discretion to cancel Contracts executed at prices outside the no-bust range but not submitted to the Derivatives Clearing Organization. For these purposes, the price of a Contract shall be within the “no-bust range” if such price is not more than 10% higher or lower than the price of the last trade in such Contract or, if such Contract has not previously been traded on that Business Day, not more than 10% higher or lower than the prior Business Day’s settlement price for such Contract.

## CHAPTER 6 NEGOTIATED TRANSACTIONS

### 601. Block Trades

(a) The Exchange shall designate the Contracts in which Block Trades shall be permitted and determine the minimum block size for such transactions as described herein.

(b) The following shall govern Block Trades:

(i) A Participant to a Block Trade must be an Eligible Contract Participant.

(ii) A Block Trade must be for a quantity that is at or in excess of the applicable minimum block size as set forth in paragraph (e).

(iii) A Participant must receive instructions from a Customer or obtain the Customer's prior consent before entering into a Block Trade with that Customer.

(iv) Except as may otherwise be permitted by Applicable Law, Participants shall not aggregate Orders for different accounts to achieve the minimum block size.

(v) The price at which a Block Trade is executed must be fair and reasonable in light of (i) the size of the Block Trade, (ii) the prices and sizes of other transactions in the same contract at the relevant time, (iii) the prices and sizes of transactions in other relevant markets, including the related swap markets, at the relevant time, and (iv) the circumstances of the markets or the Participants to the Block Trade.

(vi) The Reporting Counterparty to a Block Trade must ensure that each Block Trade is submitted to the Exchange as soon as technologically practicable via an approved submission method. The submission must include the information required by Rule 506(b), together with such other information as the Exchange may require.

(vii) Registered Traders and Participants involved in the execution of Block Trades must maintain written or electronic records of all such Block Trades, including an electronic timestamp reflecting the date and time each such Order was received as well as an electronic timestamp reflecting the date and time such Order was executed or cancelled.

(c) The Exchange shall designate the Contracts in which Block Trades shall be permitted and determine the minimum block size for such transactions.



(d) At the time of execution, every Order received from a Customer must be in the form of a written or electronic record and include an electronic timestamp reflecting the date and time such Order was received and must identify the specific account(s) for which the Order was placed. Such record shall also include an electronic timestamp reflecting the date and time such Order was executed or cancelled.

(e) The Contracts eligible for Block Trades and the applicable minimum block sizes are as follows:

<b>Initial Maturity (Upper Range)</b>	<b>Minimum Block Size (\$ Notional)</b>
2 years	\$200 million
3 years	\$150 million
4 years	\$100 million
5 years	\$100 million
6 years	\$75 million
7 years	\$75 million
8 years	\$75 million
9 years	\$50 million
10 years	\$50 million
12 years	\$50 million
15 years	\$50 million
20 years	\$50 million
25 years	\$25 million
30 years	\$25 million

## **CHAPTER 7 DISCIPLINE AND ENFORCEMENT**

### **701. General**

(a) Participants, Registered Users, Registered Traders and other Persons within the Exchange's jurisdiction are subject to this Chapter 7 if they are alleged to have violated, to have aided and abetted a violation of, 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) Except when the Board reserves responsibility for an inquiry or investigation to itself or delegates its responsibility to a committee of the Board, the Exchange will conduct inquiries, investigations, disciplinary proceedings and appeals from disciplinary proceedings, summary impositions of fines, summary suspensions or other summary actions in accordance with this Chapter 7.

(c) The Exchange may delegate any or all of its powers or responsibilities under this Chapter 7 to the Compliance Department, which may take any actions on behalf of the Exchange that the Exchange is permitted to take hereunder. In the event of any such delegation, references to the Exchange in this Chapter 7 shall be construed to be references to the Compliance Department. The Compliance Department will maintain an enforcement staff that will effectively and promptly prosecute violations in accordance with this Chapter 7. The enforcement staff may not include persons that are associated with Participants, Registered Users or Registered Traders or with persons whose interests conflict with their enforcement duties. Further, a member of the enforcement staff may not operate under the direction or control of any Participant. Any reference to the Compliance Department in this Chapter 7 shall also be a reference to the enforcement staff.

(d) No member of the staff of the Exchange 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. No member of the Board 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 with respect to which the Board member is not a member of the relevant Disciplinary Panel or Appeal Panel.

(e) Upon being served with a notice of charges, the respondent may be represented by counsel or any other representative of its choosing, at its own expense, in all succeeding stages of the disciplinary process pursuant to this Chapter 7.

(f) Pursuant to this Chapter 7, the Exchange may hold:

(i) a Participant liable, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation of Applicable Law;

(ii) a Participant liable, and impose sanctions against such Participant, for the acts and omissions of each Registered User or Registered Trader authorized by, and each other agent or representative of, such Participant that constitute a violation of Applicable Law as if such violation were that of the Participant;

(iii) a Registered User or Registered Trader liable, and impose sanctions against him or her, for such Registered User's or Registered Trader's own acts and omissions that constitute a violation of Applicable Law; and

(iv) a Registered User or Registered Trader liable, and impose sanctions against him or her, for the acts and omissions of each agent or representative of such Registered User or Registered Trader that constitute a violation of Applicable Law as if such violation were that of the Registered User or Registered Trader.

(g) The Board shall appoint individuals at the recommendation of the Chief Regulatory Officer to serve for a term of one year subject to reappointment, removal or replacement by the Board, as potential participants on Disciplinary Panels and Appeal Panels. The term of an individual selected as a member of a Disciplinary Panel or an Appeal Panel will not expire until the relevant disciplinary proceedings are complete. No member of the Compliance Department may be a participant in a Disciplinary Panel or an Appeal Panel.

## **702. Inquiries and Investigation**

(a) The Compliance Department will investigate any matter within the Exchange's disciplinary jurisdiction that is brought to the attention of the Compliance Department. An investigation must be commenced upon the receipt of a request from the CFTC staff or upon the discovery or receipt of information by the Exchange that, in the judgment of the Compliance Department, indicates a possible basis for finding that a violation has occurred or will occur. The Compliance Department will determine the nature and scope of its inquiries and investigations within its sole discretion.

(b) The Compliance Department has the authority to:

(i) initiate and conduct inquiries and investigations;

(ii) prepare investigative reports and make recommendations concerning the initiation of disciplinary proceedings; and

(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) Each Participant, Registered User or Registered Trader and other Person subject to the Exchange's jurisdiction:

(i) is obligated to appear and testify and respond in writing to inquiries within the time period required by the Compliance Department in connection with (A) any Exchange Business or Rule of the Exchange; (B) any inquiry or investigation; or (C) any preparation by and presentation during a disciplinary proceeding or appeal from a decision in a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action by the Exchange;

(ii) is obligated to produce books, records, papers, documents or other tangible evidence in its, his or her possession, custody or control within the time period required by the Compliance Department in connection with (A) any Exchange Business or Rule of the Exchange; (B) any inquiry or investigation; or (C) any preparation by and presentation during a disciplinary proceeding or appeal from a decision in any disciplinary proceeding, summary imposition of fines, summary suspension or other summary action by the Exchange; and

(iii) may not impede or delay any inquiry, investigation, disciplinary proceeding, appeal from a disciplinary proceeding, summary imposition of fines, summary suspension or other summary action.

### **703. Reports of Investigations**

(a) The Compliance Department will maintain a log of all investigations and their disposition. The Compliance Department will prepare a written report of an investigation for the Chief Regulatory Officer when the evidence gathered during any inquiry or investigation forms a reasonable basis to believe that a violation within the Exchange's jurisdiction has occurred or is about to occur. Any member of the Compliance Department must promptly recuse himself or herself and notify the Chief Compliance Officer of the recusal if such member has a relationship of a type listed in Rule 205(a)(i) with a potential respondent in an investigative report. Any such written investigation report will include the following information:

(i) the reason(s) for initiating the investigation;

(ii) a summary of the complaint, if any;

(iii) all relevant facts and evidence gathered;

(iv) the Compliance Department's analysis and conclusions; and

(v) the recommendation of the Compliance Department as to whether disciplinary action should be pursued.

(b) For each potential respondent, the Compliance Department will recommend any one of the following actions:

- (i) closing the investigation without further action,
  - (ii) resolving the investigation through an informal disposition, including the issuance of a warning letter; or
  - (iii) initiating disciplinary proceedings.
- (c) If the Compliance Department determines that no reasonable basis exists for finding a violation, then the written investigation report will include the following information:
- (i) the reasons for initiating the investigation;
  - (ii) a summary of the complaint, if any;
  - (iii) all relevant facts and evidence gathered; and
  - (iv) the Compliance Department's analysis and conclusions.
- (d) After reviewing the Compliance Department's written investigation report, the Chief Regulatory Officer will either:
- (i) decline to forward the investigative report to a Review Panel for further review;
  - (ii) forward the investigative report to a Review Panel for further review without a recommendation regarding the initiation of disciplinary proceedings; or
  - (iii) forward the investigative report to a Review Panel for further review with a recommendation to initiate disciplinary proceedings.
- (e) Each Compliance Department investigation must be completed in a timely manner. Absent mitigating factors, a timely manner is no later than 12 months after the date that an investigation is opened. Mitigating factors that may reasonably justify an investigation taking longer than 12 months to complete include the complexity of the investigation, the number of firms or individuals involved as potential wrongdoers, the number of potential violations to be investigated, and the volume of documents and data to be examined and analyzed.
- (f) In addition to any of the actions permitted pursuant to this Rule 703, the Compliance Department may issue a warning letter to the potential respondent. Such warning letter, if issued, shall not be construed as a penalty or an indication that a finding of a violation has been made. A copy of such warning letter that was issued shall be included in the investigation report of such potential respondent. No more than one warning letter for the same potential violation may be issued to the same potential respondent during any rolling 12-month period.

#### **704. Review of Investigative Reports**

(a) The Review Panel shall review the written investigation reports prepared by the Compliance Department to determine whether further action with respect to the matters discussed therein is required.

(b) The Review Panel will review each completed investigation report promptly after receipt thereof and, within 20 days of such receipt, take one of the following actions:

(i) If the Review Panel determines that additional investigation or evidence is needed, the Review Panel shall promptly direct the Compliance Department to conduct further investigation;

(ii) If the Review Panel determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, the Review Panel may direct that no further action be taken. Such determination must be in writing, and must include a written statement setting forth the facts and analysis supporting the decision; or

(iii) If the Review Panel determines that a reasonable basis exists for finding a violation and adjudication is warranted, it must direct that the person or entity alleged to have committed the violation be served with a notice of charges.

(c) Any member of the Review Panel must promptly recuse himself or herself and notify the Chief Regulatory Officer of the recusal if such member has a relationship of a type listed in Rule 205(a)(i) with a potential respondent in an investigative report.

(d) The Review Panel shall be comprised of three members, at least one of whom would qualify to serve as a Public Director in accordance with Rule 201(d). In forming a Review Panel, the Chief Regulatory Officer shall draw panel members from the individuals appointed by the Board as potential members of Review Panels. No group or class of participants may dominate or exercise disproportionate influence on a Review Panel. In addition, the Review Panel must not include any person involved in adjudicating any other stage of the same proceeding. No member of the Review Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. If a vacancy shall occur on a Review Panel after it has begun its proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Review Panel has determined the matter for which it was appointed and has notified the Secretary in writing of its decision, it shall be dissolved automatically. Except as may otherwise be provided in these rules the Chief Regulatory Officer may, at any time, remove any member of a Review Panel for cause.

#### **705. Notice of Charges**

(a) If the Review Panel authorizes disciplinary proceedings pursuant to Rule 704, the Compliance Department will prepare, and serve in accordance with Rule 707, a notice of charges.

- (b) A notice of charges must:
  - (i) adequately state the acts, practices or conduct that the respondent is alleged to have engaged in;
  - (ii) state the provision(s) of Applicable Law alleged to have been violated or about to be violated;
  - (iii) advise the respondent of its right to a hearing;
  - (iv) state the period of time within which the respondent can request a hearing on the notice of charges, which will not be less than 20 days after service of the notice of charges;
  - (v) 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
  - (vi) advise the respondent that a failure to answer or to expressly deny a charge may be deemed to be an admission of such charge.

(c) Upon being served with a notice of charges, the respondent has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary proceedings, other than a Board member, Director, member of an applicable Disciplinary Panel, Exchange employee or other person substantially related to the underlying investigation.

#### **706. Answer to Notice of Charges**

(a) If the respondent determines to answer a notice of charges, the respondent must file a written answer within 20 days after being served with such notice, or within such later time period determined appropriate by the chairman of the Review Panel.

- (b) To answer a 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 Hearing Panel.

(c) Any failure by the respondent to timely serve a written answer to a notice of charges will be deemed to be an admission to the allegations in such notice. Any failure by the respondent to answer or expressly deny one or more allegations in a notice

of charges will be deemed to be an admission of that allegation or those allegations. A general denial by the respondent, without more, will not satisfy the foregoing requirements.

(d) If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Hearing Panel shall find that the violations set forth in such allegations have been committed and shall impose a sanction for each such violation. The Hearing Panel shall promptly notify the respondent in writing of any sanction to be imposed pursuant to this Rule 706(d) and advise the respondent that it may request a hearing on such sanction within the time period specified in the notice. The failure to request such a hearing within such time period shall be deemed to constitute an acceptance of such sanction. Any hearing pursuant to this Rule 706(d) shall be concerned only with the sanction(s) imposed by the Hearing Panel pursuant to this Rule 706(d).

#### **707. Service of Notice**

Any notice of charges or other documents contemplated to be served pursuant to this Chapter 7 may be served upon the respondent either personally or by leaving the same at the respondent's place of business during business hours or by deposit with the United States post office, postage prepaid via registered or certified mail, or by overnight delivery, addressed to the respondent at the respondent's last known place of business or residence.

#### **708. Settlements**

(a) At any time after a notice of charges has been issued, the respondent may propose in writing an offer of settlement to anticipated or instituted disciplinary proceedings. Any offer of settlement must contain proposed findings and sanctions and be signed by the respondent or potential respondent and submitted to the Compliance Department. A respondent or potential respondent may offer to settle disciplinary proceedings without admitting or denying the findings contained in the order of the disciplinary proceedings, but must accept the jurisdiction of the Exchange over it and over the subject matter of the proceedings and consent to the entry of the findings and sanctions imposed under such offer of settlement.

(b) The Review Panel or Hearing Panel, as applicable, may accept the offer of settlement, but may not alter the terms of a settlement offer unless the respondent or potential respondent agrees.

(c) If an offer of settlement is accepted, the Review Panel or Hearing Panel, as applicable, must issue a written decision specifying the rule violations that the presiding panel has reason to believe were committed, including the basis or reasons for the presiding panel's conclusions, and any sanction to be imposed, which shall include full Customer restitution where Customer harm is demonstrated. Should an offer of settlement be accepted by the Hearing Panel without the agreement of the Compliance Department, such written decision must adequately support the Hearing Panel's acceptance of the settlement. If applicable, such written decision must also include a statement that the



respondent has accepted the sanctions imposed without either admitting or denying the rule violations.

(d) The respondent or potential respondent may withdraw his or her offer of settlement at any time before final acceptance by the presiding panel.

(e) If the offer of settlement of a respondent or potential respondent is not accepted, fails to become final or is withdrawn before final acceptance by the presiding panel, the matter will proceed as if the offer had not been made and the offer (and all documents relating to it) will not become part of the record. Neither the respondent, the potential respondent, nor the Compliance Department may use an unaccepted offer of settlement as an admission or in any other manner at a hearing of, or appeal from, any disciplinary proceedings.

(f) Any accepted settlement agreement shall include a waiver by the respondent of all rights to appeal or otherwise challenge or contest the validity of the settlement offer.

#### **709. Hearing Panel**

(a) The Chief Regulatory Officer will appoint a Hearing Panel to conduct hearings in connection with any disciplinary proceedings authorized by a Review Panel, to make findings and impose sanctions pursuant to this Chapter 7.

(b) The Hearing Panel shall be comprised of three individuals, at least one of whom would qualify to serve as a Public Director in accordance with Rule 201(d). The chairman of the Hearing Panel shall be appointed by the Chief Regulatory Officer. No group or class of participants may dominate or exercise disproportionate influence on a Hearing Panel, and no member of the Hearing Panel may participate in deliberations or voting on any matter in which he or she has a financial, personal or other direct interest. A Hearing Panel may not include any person involved in adjudicating any other stage of the same proceeding. If a vacancy shall occur on a Hearing Panel after it has begun its proceedings, the remaining members shall complete consideration and disposition of the matter. Once a Hearing Panel has determined the matter for which it was appointed and has notified the Secretary in writing of its decision, it shall be dissolved automatically. The Chief Regulatory Officer may, at any time remove any member of a Hearing Panel for cause.

(c) Any of the functions of the Exchange or the Hearing Panel under this Chapter 7 may be performed by a Regulatory Service Provider pursuant to a delegation of such functions by the Exchange, and references to the Review Panel, the Hearing Panel or the Compliance Department, as appropriate, shall be deemed to be references to such Regulatory Service Provider. Nevertheless, the Exchange will retain exclusive authority in all substantive decisions made by the Regulatory Service Provider, including, but not limited to, denials of access to the Trading Platform for disciplinary reasons. The Exchange will document any instances where its actions differ from those recommended by the Regulatory Service Provider.

(d) Within ten days of being notified of the appointment of a Hearing Panel, a respondent may seek to disqualify any individual named to the Hearing Panel for the reasons identified in Rule 205(a)(i) or for any other reasonable grounds, by serving written notice on the general counsel and providing a copy thereof to the Hearing Panel. By not timely filing a request for disqualification, the respondent will be deemed to have waived any objection to the composition of a Hearing Panel. The general counsel will decide the merits of any request for disqualification within his or her sole discretion. Any such decision will be final and not subject to appeal.

#### **710. Convening Hearings of Disciplinary Proceedings**

(a) All disciplinary proceedings (except for summary impositions of fines pursuant to Rule 717) will be conducted at a hearing before a Hearing Panel. A hearing will be conducted privately and confidentially unless the Hearing Panel decides that the hearing, or any part of it, should be held in public after giving each respondent the opportunity to present its, his or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, a Hearing 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 Hearing Panel will promptly convene a hearing to conduct disciplinary proceedings with respect to such respondent. Parties to a disciplinary proceeding include each respondent and the Compliance Department. The hearing shall be conducted before members of the Hearing Panel.

(c) The chairman of the Hearing Panel may continue, adjourn or otherwise conduct the hearing as he or she may deem appropriate. The chairman of the Hearing Panel will determine all procedural and evidentiary matters, including any pre-hearing motions and the admissibility and relevance of any evidence proffered. In determining procedural and evidentiary matters, the chairman of the Hearing Panel will not be bound by any evidentiary or procedural rules or law; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing. Once admitted during the hearing, the Hearing Panel may consider, and attach the weight it believes appropriate to, evidence or other materials. The Exchange will provide guidance to the chairman of the Hearing Panel on the conduct of the hearing.

(d) Except for procedural and evidentiary matters decided by the chairman of the Hearing Panel pursuant to paragraph (c) above and Rule 711, unless each respondent otherwise consents, the entire Hearing Panel must be present (either in person or by telephone) during the entire hearing and any related deliberations.

#### **711. Respondent's Review of Evidence**

(a) Prior to the commencement of a hearing, each respondent will be given the opportunity to review all books, records, documents, papers, transcripts of testimony and other evidence in the possession or under the control of the Exchange that the

Compliance Department will use to support the allegations and proposed sanctions in the notice of charges or which the chairman of the Hearing Panel deems relevant to those charges. Notwithstanding the foregoing, no respondent will have the right to review, and the Exchange will have no obligation to disclose, any information that (i) is protected by attorney-client privilege or the work-product doctrine; (ii) was prepared by the Compliance Department or an employee of the Exchange but will not be offered in evidence in the disciplinary proceedings; (iii) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or (iv) discloses the identity of a confidential source.

(b) If any books, records, documents, papers, transcripts of testimony or other tangible evidence contain 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 Compliance Department, the Compliance Department may redact, edit or code such information before furnishing it to the respondent.

(c) Notwithstanding anything in paragraph (b) above to the contrary, the Compliance Department:

(i) will not redact, edit or code competitive or investigative information contained in documents in a manner that would impair the respondent's ability to defend against the allegations or proposed sanctions in the notices of charges, and

(ii) will provide the respondent with access to the information and portions of the documents that the Compliance Department intends to rely on to support the allegations or proposed sanctions in the notice of charges or that are relevant to those charges.

(d) For purposes of this Rule 711, information that could adversely affect competitive positions includes positions in Contracts currently held, trading strategies employed in establishing or liquidating positions, the identity of Customers, and the personal finances of the Person providing the information.

(e) Unless indicated otherwise by the chairman of the Hearing Panel, all such requests for access to information identified in Rule 711(a) must be made not less than ten days prior to the scheduled hearing date.

## **712. Conducting Hearings of Disciplinary Proceedings**

(a) At a hearing conducted with a Hearing Panel, the Compliance Department will present its case supporting the allegations and proposed sanctions in the notice of charges to the Hearing Panel. The respondent is entitled to appear personally and participate in the hearing.

(b) At a hearing conducted with a Hearing Panel, the Compliance Department and each respondent may:

(i) present evidence and facts deemed relevant and admissible by the chairman of the Hearing Panel;

(ii) call and examine witnesses (including, but not limited to, employees or agents of the Exchange that form part of the Compliance Department); and

(iii) cross-examine witnesses called by other parties.

(c) If a respondent has failed to timely file a written answer to a notice of charges but appears at the hearing, the respondent may not participate in the hearing (except for a hearing pursuant to Rule 706(d)) unless the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Hearing Panel will adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 706.

(d) Any person entitled, required, or called upon to attend a hearing before a Hearing Panel pursuant to paragraph (b)(ii) above will be given reasonable notice, confirmed in writing, specifying the date, time, and place of the hearing, and the caption of the disciplinary proceedings. The Exchange will require persons within its jurisdiction that are called as witnesses to appear at the hearing and produce evidence, and will make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.

(e) If, during any disciplinary proceedings, the Hearing 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 Hearing Panel may consider those apparent violations after providing the respondent with an opportunity to answer the additional allegations in accordance with Rule 706. In connection with considering apparent violations pursuant to this paragraph (e), the Hearing Panel may request that the Compliance Department provide the Hearing Panel with any additional information.

(f) The Hearing Panel may summarily impose sanctions on any Participant, Registered User or Registered Trader, or other Person within the Exchange's jurisdiction whose actions impede the progress of a hearing.

(g) 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, and a copy of such recordings shall become a part of the record of such proceedings. If the respondent requests a copy of all or portions of the recording of a hearing, the chairman of the Hearing Panel may, within his or her sole discretion, order the respondent to pay the costs for transcribing the recording of the hearing.

(h) No interlocutory appeals of rulings of any Hearing Panel, or chairman of the Hearing Panel, are permitted.

### **713. Decision of Hearing Panel**

(a) Promptly following a hearing, the Hearing Panel will render a written decision based on the weight of the evidence contained in the record of the disciplinary proceedings. A decision by a majority of the Hearing Panel will constitute the decision of the Hearing Panel.

(b) The Exchange will serve a copy of the written decision on the respondent and the Compliance Department. The written decision will include the following information:

- (i) the notice of charges or a summary of the charges;
- (ii) the answer, if any, or a summary of the answer;
- (iii) a 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 with respect to each charge, and a complete explanation of the evidentiary and other bases 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; and
- (vi) a declaration of all sanctions imposed against the respondent, including the basis for such sanctions and the effective date of such sanctions.

(c) Unless a timely notice of appeal is filed pursuant to Rule 716, the order of the disciplinary proceedings will become final upon the expiration of 20 days after the order is served on the respondent and a copy thereof is provided to the Compliance Department.

### **714. Sanctions**

(a) After notice and opportunity for hearing in accordance with these rules, the Exchange will impose sanctions if a Participant, Registered User or Registered Trader, or other Person within the Exchange's jurisdiction is found to have violated any Applicable Law. Disciplinary sanctions imposed by the Exchange shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.

(b) The Exchange may impose one or more of the following sanctions or remedies:

- (i) censure;

- (ii) limitation on the Participant's right to access all or part of the Trading Platform;
- (iii) suspension of the Participant's right to access all or part of the Trading Platform for a period not to exceed 12 months;
- (iv) fine (subject to paragraph (c) below);
- (v) restitution or disgorgement;
- (vi) expulsion or termination of a Participant, Registered User or Registered Trader, or other Person within the Exchange's jurisdiction; or
- (vii) any other sanction or remedy deemed to be appropriate.

(c) The Exchange may impose a fine of up to \$140,000 for each violation. Each Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any Registered User or Registered Trader authorized by, or other agent or representative of, such Participant.

#### **715. Costs**

(a) Regardless of the outcome of any disciplinary proceeding, a Hearing Panel may order a respondent to pay some or all of the costs associated with the disciplinary proceedings, including costs that the Hearing Panel believes were unnecessarily caused by the respondent. Costs may include costs associated with the inquiry or investigation, the prosecution by the Compliance Department, legal and professional assistance, the hearing, and administrative and other expenses incurred by the Hearing Panel.

#### **716. Appeal from Hearing Panel Decision**

(a) Parties to a disciplinary proceeding may appeal the decision of the Hearing Panel within 20 days of receiving the order of the disciplinary proceedings by filing a notice of appeal with the chief legal officer of the Exchange. While an appeal is pending, the effect of the written decision issued by the Hearing Panel (including any sanctions, remedies, or costs imposed thereby) is suspended.

(b) In a notice of appeal, the appellant must state in writing the grounds for appeal, including the findings of fact, conclusions, or sanctions to which the appellant objects. An appellant may appeal the written decision of a Hearing Panel on the following grounds that (i) the decision was arbitrary, capricious, an abuse of discretion, or not in accordance with the Rules, or (ii) the decision exceeded the authority or jurisdiction of the Hearing Panel or the Exchange.

(c) The chief legal officer will forward copies of any notice of appeals received by it to all parties to the disciplinary proceedings in question, except the appellant. On or before the 20th day after filing a notice of appeal, the appellant must file with the Secretary and serve the Compliance Department a brief supporting the notice of

appeal and documents supporting the brief. On or before the 20th day after the date on which the appellant served its brief, the appellee may file and serve its brief in opposition.

(d) Within 20 days after the last submission filed pursuant to paragraph (c) above, the Chief Regulatory Officer will appoint an Appeal Panel to consider and determine the appeal. The Appeal Panel shall be comprised of three individuals, one of whom shall be appointed by the Chief Regulatory Officer as chairman of the Appeal Panel. The Appeal Panel must include at least one person who is qualified to serve as a Public Director in accordance with Rule 201(d). No group or class of participants may dominate or exercise disproportionate influence on an Appeal Panel. An individual may not serve on an Appeal Panel if the individual has a relationship of a type described in Rule 205(a)(i). The appeals proceeding shall be conducted before all members of the Appeal Panel.

(e) Within ten days of being notified of the appointment of an Appeal Panel, either party may seek to disqualify any individual named to the Appeal Panel for the reasons listed in Rule 205(a)(i) or for any other reasonable grounds, by serving written notice on the chief legal officer of the Exchange. By not timely filing a request for disqualification, the parties will be deemed to have waived any objection to the composition of the Appeal Panel. The general counsel will decide the merits of any such objection in his or her sole discretion. Any such decision will be final and not subject to appeal.

(f) An Appeal Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially unless the chairman of the Appeal Panel decides that the hearing, or any part of it, should be held in public after giving each appellant the opportunity to present its, his, or her views on holding a public hearing. Notwithstanding the confidentiality of hearings, an Appeal Panel may appoint individuals to attend any hearing and assist in the deliberations if such individuals agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeal Panel will not be bound by any evidentiary or procedural rules or law.

(g) Except for good cause, the Appeal Panel will only consider on appeal the record before the Hearing Panel, the written exceptions filed by the parties, and the oral or written arguments of the parties. The Appeal Panel may only consider new evidence when it is satisfied that good cause exists as to why the evidence was not introduced during a prior stage of the disciplinary proceeding. In connection with any appeal, the Compliance Department will furnish to the Appeal Panel a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal, and briefs filed to support and oppose the appeal.

(h) After completing its review, the Appeal Panel may affirm, modify, or reverse any order of disciplinary proceedings under appeal in whole or in part, including increasing, decreasing, or eliminating any sanction or remedy imposed; imposing any other sanction or remedy authorized by the Rules of the Exchange; or remanding the matter to the same or a different Hearing Panel for further disciplinary proceedings. The

Appeal Panel may order a new hearing for good cause, or if the Appeal Panel deems it appropriate.

(i) Promptly following the appeal proceeding, the Appeal Panel will issue a written decision and provide a copy to the parties. The written decision issued by the Appeal Panel must adhere to all the requirements of Rule 713(b), to the extent that a different conclusion is reached from that issued by the Hearing Panel. A decision by a majority of the Appeal Panel will constitute the decision of the Appeal Panel.

(j) An Appeal Panel's written decision on appeal (including findings of fact and conclusions and the imposition of sanctions, remedies, and costs, and the effective date of any sanction, remedy, or cost) will be the final action of the Exchange, and will not be subject to appeal within the Exchange. Disciplinary sanctions imposed by the Exchange shall be commensurate with the violations committed, and shall be clearly sufficient to deter recidivism or similar violations by other market participants. In addition, the respondent's disciplinary history will be taken into account in determining the appropriate sanction.

#### **717. Summary Imposition of Fines Relating to Submission of Records**

(a) The Exchange may fine a Participant, Registered User or Registered Trader using a summary fine schedule for a violation of rules regarding timely submission of accurate records required for clearing or verifying each day's transactions.

(b) A warning letter may be issued for first-time violations or violators, provided that no more than one warning letter may be issued per any rolling 12-month period for the same violation. The fine imposed will increase for recurring violations.

#### **718. Summary Suspensions**

(a) Notwithstanding anything in the Rules of the Exchange to the contrary, the Chief Regulatory Officer, or his or her designee, may summarily suspend a Participant's right to access the Trading Platform or the association of a Registered User or Registered Trader with a Participant, or suspend access to the Trading Platform or to the Exchange to any other person subject to the Exchange's jurisdiction, if the Exchange reasonably believes such immediate action is necessary to protect the best interest of the marketplace.

(b) Whenever summary action pursuant to paragraph (a) above is proposed, the Exchange will, if practicable, serve the party against whom the action is contemplated with written notice. If prior notice is not practicable, the Exchange will give notice at the earliest possible opportunity to the respondent against whom the action was taken. The notice will be prepared by the Compliance Department, and such notice will state the action, briefly state the reasons for the action, and state the effective time, date, and duration of the action taken. The notice shall be served on the respondent in accordance with Rule 707.

(c) The respondent shall be advised of its right to a hearing before a Hearing Panel, pursuant to Rules 709-713, by filing a notice of intent with the Compliance



Department within 10 business days of service of notice. Filing of a notice of intent pursuant to this Rule shall not stay the Chief Regulatory Officer's decision to deny access. The respondent shall have the right to be represented by legal counsel, or any other representative of its choosing and at its own expense.

(d) Promptly, but no later than 20 days after the summary suspension of a Participant, Registered User or Registered Trader, a Hearing Panel will conduct a hearing concerning the summary suspension. Promptly after such hearing, the Hearing Panel will render a written decision based on the weight of the evidence contained in the record of the proceeding. The decision of a majority of the Hearing Panel will be the decision of the Hearing Panel. The Exchange will serve copies of the written decision of the Hearing Panel on the respondent and the Compliance Department. The written decision will include the following information:

- (i) a description of, and reasons for, the summary action taken;
- (ii) a summary of the evidence produced at the hearing;
- (iii) a statement of findings of fact and conclusions;
- (iv) a determination that the summary action should be affirmed, modified, or reversed; and
- (v) a declaration of any action to be taken pursuant to the determination, and the effective date and duration of such action.

(e) Any decision of a Hearing Panel pursuant to this Rule 718 will be the final action of the Exchange, and not subject to appeal within the Exchange upon serving the respondent with a copy of the decision.

(f) At the request of the Exchange, a respondent who is summarily suspended pursuant to this Rule 718 must provide access to and/or copies of books and records over which the respondent has access or control, and must furnish information to, or appear or testify before, the Exchange in connection with the enforcement of any Rule of the Exchange.

#### **719. Rights and Responsibilities After Suspension or Termination**

(a) When the right of a Participant, Registered User or Registered Trader to access the Trading Platform is suspended for a period of 12 months or less, none of its rights will apply during the period of the suspension, except for the right of the Participant, Registered User or Registered Trader to assert claims against others as provided in the Rules of the Exchange. Any such suspension will not relieve the Participant, Registered User or Registered Trader of its obligations under the Rules of the Exchange 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 Registered User or Registered Trader under this

Chapter 7 for any violation of Applicable Law committed by the Participant before, during, or after the suspension.

(b) When the right of a Participant, Registered User or Registered Trader to access the Trading Platform is terminated, all of its rights will terminate, except for the right of the Participant or Registered User or Registered Trader in question to assert claims against others, as provided in the Rules of the Exchange. A terminated Participant, Registered User or Registered Trader may only seek to reinstate its right to access the Trading Platform by filing an application in accordance with Rule 303. The Exchange will not consider the application of a terminated Participant, Registered User or Registered Trader if such Participant, Registered User or Registered Trader has failed to appear at disciplinary proceedings without good cause, or has impeded the progress of disciplinary proceedings.

(c) A suspended or terminated Participant or Registered User or Registered Trader remains subject to the Rules of the Exchange and the jurisdiction of the Exchange for acts and omissions prior to the suspension or termination, and must cooperate in any inquiry, investigation, disciplinary proceeding, appeal of disciplinary proceedings, summary suspension, or other summary action as if the suspended or terminated Participant, Registered User or Registered Trader still had the right to access the Trading Platform.

#### **720. Notice to the Respondent, the CFTC, and the Public**

The Exchange will provide written notice of disciplinary proceedings to the parties and the CFTC consistent with 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**

### **801. General**

(a) Participants, Registered Users and Registered Traders shall arbitrate through the NFA arbitration program 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 Trading Platform or subject to the Rules of the Exchange and that are based upon facts and circumstances that occurred at a time when the parties were Participants, Registered Users or Registered Traders.

(b) Except as otherwise provided in the Rules of the Exchange, if required by the applicable agreement between a Participant and a Customer, pursuant to which a Customer has provided its prior written consent in accordance with CFTC Regulation 166.5 or, in the absence of a written agreement, if the relevant Customer otherwise agrees to arbitrate in accordance with CFTC Regulation 166.5 (where applicable), Participant must arbitrate with their respective Customers all disputes, controversies or claims 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 Trading Platform or subject to the Rules of the Exchange.

(c) Notwithstanding the foregoing, this Rule 801 does not apply to disputes between Participants, Registered Users or Registered Traders that: (i) such Persons are required by the rules of a Self-Regulatory Organization to submit to the dispute resolution procedures of that Self-Regulatory Organization; or (ii) that such Persons have, by valid and binding agreement, committed to arbitrate or litigate in a forum other than NFA.

### **802. Forum and Arbitration Rules**

(a) NFA will conduct arbitrations described in Rule 801(a) pursuant to NFA's member arbitration rules, as if each Participant or Registered User that is party to such arbitration were an "NFA Member," and references in such member arbitration rules to the "Associates" of an "NFA Member" shall mean and include any Registered User and any individual who is employed by or is an agent of a Participant or Registered Trader and who has been authorized to access the Trading Platform under the rules.

(b) NFA will conduct arbitrations described in Rule 801(a) pursuant to NFA's rules governing the arbitration of customer disputes.

### **803. Initiating an Arbitration Claim**

A Participant may initiate an arbitration claim by submitting the required documents and fees to the NFA. A Participant that initiates such an arbitration claim shall submit notice thereof to the Exchange.

#### **804. Penalties**

(a) Any failure on the part of a Participant, Registered User or Registered Trader 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 this required to arbitrated pursuant to this Chapter 8, violates the Rules and shall subject such Person to disciplinary proceedings pursuant to Chapter 7. A Participant that does not arbitrate a dispute through the NFA arbitration program pursuant to Rule 801(c) shall not be deemed to have violated these Rules.

(b) The Exchange may summarily suspend, pursuant to Rule 718, a Participant that fails to timely satisfy an arbitration award rendered in any arbitration pursuant to this Chapter 8.

#### **805. Claims Relating to Trade Cancellations or Price Adjustments**

All claims relating to trade cancellations or price adjustments pursuant to Rule 544 shall be arbitrated in accordance with this Chapter 8.

**CHAPTER 9**  
**MISCELLANEOUS**

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

(a) No Exchange official may trade, directly or indirectly, (i) any Contract traded on or pursuant 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.

(b) 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. 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 pursuant 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.

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.

(c) Any Exchange official that has received an exemption under paragraph (b) 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.

(d) 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.

(e) Terms used in this Rule 901 and not otherwise defined in the rules shall have the meaning set forth in CFTC Regulations 1.3 and 1.59.

## **902. Gifts and 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 as in force from time to time.

## **903. Market Data**

(a) Subject to each Participant's rights in its Participant Data, the Exchange owns 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. Participants, Registered Users and other Persons affiliated with any of the foregoing may not distribute, sell or retransmit Market Data to any third party without the consent of the Exchange, provided that each Participant retains such rights as it may enjoy under Applicable Law with respect to Participant Data solely in the form such Participant Data was submitted to the Trading Platform by such Participant.

(b) Notwithstanding any other provision of this Rule 903, each Participant hereby grants the Exchange a non-exclusive, perpetual, freely transferable, irrevocable, worldwide and royalty-free license to any and all rights as such Participant may have in and to Participant Data, including, but not limited to, the right to use, distribute, sublicense, disclose and sell Participant Data, in any manner, media and jurisdiction, for the benefit of the Exchange and/or its Affiliates; provided that, except as may otherwise be permitted by Rule 905, in any written agreement between the Exchange and such Person, or as may be required by Applicable Law, the Exchange shall not disclose Participant Data

other than on an aggregated basis that does not directly or indirectly identify any Participant, Registered User or Registered Trader.

(c) The Exchange will 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 the Exchange's regulatory obligations without the consent of the Person from whom such data or information is collected or received. For the avoidance of doubt, access to the Exchange will not be conditioned upon the use of proprietary data or personal information for business or marketing purposes. The Exchange may share such proprietary data or personal information with one or more registered entities (as such term is defined in CFTC Regulations).

(d) Each Participant, Registered User and other Persons affiliated with any of the foregoing hereby acknowledges and agrees that the Exchange owns and shall retain all right, title and interest in and to the Trading Platform, all components thereof, including without limitation all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including, without limitation all registered or unregistered, as applicable copyright, trade mark, service mark, trade secret, trade name, data or database rights, design rights, moral rights, (i) inventions, whether or not capable or protection by patent or registration, rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, patent, and other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Trading Platform 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 and any and all data or information of any kind transmitted by means of any of the foregoing, "Proprietary Information"). Each Participant, on behalf of itself and each of its Affiliates, Registered 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, Registered 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 Trading Platform or the Proprietary Information. Each Participant, further agrees to and to cause each of its Affiliates, Registered 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 Trading Platform or any Proprietary Information.

#### **904. 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 Registered 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.

#### **905. Confidentiality**

Except as provided in Rule 903, 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 government agency or the regulatory authority of any foreign jurisdiction, if the Exchange is requested or legally required to do so by such government agency;
- (c) pursuant to legal process;
- (d) to a Derivatives Clearing Organization or securities clearing agency of which such Participant is a member or 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.

#### **906. Force Majeure**

Notwithstanding any other provision of the rules, 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 circumstances that the Exchange determines, in its sole discretion, may have an adverse effect upon the functions and facilities of the Exchange, including, but not limited to, acts of God, fire or other natural disasters, bomb threats, acts of terrorism or war or severely inclement weather.

#### **907. 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.



## **908. Effect of Amendment, Repeal or New Rule**

The Exchange may, in compliance with the CEA and CFTC Regulations, amend or repeal any Rule and/or adopt new Rules. Any such amendment or repeal of a Rule or adoption of a new Rule, shall, upon the effective date of such amendment, repeal or adoption, as applicable, be binding on all Persons subject to the jurisdiction of the Exchange (regardless of when any such Person became subject to the Exchange's jurisdiction) and all Contracts (regardless of whether any such Contract was entered into before, on or after such effective date).

## **909. 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, or electronic data interchange) as if it were (and the signature shall be considered and have the same effect as) a valid and binding original.

## **910. Governing Law; Legal Proceedings**

(a) 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.

(b) 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 Borough of Manhattan in the City of New York. Each Participant expressly consents, for itself and its Registered 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.

(c) In the event that a Participant, Registered User or Registered Trader or an Affiliate of any of the foregoing fails to prevail in a lawsuit or other legal proceeding instituted by such Person against the Exchange or 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 Person shall pay to the Exchange or to such Affiliate 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 proceedings, appeals thereof, or an instance in which the Board has granted a waiver of the provisions hereof.

## **911. Emergencies**

(a) During an Emergency, the Board may implement temporary emergency procedures and rules ("Emergency Rules"), subject to Applicable Law. If the Chief

Executive Officer (or, in the event that the Chief Executive Officer is unavailable, the Chief Operating Officer) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, the Chief Executive Officer (or, if applicable, the Chief Operating Officer) shall have the authority, without Board action, to implement Emergency Rules with respect to such Emergency as he or she deems necessary or appropriate to respond to such Emergency.

(b) Emergency Rules may require or authorize the Exchange, the Board, any committee, the Chief Executive Officer (or, if the Chief Executive Officer is unavailable, the Chief Operating Officer) or any other Officer of the Exchange to take actions necessary or appropriate to respond to the Emergency, including:

- (i) suspending or curtailing trading or limiting trading to liquidation only (in whole or in part);
- (ii) extending, limiting or changing Trading Hours for one or more Contracts;
- (iii) ordering the liquidation of Contracts or the reduction of positions;
- (iv) temporarily modifying or suspending any provision of the Rules,
- (v) imposing or modifying trading limits, price limits or position limits;
- (vi) requiring additional margin to be collected from Customers;
- (vii) any other action, if so directed by the CFTC.

When the Exchange determines that the Emergency has been reduced sufficiently to allow the Exchange to resume normal functioning, any such actions will be modified or terminated, as appropriate.

(c) 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 practicable, the Exchange will notify the CFTC as soon as reasonably practicable, but in all circumstances within 24 hours of the implementation, modification or termination of such Emergency Rule.

(d) Whenever the Exchange takes action to respond to an Emergency it will, where practicable, ensure that prompt notice is given to Participants.

(e) When the Exchange determines that the Emergency has been reduced sufficiently to allow the Exchange to resume normal functioning, any such actions will be modified or terminated, as appropriate.

(f) Upon taking any action in response to an Emergency, the Exchange will document the decisions and deliberations related to such action. Such documentation will

be maintained 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 any governmental agency upon request.

(g) If the Emergency is related to a Contract that is fungible with financial products traded on another platform, the Exchange will attempt to coordinate its response with any directions received from the CFTC.

## **912. 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;
- (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 Applicable Law.

(c) The Exchange may disclose to any Person or entity information concerning or associated with a Participant or other Person that the Exchange believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made and notwithstanding anything to the contrary in Rule 901.

## **913. [Reserved]**

## **914. Regulatory Services Provider**

(a) The Exchange may contract with a Regulatory Services Provider to provide certain regulatory services to the Exchange pursuant to a Regulatory Services Agreement. The Exchange may delegate to a Regulatory Services Provider only such

powers or functions as are appropriate under the CEA and CFTC Regulations. Any of the powers or functions of the Exchange under the Rules may be delegated to a Regulatory Services Provider pursuant to the relevant Regulatory Services Agreement in such manner and on such terms as the Exchange and such Regulatory Services Provider may mutually agree. In accordance with the relevant Regulatory Services Agreement, a Regulatory Services Provider may perform certain surveillance, investigative, and regulatory functions under the Rules and the Exchange may provide information to such Regulatory Services Provider in connection with the performance by such Regulatory Services Provider of those functions.

(b) The Exchange shall retain ultimate decision-making authority with respect to any powers or functions that are delegated to a Regulatory Services Provider.

#### **915. LIMITATION OF LIABILITY; NO WARRANTIES**

(a) EXCEPT AS PROVIDED BELOW, AND EXCEPT IN INSTANCES IN WHICH THE DISCLAIMING PARTY (DEFINED BELOW) HAS BEEN FINALLY ADJUDICATED BY A COURT OF COMPETENT JURISDICTION TO HAVE ENGAGED IN FRAUD OR WILLFUL MISCONDUCT, IN WHICH CASE THE DISCLAIMING PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE 915, NEITHER THE COMPANY, NOR ANY AFFILIATE OF THE COMPANY, NOR ANY OF THEIR RESPECTIVE MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, EQUITYHOLDERS, AGENTS, CONSULTANTS OR SERVICE PROVIDERS (INCLUDING, WITHOUT LIMITATION, ANY REGULATORY SERVICES PROVIDER), NOR ANY MEMBER OF ANY COMMITTEE OR OTHER GOVERNING BODY OF ANY AFFILIATE OF THE COMPANY (EACH OF THE FOREGOING, AS APPLICABLE, THE “DISCLAIMING PARTY” AND, COLLECTIVELY, “DISCLAIMING PARTIES”), SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES ARISING OUT OF OR IN CONNECTION WITH:

(i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER EVENT, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE COMPANY, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION, ELECTRONIC ORDER ENTRY AND DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY PARTICIPANTS, REGISTERED USERS OR REGISTERED TRADERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE AND FIRMWARE RELATING THERETO; OR

(ii) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER EVENT, OF ANY SYSTEM OR SERVICE OF THE COMPANY, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR

(iii) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE COMPANY OR ANY OF THE COMPANY'S SYSTEMS, SERVICES OR FACILITIES; OR

(iv) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF THE COMPANY'S SYSTEMS, SERVICES, EQUIPMENT OR FACILITIES BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM IS BASED ON BREACH OF CONTRACT, TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY, NEGLIGENT MISREPRESENTATION, RESTITUTION, BREACH OF STATUTORY DUTY, BREACH OF WARRANTY OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD-PARTY CLAIM.

(b) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS PROVIDED BY THE COMPANY OR ANY OTHER DISCLAIMING PARTY RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE COMPANY TRADING PLATFORM AND THE COMPANY HEREBY SPECIFICALLY DISCLAIMS, OVERRIDES AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, CONDITIONS, OTHER CONTRACTUAL TERMS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE COMPANY OR ANY OTHER DISCLAIMING PARTY OR OTHERWISE (INCLUDING BUT NOT LIMITED TO, AS TO TITLE, SATISFACTORY QUALITY, ACCURACY, COMPLETENESS, UNINTERRUPTED USE, NON-INFRINGEMENT, TIMELINESS, TRUTHFULNESS, SEQUENCE AND ANY IMPLIED WARRANTIES, CONDITIONS AND OTHER CONTRACTUAL TERMS ARISING FROM TRANSACTION USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE) RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING, WITHOUT LIMITATION, THE COMPANY TRADING PLATFORM.

(c) NOTWITHSTANDING THE FOREGOING, THE EXCHANGE MAY ASSUME RESPONSIBILITY FOR DIRECT, OUT-OF-POCKET LOSSES DIRECTLY CAUSED BY THE GROSS NEGLIGENCE OF A DISCLAIMING PARTY. THE COMPANY'S TOTAL COMBINED AGGREGATE LIABILITIES SHALL NOT IN SUCH CIRCUMSTANCES EXCEED \$100,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES ON A SINGLE CALENDAR DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,000,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR YEAR. If the number of allowed claims arising out of any failures or malfunctions on a single day or single month cannot be fully satisfied because of the above dollar limitations, all such claims shall be limited to a pro rata share of the maximum amount for the respective period.

(d) Under no circumstances shall the Exchange be liable to a Participant or any other Person for any indirect, special, incidental, consequential, exemplary loss or punitive damages of any kind, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties or otherwise, including, without limitation, any loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of market share, loss of goodwill, loss of reputation or loss of, damage to or corruption of data, however suffered or incurred, regardless of whether the Exchange has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

(e) Any dispute arising out of the use of the systems or services of the Exchange or services, equipment, or facilities used to support such systems or services, including, without limitation, the Trading Platform, in which one or more Disclaiming Parties is a party shall be arbitrated pursuant to the rules in Chapter 8, and references to a "Participant" shall, to the extent relevant, be deemed for such purpose to mean and include the Disclaiming Parties. Any such claim against a Disclaiming Party shall be brought within one year from the time that a cause of action has accrued. This paragraph (e) shall in no way be construed to create a cause of action and shall not authorize an action that would otherwise be prohibited by the Rules. If for any reason, a court of competent jurisdiction finds that a dispute is not arbitrable, such dispute may be litigated only in accordance with Rule 910.

(f) To the extent that the Chicago Mercantile Exchange ("CME") is acting as Derivatives Clearing Organization, the CME shall not be liable to any Person, including any Participant or Customer, except and solely to the extent set forth in CME Rule 578 (as it may be amended from time to time).

## **916. Communications To and From the Exchange**

(a) Each Participant and Clearing Firm must provide the Exchange with its current electronic mail address and telephone number and the electronic mail address and telephone number of (i) in the case of a Participant, any person who may use a Trader ID assigned to such Participant or and (ii) in the case of a Clearing Firm, any person who

may set risk controls with respect to any Participant for which such Clearing Firm provides clearing services with respect to Contracts. Each Clearing Firm and Participant must immediately (and in any event within 24 hours) update the contact information described in this paragraph (a) whenever it changes.

(b) Communications from the Exchange to Participants and Clearing Firms may be transmitted by electronic mail or posted on the Exchange's website. Communications made to a Participant or Clearing Firm shall also be deemed to have been made to its Supervised Persons, and each Participant and Clearing Firm shall be responsible for conveying such communications to its Supervised Persons as appropriate.

## **CHAPTER 10 CLEARING**

### **1001. Clearing Firm Requirements**

Except as otherwise provided in Rule 1005, a Clearing Firm that seeks to effect transactions on the Trading System for its own account or the account of any Customer must be a Participant.

### **1002. Submission of Contracts to Derivatives Clearing Organization**

Each Participant and Authorized Trader is responsible for the prompt submission to a Derivatives Clearing Organization, directly or through a Clearing Firm, of all Contracts made on the Trading Platform. The Exchange is authorized, but is not obligated, to submit Contracts made on the Trading Platform to a Derivatives Clearing Organization on behalf of the parties to such Contracts and, if different, their respective Clearing Firms.

### **1003. Clearing Firm Guarantee**

(a) Each Participant that is not a Clearing Firm must obtain prior authorization from a Clearing Firm who will guarantee Participant's transactions in Contracts, or enter into an appropriate arrangement with a Person that has such an authorization from a Clearing Firm. Each such guarantee or other arrangement must be in form and substance satisfactory to, and approved by, the Exchange. A Clearing Firm must guarantee and assume financial responsibility for all Contracts of each Participant guaranteed by it, and will be liable for all trades made by such Participant. Where such Participant utilizes the services of multiple Clearing Firms, a Clearing Firm shall only be responsible to the extent that it has been designated to clear a particular transaction.

(b) A Clearing Firm may at any time revoke any authorization granted and guarantee made by it to any Participant in accordance with paragraph (a) above, by providing written notice of such revocation to the Exchange. The guarantee will remain in effect until the non-Clearing Firm has liquidated or transferred all its Customer and proprietary positions and funds to another Clearing Firm.

### **1004. Responsibility of Participants**

Each Participant must assist its Clearing Firm and the Derivatives Clearing Organization in the clearing of its transactions in Contracts. Without limiting the generality of the foregoing, each Participant must: (a) provide its Clearing Firm a telephone number so that such Participant may be reached at any time during the day in the event that there is a discrepancy in the clearing of its transactions; and (b) be available to resolve out-trades in Contracts in which such Participant executed trades on the previous day in a manner specified by the Exchange from time to time. Participants may appoint one or more representatives for the foregoing purposes. If neither the Participant nor any such representative is present at the time specified above, such Participant's Clearing Firm will be authorized to resolve any out-trade in the manner it deems



appropriate, but such resolution will not be relevant to the determination of the liability of any party to the out-trade.

#### **1005. Liquidation of Positions by Clearing Firm**

A Clearing Firm that is not also a Participant may trade an account on behalf of a Participant or Customer solely for the purpose of liquidating contracts on the Exchange carried by such Clearing Firm on behalf of a Participant or Customer that has failed to perform its obligations to such Clearing Firm.

#### **1006. Rules of the Derivatives Clearing Organization**

(a) The clearing services provided by the Derivatives Clearing Organization 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 Derivatives Clearing Organization.

(b) Open positions in any Contract may only be offset by opposite transactions in the same Contract that are executed:

- (i) on the Trading Platform;
- (ii) through Block Trade transactions allowed under Rule 601;
- (iii) by opposite transactions in economically equivalent swaps executed on another designated contract market or on a registered swap execution facility and submitted to the same Derivatives Clearing Organization); or
- (iv) as a result of a position transfer allowed under Rule 1008.

#### **1007. Concurrent Long and Short Transactions**

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 a Clearing Firm at the direction of a Customer or on behalf of an omnibus account; however it shall be the duty of the Clearing Firm to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the relevant Derivatives Clearing Organization.

(b) Clearing Firms 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 Clearing Firms which, for the convenience of a Participant or Customer, may “hold open” a position only on their books. However, the Clearing Firm must

accurately report to the Exchange and the relevant Derivatives Clearing Organization, as appropriate, large trader positions, long positions eligible for delivery and open interest.

#### **1008. Transfers of Trades**

Subject in all cases to the rules of the applicable Derivatives Clearing Organization and to the limitations of Rule 1007:

(a) Existing trades may be transferred either on the books of a Clearing Firm or from one Clearing Firm to another Clearing Firm 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. Transfer trades may be transacted in accordance with the rules of the applicable Derivatives Clearing Organization.

(b) The Exchange may, upon request by the Clearing Firm(s), approve a transfer of existing trades either on the books of the same Clearing Firm, or from the books of one Clearing Firm to the books of another Clearing Firm 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.

(c) All transfers shall be reported to the relevant Derivatives Clearing Organization in the form and manner acceptable to the Derivatives Clearing Organization such that the trades, including transactions to reverse an error, clear as transfers. The Clearing Firms involved shall maintain a full and complete record of all such transactions, together with all pertinent memoranda.

## **CHAPTER 11 CONTRACTS**

### **1101. Contract Specifications**

Each Contract will meet such specifications, and all trading in such Contract will be subject to such procedures and requirements, as set forth in the Rules governing such Contract.

### **1102. Delivery**

Where relevant, delivery of the Commodity underlying a Contract upon termination of a Contract, and payment of the price in respect thereof, shall be made in accordance with the Rules of the Exchange and the rules of the applicable Derivatives Clearing Organization.