NYPC NEW YORK PORTFOLIO CLEARING

Laura Klimpel
General Counsel

570 Washington Blvd.
Jersey City, NJ 07310
T +1 212-855-5230
F +1 201-533-6635
lklimpel@nypclear.com

By E-Mail (submissions@cftc.gov**)**

Office of the Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
Washington, D.C. 20581

Re: New York Portfolio Clearing, LLC
Rule Certification – NYPC LLC Agreement and Rules 101 and 601

Ladies and Gentlemen:

New York Portfolio Clearing, LLC ("NYPC") hereby submits amendments to the Fifth Amended and Restated Limited Liability Company of New York Portfolio Clearing, LLC ("NYPC LLC Agreement") and related conforming changes to NYPC Rules 101 and 601 pursuant to the self-certification provisions of Commission Regulation 40.6.

In addition to certain non-substantive technical changes, NYPC proposes to make the following changes to the NYPC LLC Agreement:

Reducing the number of directors on the NYPC Board of Directors from nine directors to seven directors, including three directors appointed by The Depository Trust & Clearing Corporation, three directors appointed NYSE Euronext and one Independent Director who will have the same voting power with respect to decisions related to risk management and regulatory compliance as the three Independent Directors currently possess under the NYPC LLC Agreement; and

Streamlining the structure of the NYPC Board of Directors to eliminate the Executive Committee, the Risk Committee and the Regulatory Oversight and Audit Committee, such that all Board-level decisions will hereafter be taken by the full NYPC Board of Directors.

In connection with the latter change, NYPC further proposes two conforming changes to the NYPC Rules to remove the references to the Risk Committee from Rules 101 and 601.

NYPC hereby certifies that the amended NYPC LLC Agreement and NYPC Rules comply with the Commodity Exchange Act and Commission Regulations thereunder. There were no substantive opposing views expressed by any member of the Board of Directors of NYPC, any Committee of the Board, any clearing member or market participant in respect of the proposed Rule amendments. The amended NYPC LLC Agreement and NYPC Rules will become effective December 19, 2013.

NYPC hereby certifies that a notice of pending certification with the Commission of the proposed Rule amendments and a copy of this submission have been posted on NYPC's website at http://www.nypclear.com/rule-amendments.

The text of the proposed amendments to the NYPC LLC Agreement and the NYPC Rules, marked to show all deletions and additions, are enclosed as Annexes A and B, respectively, together with the submission cover sheet required by Commission Regulation 40.6(b)(7)(i).

Any questions should be directed to the attention of the undersigned at 212-855-5230 or laura.klimpel@nypclear.com.

Very truly yours,

Laura C. Klimpel

Laura C. Klimpel
General Counsel

Encl.

~~FIFTH~~SIXTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
NEW YORK PORTFOLIO CLEARING, LLC

This ~~FIFTH~~SIXTH **AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF NEW YORK PORTFOLIO CLEARING, LLC,** a Delaware limited liability company (the "Company"), is made as of ~~August [X], 2011,~~[ ], between The Depository Trust & Clearing Corporation, a New York corporation (the "DTCC Member") and NYSE Euronext, a Delaware corporation (the "NYSE Member" and, together with DTCC Member, the "Founding Members").

RECITALS

A. On July 15, 2009, the Company was formed as a limited liability company pursuant to (x) the Delaware Limited Liability Company Act, Del. Code Ann. tit. 6 §§ 18-101 et seq. (as amended, and including any successor statute of similar import, the "Act") and (y) a Certificate of Formation filed with the office of the Secretary of State of the State of Delaware (the "Certificate"), at which time the DTCC Member, the Company's then-sole member, entered into a Limited Liability Company Agreement (the "Original LLC Agreement");

B. On September 4, 2009, the Original LLC Agreement was amended and restated in that certain Amended and Restated Limited Liability Company Agreement of the Company (the "First Amended LLC Agreement") to accommodate the admission of the NYSE Member;

C. On March 16, 2010, the First Amended LLC Agreement was amended and restated in that certain Second Amended and Restated Limited Liability Company Agreement of the Company (the "Second Amended LLC Agreement");

D. On April 16, 2010, the Second Amended LLC Agreement was amended and restated in that certain Third Amended and Restated Limited Liability Company Agreement of the Company (the "Third Amended LLC Agreement"); ~~and~~

E. On February 22, 2011, the Third Amended LLC Agreement was amended and restated in that certain Fourth Amended and Restated Limited Liability Company Agreement of the Company (the "Fourth Amended LLC Agreement~~")~~"); and

F. On January 24, 2012, the Fourth Amended LLC Agreement was amended and restated in that certain Fifth Amended and Restated Limited Liability Company Agreement of the Company (the "Fifth Amended LLC Agreement")

F. The Company and Founding Members desire to enter into this Agreement, which Agreement shall amend and restate the ~~Fourth~~Fifth Amended LLC Agreement in its entirety and constitute the limited liability company agreement of the Company under the Act for the purpose of setting forth the agreements of the Members as to the affairs of the Company and the conduct of its business.

NOW, THEREFORE, the Founding Members (and other Persons as shall become members of the Company after the date hereof in accordance with the terms of this Agreement) hereby enter into this ~~Fourth~~Sixth Amended and Restated Limited Liability Company Agreement of the Company and agree as follows:

ARTICLE I

DEFINITIONS

1.1 Specific Definitions. The following terms, as used in this Agreement, have the following meanings:

"Accounting Period" means the period beginning on the day following any Adjustment Date (or, in the case of the first Accounting Period, beginning on the date hereof) and ending on the next succeeding Adjustment Date.

"Act" has the meaning defined in Recital A.

"Additional Capital Contribution" has the meaning defined in Section 4.2(b).

"Additional Members" has the meaning defined in Section 8.2.

"Adjustment Date" means (i) the last day of each Fiscal Year, (ii) the day before the date of admission of any substituted or additional Member, (iii) the day before the date of any change in the Members' Interests, (iv) the day before any adjustment made pursuant to Section 4.2, Section 4.3(b) or Section 5.3 or (v) any other date determined by the Board as appropriate for a closing of the Company's books.

"Affiliate" means, with respect to a specified Person, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the specified Person. "control" (and variations thereof) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise, *provided*, that, for purposes of this Agreement, except as otherwise expressly provided for herein, the Company shall not be deemed to be an Affiliate of any Member; *provided further*, that no member or shareholder of a Member shall be deemed

an Affiliate of any Member or the Company. For purposes of this Agreement and for the avoidance of doubt, Liffe shall be considered a controlled Affiliate of NYSE.

"Agency", when used in reference to an issuer of securities, means a U.S. government agency or instrumentality or a U.S. government-sponsored enterprise.

"Agreement" means this ~~Fifth~~Sixth Amended and Restated Limited Liability Company Agreement of New York Portfolio Clearing, LLC, including the Exhibits hereto, as amended from time to time in accordance herewith.

"Appraiser" has the meaning defined in Section 8.6(a)(iii).

"Available Cash" means, as of any date (other than any date during which the Company is in dissolution), the excess of the Company's cash or cash equivalents over the sum of (x) amounts reserved in the then-current Business Plan for payment of expenses, liabilities and obligations (whether fixed or contingent), and (y) appropriate reserves established by the Board for expenses, liabilities and obligations that may arise, including the maintenance of adequate working capital for the continued conduct of the Company's business, *provided* that such reserves shall not be used in the event of a sale of all or substantially all of the assets of the Company.

"Bankruptcy" means, with respect to any Person, any event or occurrence described in clauses (1)a. through (1)f. and (2) of Section 18-304 of the Act.

"Board" has the meaning defined in Section 3.1.

"Book Gain" or "Book Loss" means the gain or loss, as the case may be, recognized by the Company for book purposes in any Accounting Period by reason of any sale or disposition of any of the assets of the Company, computed by reference to the Net Book Value of such assets as of the date of such sale or disposition, rather than by reference to the tax basis of such assets as of such date, and each reference herein to "gain" or "loss" shall be deemed to refer to Book Gain or Book Loss, rather than to tax gain or tax loss, unless the context specifically requires otherwise.

"Business" has the meaning defined in Section 2.3.

"Business Day" means any day other than a Saturday or a Sunday or a day on which bank institutions in the City of New York are authorized or required to close.

"Capital Account" has the meaning defined in Section 4.3(a).

"Capital Contribution" means, with respect to any Member, the amount of capital contributed by such Member to the Company.

"CEO" means the chief executive officer of the Company.

"Certificate" has the meaning defined in Recital A.

"CFTC" has the meaning defined in Section 2.3.

"Clearing Services Agreement" means the clearing services agreement between Liffe and the Company dated on or prior to the Outside Date.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commodity Exchange Act" means the Commodity Exchange Act, 7 U.S.C. § 1 et. seq., as in effect on the date hereof.

"Company" has the meaning defined in the Preamble.

"Company Shortfall" has the meaning defined in Section 4.2(a).

"Core Products" means U.S. Treasury, Agency and Agency mortgage-backed securities, and repurchase agreements and reverse repurchase agreements thereon.

"Covered Person" has the meaning defined in Section 7.4(f).

"Cross-Guarantees" means the agreements between the Company, FICC and certain of DTCC's other operating subsidiaries, dated on or prior to the Outside Date, providing for a limited guaranty of the obligations of an entity that is a member of more than one signatory clearing organization and applicable in the event of a default of such Member to one or more such clearing organizations.

"Cross-Margining Agreement" means the agreement between the Company and FICC, dated on or prior to the Outside Date, whereby joint clearing members (and pairs of affiliated clearing members), having deposited margin collateral and pledged positions in futures contracts and options on futures contracts and positions in interest rate instruments (including repurchase agreements and reverse repurchase agreements) that are cleared by the Company and FICC, respectively, elect to have the positions that are cleared by the Company and FICC combined and margined as a single account based upon the net risk presented by the contracts carried in the clearing member's (or pair of affiliated clearing members') accounts at the Company and FICC.

"Deadlock" has the meaning defined in Section 3.9(a).

"Defaulting Member" has the meaning defined in Section 8.4(a).

"Deficit" has the meaning defined in Section 5.2(c)(i).

"Depreciation" means, for any Accounting Period and with respect to any asset, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to such asset for such period for United States federal income tax purposes, *provided* that if the Net Book Value of an asset differs from its adjusted basis for United States federal income tax purposes at the beginning of any such period, Depreciation shall be an amount that bears the same relationship to the Net Book Value of such asset as the depreciation, amortization, or other cost recovery deduction computed for tax purposes with respect to such asset for the applicable period bears to the adjusted tax basis of such asset at the beginning of such period, or if such asset has a zero adjusted tax basis, Depreciation shall be an amount determined under any reasonable method selected by the Members.

"Designated Executive" has the meaning defined in Section 3.9(a)(i).

"DGCL" means the General Corporation Law of the State of Delaware (8 Del. C. § 101, etseq.), as amended from time to time and any successor statute thereto.

"Director" has the meaning defined in Section 3.2(a).

"DTCC Directors" has the meaning defined in Section 3.2(a).

"DTCC Member" has the meaning defined in the Preamble.

"Effective Time" has the meaning defined in Section 12.1

"Event of Default" has the meaning defined in Section 8.4(a).

"Executive Officer" has the meaning defined in Section 3.5(a).

"Fair Market Value" has the meaning defined in Section 8.6(a).

"FICC" means the Fixed Income Clearing Corporation, a New York corporation and wholly owned Subsidiary of DTCC.

"Fifth Amended LLC Agreement" has the meaning defined in Recital F.

"Financial Information" has the meaning defined in Section 8.6(a)(ii).

"First Amended LLC Agreement" has the meaning defined in Recital B.

"Fiscal Year" has the meaning defined in Section 2.7.

"Founding Members" has the meaning defined in the Preamble.

"Fourth Amended LLC Agreement" has the meaning defined in Recital E.

"GAAP" means U.S. generally accepted accounting principles, consistently applied.

"Governmental Authority" means any nation or government or multinational body, any state, agency, commission or other political subdivision thereof or any entity (including a court) exercising executive, legislative, judicial or administrative functions of or pertaining to government.

"Higher Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Indemnitee" has the meaning defined in Section 7.4(c).

"Independent Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Independent Appraiser" has the meaning defined in Section 8.6(a)(ii).

"Independent ~~Directors~~Director" has the meaning defined in Section 3.2(a).

"Initial Capital Contributions" has the meaning defined in Section 4.1.

"Initiation Date" has the meaning defined in Section 8.6(a)(i).

"Interest", with respect to any Member, as of any determination date, means such Member's "limited liability company interest" (as defined in the Act) in the Company and such Member's rights and obligations with respect to the Company pursuant to this Agreement and applicable Law.

"Interim Contribution" has the meaning defined in Section 4.2(a).

"Law" means rule, regulation, statute, order, ordinance, guideline, code or other legally enforceable requirement, including, but not limited to, common law, state and federal laws, laws of foreign jurisdictions and regulatory requirements.

"Letter Agreement" means the letter agreement between The Depository Trust & Clearing Corporation and NYSE Euronext dated June 17, 2009.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), other charge or security interest; or any preference, priority or other agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, or any capital lease having substantially the same economic effect as any of the foregoing).

"Liffe" means NYSE Liffe US LLC.

"Losses" has the meaning defined in Section 7.4(a).

"Lower Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Market" means any trading facility or organized exchange, as such terms are defined in the Commodity Exchange Act, except the term "trading facility" shall include the entities otherwise excluded by Section 1a(34)(B) of the Commodity Exchange Act.

"Master Services Agreements" means, collectively,

(i) both an NYSE Master Services Agreement and Software License Agreement, each between Liffe and the Company, pursuant to each of which Liffe and its Affiliates will provide to the Company a variety of information technology services supporting the development and operation of the Company, together with a license to certain intellectual property, including for the avoidance of doubt:

(a) an irrevocable royalty-free license from Liffe or its Affiliate to the Company to use CPS in the Company's operations, which license will permit the Company to sublicense CPS to entities clearing through the Company for use in such clearing;

(b) an irrevocable license from Liffe or its Affiliate to the Company to use TRS in the Company's operations, which license will permit the Company to sublicense TRS to those entities clearing through the Company who elect to use TRS for purposes of such clearing, which sublicense will be royalty free to Liffe and its Affiliates and priced at market rates for all others;

(c) managed services for CPS and TRS (at fully loaded cost to Liffe and its Affiliates and at market rates for all others) on terms and conditions to be set forth in the NYSE Master Services Agreement; and

(ii) the DTCC Master Services Agreement, between DTCC and the Company, pursuant to which DTCC and its Affiliates will provide a variety of corporate and information technology services supporting the development and operation of the Company, together with a license to certain software and documentation, including for the avoidance of doubt access to RTTM, Risk, Banking and Reference Data systems for the purpose of the Company interfacing with the services and software described in the NYSE Master Services Agreement.

"Member" means, as of any determination date, a holder of any Interest who is designated as a Member on Exhibit A hereto, as in effect as of such date.

"Member Board" has the meaning defined in Section 3.9(a)(iii).

"Member Director" has the meaning defined in Section 3.2(a).

"Net Book Value" of an asset means, as of any date, the value at which the asset is reflected on the books and records of the Company as of such date in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations, the initial Net Book Value of each asset being its cost, unless such asset was contributed to the Company by a Member, in which case the initial Net Book Value shall be the amount stated as the fair market value for such asset as determined in the good faith discretion of the Board, in each case, as such Net Book Value shall thereafter be adjusted for Depreciation with respect to such asset (rather than for the cost recovery deductions to which the Company is entitled for United States federal income tax purposes with respect thereto).

"Net Profit" and "Net Loss" mean, for any Accounting Period, the Company's net income or net loss for such Accounting Period, including without limitation any items that are separately stated for purposes of § 702(a) of the Code, as determined in accordance with United States federal income tax accounting principles with the following adjustments:

(i) any income of the Company that is exempt from United States federal income tax shall be included as income;

(ii) any expenditures of the Company described in § 705(a)(2)(B) of the Code or treated as Code § 705(a)(2)(B) expenditures pursuant to Section 1.704-1(b)(2)(iv)*(i)* of the Treasury Regulations, shall be treated as current expenses;

(iii) if any asset of the Company is distributed in kind or if the Net Book Value of the assets of the Company is adjusted pursuant to Section 5.3, the Company shall be deemed to have realized net income or net loss thereon in the same manner as if the Company had sold such asset or assets for an amount equal to the greater of (x) the fair market value of such asset and (y) the amount of any non-recourse indebtedness to which such asset is then subject, in each case as reasonably determined by the Board;

(iv) Book Gain or Book Loss shall be taken into account in lieu of any tax gain or tax loss recognized by the Company;

(v) in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Accounting Period, computed as provided in this Agreement; and

(vi) any adjustments made pursuant to § 734 or § 743 of the Code shall not be given effect.

"NYSE Directors" has the meaning defined in Section 3.2(a).

"NYSE Member" has the meaning defined in the Preamble.

"Officers" has the meaning defined in Section 3.5(a).

"Original LLC Agreement" has the meaning defined in Recital A.

"Outside Date" has the meaning defined in Section 12.4.

"Percentage Interest" means, with respect to any Member, as of any determination date, the percentage set forth opposite such Member's name on Exhibit A hereto, as amended from time to time.

"Person" means any individual, entity, corporation, partnership, association, joint-stock company, limited liability company, trust or unincorporated organization.

"Proceeding" has the meaning defined in Section 7.4(f).

"Qualified Firm" has the meaning defined in Section 8.6(a)(ii).

"Rule 144" has the meaning defined in Section 11.2.

"Rules" means the rules of the Company that have been submitted to the CFTC and made effective pursuant to the Commodity Exchange Act and CFTC regulations.

"Second Amended LLC Agreement" has the meaning defined in Recital C.

"Securities Act" means the Securities Act of 1933, as amended.

"Shortfall Notice" has the meaning defined in Section 4.2(a).

"Subsidiary" of any Person means any corporation or other entity of which securities or other ownership interests having the power or ability to elect or designate a majority of the board of directors or other Persons performing similar functions are directly or indirectly owned by such Person.

"Tax Matters Partner" has the meaning defined in Section 6.5(a).

"Term Sheet" has the meaning defined in Section 12.2(b).

"Third Amended LLC Agreement" has the meaning defined in Recital D.

"Third Appraiser" has the meaning defined in Section 8.6(a)(iii).

"Transaction Documents" means the Cross-Margining Agreement, the Clearing Services Agreement, the Master Services Agreements, the Cross-Guarantees, the Rules

and any other written agreement between or among Members that is specifically designated as a Transaction Document.

"Transfer" means a direct or indirect transfer, sale, assignment, pledge, hypothecation, gift or transfer by operation of Law (other than by way of a merger, consolidation or conversion of the Company) of, creation of a security interest in or Lien on, or any other encumbrance or disposal (directly or indirectly and whether or not voluntary) of, any Interest or beneficial interest therein.

"Treasury Regulations" means the United States federal income tax regulations promulgated under the Code.

"Trustee" has the meaning defined in Section 9.2.

"Unwind Right" has the meaning defined in Section 12.4.

1.2 Terms Generally; Principles of Construction. The definitions given for terms in this Article I and elsewhere in this Agreement shall apply to both the singular and plural forms of the terms defined. Any pronoun shall include the corresponding masculine, feminine and neuter forms. The conjunction "or" shall be understood in its inclusive sense (and/or). The words "hereby", "herein", "hereunder" and words of similar import refer to this Agreement as a whole (including any Exhibits and Schedules hereto) and not merely to the specific section, paragraph or clause in which such word appears. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require.

ARTICLE II

FORMATION; ORGANIZATION

2.1 Formation. The Company was formed by filing the Certificate with the office of the Secretary of State of the State of Delaware on July 15, 2009.

2.2 Term of the Company. The term of the Company commenced upon filing of the Certificate and shall continue until terminated as provided in Article IX. The existence of the Company as a separate legal entity shall continue until the cancellation of the Certificate as provided in the Act.

2.3 Purpose and Powers.

(a) The purpose and business of the Company is the establishment of a company registered with the Commodity Futures Trading Commission ("CFTC") (including any successor entity thereto) to serve as a derivatives clearing organization

and, subject to applicable Law, to engage in such other businesses as the Board may determine (the "Business"); and to engage in any and all activities necessary, desirable or incidental to the foregoing. Subject to any limitations set forth in this Agreement and applicable Law, the Company shall have the power and authority to take any and all actions that limited liability companies may take under the Act that are necessary, appropriate, incidental or convenient to or for the furtherance of the foregoing purpose.

(b) Except as provided in Section 13.11(a), all agreements and obligations set forth in the Letter Agreement shall expire upon the due execution of the last Transaction Document (it being agreed that for this purpose the Rules shall be deemed duly executed upon the final submission of the Rules to the CFTC). Notwithstanding the foregoing, each Member agrees that the purpose of the restrictions contained in the Letter Agreement is to aid the implementation of the Company's Business but that the ultimate purpose of the Company and the goal of each Member is to expand the Company's Business to new products and new Markets.

2.4 Name and Offices. The Company's name shall be New York Portfolio Clearing, LLC. The principal business office of the Company shall be located at ~~55 Water Street, New York, New York10041.~~570 Washington Boulevard, Jersey City, New Jersey 07310. The Company shall also have such additional offices as shall be determined, from time to time, by the Board.

2.5 Registered Agent; Registered Office. The Company's registered office and agent for service of process in the State of Delaware shall be Corporation Services Company, 1013 Center Road, in the City of Wilmington, County of New Castle, ~~Delaware19805~~Delaware 19805, or such other registered agent and or office as the Board may designate from time to time.

2.6 Qualification in Other Jurisdictions. The Board shall cause the Company to be qualified or registered in any jurisdiction in which the Company transacts business and in which such qualification or registration is required by Law or deemed advisable by the Board.

2.7 Fiscal Year. The fiscal and tax year of the Company ("Fiscal Year") shall be the calendar year.

2.8 No State-Law Partnership. The Members intend that the Company not be a partnership (including, but not limited to, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement (except for tax purposes as set forth in the next succeeding sentence of this Section 2.8), and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. The Members intend that the Company shall be treated as a

partnership for federal and, if applicable, state or local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

ARTICLE III

GOVERNANCE OF COMPANY

3.1 Board of Directors. The business and affairs of the Company shall be managed by or under the direction of the Company's Board of Directors (the "Board") acting pursuant to this Agreement. Except for rights and powers expressly reserved to the Members or delegated to the Officers and except as otherwise provided herein, the Board shall have full power, discretion and authority to make all decisions affecting the business, affairs and properties of the Company and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company as set forth herein.

3.2 Designation of Directors; Powers and Procedures.

(a) The Board shall consist of ~~nine~~seven individuals (each, a "Director"). Each of the DTCC Member and the NYSE Member shall appoint three Directors (the "DTCC Directors" and the "NYSE Directors", respectively, and collectively the "Member Directors" and each a "Member Director") and one alternate Director. The board may change the number of Directors in its sole discretion; *provided,* that, absent the unanimous consent of the Members, the Board shall not change the proportional representation on the Board of either Founding Member as set forth in the prior sentence. The alternate Director of each Founding Member shall have the power and authority to vote in place of any Director of such Founding Member if one or more of such Founding Member's Directors is not present in person or by proxy at a Board meeting, and in such event any reference herein to a Director shall include his or her alternate Director as appropriate. For purposes of determining whether a quorum is present, an alternate Director shall be included if the Director for which such alternate Director has been appointed shall not be present in person or by proxy. All alternate Directors shall be permitted to be present at any meetings of the Board. The remaining ~~three Directors~~Director shall be an independent ~~directors~~director as determined by the Founding Members; provided, that in making such determination the Founding Members will consider the New York Stock Exchange and CFTC published requirements for director independence (the "Independent ~~Directors"). Two Independent Directors shall be nominated by the DTCC Directors and one Independent~~ Director~~ shall be nominated by the NYSE Directors.~~"). The appointment of ~~each~~the Independent Director shall be subject to the approval of both of the Founding ~~Member whose Member Directors did not nominate such Independent Director~~Members. The initial DTCC Directors, NYSE Directors and alternate Directors shall be as set forth on Exhibit B. In accordance with §§ 18-402 of the Act, the authority to manage the Company shall be vested exclusively in

the Board, subject to any delegation thereby to the Officers as provided hereunder or any other delegation contemplated hereby. Directors shall constitute "managers" within the meaning of the Act. Either Founding Member may change any Directors it has appointed or its alternate Director at any time, with or without cause, effective upon written notice to the other Members and the CEO. Any Director may resign at any time by giving written notice to the Board and the CEO of the Company. Unless otherwise specified therein, such resignation shall take effect upon delivery. Upon removal or resignation, such Director shall cease to be a "manager" within the meaning of the Act. Each Director shall hold office until his or her successor is appointed, or until his or her death, disability, resignation or removal, if earlier. Unless otherwise agreed by the Founding Members, each Member Director and alternate Director shall be an officer or employee of a Founding Member or a controlled Affiliate of a Founding Member (it being understood that, for purposes of this Section 3.2(a), the Company shall be considered an Affiliate of each Member).

(b) Each Director shall be entitled to one vote, in person or by proxy. The presence, in person or by proxy, of a majority of Directors then in office, including at least two DTCC Directors and two NYSE Directors, shall constitute a quorum, *provided* that no Director may refrain from attending a meeting of the Board in order to deny the establishment of a quorum. Any action, determination or judgment taken by the Board shall require the affirmative vote or consent of a majority of the DTCC Directors and a majority of the NYSE Directors present and voting and any action, determination or judgment taken by the Board in respect of risk management, regulatory compliance or similar decisions shall also require the approval of ~~a majority of~~ the Independent ~~Directors present and voting~~Director. Subject to Section 3.9, the Directors will attempt to resolve all deadlocks in Board decision-making in good faith.

(c) No Director acting individually in his or her capacity as such, and no Member, acting individually in its capacity as such, shall have any right or authority to act for, to bind, or to otherwise assume any obligation or responsibility on behalf of, the Company, except as specifically authorized in accordance herewith. The Company may only act and bind itself through (i) the collective action of the Directors in accordance with this Agreement or (ii) the action of the Officers if and to the extent authorized by this Agreement or by the Board in accordance with this Agreement.

(d) Subject to Section 7.2, the Board and each of its Directors and alternate Directors shall have the same fiduciary duties to the Company that the Board and each of its Directors and alternate Directors would have had if the Company had been organized as a corporation under the DGCL.

(e) Subject to any future policy adopted by the Board, each Independent Director shall be paid an annual fee of $25,000 for the discharge of his or her duties as a Director under this Agreement. Reasonable out-of-pocket expenses incurred by a

Director in connection with attendance at meetings of the Board shall be reimbursed by the Company.

3.3 Meetings of the Board; Action by Written Consent; Committees

(a) The Board shall meet at least quarterly at such time and place as shall be reasonably satisfactory to the Directors. In addition, any Director may call a meeting on 10-days notice, either personally, by telephone, by facsimile or by any other similarly timely means of communication, at such time and place as shall be determined by him or her. Each of the CEO and any Founding Member may call a meeting of the Board on twenty-four (24) hours notice to each Director and alternate Director, either personally, by telephone, by facsimile or by any other similarly timely means of communication, at such time and place as shall be determined by him or her. Notice of any meeting of the Board shall include a statement of the proposed agenda in reasonable detail. Notice of any meeting may be waived by unanimous written consent of all Directors (including alternate Directors). Directors and alternate Directors may participate in any meeting of the Board by means of teleconference or such other means of communications permitted under the Act, and such participation shall constitute such Director's or alternate Director's presence in person at such meeting. Attendance (in person, telephonically, by video or by proxy) of a Director or alternate Director at a meeting shall constitute a waiver by such person of notice of such meeting, except when such person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not called or convened in accordance with this Agreement.

(b) The Board shall appoint an individual to serve as the Company's chairman of the Board for a one-year term. The initial chairman of the Board shall be chosen from among the DTCC Directors, the one-year term of such DTCC Director as initial chairman shall be deemed an "odd year," at the expiration of the initial chairman's term the chairman shall be chosen from among the NYSE Directors, the one-year term of such NYSE Director shall be deemed an "even year," and thereafter the chairman shall be chosen from among the DTCC Directors to serve during succeeding "odd years" and from among the NYSE Directors to serve during succeeding "even years." Any person whom the chairperson may appoint shall keep minutes of each meeting which shall reflect all actions taken by the Board thereat. The Board may establish other provisions and procedures relating to the governance of its meetings that are not in conflict with the terms of this Agreement.

(c) Notwithstanding the foregoing, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if a consent or consents in writing, setting forth the action to be taken, shall be signed by the Directors or alternate Directors having not less than the minimum number of votes that would be required to authorize or take such action at a meeting at which all Directors entitled to

vote thereon were present and voted and such consent or consents are filed with the minutes of proceedings of the Board. A copy of any such written consent shall be send to each Director who did not sign such consent.

(d) From time to time, the Board ~~shall designate each of an Executive Committee, Risk Committee and Regulatory Oversight and Audit Committee and~~ may, by resolution, designate one or more ~~additional~~ committees. Such resolution shall specify the duties, quorum requirements and qualifications of the members of such additional committees, each such committee to consist of such number of Directors and other Persons (on an ex-officio basis) as the Board may fix from time to time. The Board shall approve the initial charter of each committee designated by the Board, together with any material amendments or modifications thereto. Alternate members of any committee shall be designated in accordance with the charter of such committee. Any such committee to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. Each committee shall keep regular minutes of its meetings and report the same to the Board when required. ~~The Executive Committee, Regulatory Oversight and Audit Committee and Risk Committee shall each be comprised of such number of persons as may be designated by the Board.~~

3.4 Business Plan. Beginning on January 1, 2011, no later than 30 days prior to the end of each Fiscal Year, management of the Company shall develop and submit to the Board for adoption a business plan and operating budget for the following Fiscal Year. Each such business plan shall specify in reasonable detail planned operating and capital expenditures prepared on a basis consistent with the Company financial statements and GAAP. Each business plan and operating budget referred to in this Section 3.4 or in Section 12.2(c), when duly adopted, is referred to herein as a "Business Plan". If, prior to December 31st of any year, the Board is not able to adopt a Business Plan for the following Fiscal Year, the then-current Business Plan shall remain in effect (with such adjustments as are necessary to comply with existing contractual obligations) for such Fiscal Year, except that a 5% across-the-board increase shall be applied to the then-current operating budget.

3.5 Officers.

(a) The principal officers of the Company shall be the CEO, the chief operating officer and chief risk officer (each such Person being dedicated to and hereinafter referred to as an "Executive Officer"). The Company may have such other subordinate officers as the CEO may deem necessary (such subordinate officers and the Executive Officers, collectively, the "Officers"). Officers may be full-time employees of the Company or be fully or partially seconded by one of the Founding Members or an

Affiliate thereof. Except as otherwise provided herein, each of the Officers shall have such powers and duties as are incident to the comparable office of a corporation organized under the DGCL and such other duties and powers as may from time to time be conferred upon or assigned to such Officer by or pursuant to authority delegated by the Board. One person may hold the offices and perform the duties of any two or more of such offices.

(b) Each Officer shall serve until the earliest of his or her death, resignation or removal by the Board, which may appoint additional or substitute Officers at any time, *provided* that the Executive Officers may be removed (and appointed) only by the Board in accordance with this Agreement. Any Officer may resign at any time by giving written notice to the Company. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(c) Without limiting the scope of the fiduciary and other duties of Officers of the Company to the Company and the Members, the Officers of the Company shall act in what they believe in their respective good faith judgment to be the best interests of the Company (as opposed to the interest of any Member individually) and in accordance with this Agreement.

3.6 Executive Officers.

(a) The CEO shall be the senior executive officer of the Company and shall be responsible for the overall leadership and strategic direction of the Company. The CEO shall manage regulatory issues and shall represent the Company in its relationships with the Board, major clients, industry organizations, regulators and key outside parties.

(b) The chief operating officer shall report directly to the CEO and shall be responsible for administering the day-to-day affairs and business of the Company, focusing on the delivery of all clearing, settlement, and product management services to customers and managing vendor relations. The chief operating officer shall advise and counsel the CEO on planning the scope and direction of the Company's operations, and present recommendations for future objectives. As appropriate, the chief operating officer shall represent the Company with clients and industry groups. In the absence of the CEO, the chief operating officer shall perform the CEO's functions under the direction of the Board.

(c) The chief risk officer shall manage all credit and market risk exposure of the Company, including taking a lead role in determining applicable best practices. The chief risk officer shall function as the lead risk professional in responding to regulatory reviews and shall act as the Staff Liaison with respect to the Risk Committee of the

Board. The chief risk officer shall update the CEO regarding regulatory and risk developments.

3.7 Execution of Contracts. Unless otherwise expressly provided in this Agreement or as established in any policy adopted by the Board, each Officer shall have the authority to sign, in the name and on behalf of the Company, checks, orders, contracts, documents or other instruments made or entered into in the ordinary course of the business of the Company. In addition to the authority afforded the CEO pursuant to Section 3.6(a), contracts, documents or other instruments that require the signature of the Company and that have been authorized under this Agreement or by the Board may be signed by any Executive Officer or other Officer authorized to sign pursuant to a resolution of the Board.

3.8 Officers as Agents; Reliance by Third Parties.

(a) The Officers, to the extent of their powers set forth in this Agreement or in a resolution of the Board, are agents of the Company for the purpose of the Company's business, and the actions of the Officers taken in accordance with such powers shall bind the Company.

(b) Any Person dealing with the Company may rely upon a certificate signed by any Officer as to:

(i) the identity of any Member, Director or Officer;

(ii) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by any Member, the Board or Officers or in any other manner germane to the affairs of the Company;

(iii) the Persons who are authorized to execute and deliver any instrument or document of or on behalf of the Company;

(iv) the authenticity of any copy of this Agreement and amendments hereto;

(v) any act or failure to act by the Company or as to any other matter whatsoever involving the Company or, solely with respect to the activities of the Company, any Member; and

(vi) the authority of the Board, any Officer, any employee or agent of the Company, or the Tax Matters Partner.

3.9 Deadlock.

(a) So long as there are only two Members and each Member holds, of record or beneficially through one or more controlled Affiliates, 50% of the aggregate Percentage Interests, if any action requiring a determination by the Board is proposed in good faith, and the Directors are unable to reach agreement on such proposed action at two successive meetings of the Board (including as a result of the failure by any Director to attend any meeting of the Board), in the case of any action to be taken by the Directors, then such matter (a "Deadlock") shall be addressed in accordance with this Section 3.9.

(i) A Deadlock may be referred by either Member for resolution to the chief executive officer of each Member (each such officer, a "Designated Executive"). The Designated Executives shall meet within 10 days after such referral to discuss the Deadlock and shall attempt in good faith to resolve the dispute. If the Designated Executives reach agreement with respect to the Deadlock, they shall jointly so notify the Board and the Members, and such agreement shall be implemented by the Board.

(ii) If the Designated Executives are unable to resolve such Deadlock within 60 days of the last date on which their meeting should have occurred, either Member may submit such Deadlock to the Independent Directors for non-binding mediation.

(iii) If the Members fail to resolve such Deadlock within 20 days of the date on which such Deadlock was submitted to non-binding mediation with the Independent Directors, then the Deadlock may be referred by either Member for resolution to the board of directors of each Member (each such board, a "Member Board"). The Member Boards shall meet first separately and then together as soon as practicable, but in any event, within 90 days after such referral to discuss the Deadlock and shall attempt in good faith to resolve the dispute. If the Member Boards reach agreement with respect to the Deadlock, they shall jointly so notify the Board and the Members, and such agreement shall be implemented by the Board. If the Member Boards fail to meet within the time period specified above or are unable to reach agreement within 60 days of the last date on which such initial meeting should have occurred, then the Deadlock shall be resubmitted to the Board for reconsideration.

(b) Without prejudice to either Member's remedies under applicable Law, until agreement with respect to a Deadlock is reached (or such Deadlock is otherwise resolved in accordance with this Agreement), the Company shall not implement the actions giving rise to such Deadlock and shall maintain the status quo, in accordance, to the extent commercially practicable, with the Business Plan then in effect (except that a

5% across-the-board increase shall be applied to the then-current operating budget), subject to and as modified by any duly approved Board actions.

(c) For the avoidance of doubt, and notwithstanding anything to the contrary set forth herein, no action or failure to act of any kind by any Designated Executive or any member of any Member Board in connection with this Section 3.9 shall result in any liability on the part of any such Person, or any of their respective Affiliates, heirs, successors, assigns, agents and representatives, to the Company or its Members.

ARTICLE IV

CAPITAL CONTRIBUTIONS

4.1 Initial Capital Contributions. As of the date hereof, each Founding Member has contributed to the Company the cash and property set forth opposite such Founding Member's name on Exhibit A (together, the "Initial Capital Contributions") in accordance with this Agreement in exchange for the respective Percentage Interest set forth opposite such Founding Member's name on Exhibit A.

4.2 Additional Capital Contributions.

(a) Founder Member Capital Contributions to Provide Incremental Working Capital. The Company may, from time to time, deliver one or more written notices to the Founding Members (each, a "Shortfall Notice") at such times as the Company determines that its current balance of available cash is reasonably likely to fall below an amount equal to the good faith estimate of the Board of twelvemonths of operating cash requirements within thirty (30) days following the delivery of such Shortfall Notice (a "Company Shortfall"). Each Shortfall Notice shall include a dollar amount for an additional capital contribution (the "Interim Contribution") to be made by the Founding Members to the Company in an amount reasonably expected to prevent a Company Shortfall from occurring within such thirty (30) day period; provided, that the aggregate of all Initial Capital Contributions and Interim Contributions shall not exceed $30,000,000. Promptly, but in any event no later than ten (10) days following the delivery of a Shortfall Notice, each Founding Member shall contribute, by wire transfer of immediately available funds, an amount equal to one-half of the Interim Contribution set forth in such Shortfall Notice, to such account or accounts as the Company may designate.

(b) Additional Capital Contributions. The Members may from time to time be required to make additional capital contributions to the Company (each, an "Additional Capital Contribution") at such time and in such amounts as determined by the Board, in the event that (x) the Board has approved such Additional Capital Contribution, (y) the Board determines that an Additional Capital Contribution is required in order for the

Company to maintain its status as a derivatives clearing organization or to satisfy any other regulatory obligation and the Company, after using commercially reasonable efforts, shall have failed to cause such Governmental Authority to waive, amend or rescind such regulatory obligation or (z) the Board determines that an Additional Capital Contribution is required in order to ensure an orderly winding down of the Company's clearing operations in the event of a closure of such operations; *provided*, that such Additional Capital Contributions shall be made pro rata in proportion to the Members' respective Percentage Interests or as otherwise agreed pursuant to the clarification agreement, dated as of the date hereof, by and between the Company, the DTCC Member, the NYSE Member and the other parties listed on the cover page thereof (the "Clarification Agreement"). All Additional Capital Contributions shall be (i) in cash, or (ii) if approved by the Board, in other assets or properties at the fair market value therefor as determined in the Board's good faith discretion. If any Member fails in whole or in part to comply with such a request by the Board, the other Founding Member may contribute the portion of Additional Capital Contribution not otherwise contributed by such Member, as the case may be, and such contribution will be considered a loan by the contributing Member to the non-contributing Member, which loan shall be evidenced by a full recourse promissory note of the non-contributing Member, which shall bear interest at an annual rate of LIBOR plus 10% and shall be secured by the Interests of the non-contributing Member (including all proceeds therefrom), and the non-contributing Member shall assign to the contributing Member all dividends, distributions and other proceeds that would have otherwise been paid to it in respect of such Interests until such note and interest thereon is repaid in full.

(c) Other Capital Contributions; Exhibit A. Except as set forth in Section 4.1 and this Section 4.2, no Member shall be required or permitted to make any capital contributions to the Company. The Board shall amend Exhibit A to reflect any Contributions or Additional Contributions.

4.3 Capital Accounts.

(a) A capital account (a "Capital Account") shall be established and maintained for each Member. The opening balance of each Member's Capital Account is as set forth on Exhibit A.

(b) As of the last day of each Accounting Period, the balance in each Member's Capital Account shall be adjusted by (i) *increasing* such balance by (x) such Member's allocable share of Net Profits (allocated in accordance with Section 5.1), and (y) the sum of the amount of cash Capital Contributions and the Net Book Value of any other Capital Contributions made by such Member during such Accounting Period, and (ii) *decreasing* such balance by (A) the sum of the amount of cash and the Net Book Value of any other property distributed to such Member during such Accounting Period and (B) such Member's allocable share of Net Losses (allocated in accordance with

Section 5.1). The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with section 1.704-1(b) of the Treasury Regulations, and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

4.4 Transfer of Capital Accounts. The original Capital Account established for a substituted Member shall be in the same amount as the Capital Account of the Member that such substituted Member succeeds at the time such substituted Member is admitted as a Member of the Company. The Capital Account of any Member whose Interest is increased by means of the transfer to it of all or part of the Interest of another Member, and the Capital Account of any Member whose Interest is thereby decreased, shall be appropriately adjusted to reflect such transfer. Any reference in this Agreement to a Capital Contribution of or distribution to a then-Member shall include without limitation a Capital Contribution or distribution previously made by or to any prior Member on account of the Interest of such then-Member.

4.5 No Withdrawal; Return; etc.

(a) A Member shall not be entitled to withdraw any part of its Capital Account or to receive any distributions from the Company except as provided in Articles V and IX; nor shall a Member be entitled to make any loan or capital contribution to the Company other than as expressly provided herein. No loan made to the Company by any Member shall constitute a capital contribution to the Company for any purpose.

(b) No Member shall have any liability for the return of the Capital Contributions of any other Member. No Member shall be required to make up a negative balance in its Capital Account.

(c) No Member shall have priority over any other Member either as to the return of the amount of such Member's Capital Contributions or as to any allocation of any item of income, gain, loss, deduction or credit of the Company.

(d) Except as may be set forth in any agreement between the Company and a Member, no Member shall receive any interest, salary or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member.

ARTICLE V

ALLOCATIONS AND DISTRIBUTIONS

5.1 Allocations of Net Profit and Net Loss. Net Profit or Net Loss for each Accounting Period shall be allocated to the Members' Capital Accounts pro rata in

proportion to their respective Percentage Interests as of the beginning of such Accounting Period.

5.2 Tax Allocations.

(a) In General. Subject to Subsections (b) and (c) below, items of income, gain, loss and deduction of the Company shall be allocated among the Members, for United States federal, state and local income tax purposes, to the extent permitted under the Code and the Treasury Regulations, in the same manner that each such item is allocated to the Members' Capital Accounts. Tax credits for each Accounting Period shall be allocated to the Members in proportion to their respective Percentage Interests as of the beginning of such Accounting Period. Notwithstanding the foregoing, the Tax Matters Partner shall have the power to make such allocations for United States federal, state and local income tax purposes as may be necessary to maintain substantial economic effect, or to insure that such allocations are in accordance with the interests of the Members in the Company, in each case within the meaning of the Code and the Treasury Regulations thereunder. All matters concerning allocations for United States federal, state and local and foreign income tax purposes, including accounting procedures, not expressly provided for by the terms of this Agreement shall be equitably determined in good faith by the Members.

(b) Contributed Property. When the Net Book Value of a Company asset contributed to the capital of the Company by a Member differs from its basis for federal or other income tax purposes, solely for purposes of the relevant Tax and not for purposes of computing Capital Account balances, income, gain, loss, deduction and credit shall be allocated among the Members in accordance with the principles of § 704(c) of the Code and the Treasury Regulations thereunder and Treasury Regulations section 1.704-1(b)(4)(i) using any reasonable method required or permitted thereunder and agreed to by the Members.

(c) Special Allocations.

(i) Qualified Income Offset. If any Member unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulations section 1.704-1(b)(2)(ii)*(d)(4), (5)* or *(6)* and such adjustment, allocation or distribution causes or increases a deficit in such Member's Capital Account (a "Deficit"), items of gross income and gain for such Accounting Period and each subsequent Accounting Period shall be specifically allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulation, the Deficit of such Member as quickly as possible; *provided* that an allocation pursuant to this Section 5.2(c) shall be made only if and to the extent that such Member would have a Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.2(c) were not in this Agreement. This

Section 5.2 is intended to comply with the qualified income offset provision of Treasury Regulations section 1.704-1(b)(ii)*(d)* and shall be interpreted in a manner consistent therewith.

(ii) Minimum Gain; Gross Income Allocation; Non-recourse Deductions. Special allocations shall be made in accordance with the requirements set forth in the Treasury Regulations section 1.704-2(f), (g) and (j) (minimum gain chargeback), 1-704-1(g) (gross income allocation), 1.704-2(i)(2) (non-recourse deductions), and to the extent that a Section 754 election is in effect, 1.704-1(b)(2)(iv)*(m)* (Section 754 adjustments).

(iii) Restorative Allocations. Any special allocations of items of income or gain pursuant to this Section 5.2 shall be taken into account in computing subsequent allocations pursuant to this Agreement, so that the net amount for any item so allocated and all other items allocated to each Member pursuant to this Agreement shall be equal, to the extent possible, to the net amount that would have been allocated to each Member pursuant to the provisions of this Agreement if such special allocations had not occurred.

5.3 Adjustments to Net Book Value. The Net Book Values of all of the Company's assets shall be adjusted to equal their respective gross fair market values immediately prior to the following times: (i) the distribution by the Company of more than a *de minimis* amount of money or property to a Member in consideration of the retirement of all or a portion of such Member's Interest; (ii) each time (if any) that either one or more Members, but fewer than all Members, make an Additional Capital Contribution of more than a *de minimis* amount of money or property or all of the Members make an Additional Capital Contribution of more than a *de minimis* amount of money or property but such Additional Capital Contributions are not in proportion to the Percentage Interests of the Members; (iii) the admission of an Additional Member; and (iv) if required by applicable Treasury Regulations, the termination of the Company for United States federal income tax purposes pursuant to § 708(b)(1)(B) of the Code.

5.4 Interim Distributions. Subject to Sections 5.5 and 5.6, the Company shall distribute Available Cash to the Members pro rata in accordance with their respective Percentage Interests with respect to the Accounting Period to which such distribution relates no later than December 31 of each year, except as otherwise determined by the Board, in such aggregate amounts as determined by the Board.

5.5 Restrictions on Distributions. Notwithstanding anything to the contrary contained herein, the Company shall not make a distribution to any Member on account of its Interest if such distribution would violate Section 18-607 of the Act or any other applicable Law.

5.6 Dissolution. Upon dissolution and winding up of the Company, the Company shall make distributions in accordance with Article IX.

5.7 Tax Distributions. The Company shall (to the extent that the Company has Available Cash) distribute to the Members pursuant to Section 5.4 amounts intended to enable the Members to pay their United States federal, state, and local income taxes (if any) imposed on the income or gain allocated to Members with respect to the Accounting Period to which such distribution relates pro rata in accordance with their respective Percentage Interests. The aggregate amount of such distribution shall be determined in good faith by the Tax Matters Partner, using tax assumptions as the Tax Matters Partner shall determine to be appropriate.

5.8 Withholding Taxes.

(a) Authority to Withhold. Notwithstanding any other provision of this Agreement, each Member hereby authorizes the Company to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Company or any of its Affiliates (pursuant to the Code or any provision of United States federal, state, or local or foreign tax Law) as a result of such Member's status as a Member. The Company shall provide notice to such Member of any such payment required to be made as soon as reasonably practicable. If and to the extent that the Company shall be required to withhold or pay any such withholding or other taxes, such Member shall be deemed for all purposes of this Agreement to have received a payment from the Company as of the time such withholding or other tax is required to be paid, which payment shall be deemed to be a distribution of Available Cash with respect to such Member's Interest to the extent that such Member (or any successor to such Member's Interest) would have received a distribution but for such withholding. To the extent that the aggregate of such deemed payments to a Member for any period exceeds the distributions that such Member would have received for such period but for such withholding, the Company shall notify such Member as to the amount of such excess and such Member shall make a prompt payment to the Company of such amount by wire transfer.

(b) Distributions-in-kind. If the Company makes (or will make) a distribution-in-kind and such distribution is subject to withholding or other taxes payable by the Company on behalf of any Member, the Company shall notify such Member as to the extent (if any) of the taxes withheld (or to be withheld) and such Member shall make a prompt payment to the Company of the amount of such taxes by wire transfer.

(c) Withholding Tax Rate. Any withholdings referred to in this Section 5.8 shall be made at the maximum applicable statutory rate under the applicable tax Law unless the Company shall have received an opinion of counsel or other evidence, reasonably satisfactory to the Company, to the effect that a lower rate is applicable, or that no withholding is applicable.

(d) Survival. The provisions of this Section 5.8 shall survive the dissolution, winding up and termination of the Company.

ARTICLE VI

BOOKS; ACCOUNTING; TAX ELECTIONS; REPORTS

6.1 Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in its name. In the absence of instructions from the Board to the contrary, the CEO shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

6.2 Books and Records. The Board shall cause the Company, the CEO and any other relevant Officer to keep, or cause to be kept, complete and accurate books and records of account of the Company. The books of the Company shall be kept on the basis of accounting utilized in preparing the company's United States income tax returns, which basis shall be the basis for the preparation of the financial reports to be sent to the Members pursuant to Section 6.3, and otherwise in accordance with GAAP. In addition to such books and records, the Board shall cause the CEO to maintain and make available at the principal business office of the Company: copies of this Agreement, as amended; a current list of the full name and last known business address of each Member, a copy of the Certificate, including all certificates of amendment thereto and executed copies of all powers of attorney pursuant to which the Certificate or any certificate of amendment has been executed; copies of the Company's federal, state and local income tax returns and reports, if any, and any financial statements of the Company, in each case for the three most recent years; and all other records required to be maintained pursuant to this Agreement or the Act.

6.3 Financial Statements; Reports to Members. The financial statements of the Company shall be prepared in accordance with GAAP and audited on an annual basis by an accounting firm designated by the Board in accordance with this Agreement. In the absence of instructions from the Board to the contrary, the CEO shall distribute to the Members:

(i) unaudited quarterly financial reports of the Company within 30 days following the end of each quarter,

(ii) audited annual financial statements of the Company within 60 days following the end of the Fiscal Year (in each case, including a balance sheet, income statement and statement of changes in financial position and such notes or other supporting material as may be requested by the Members or may be required by GAAP),

(iii) within 180 days following the end of each Fiscal Year, a United States Treasury Form 1065 and Schedule K-1 (or any similar successor form) in sufficient detail to enable each Member to prepare its tax returns in accordance with the Laws, rules and regulations thereunder then prevailing, and each Member's closing Capital Account balance for the Fiscal Year.

Notwithstanding the foregoing, prior to the Effective Time the Company shall have no obligation to prepare or distribute audited financial statements in accordance with this Section 6.3.

6.4 Inspection Rights. Each Member shall have the right, during normal business hours, to audit, examine and make copies of or extracts from the books of account of the Company. Such right may be exercised through any agent or employee of such Member (including the Director designated by such Member) or a certified public accounting firm of recognized international standing designated by such Member. Such Member shall (a) bear all expenses incurred in any examination requested by such Member pursuant to this Section 6.4, and (b) obtain written confidentiality agreements with terms no less onerous than those set forth in Section 13.11(a) from any agent, employee or certified public accountant auditing or examining the books of account of the Company pursuant to this Section 6.4.

6.5 Tax Matters Partner: Tax Elections.

(a) The DTCC Member shall serve as the initial "tax matters partner" (as such term is defined in section 6231(a)(7) of the Code and any similar provision of state and local income tax Law, the "Tax Matters Partner") of the Company, *provided* that the Tax Matters Partner, in its capacity as the "tax matters partner" will not (i) agree to extend the statute of limitation regarding any tax matter or (ii) agree to jurisdiction of any court other than the U.S. Tax Court to adjudicate the Company's tax matters without the prior written consent of other Founding Member. Each Member hereby consents to such designation and agrees that, upon the request of the Tax Matters Partner, such Member will execute, certify, acknowledge, deliver, swear to, file and record at the appropriate public offices, such documents as may be necessary or appropriate to evidence such consent.

(b) Promptly following the written request of the Tax Matters Partner, the Company shall, to the fullest extent permitted by Law, reimburse and indemnify the Tax Matters Partner for all reasonable expenses, including reasonable legal and accounting fees, claims, liabilities, losses and damages incurred by the Tax Matters Partner in its capacity as a "tax matters partner" in connection with any administrative or judicial proceeding with respect to the tax liability of the Members, except to the extent arising from the bad faith, gross negligence, willful violation of Law, fraud or breach of this Agreement by such Tax Matters Partner. The provisions of this Section 6.5(b) shall survive the termination of the Company or the termination of any Member's Interest in

the Company and shall remain binding on the Members for as long a period of time as is necessary to resolve with the Internal Revenue Service any and all matters regarding the income taxation of the Company or the Members resulting from their interest in the Company with respect to any period during which a Member held an Interest in the Company.

(c) Neither the Tax Matters Partner nor any other Member shall make, or shall permit the Company to make, the election to treat the Company as an association taxable as a corporation for United States federal income tax purposes under section 301.7701(a)-3 of the Treasury Regulations or any similar provision of state or local Law.

(d) Notwithstanding anything to the contrary in this Agreement, any material tax election or substantial change in tax, accounting or auditing practices of the Company, including any change in the Tax Matters Partner or any appointment or removal of the Company's independent auditors and any determination of fair market value of assets or of any Adjustment Date, and the settlement of any tax audit or other tax proceeding involving the Company, shall require unanimous prior written approval of the Founding Members, which approval shall not be unreasonably conditioned, withheld or delayed.

ARTICLE VII

LIABILITY; EXCULPATION AND INDEMNIFICATION

7.1 Limited Liability.

(a) Except as otherwise provided under the Act or herein, the debts, obligations and other liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member or Director shall have any obligation or liability in respect thereof solely by reason of being a Member, holding an Interest, or acting as a "manager" of the Company.

(b) No Member shall, in its capacity as a Member, be deemed to owe any fiduciary duty to the Company or any of its Subsidiaries or any other Member.

(c) No Member shall be required to make any contribution to the capital of the Company or lend any funds or otherwise provide any financial or credit support to the Company, except for each Member's aggregate Initial Capital Contributions as set forth in Exhibit A, Interim Contributions and Additional Capital Contributions, if any, when and to the extent the same shall become due and payable in accordance herewith.

7.2 Exculpation.

(a) To the maximum extent permitted by applicable Law (giving effect to Section 3.2(d)), each Member hereby waives any claim or cause of action against a Director (other than a Director that is also an Officer or employee of the Company or any of its Subsidiaries) or any of his or her Affiliates, heirs, successors, assigns, agents and representatives for any breach of any fiduciary duty to the Company or its Members by such Person, and any liability to a Member for breach of fiduciary duties as a Director (other than a Director that is also an Officer or employee of the Company or any of its Subsidiaries) is hereby eliminated to the fullest extent permitted by applicable Law (giving effect to Section 3.2(d)). For the avoidance of doubt, waivers and limitations provided in this Section are subject to limitations on exculpation of directors of corporations contained in the DGCL.

(b) No Member, Director, Designated Executive, or Officer of the Company shall be liable to the Company or to any other Member for any action taken or omitted to be taken with respect to the Company within the scope of such Person's authority conferred by, and in accordance with, this Agreement, except to the extent that any such act or omission was attributable to the bad faith, willful misconduct or fraud of such Person. No Member shall be liable to the Company or any other Member for any action taken by any other Member.

7.3 Reliance. Each Member, Director, Designated Executive and Officer of the Company shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Member, Director, Designated Executive or Officer believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

7.4 Indemnification.

(a) Members. The Company shall indemnify and hold harmless, to the fullest extent permitted by Law, each Member, such Member's Directors and the direct or indirect shareholders, officers, directors, employees, representatives and agents of any of the foregoing, from and against all costs and expenses (including attorneys' fees and disbursements), judgments, fines, settlements, claims and other liabilities (including all costs of investigation, preparation and defense thereof) ("Losses") incurred by or imposed upon such indemnified Person in connection with, or resulting from, any claim, action, suit or proceeding, whether civil, criminal, administrative, investigative, legislative or otherwise (or any appeal thereof), which may be brought against such

indemnified Person by any third party (other than an Affiliate of such Member), in each case by reason of such indemnified Person's being or having been a Member, Director or Designated Executive or relating to or arising out of the business and affairs of the Company, *provided* that such indemnity shall be payable only if such claim, action, suit or proceeding does not arise out of or relate to willful misconduct, fraud or gross negligence on the part of such indemnified Person.

(b) Directors and Officers. The Company shall indemnify and hold harmless, to the fullest extent permitted by Law, each Director, Designated Executive, and Officer of the Company from and against all Losses incurred by or imposed upon such indemnified Person in connection with, or resulting from, any claim, action, suit or proceeding, whether civil, criminal, administrative, investigative, legislative or otherwise (or any appeal thereof), which may be brought against such indemnified Person by any third party (other than an Affiliate of such Member), by reason of any action taken or omitted to be taken by such indemnified Person in good faith on behalf of the Company in a manner believed to be within the scope of authority conferred on such indemnified Person by this Agreement and in accordance with this Agreement or any other Transaction Document, *provided* that such indemnity shall be payable only if such claim, action, suit or proceeding does not arise out of or relate to bad faith, willful misconduct or fraud on the part of such indemnified Person.

(c) No Direct Member Indemnity; Recovery. Members shall not be required directly to indemnify any Person entitled to indemnification pursuant to Section 7.4(a) or Section 7.4(b). The Company shall be the primary obligor in respect of any claim by any Person pursuant to Section 7.4(a) or 7.4(b) (each, an "Indemnitee") for indemnification, advancement of expenses and/or insurance, to the extent subject to this Article VII, and the obligation, if any, of any Member or any of its Affiliates to indemnify, advance expenses to or provide insurance for any Indemnitee shall be secondary to the obligations of the Company under this Article VII. In the event that any Member or any of its Affiliates is or is threatened to be made a party to or a participant in any claim, action, suit or proceeding, and such Person's involvement in the claim, action, suit or proceeding arises in whole or in part from the service to the Company of any Indemnitee, then such Person shall be directly entitled to all rights and remedies of such Indemnitee hereunder to the same extent as such Indemnitee. To the extent any Member or any of its Affiliates advances or pays any amounts to any Indemnitee in connection with any claim subject to this Article VII, whether or not such Member or Affiliate is or is threatened to be made a party to or a participant in any claim, action, suit or proceeding, such Member or Affiliate shall be subrogated to the rights of such Indemnitee against the Company pursuant to this Article VII. For the avoidance of doubt, each Member and each of its Affiliates is a third-party beneficiary of this Section 7.4(c) and may enforce its terms against the Company.

(d) Limitations. Any indemnity under this Section 7.4 shall be provided solely out of, and only to the extent of, the Company assets. None of the provisions of this Section 7.4 shall be deemed to create any rights in favor of anyone other than the Indemnitees and the Members and Affiliates as provided in Section 7.4(c) indemnified Persons. This provision excludes, among others, any right of subrogation in favor of any insurer or surety.

(e) Expenses. Except in the case of a proceeding instituted by or on behalf of the Company against an Indemnitee,the Company may pay the expenses (including attorneys' fees and disbursements) incurred in good faith by an Indemnitee in advance of the final disposition of a proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount if it is ultimately determined that such Indemnitee is not entitled to be indemnified by the Company pursuant to this Article. The right of any Indemnitee to the indemnification provided herein shall be cumulative with, and in addition to, any and all rights to which such Indemnitee may otherwise be entitled by contract or as a matter of Law or equity and shall extend to such Indemnitee's successors, assigns and legal representatives.

(f) Notice of Claims; Procedures. Promptly after receipt by any Indemnitee that may be entitled to indemnification pursuant to Section 7.4(a) or 7.4(b) (each, a "Covered Person") of a notice of any claim, assertion or other commencement of any investigation, action, suit, arbitration or other proceeding (a "Proceeding") with respect to which the Company may be obligated to provide indemnification pursuant to this Section 7.4, such Covered Person shall, if a claim for indemnification in respect thereof is to be made against the Company, give written notice to the Company of the commencement of such Proceeding, *provided* that the failure of any Covered Person to give notice as provided herein shall not relieve the Company of its obligations under this Article VII, except to the extent that the Company is actually prejudiced by such failure to give notice. In case any such Proceeding is brought against a Covered Person (other than a derivative suit in right of the Company), the Company will be entitled to participate in and to assume the defense thereof to the extent that the Company may wish, with counsel reasonably satisfactory to such Covered Person. After notice from the Company to such Covered Person of the Company's election to assume the defense of such Proceeding, the Company will not be liable for expenses subsequently incurred by such Covered Person in connection with the defense thereof. The Company will not consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Covered Person of a release from all liability in respect of such claim.

(g) Limits on Liability and Indemnification. No Member shall be entitled to incidental or consequential or punitive damages (including lost profits) arising from a breach of any Transaction Document, except to the extent such Losses are subject to indemnification pursuant to Section 7.4(a) or 7.4(b).

7.5 Insurance. The Company shall purchase and maintain insurance, to the extent and in such amounts as the Board shall, in its sole discretion, deem reasonable, on behalf of Covered Persons against any liability that may be asserted against such Person, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement or any other Transaction Document. The Company shall use its best efforts to cause its insurance providers, if any, to satisfy any claims under this Article VII to the fullest extent of the coverage provided, notwithstanding any other indemnities or insurance available to any Indemnitee from any Member or any of its Affiliates.

ARTICLE VIII

ADMISSION OF ADDITIONAL MEMBERS; TRANSFERS OF INTERESTS; DEFAULTS, ETC.

8.1 Member Interests. The Company shall have one class of Interests, which shall have equal rights and preferences in the assets of the Company. The Board shall have no right to establish or issue new or additional classes of Interests without the unanimous written consent of the Members and amendment of this Agreement to provide for such designation or issuance.

8.2 Admission and Withdrawal of Members. No new Members (other than any transferee admitted as a substitute Member pursuant to Section 8.3(b)) ("Additional Members") may be admitted to, and no Member may withdraw from, the Company, without the unanimous written consent of the Members. The capital contribution of any Additional Member, and any corresponding reductions in the Percentage Interests of the continuing Members, shall be determined by the Board in accordance with this Agreement, with the unanimous written consent of the Members. A Person shall be admitted as an Additional Member at the time such Person (i) executes this Agreement or a counterpart of this Agreement and executes a counterpart of any other Transaction Agreement requested by the Board; and (ii) pays in full the capital contribution of such amount as the Board may require. Upon such admission, the Board shall amend Exhibit A accordingly.

8.3 Transfers of Interests.

(a) Restrictions. No Member may Transfer its Interest (or any portion thereof) to any Person, except with the prior written consent of the Founding Members (or in the case of a proposed Transfer by a Founding Member, the other Founding Member); *provided*, that such consent shall not be unreasonably withheld, conditioned or delayed.

(b) Admission of Substitute Members. A transferee of all or part of an Interest Transferred in accordance with this Agreement shall be admitted as a substitute Member at such time as such transferee has executed an amendment or supplement to this Agreement in form and substance reasonably satisfactory to the Founding Members (or in the case of a Transfer by a Founding Member, the other Founding Member) whereby such transferee will become bound by the terms of this Agreement. A member that Transfers all its Interests shall cease to be Member concurrently with the admission of the substitute Member. The Board shall amend Exhibit A hereto to reflect such Transfer and the Capital Accounts shall be adjusted as provided in Section 4.4. Except as otherwise provided herein or as agreed pursuant to the Clarification Agreement, any transferee who is admitted to the Company as a Member shall succeed to the rights and powers, and be subject to the obligations and liabilities, of the transferor Member to the extent of the Interest Transferred.

(c) No Pledges. Other than as provided in Section 4.2(b), no Member may pledge all or any part of its Interest, and any purported pledge shall be void *ab initio*.

(d) Breach. Any Transfer made in violation of this Article VIII shall be void, and the Company shall not recognize any such Transfer.

(e) Transfer Not a Release. Notwithstanding anything to the contrary herein, none of the obligations set forth in Sections 2.3(b) hereof shall be assigned, released, terminated or otherwise affected as a result of, and each shall survive and continue to be effective following, any Transfer of any Interest by any Member.

8.4 Default.

(a) Events of Default. The Bankruptcy or dissolution of a Member (such Member, the "Defaulting Member") shall constitute an "Event of Default" with respect to such Member.

(b) Effects of Default. Upon the occurrence and during the continuance of an Event of Default, (i) the Directors designated by the Defaulting Member shall not be (A) counted for purposes of determining whether there is a quorum, (B) required for a quorum, (C) entitled to vote on or consent to, and such Director's vote or consent shall not be required for, any matter to be voted upon or consented to by the Board, and no such Director shall otherwise be entitled to exercise any rights or perform any functions under this Agreement; (ii) the Defaulting Member shall not have any voting rights with respect to actions to be taken by the Members; (iii) the Defaulting Member shall not be entitled to take or receive any distributions with respect to its Percentage Interest; and (iv) the Company shall be entitled to withhold any payments otherwise due to such Defaulting Member hereunder or under any other Transaction Document.

8.5 Call Provisions.

(a) If an Event of Default has occurred and shall be continuing, the non-Defaulting Members who are Founding Members shall have the right, exercisable within the time periods specified in paragraph (b) below, to purchase all, but not less than all, of the Defaulting Member's Interest at the Fair Market Value of such Interest in accordance with paragraph (c) of this Section 8.5.

(b) Each non-Defaulting Member who is a Founding Member may exercise its rights under Section 8.5(a) immediately and for a period of 120 days.

(c) The Fair Market Value of any Interest for purposes of this Section 8.5 shall be determined in accordance with Section 8.6. Any Member invoking its right to purchase an Interest under this Section 8.5 shall so notify the Founding Members (or in the case of a proposed Transfer by a Founding Member, the other Founding Member) in writing within the applicable time period as set forth in Section 8.5(b) and shall have the right at any time to require a determination of Fair Market Value in accordance with Section 8.6. Within 30 days of the date on which the values of the relevant Interests are determined in accordance with Section 8.6, each Interest to be transferred shall be transferred on the terms set forth herein, by payment of the purchase price for such Interest by wire transfer of immediately available funds against delivery by the selling Member of all documents necessary to fully transfer such Interest, free and clear of all Liens to the purchasing Member.

8.6 Fair Market Value.

(a) The fair market value of any Interest as of a determination date (the "Fair Market Value") shall be the product of (x) the fair market value of the Company and (y) the percentage of the Company that such Interest comprises. The Fair Market Value shall be determined in the following manner:

(i) During the 30 days following the date on which a Member exercises it right to purchase any Interest pursuant to Section 8.5 (the "Initiation Date"), the Members shall attempt in good faith to agree on the Fair Market Value of such Interest. Any such agreed value shall constitute the Fair Market Value of such Interest as of such date for purposes of Section 8.5.

(ii) If the transferee Member(s) and the transferor Member shall not have agreed upon such Fair Market Value on or before the 30th day following the Initiation Date, the transferee Member(s) and the transferor Member shall promptly engage an independent appraiser with nationally recognized valuation expertise in the Business (a "Qualified Firm") that is acceptable to the transferee Member(s) and the transferor Member (the "Independent Appraiser") to determine such Fair Market

Value, *provided* that any time after the 20th Business Day and prior to the selection of an Independent Appraiser, any such Member may request the American Arbitration Association to select a Qualified Firm that has not had any business dealings with any Member or its Affiliates in the two-years prior to appointment. The transferee Member(s) and the transferor Member shall promptly cause to be furnished to the Independent Appraiser such information concerning the Company ("Financial Information") as the Independent Appraiser may reasonably request. The Independent Appraiser shall be instructed by the transferee Member(s) and the transferor Member to use its best efforts to render its determination of such Fair Market Value within 30 days following receipt of the Financial Information the Independent Appraiser deems reasonably necessary. Such determination shall constitute the Fair Market Value for purposes of this Agreement. The fees and expenses of the Independent Appraiser shall be borne equally by the transferee Member(s) on the one hand and the transferor Member on the other.

(iii) If the transferee Member(s) and the transferor Member shall not have agreed on an Independent Appraiser within 60 days following the Initiation Date, then the transferee Member(s) shall appoint one, and the transferor Member shall appoint one, Qualified Firm (such party's "Appraiser"), and shall promptly cause to be furnished to the two Appraisers so appointed such Financial Information as either Appraiser may reasonably request. The fees and expenses of each Appraiser shall be borne by the Member(s) that appointed it. Each Appraiser shall be instructed by the Member appointing it to use best efforts to render its determination of such Fair Market Value in writing within 30 days of receipt of such Financial Information as such Appraiser deems reasonably necessary. If the Appraiser determining the higher amount for such appraised value determines an amount (the "Higher Appraised Amount") that is not more than 115% of the amount (the "Lower Appraised Amount") determined by the other Appraiser, then the average of the Higher Appraised Amount and the Lower Appraised Amount, rounded to the nearest whole dollar, shall be the Fair Market Value of the Interest as of such date for the purposes of this Agreement. Otherwise, the two Appraisers shall promptly select a Qualified Firm (the "Third Appraiser") to determine such Fair Market Value, *provided* that if the two Appraisers fail to select a Third Appraiser within 30 days following receipt by the Members of the two Appraisers' written determinations, the Members shall instruct the American Arbitration Association to select a Third Appraiser, which selection shall be binding. The Third Appraiser shall receive copies of the determinations of the other two Appraisers, and the transferee Member(s) and the transferor Member shall promptly cause to be furnished to the Third Appraiser such Financial Information as the Third Appraiser may reasonably request. The Members shall instruct the Third Appraiser to use best efforts to render its determination (the "Independent Appraised Amount") of such Fair Market Value within 30 days of receipt of such Financial Information as such Third Appraiser deems reasonably necessary. Upon determination of the

Independent Appraised Amount, the Fair Market Value of the Interest shall be (i) the Independent Appraised Amount, if such Independent Appraised Amount falls within the range of values that is greater than the Lower Appraised Amount and less than the Higher Appraised Amount, or (b) the average of the Independent Appraised Amount and the other Appraised Amount (higher or lower) that is closest to the Independent Appraised Amount, if the Independent Appraised Amount is not within the range that is greater than the Lower Appraised Amount and less than the Higher Appraised Amount.

(b) The "fair market value" of any Additional Capital Contributions made in kind shall be the price that an unrelated third party would pay if it were to acquire the property proposed to be so contributed in an arm's length transaction. The Members shall attempt in good faith to agree on any such fair market value. If the Members shall have failed to agree in writing upon any such fair market value within 30 days after any such capital contribution in kind is proposed to be made, such fair market value shall be determined by an Independent Appraiser, selected in the manner set forth in Section 8.6.

8.7 Extension for Governmental Approvals. Notwithstanding any provision herein to the contrary, if the purchase and sale of any Interest (or any portion thereof) pursuant to Sections 8.3 or 8.5 is subject to any prior regulatory consent or approval from any governmental authority, the applicable time periods within which such purchase and sale must be consummated shall be automatically extended (for so long as the Member seeking such extension is making good faith efforts to obtain such consents or approvals as soon as practicable in accordance with applicable Law) until ten days after all such consents or approvals shall have been received.

ARTICLE IX

DISSOLUTION

9.1 Events of Dissolution.

(a) The Company shall be dissolved and its affairs wound up upon the first to occur of the following events:

(i) a unanimous written decision of the Members to dissolve the Company;

(ii) sale of all or substantially all of the Company's assets;

(iii) the entry of a decree of judicial dissolution under § 18-802 of the Act; and

(iv) at any time when there are no Members.

(b) Bankruptcy of a Member. The Bankruptcy or dissolution of a Member shall not in and of itself cause such Member to cease to be a member of the Company, and upon the occurrence of such event, the Company shall continue without dissolution under the management and control of the remaining Members, unless there are no remaining Members of the Company.

9.2 Liquidation Trustee. Upon the occurrence of an event of dissolution listed in Section 9.1(a), the Board shall appoint a liquidating trustee (the "Trustee") to conduct and supervise the liquidation, which Trustee shall be an individual who is knowledgeable about the Business and has substantial experience in the purchase and sale of businesses. The Trustee shall cause a full accounting of the assets, liabilities and operations of the Company to be taken and reviewed by independent accountants. The Trustee shall ensure that the Company shall not be dissolved prior to the date, if any, recommended or required by a Governmental Authority or, if no Governmental Authority recommends or requires a dissolution date, prior to 90 days after the event of dissolution.

9.3 Winding Up; Final Distributions. Upon dissolution, the Company shall conduct those activities (and only those activities) as are necessary to wind up its affairs in an orderly and commercially reasonable manner (including the sale of the assets of the Company in an orderly and commercially reasonable manner). The Trustee shall proceed, subject to the provisions of this Article IX and the Act, to liquidate the Company and apply the proceeds of such liquidation, or in its sole discretion distribute assets in kind, in the following order of priority:

(a) first, to creditors, including Members who are creditors (pursuant to member loans or otherwise), to the extent otherwise permitted by Law, in satisfaction of all debts and liabilities of the Company (other than liabilities for distributions to Members and former Members pursuant to Section 5.4), including the expenses of winding-up and liquidation (whether by payment or the making of reasonable provision for the payment thereof); and to the establishment of reasonable reserves, if any, in such amounts as the Trustee deems reasonably necessary for the payment of unliquidated claims or any contingent or unforeseen liabilities or other obligations of the Company;

(b) second, to the Members in satisfaction of liabilities for distributions pursuant to Section 5.4, whether by payment or the making of reasonable provision for the payment thereof;

(c) third, to each member in the amount of such Member's aggregate Capital Contributions as reflected in the Company's books and records; and

(d) thereafter, with respect to any remaining proceeds or assets, to the Members prorata in proportion to their Percentage Interests.

9.4 Distributions in Cash or in Kind. Upon the dissolution of the Company, the Trustee (or any duly designated liquidating trustee) shall use all commercially reasonable efforts to liquidate all of the Company assets in an orderly manner and apply the proceeds of such liquidation as set forth in Section 9.3, *provided* that, if in the good faith judgment of the Trustee, a Company asset should not be liquidated, the Trustee shall allocate, on the basis of the value (determined in good faith by the Trustee) of any Company assets not sold or otherwise disposed of, any unrealized gain or loss based on such value to the Members' Capital Accounts as though the assets in question had been sold on the date of distribution and, after giving effect to any such adjustment, distribute such assets in accordance with Section 9.3, subject to the priorities set forth in Section 9.3, *provided,* that the Trustee shall in good faith attempt to liquidate sufficient Company assets to satisfy in cash (or make reasonable provision for) the debts and liabilities referred to in Section 9.3(a).

9.5 Time for Liquidation, etc. A reasonable time period shall be allowed for the orderly winding up and liquidation of the assets of the Company and the discharge of liabilities to creditors so as to enable the Trustee to seek to minimize potential losses upon such liquidation. The provisions of this Agreement shall remain in full force and effect during the period of winding up and until the filing of a certificate of cancellation of the Company with the Secretary of State of the State of Delaware.

9.6 Termination. Upon completion of the foregoing, any Director (or any Trustee or other duly designated representative) shall execute, acknowledge and cause to be filed a certificate of cancellation of the Certificate with the Secretary of State of the State of Delaware.

9.7 Claims of the Members. The Members and former Members shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members and former Members shall have no recourse against the Company or any other Member.

9.8 Survival of Liabilities and Certain Provisions. Dissolution, winding up or termination of the Company shall not relieve or release any Member from any liability arising from a breach or default of any of its obligations under this Agreement occurring prior thereto. Notwithstanding any provision of this Agreement to the contrary, Sections 2.3(b), 4.5(b), 5.6, 5.8, 6.5(b), 7.1, 7.2, 7.4, and Articles X and XIII hereof shall survive the termination or expiration of this Agreement and the dissolution, winding up and termination of the Company.

ARTICLE X

GOVERNING LAW; VENUE

10.1 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF DELAWARE, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

10.2 Venue. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined as follows: (i) if such proceeding may be heard in the Delaware Chancery courts, then such proceeding shall be heard in the Delaware Chancery courts, (ii) if such proceeding may not be heard in the Delaware Chancery courts but may be heard in the United States Federal Courts, then such proceeding shall be heard in the U.S. District Court for the District of Delaware, and (iii) if such proceeding may not be heard in either the Delaware Chancery courts or the United States Federal Courts, then such proceeding shall be heard in the Delaware state courts located in Wilmington, Delaware. The Members hereby irrevocably submit to the exclusive jurisdiction of the court set forth above in any such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding so brought and waive any bond, surety or other security that might be required of any other Person with respect thereto. Each Member agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be in any manner provided by Law.

ARTICLE XI

REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 Investment Intention and Restrictions on Disposition. Each Member represents and warrants that such Member has or is acquiring the Interests solely for such Member's own account for investment and not with a view to resale in connection with, any distribution thereof. Each Member agrees that such Member will not, directly or indirectly, Transfer any of the Interests (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of any of the Interests) or any interest therein or any rights relating thereto or offer to Transfer, except in compliance with the Securities Act, all applicable state securities or "blue sky" Laws and this Agreement, as the same shall be amended from time to time. Any attempt by a Member, directly or indirectly, to Transfer, or offer to Transfer, any Interests or any interest therein or any rights relating thereto without complying with the provisions of this Agreement, shall be void and of no effect.

11.2 Securities Laws Matters. Each Member acknowledges receipt of advice from the Company that (i) the Interests have not been registered under the Securities Act or qualified under any state securities or "blue sky" laws, (ii) it is not anticipated that there will be any public market for the Interests, (iii) the Interests must be held indefinitely and such Member must continue to bear the economic risk of the investment in the Interests unless the Interests are subsequently registered under the Securities Act and such state laws or an exemption from registration is available, (iv) Rule 144 promulgated under the Securities Act ("Rule 144") is not presently available with respect to sales of any securities of the Company and the Company has made no covenant to make Rule 144 available and Rule 144 is not anticipated to be available in the foreseeable future, (v) when and if the Interests may be disposed of without registration in reliance upon Rule 144, such disposition can be made only in limited amounts and in accordance with the terms and conditions of such Rule and the provisions of this Agreement, (vi) if the exemption afforded by Rule 144 is not available, public sale of the Interests without registration will require the availability of an exemption under the Securities Act, (vii) restrictive legends shall be placed on any certificate representing the Interests and (viii) a notation shall be made in the appropriate records of the Company indicating that the Interests are subject to restrictions on transfer and, if the Company should in the future engage the services of a transfer agent, appropriate stop-transfer instructions will be issued to such transfer agent with respect to the Interests.

11.3 Ability to Bear Risk. Each Member represents and warrants that (i) such Member's financial situation is such that such Member can afford to bear the economic risk of holding the Interests for an indefinite period and (ii) such Member can afford to suffer the complete loss of such Member's investment in the Interests.

11.4 Access to Information; Sophistication; Lack of Reliance. Each Member represents and warrants that (i) such Member is familiar with the business and financial condition, properties, operations and prospects of the Company and that such Member has been granted the opportunity to ask questions of, and receive answers from, representatives of the Company concerning the Company and the terms and conditions of the purchase of the Interests and to obtain any additional information that such Member deems necessary, (ii) such Member's knowledge and experience in financial and business matters is such that such Member is capable of evaluating the merits and risk of the investment in the Interests and (iii) such Member has carefully reviewed the terms and provisions of this Agreement and has evaluated the restrictions and obligations contained therein. In furtherance of the foregoing, each Member represents and warrants that (i) no representation or warranty, express or implied, whether written or oral, as to the financial condition, results of operations, prospects, properties or business of the Company or as to the desirability or value of an investment in the Company has been made to such Member by or on behalf of the Company, (ii) such Member has relied upon such Member's own independent appraisal and investigation, and the advice of such Member's own counsel, tax advisors and other advisors, regarding the risks of an investment in the Company and

(iii) such Member will continue to bear sole responsibility for making its own independent evaluation and monitoring of the risks of its investment in the Company.

11.5 Accredited Investor. Each Member represents and warrants that such Member is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act and, in connection with the execution of this Agreement, agrees to deliver such certificates to that effect as the Board may request.

11.6 Additional Representations and Warranties of the Members. Each Member represents and warrants that (i) it has duly executed and delivered this Agreement, (ii) all actions required to be taken by or on behalf of it to authorize it to execute, deliver and perform its obligations under this Agreement have been taken and this Agreement constitutes such Member's legal, valid and binding obligation, enforceable against such Member in accordance with the terms hereof, (iii) the execution and delivery of this Agreement and the consummation by such Member of the transactions contemplated hereby in the manner contemplated hereby do not and will not conflict with, or result in a breach of any terms of, or constitute a default under, any agreement or instrument or any applicable Law, or any judgment, decree, writ, injunction, order or award of any arbitrator, court or governmental authority which is applicable to such Member or by such Member or any material portion of its properties is bound and (iv) no consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by such Member in connection with the execution and delivery of this Agreement or the performance of such Member's obligations hereunder.

11.7 Performance of Obligations.

(a) Such Member shall fully and faithfully carry out all its respective agreements and covenants expressly set forth in this Agreement.

(b) Such Member shall, and shall cause each of its controlled Affiliates to, fully and faithfully carry out all its respective agreements and covenants expressly set forth in each Transaction Document, and any material failure to do so, which failure is either incapable of being cured or is not cured within 30 days of delivery of written notice thereof, shall constitute a breach hereunder.

11.8 Further Assurances. Such Member shall, upon the request from time to time of the Company and without further consideration, do, execute and perform all such other acts, deeds and documents as may be reasonably requested by the Company to carry out fully the purposes and intents of this Agreement.

ARTICLE XII
PRE-EFFECTIVE PERIOD

12.1 Effective Time. The effective time of the Company's Business shall, subject to the fulfillment or waiver of the conditions set forth in Section 12.2, take place automatically immediately after all conditions set forth in Section 12.2 have been fulfilled or waived in writing accordance with this Agreement (such time, the "Effective Time").

12.2 Conditions to Effective Time. The occurrence of the Effective Time is subject to the satisfaction or written waiver by both Founding Members (subject to the provisos set forth in Section 12.4) of the following conditions:

(a) Regulatory Approval. (i) The filings with the Securities and Exchange Commission in respect of Rule 19b-4 required to be made prior to the Company commencing the Business shall have been made and all approvals or authorizations required to be obtained prior to the Company commencing the Business (including prior to commencing one-pot cross-margining) shall have been obtained, (ii) the filings required to be made with the U.S. Commodity Futures Trading Commission required to be made prior to the Company commencing the Business shall have been made and all approvals or authorizations required to be obtained prior to the Company commencing the Business (including prior to commencing one-pot cross-margining) shall have been obtained, (iii) all approvals or authorizations required to be obtained by the Federal Reserve Board prior to the Company engaging in the Business, if any, shall have been obtained, (iv) the waiting period (and any extension period thereof) applicable, if any, to the joint venture contemplated by this Agreement under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall have been terminated or shall have expired, any investigation opened by means of a second request for additional information or otherwise shall have been terminated or closed and no action shall have been instituted by the Department of Justice or the Federal Trade Commission challenging or seeking to enjoin the consummation of this transaction, which action shall not have been withdrawn or terminated, and (v) all other material notices, reports, filings, consents, registrations, approvals, permits or authorizations required to be made by the Company or any Member with, or obtained by the Company or any Member from, any Governmental Authority prior to the Company engaging in the Business, the failure of which to make or obtain, would, individually or in the aggregate, provide a reasonable basis to conclude that the Company, any Member or the directors or officers of the Company or any Member would be subject to the risk of criminal liability or material civil liability, shall have been obtained or made; *provided*, that the failure of any required regulatory approval or consent described above to include approval to clear over-the-counter derivative products within its scope shall not constitute a failure of such condition to have been satisfied; *provided further*, that in the event approval to clear over-the-counter derivative products is not included within the scope of any required

regulatory approval or consent as of the Effective Time, the Members and the Company shall use their best efforts to cause approval to clear over-the-counter derivative products to be so included no later than 6 months following the Effective Time.

(b) Transaction Documents. On or prior to the Outside Date, the Company and each Founding Member shall and, each Founding Member shall cause its Affiliates to, execute and deliver each Transaction Document to which it is a party, and each party thereto shall be substantially performing all of its obligations under such Transaction Document in accordance with the terms therein. Collectively, the Transaction Documents shall reflect, in all material respects, all terms set forth in Exhibit A to the Letter Agreement (such Exhibit A, the "Term Sheet") except to the extent that the terms or categories of the Term Sheet already have been reflected in this Agreement.

(c) Business Plan. The initial Board shall have adopted the initial Business Plan and shall also have adopted a business plan addressing those matters required to be addressed by any Governmental Authority, if any Governmental Authority requires such adoption by the Company prior to the Company engaging in the Business.

12.3 Cooperation. The Company and each Founding Member shall, and shall cause each of their respective Affiliates, agents and representatives to, (i) work in good faith and cooperate in all respects with each other to fulfill each condition set forth in Section 12.2 as promptly as practicable; *provided*, that neither Founding Member nor the Company shall be obligated to, in order to fulfill any condition set forth in Section 12.2, (A) agree to changes that materially impair the benefit of the Business of the Company to either Founding Member relative to that anticipated as of June 17, 2009 or (B) agree to changes to either Founding Member's (or its controlled Affiliates' or Subsidiaries') business practices unrelated to the Company; *provided further*, that such obligation shall be subject to there occurring no event or existing any circumstances or condition, in any case that is not under the control or influence of any party hereto, that would materially reduce the anticipated benefit of the Business of the Company to either Founding Member relative to that anticipated as of June 17, 2009, (ii) promptly inform each Founding Member (in the case of the Company) or the Company and the other Founding Member (in the case of a Founding Member) of any communication received by it from, or given by it to, any Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case in connection with the Company, and (iii) permit each Founding Member (in the case of the Company) or an officer of the Company and the other Founding Member (in the case of a Founding Member) to review and comment in advance as to any communication given by it to, and consult with each other in advance of any meeting or conference held with, any Governmental Authority or, in connection with any proceeding by a private party, and to the extent permitted by such Governmental Authority, give each Founding Member or the Company and the other Founding Member, as the case may be, the

opportunity to attend and participate in such meetings and conferences, in each case in connection with the Company.

12.4 Survival of Article XII. None of the provisions of this Article XII or the covenants or other agreements set forth therein shall survive the Effective Time, except for those covenants and agreements contained therein that by their terms apply or are to be performed in whole or in part after the Effective Time.

ARTICLE XIII

MISCELLANEOUS

13.1 Notices. All notices, consents, requests, instructions, approvals and other communications provided for herein shall be in writing and shall be deemed validly given (i) upon personal delivery, (ii) one day after being sent by facsimile, or (iii) three days after being sent by recognized express courier service that maintains records of receipt:

(a) if to DTCC Member, at:

DTCC
55 Water Street, 31st Floor
New York, New York10041
Attention: Murray Pozmanter, Managing Director
Fax: (212) 269-0162

with copies (which shall not constitute notice hereunder) to:

Allen & Overy LLP
1221 Avenue of the Americas
New York, New York10020
Attention: Doug Landy
Michael Gilligan
Fax: (212) 610 6399

(b) if to NYSE Member, at:

NYSE Liffe US
20 Broad Street
New York, NY10005
Attention: Thomas Callahan, CEO
Fax: 212 656-2025

with copies (which shall not constitute notice hereunder) to:

NYSE Euronext
11 Wall Street
New York, NY10005
Attention: John Halvey, General Counsel
Fax: 212 656-3939

Katten Muchin Rosenman LLP
525 W. Monroe Street
Suite 1900
Chicago, Illinois60661
Attention: Arthur W. Hahn
Howard S. Lanznar
Fax: (312) 902-1061

or at such other address or facsimile number as any party hereto may designate by written notice to the other parties hereto.

13.2 Severability. If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to this Agreement to the extent possible. In any event, the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of this Agreement, including that provision, in any other competent jurisdiction.

13.3 No Third-Party Beneficiaries Nothing in this Agreement shall be construed as giving any Person, other than the parties hereto, their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof, except that any Person who is entitled to indemnification pursuant to Section 7.4 and is not party to this Agreement shall be a third-party beneficiary of this

Agreement to the extent required for purposes of such Section 7.4, *provided* that all claims for indemnification shall be made in the name and on behalf of such Person by a party to this Agreement.

13.4 Amendment. Except as otherwise specifically provided herein, neither this Agreement nor any term hereof may be amended or otherwise modified other than by an instrument in writing signed by all of the Members. No provision of this Agreement may be waived, discharged or terminated other than by an instrument in writing signed by the party against whom the enforcement of such waiver, discharge or termination is sought.

13.5 Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns. If any Member shall acquire additional Interests and if any transferee of any Member shall acquire any Interests, in each case in any manner, whether by Transfer, operation of Law or otherwise, such Interests shall be held subject to all of the terms of this Agreement, and by taking and holding such Interests such Person shall be conclusively deemed to have agreed to be bound by, and to comply with, all of the terms and provisions of this Agreement.

13.6 Injunctive Relief; Specific Performance. The Members hereby agree that irreparable damage would occur as a result of the failure of any party hereto to perform any of its obligations under this Agreement in accordance with the specific terms hereof. Therefore, all Members shall have the right to injunctive relief to prevent any breach by, or specific performance of the obligations of, the other Members under this Agreement and if any Member shall institute any action or proceeding for injunctive relief or to enforce the provisions hereof, any Person against whom such action or proceeding is brought hereby waives the claim or defense therein that an adequate remedy at Law exists. The right to injunctive relief or specific performance shall be in addition to any other remedy to which a party hereto may be entitled at Law or in equity.

13.7 Remedies. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein shall be cumulative and not exclusive of any rights or remedies provided by Law.

13.8 Waiver of Partition. Each Member hereby irrevocably waives any and all rights, if any, that such Member may have to maintain an action for partition of the property of the Company.

13.9 Section Headings; Counterparts; etc. The section headings of this Agreement are for convenience of reference only and are not to be considered in

construing this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Except as expressly provided herein, none of the parties hereto shall have any authority represent or to bind the other parties in any manner whatsoever.

13.10 Entire Agreement. This Agreement (including the Exhibits hereto) and the Transaction Documents constitute the full and entire understanding and agreement of the parties and supersedes any and all prior agreements, arrangements and understandings relating to the subject matters hereof. In the event of any inconsistency between this Agreement and any Transaction Document, this Agreement shall be controlling with respect to such matters.

13.11 Confidentiality.

(a) Each of the Members and the Company will hold, and will cause its respective officers, employees, advisors, representatives and Affiliates to hold, any nonpublic information in accordance with Annex I of the Letter Agreement as if each was a party thereto. For the purposes of this Agreement and the Transaction Documents, Annex I of the Letter Agreement shall survive indefinitely, subject to Section 13.11(b).

(b) Section 9.9 of this Agreement notwithstanding, on the third anniversary of the date on which any Member ceased to be a Member, the representations, acknowledgements, covenants and agreements of such Member set forth in this Section 13.11 shall automatically terminate without further action by such Member, and such Member shall be released from its obligations under this Section 13.11.

(c) Notwithstanding anything in this Agreement to the contrary, in the event that provisions included in any of the Transaction Documents or in any other documents entered into pursuant to this Agreement or the Transaction Documents shall conflict with or be inconsistent with this Section 13.11 or Annex I of the Letter Agreement, then in all such instances such provisions shall prevail over this section and such Annex I.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

DTCC Member

By:_____
Name:
Title:

NYSE Member

By:_____
Name:
Title:

Exhibit A

Membership Interests and Contributions

Member	Percentage Interest	Initial Capital Account Balance	Initial Capital Contribution	Interim Contributions	Additional Capital Contributions
DTCC Member	50%	$5,000,000	$5,000,000	$10,000,000	$~~7,000~~33,527,000
NYSE Member	50%	$5,000,000	$5,000,000	$10,000,000	$~~7,000~~33,527,000

Exhibit B

Initial Directors

DTCC Member Directors
Murray Pozmanter (chair)
Mike Bodson
Larry Thompson

NYSE Member Directors
Thomas Callahan
Lynn Martin
Karl Cooper

Independent Directors
Bernard Dan
Richard Prager
Thomas Wipf

DTCC Alternate Director

Andrew Gray

NYSE Alternate Director
Mark Ibbotson

~~FIFTH~~SIXTH AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

NEW YORK PORTFOLIO CLEARING, LLC

dated as of

~~August [X], 2011~~

Effective ~~February 14~~December 19, 2013

RULES OF

NEW YORK PORTFOLIO CLEARING, LLC

TABLE OF CONTENTS

RULES OF NEW YORK PORTFOLIO CLEARING, LLC

CHAPTER 1. DEFINED TERMS

Rule 101. Definitions [*Amended 08/07/2012; 2/14/2013; 12/19/2013*]

Unless the context otherwise requires, the terms defined in this Rule have the meanings specified below for all purposes under the Rules:

"Appeal Panel" means a panel comprised of a chairman and two individuals appointed by the Board to consider appeals under Chapter 6 of the Rules.

"Authorized Representative" means an individual designated by a Clearing Member and registered with the Clearinghouse with authority to act on behalf of the Clearing Member.

"Board" means the Board of Directors of the Clearinghouse, as set forth in the Operating Agreement.

"Broker-Dealer" means a broker or dealer as such terms are defined in the Exchange Act and includes a government securities broker and government securities dealer as such terms are defined in the Exchange Act.

"Business Day" means any day on which the Clearinghouse is open for business.

"CEA" means the Commodity Exchange Act.

"CFTC" means the Commodity Futures Trading Commission.

"Chief Executive Officer" means the individual appointed by the Board as the chief executive officer of the Clearinghouse.

"Chairman" means the chairman of the Board.

"Clearinghouse" means New York Portfolio Clearing, LLC.

"Clearing Bank" means a bank, trust company or other institution designated by the Clearinghouse as a Clearing Bank that acts as a depository for Original Margin and in such other capacities as the Clearinghouse may approve.

"Clearing Member" means a Person admitted to membership in the Clearinghouse pursuant to Rule 301.

"Clearing Member Cross-Margining Agreement" means, as applicable, the (i) Clearing Member Cross-Margining Agreement (Joint Clearing Member – Proprietary Accounts), (ii) Clearing Member Cross-Margining Agreement (Affiliated Clearing Members – Proprietary Accounts), (iii) Clearing Member Cross-Margining Agreement (Joint Clearing Member – Market Professional Accounts), or (iv) Clearing Member Cross-Margining Agreement (Affiliated Clearing Members – Market Professional Accounts), in each case in the form set forth as an appendix to the Cross-Margining Agreement.

"Clearing System" means systems, software, hardware and other technology of any kind used by or on behalf of the Clearinghouse to perform its clearing functions.

"Committee" means a committee established by the Board.

"Contract" means any contract, agreement or transaction approved by the Clearinghouse for clearing under the Rules. Where the Clearinghouse provides clearing services for, or is party to a Cross-Margining Agreement with, more than one Exchange or market, the term "Contract" shall be construed to apply separately to each such Exchange or market.

"Cooling Off Period" means the date of the initial Clearing Member Default until the later of (i) the fifth Business Day thereafter and (ii) if another Clearing Member Defaults during the five Business Days following the initial or any subsequent Default, the fifth Business Day following the last such Default, regardless of the number of Defaults that occur during such period.

"Cross-Guaranty Agreement" means an agreement between the Clearinghouse and one or more DCOs and/or one or more clearing agencies (as such term is defined in the Exchange Act) related to the cross-guaranty by the Clearinghouse and the other party or parties of certain obligations of a suspended Clearing Member to the parties to such agreement.

"Cross-Guaranty Defaulting Member" means a Clearing Member in Default on account of which the Clearinghouse has made or received a Cross-Guaranty Payment.

"Cross-Guaranty Party" means a party (other than the Clearinghouse) to a Cross-Guaranty Agreement.

"Cross-Margining Affiliate" means an affiliate of a Clearing Member that is a member of FICC and that has agreed to have its positions and margin at FICC margined together with Eligible Positions and Margin of the Clearing Member at the Clearinghouse, and to be bound by the Cross-Margining Agreement and by the Rules and the rules of FICC that are applicable to cross-margining arrangements, all in accordance with the Clearing Member Cross-Margining Agreement.

"Cross-Margining Agreement" means the NYPC Cross-Margining Agreement, as it may be amended from time to time, entered into between the Clearinghouse and FICC and providing for participation by the Clearinghouse, FICC, Joint Clearing Members and Cross-Margining Affiliates in an arrangement providing for the cross-margining of Contracts cleared by the Clearinghouse with interest rate instruments cleared by FICC.

"Customer" means any Person, including a Market Professional, that has a beneficial ownership interest in a Customer Account.

"Customer Account" means an account established by a Clearing Member with the Clearinghouse in which the Clearing Member maintains trades, positions and Margin solely for "customers," as such term is defined in CFTC Regulation 1.3(k), of the Clearing Member. Except as the context otherwise requires, the term "Customer Account" includes an account established by a Clearing Member to maintain trades, positions and Margin for Market Professionals.

"DCO" means derivatives clearing organization, as such term is defined in the CEA.

"Default" means, with respect to a Clearing Member, if such Clearing Member or, as applicable, its Cross-Margining Affiliate: (i) fails to satisfy any of its Obligations to the Clearinghouse; (ii) fails to deliver funds or securities within the time established therefor by the Clearinghouse or, as applicable, FICC, and in such case, FICC ceases to act on behalf of the Clearing Member, or, as applicable, its Cross-Margining Affiliate; (iii) is expelled or suspended from any Self-Regulatory Organization; (iv) fails to meet the minimum capital or other financial

requirements of the Clearinghouse or, as applicable, FICC; (v) is Insolvent; (vi) holds a short position in a futures Contract and does not tender a delivery notice on or before the time specified by the rules of the Exchange on the last day on which such notices are permitted to be tendered or fails to make delivery by the time specified in the rules of the Exchange; or (vii) holds a long position in a futures Contract and does not accept delivery or does not make full payment when due as specified in the rules of the Exchange.

"Disciplinary Panel" means a panel comprised of a chairman and two individuals appointed by the Board to conduct disciplinary proceedings under Rule 604.

"DTC" means The Depository Trust Company.

"Eligible Position" means a position in certain Contracts or in certain securities, repurchase agreements or reverse repurchase agreements cleared by FICC, as identified in a Cross-Margining Agreement as eligible for cross-margining treatment.

"Eligible Securities" means, in each case subject to such criteria and requirements as may be established by the Clearinghouse from time to time: (i) direct obligations of the United States government; (ii) direct obligations of agencies of the United States and government-sponsored enterprises as the Clearinghouse may designate from time to time; and (iii) mortgage-backed pass-through obligations issued by agencies of the United States and government-sponsored enterprises as the Clearinghouse may designate from time to time.

"Exchange" means NYSE Liffe US and any other exchange or market for which the Clearinghouse acts as DCO.

"Exchange Act" means the Securities Exchange Act of 1934.

"FCM" means a futures commission merchant, as such term is defined in the CEA.

"FICC" means the Fixed Income Clearing Corporation.

"FINRA" means Financial Industry Regulatory Authority, Inc.

"Government Agency" means the CFTC and/or any other governmental agency or department regulating the activities of the Clearinghouse or a Clearing Member.

"Guaranty Fund" means the fund comprising the monies, securities, and instruments deposited by the Clearing Members pursuant to Rule 504 and the NYSE Guaranty.

"Initial Margin" means the minimum amount, as specified by the Clearinghouse from time to time, of money, securities or other property required to be paid by a Customer to its Clearing Member as security for the performance of Contracts that are to be cleared by the Clearing Member for such Customer.

"Insolvent" and "Insolvency" means the occurrence of any of the following events with respect to a Clearing Member:

(1) the Clearing Member is determined to be insolvent by a Government Agency or Self-Regulatory Organization;

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

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

(4) the filing by the Clearing Member of a petition, or any case or proceeding, seeking reorganization or relief under the Bankruptcy Code or any other applicable federal, state or other U.S. or non-U.S. law, including any bankruptcy, insolvency, reorganization, liquidation, dissolution, or similar law, or the consent by the Clearing Member to the filing of any such petition, case or proceeding or to the appointment of a receiver, custodian, liquidator, provisional liquidator, administrator, provisional administrator, assignee, trustee, sequestrator or other similar official for the Clearing Member or for any substantial part of its property, or the making by the Clearing Member of an assignment for the benefit of its creditors, or the admission by the Clearing Member in writing of its inability to pay its debts generally as they become due, or the taking of corporate or similar action by the Clearing Member in furtherance of the foregoing; or

(5) if a Settlement Bank of a Clearing Member fails timely to make Margin payments on behalf of such Clearing Member.

As used in paragraphs (1) through (5) above, the term "Clearing Member" includes a Cross-Margining Affiliate or 5% Owner of such Clearing Member. Notwithstanding the foregoing, a Clearing Member shall not be deemed to be Insolvent in the event such Clearing Member (without being deemed to have admitted its liability thereunder) provides or posts a bond, indemnity, or guaranty from a third party that the Clearinghouse deems satisfactory to ensure the performance of the Clearing Member's Obligations.

"Joint Clearing Member" means a Clearing Member that is a FICC member, which has agreed to have its positions and margin at FICC margined together with Eligible Positions and Margin at the Clearinghouse, and to be bound by the Cross-Margining Agreement and by the Rules and the rules of FICC that are applicable to cross-margining arrangements, all in accordance with the Clearing Member Cross-Margining Agreement.

"Margin" means any Original Margin and Variation Margin paid or payable by or to a Clearing Member to or by the Clearinghouse.

"Market Professional" has the meaning given that term in the Cross-Margining Agreement.

"Net Settlement Amount" means (i) as to a Settlement Bank, the net Variation Margin payments and collections made by or to such Settlement Bank on behalf of the Clearing Members for which such Settlement Bank is acting and (ii) as to a Clearing Member, the net

Variation Margin payments and collections made by or to such Clearing Member effected through such Clearing Member's Settlement Bank.

"NSS" means the National Settlement Service, a multilateral funds settlement service owned and operated by the Federal Reserve Banks.

"NYSE Guaranty" means the guaranty of payment by NYSE Euronext of Clearing Member Deficiencies in accordance with Rule 503(b), in an amount not to exceed $50 million in the aggregate, and includes any cash collateral arrangement that secures such guaranty.

"Obligations" means all financial obligations of a Clearing Member arising under the Rules or such Clearing Member's agreements with the Clearinghouse, however created, arising or evidenced, whether direct or indirect, absolute or contingent, existing, due or to become due.

"Operating Agreement" means the Amended and Restated Limited Liability Company Agreement of the Clearinghouse, as it may be further amended or restated from time to time.

"Original Margin" means, with respect to a Clearing Member, the minimum deposit required from such Clearing Member, in accordance with the Rules, in respect of Contracts in the accounts of such Clearing Member.

"Person" means an individual, sole proprietorship, partnership, limited liability company, association, firm, trust, corporation or other entity, as the context may require.

"Proprietary Account" has the meaning given that term in CFTC Regulation 1.3(y).

References to a "Rule" or "Rules" are references to the rules, interpretations, orders and other directives of the Clearinghouse, all as in effect from time to time.

"Retained Earnings" means the net cash income of the Clearinghouse that has been retained by the Clearinghouse from prior years, plus any cash operating surplus of the Clearinghouse for the current year, in excess of amounts necessary for normal operations.

~~"Risk Committee" means the Risk Committee of the Board established pursuant to the Operating Agreement.~~

"SEC" means the Securities and Exchange Commission.

"Self-Regulatory Organization" shall mean any futures or securities exchange, derivatives clearing organization, securities clearing agency, the National Futures Association and FINRA.

"Settlement Bank" means an entity that has been approved to act as a Settlement Bank in accordance with Rule 403.

"Termination Event" means the occurrence of any of the following:

(1) the termination of the clearing member agreement between the Clearing Member and the Clearinghouse;

(2) with respect to a Joint Clearing Member, the expiration or termination of the clearing member agreement between the Joint Clearing Member and FICC.

(3) a representation or warranty made by the Clearing Member to the Clearinghouse under or in connection with any agreement between the Clearinghouse and the Clearing Member shall be false or misleading in any material respect as of the date on which made or repeated;

(4) the Clearing Member does not meet the qualifications for Clearing Members set forth in Rule 301; or

(5) the breach by the Clearing Member of the Rules or any of the terms or provisions of any agreement between the Clearinghouse and the Clearing Member.

"Treasury" means the United States Department of the Treasury.

"Variation Margin" means:

(1) with respect to futures contracts: (i) on the Business Day a Contract has been accepted for clearing by the Clearinghouse, the difference between the price at which such Contract was bought or sold and the Settlement Price for such Contract established by the Clearinghouse; and (ii) thereafter, the difference, as applicable, between (x) the Settlement Price on a given Business Day and the preceding Settlement Price for such Contract, or (y) the price at which such Contract was closed on the books of the Clearinghouse and the preceding Settlement Price for such Contract; and

(2) with respect to option contracts, on the Business Day a Contract has been accepted for clearing by the Clearinghouse, the agreed premium at which such Contract was bought or sold.

"Vice Chairman" means the vice chairman of the Board.

Rule 102. Other Defined Terms [***Amended 08/07/2012; 2/14/2013***]

Set forth below are certain other terms defined in the Rules and the place in the Rules where such terms are defined:

Defined Term	Rule
"Appropriate Regulatory Agency"	Rule 306(d)(1)
"Bankruptcy Event"	Rule 506(a)
"Call Report"	Rule 306(d)(2)
"Clearing Member Deficiency"	Rule 503(b)
"Clearinghouse Proceeding"	Rule 205(a)
"Close-out Amount"	Rule 506(d)
"Cross-Guaranty Beneficiary Member"	Rule 505(c)(1)
"Cross-Guaranty Payment"	Rule 505(f)
"Cross-Guaranty Repayment"	Rule 505(f)
"Cross-Guaranty Repayment Deposit"	Rule 505(d)
"Cross-Margin Beneficiary Member"	Rule 411(d)(1)(ii)
"Cross-Margin Guaranty"	Rule 411(g)(3)
"Cross-Margin Payment"	Rule 411(g)(1)
"Cross-Margin Repayment"	Rule 411(g)(2)
"Cross-Margin Repayment Deposit"	Rule 411(e)
"Emergency"	Rule 207(c)
"Emergency Rules"	Rule 207(a)
"FDICIA"	Rule 506(e)
"5% Owner"	Rule 307(a)
"Interested Person"	Rule 205(a)

Rule 103. Rules of Construction

In the Rules, unless the context otherwise requires, (i) words in the singular include the plural and words in the plural include the singular; (ii) references to statutory provisions include those provisions, and any rules or regulations promulgated thereunder, as amended; (iii) any reference to a time means the time in New York, New York; and (iv) all uses of the word "including" should be construed to mean "including, but not limited to."

CHAPTER 2. GOVERNANCE

Rule 201. Purpose, Powers and Authority

(a) The Clearinghouse operates to clear Contracts for its Clearing Members.

(b) The Clearinghouse has the power and authority to operate and regulate its clearance and settlement facilities to ensure that such facilities are not used for any improper purpose and to establish and enforce rules and procedures to reduce systemic risk and facilitate the orderly clearing of Contracts through the Clearinghouse by Clearing Members.

(c) These Rules specify the process by which a Person may become a Clearing Member and the terms and conditions on which the Clearinghouse will clear Contracts. These Rules are binding on all Clearing Members.

Rule 202. Board of Directors

The Board shall have control and management of the affairs and business of the Clearinghouse and shall have the powers and duties set forth in the Operating Agreement. Without limiting the generality of the foregoing, the Board shall have the power to: (a) adopt, amend, implement and repeal such Rules, not contrary to the Operating Agreement or applicable law, as will in its judgment best promote and safeguard the interests of the Clearinghouse; and (b) render interpretations of the Rules, which shall be binding on all persons having dealings with the Clearinghouse, directly or through Clearing Members.

Rule 203. Committees

(a) The Board may create, appoint Board members or other individuals to serve on, and delegate powers to, one or more Committees.

(b) A Committee shall operate in accordance with its charter and shall take such actions as may be required by the Rules or as otherwise delegated to it by the Board.

(c) All information and documents provided to a Committee and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further the business and affairs of the Clearinghouse or as required by law.

Rule 204. Officers

The Board shall appoint officers of the Clearinghouse and delegate to the officers, subject to its oversight, the power and authority to manage the business and affairs of the Clearinghouse and to establish and enforce rules and procedures for the conduct of business by the Clearinghouse.

Rule 205. Conflicts of Interest

(a) A Board member or an officer of the Clearinghouse, a member of a Committee or panel or other Person authorized to exercise the Clearinghouse's authority concerning any inquiry, investigation, disciplinary proceeding or any appeal from a disciplinary proceeding, summary

suspension or other summary action, other than action that is taken or contemplated in response to an Emergency pursuant to Rule 207 (any such action, a "Clearinghouse Proceeding") who knows that he or she has a material conflict of interest with respect to such Clearinghouse Proceeding (an "Interested Person"), shall not participate in any deliberations or votes of the Board, a Committee or panel of the Clearinghouse involved in such Clearinghouse Proceeding.

(b) For purposes of paragraph (a), a "material conflict of interest" shall mean, with respect to a member of the Board or an officer of the Clearinghouse, a Clearing Member or other Person:

(1) being named as a respondent or potential respondent in a Clearinghouse Proceeding;

(2) being an employer, employee, fellow employee or an affiliate of a respondent or potential respondent in a Clearinghouse Proceeding;

(3) having any significant, ongoing business relationship with a respondent or potential respondent in a Clearinghouse Proceeding;

(4) having a family relationship with a respondent or potential respondent in a Clearinghouse Proceeding (including the Person's spouse, co-habitator, parent, step-parent, child, step-child, sibling, step-brother, step-sister, father-in-law, mother-in-law, brother-in-law or sister-in-law); and/or

(5) having a direct and substantial financial interest in the result of the vote, other than based on a direct or indirect equity or other interest in the Clearinghouse, that could reasonably be expected to be affected by the Clearinghouse Proceeding. For purposes of this paragraph (5), a "direct and substantial financial interest" includes (but is not limited to) positions held in Contracts in the accounts of, controlled by, or affiliated with the Interested Person or any other types of direct and substantial financial positions of the Interested Person that are reasonably expected to be affected by the vote.

(c) Prior to consideration of any Clearinghouse Proceeding, each Board member, officer of the Clearinghouse, member of a Committee or panel or other Person authorized to exercise the Clearinghouse's authority in connection with such Proceeding shall disclose in writing to the Board, Committee or panel, as applicable, whether such person has a material conflict of interest.

(d) Any Interested Person who would be required otherwise to abstain from deliberations and voting pursuant to paragraph (a) as a result of having a direct and substantial financial interest in the result of the vote may participate in deliberations, prior to a vote on the matter, if:

(1) the material facts about the Interested Person's interest in the matter are disclosed or known to the Board or Committee, as applicable;

(2) the Board, Committee or panel, as applicable, determines that the participation by the Interested Person would be consistent with the public interest; and

(3) a majority of the members of the Board, Committee or panel, as applicable, that are not Interested Persons with respect to the matter vote to allow the Interested Person to participate in deliberations on the matter.

(e) If a determination is made pursuant to paragraph (d) that an Interested Person may participate in deliberations prior to a vote, then the minutes of the meeting of the Board, Committee or panel will reflect the determination and the reasons for the determination.

(f) If all of the members of the Board, Committee or panel, as applicable, are Interested Persons with respect to a matter subject to a vote by the Board, Committee or panel, as applicable, the Chief Executive Officer will appoint a panel of individuals who are not Interested Persons with respect to such matter, which will have the same authority and powers over such matter that the Board, Committee or panel would have if the members thereof were not Interested Persons with respect to such matter.

(g) No member of the Board or any Committee or panel shall use or disclose for any purpose other than the performance of his or her official duties and responsibilities as a member of the Board, a Committee or a panel any material, non-public information obtained as a result of the Person's duties and responsibilities as a member of the Board or a Committee. No member of the Board, a Committee or a panel shall, directly or indirectly, disclose or use at any time, either during his or her association with the Clearinghouse or thereafter, any confidential information of which the member of the Board, a Committee or a panel becomes aware except when reporting to or at the direction of the Board, when requested by a Government Agency or when compelled to testify in any judicial or administrative proceeding. Each member of the Board, a Committee or a panel in possession of confidential information shall take all appropriate steps to safeguard the information and to protect it against disclosure, misuse, espionage, loss and theft. For purposes of this paragraph (g), the terms "material" and "non-public information" have the meaning set forth in CFTC Regulation 1.59(a).

(h) Notwithstanding paragraph (g), a member of the Board, a Committee or a panel may disclose confidential information if required by law or a court order to be revealed to the United States Department of Justice or a Government Agency with regulatory or oversight authority over the Clearinghouse or member of the Board or any Committee or panel.

Rule 206. Board, Committee, Disciplinary and Appeal Panel Positions

(a) A Person may not serve as a Board member or an officer of the Clearinghouse or on a Committee, a Disciplinary Panel or an Appeal Panel, if the Person:

(1) within the prior three years has been found, by a final decision in any action or proceeding brought in a court of competent jurisdiction, any Government Agency or any Self-Regulatory Organization, to have committed a disciplinary offense;

(2) within the prior three years has entered into a settlement agreement concerning allegations of a disciplinary offense charged (but not withdrawn), whether or not findings were made;

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

(i) a finding of a disciplinary offense by a final decision in any action or proceeding brought in a court of competent jurisdiction, Government Agency or Self-Regulatory Organization; or

(ii) a settlement agreement concerning allegations of a disciplinary offense charged (but not withdrawn);

(4) is currently subject to an agreement with a Government Agency or Self-Regulatory Organization not to apply for registration with such Government Agency or for membership in such Self-Regulatory Organization;

(5) is currently, or within the past three years has been, subject to a revocation or suspension of registration by the CFTC or has been convicted of a felony listed in Section 8a(2)(D)(ii) through (iv) of the CEA; or

(6) 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.

The Board may for good cause specifically exempt a Person from the provisions of paragraphs (1)-(5) above.

(b) Any Board member, officer of the Clearinghouse, member of a Committee, member of a Disciplinary Panel or Appeal Panel or Person nominated to serve in any such role shall immediately notify the Chief Executive Officer if he or she meets one or more of the criteria in paragraph (a).

(c) For purposes of paragraph (a), the terms "disciplinary offense," "final decision" and "settlement agreement" have the meanings set forth in CFTC Regulation 1.63(a).

Rule 207. Emergencies

(a) During an Emergency, the Board may implement temporary emergency procedures and rules ("Emergency Rules"), subject to applicable provisions of the CEA and CFTC regulations. If the Chief Executive Officer (or, in the event that the Chief Executive Officer is unavailable, the Chairman or the Chief Risk Officer) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, then the Chief Executive Officer (or, if applicable, the Chairman or the Chief Risk Officer) shall have the authority, without Board action, to implement any Emergency Rules with respect to such Emergency that he or she deems necessary or appropriate to respond to such Emergency. Without limiting the foregoing, the Clearinghouse shall use good faith efforts to consult with an appropriate representative of the Exchange prior to implementing any such Emergency Rules.

(b) Pursuant to this Rule, Emergency Rules may require or authorize the Clearinghouse, the Board, any Committee, the Chief Executive Officer (or, if the Chief Executive Officer is unavailable, the Chairman or Chief Risk Officer) or any other officer of the Clearinghouse to take actions necessary or appropriate to respond to the Emergency, including, but not limited to, the following:

(1) suspending or curtailing clearing or limiting clearing to liquidation only (in whole or in part);

(2) extending or shortening the expiration date and/or the last settlement date for Contracts;

(3) providing alternative settlement mechanisms;

(4) ordering the liquidation of Contracts, the fixing of a Settlement Price, or the reduction of positions;

(5) extending, limiting or changing the hours of operation of the Clearinghouse;

(6) temporarily modifying or suspending any provision of the Rules;

(7) changing the amount of money to be paid in connection with a Contract, whether previously or thereafter delivered;

(8) requiring Clearing Members to meet special Margin requirements;

(9) imposing or modifying price limits; and/or

(10) imposing or modifying position limits.

(c) For the purposes of this Rule, "Emergency" is defined as any occurrence or circumstances which, in the opinion of the Board, the Chief Executive Officer, Chairman or Chief Risk Officer (as provided in paragraphs (a) and (b)), requires immediate action, and that threatens, or may threaten, the fair and orderly settlement or integrity of, any Contract, including, without limitation, the following:

(1) any circumstance that may materially affect the performance of a Contract;

(2) any action taken by the United States government, a foreign government, Government Agency, Self-Regulatory Organization, state or local governmental body, or market or exchange (foreign or domestic) that may have a material adverse effect on the clearing of Contracts through the Clearinghouse or the settlement, legality or enforceability of any Contract;

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

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

(5) the Insolvency of any Clearing Member or the imposition of any injunction or other restraint by any Government Agency, court or arbitrator upon a Clearing Member which may affect the ability of a Clearing Member to satisfy its Obligations;

(6) any circumstance in which it appears to the Board that a Clearing Member:

(i) has failed to perform on a Contract;

(ii) is Insolvent;

(iii) is otherwise in Default;

(iv) is in such financial or operational condition or is conducting business such that the Clearing Member cannot be permitted to continue in business without jeopardizing the safety of funds of Customers, Clearing Members or the Clearinghouse; or

(7) any other unusual, unforeseeable or adverse circumstance as determined by the Board or the Chief Executive Officer (or, as applicable, the Chairman or Chief Risk Officer).

When the Clearinghouse determines that the Emergency has been reduced sufficiently to allow the Clearinghouse to resume normal functioning, any such actions will be terminated.

(d) Whenever the Clearinghouse takes action to respond to an Emergency (including, without limitation, the actions set forth in paragraph (b) above), it will, where possible, ensure that notice is timely given to Clearing Members.

(e) The Clearinghouse will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not possible or practicable, the Clearinghouse will notify the CFTC as soon as reasonably practicable, but in all circumstances within twelve hours of the implementation, modification or termination of such Emergency Rule.

Upon taking any action in response to an Emergency, the Clearinghouse will document the decisions and deliberations related to such action. Such documentation will be kept for at least five years following the date on which the Emergency ceases to exist or to affect the Clearinghouse, and all such documentation will be provided to the CFTC upon request.

CHAPTER 3. CLEARING MEMBERS

Rule 301. Application and Qualification Requirements [*Amended 2/14/2013*]

(a) Only Persons found by the Clearinghouse to be appropriately qualified shall be permitted to be Clearing Members. For the purpose of determining whether an applicant is appropriately qualified, an applicant shall submit an application in such form as shall be prescribed by the Clearinghouse, which form shall include a certification that the applicant has reviewed and agrees to abide by the Rules and perform the duties and responsibilities of a Clearing Member. The Clearinghouse may establish minimum capital and other requirements for Clearing Members, examine the books and records of any applicant or Clearing Member, and take such other steps as it may deem necessary to ascertain the facts bearing upon the question of qualification.

(b) Qualification of Clearing Members. Each applicant for qualification as a Clearing Member shall satisfy the following requirements:

(1) it shall be a corporation, limited liability company, partnership or other entity approved by the Clearinghouse, in each case, in good standing in its jurisdiction of formation;

(2) it shall be qualified to conduct business in the State of New York or have an agency agreement in place with an entity qualified in the State of New York that provides an agent for service of process and other communications from the Clearinghouse in connection with the business of the Clearing Member;

(3) it shall demonstrate such fiscal integrity as would justify the Clearinghouse's assumption of the risks inherent in clearing its Contracts;

(4) it shall be engaged in or demonstrate its capacity to engage in the conduct of the business of a Clearing Member;

(5) it shall have received all necessary approvals and consents from all applicable regulatory authorities and Government Agencies to permit it to conduct the business of a Clearing Member;

(6) if it is clearing Contracts on behalf of Customers, it shall be registered with the CFTC as an FCM;

(7) it shall have established satisfactory relationships with, and have designated to the Clearinghouse, a Clearing Bank and a Settlement Bank for payment of Margin to the Clearinghouse; and

(8) it shall maintain back-office facilities staffed with experienced and competent personnel or have entered into a facilities management agreement in form and substance acceptable to the Clearinghouse.

(c) Certain FICC Requirements. In addition to the requirements set forth above, each applicant for qualification as a Clearing Member shall be a FICC member or shall enter into a securities settlement arrangement with one or more FICC members in form and substance acceptable to the Clearinghouse. Notwithstanding the foregoing, none of (x) an Inter-Dealer Broker Netting Member, (y) a Dealer Netting Member with respect to its segregated brokered accounts, or (z) a Sponsored Member (as each such term is defined in the rules of the Government

Securities Division of FICC) shall be eligible to enter into a Clearing Member Cross-Margining Agreement.

(d) Banks and Trust Companies. A Bank Netting Member (as such term is defined in the rules of the Government Securities Division of FICC) shall not be eligible to become a Clearing Member unless it can demonstrate, to the satisfaction of NYPC that it would be in compliance with the Rules, regulatory requirements applicable to it as a Clearing Member, and, if applicable, the Clearing Member Cross-Margining Agreement.

(e) Foreign Clearing Members. In addition to the requirements set forth above, an applicant for qualification as a Clearing Member that is organized or established under the laws of a country other than the United States must:

(1) maintain a presence in the United States, either directly or through a suitable agent, that both has available individuals fluent in English who are knowledgeable about the applicant's business and can assist representatives of the Clearinghouse as necessary, and ensure that the applicant will be able to meet its data submission, settlement, and other obligations to the Clearinghouse as a Clearing Member in a timely manner;

(2) represent and certify to the Clearinghouse that it is in compliance with the financial reporting and responsibility standards of its home country and that it is regulated in its home country by a financial regulatory authority in the areas of maintenance of relevant books and records, regular inspections and examinations, and minimum capital standards, and make such other representations as the Clearinghouse deems necessary; and

(3) upon request by the Clearinghouse, submit an opinion of outside counsel on home country law and, if applicable, other relevant non-domestic law, in form and substance acceptable to the Clearinghouse.

(f) An applicant for Clearing Member status shall be conclusively deemed to have agreed to have no recourse against the Clearinghouse in the event that its application to become a Clearing Member is rejected.

Rule 302. [Reserved] [***Amended 2/14/2013***]

Rule 303. Duties and Responsibilities of Clearing Members [*Amended 05/07/2012*]

Each Clearing Member shall and, as applicable, shall cause its Authorized Representatives and employees to:

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

(b) guarantee and assume responsibility for all Contracts submitted by it or for which it authorizes another Person to submit in its name for clearing;

(c) immediately inform the Clearinghouse of any changes to the account information provided by the Clearing Member;

(d) keep the Clearing Member's Clearing System User IDs and passwords confidential;

(e) at all times have a Settlement Bank validly appointed and acting on its behalf to pay and receive Variation Margin payments in accordance with Rule 403;

(f) promptly review and, if necessary, respond to all communications sent by the Clearinghouse;

(g) be responsible for violations of the Rules committed by it, its Authorized Representative or employees;

(h) keep, or cause to be kept, complete and accurate books and records, including, without limitation, all books and records required to be maintained by the Clearinghouse or pursuant to the CEA or CFTC Regulations, for at least five years, and make such books and records available for inspection by the Clearinghouse, the CFTC or other Government Agency;

(i) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the Clearinghouse or in response to any Clearinghouse Proceeding;

(j) cooperate with the Clearinghouse and any Government Agency in any inquiry, investigation, audit, examination or proceeding;

(k) provide appropriate staff in their offices during specified hours, on Business Days and otherwise, when such is deemed necessary by the Clearinghouse to ensure the integrity of its systems or as otherwise deemed necessary for the protection of the Clearinghouse; and

(l) observe high standards of integrity, commercial honor, fair dealing, and just and equitable principles of trade in relation to any aspect of its business connected with or concerning the Clearinghouse.

Rule 304. Authorized Representatives

(a) Each Clearing Member shall designate one or more Authorized Representatives to sign all instruments, correct errors, perform such other duties as may be required under the Rules and transact all business in connection with the operations of the Clearinghouse. Each Clearing Member must provide the Clearinghouse with current contact and other requested information for each of its Authorized Representatives.

(b) To designate an Authorized Representative, a Clearing Member must provide the information requested and conform to the procedures and requirements established by the Clearinghouse. By agreeing to become an Authorized Representative, an individual agrees to be bound by the duties and responsibilities of an Authorized Representative and to be subject to, and comply with, the Rules and Obligations to the extent applicable.

(c) The Clearinghouse will promptly notify a Clearing Member of the approval of nominated Authorized Representatives and will maintain a list of all approved Authorized Representatives for each Clearing Member. The Clearinghouse shall promptly notify the Clearing Member if the Clearinghouse (i) declines to approve the designation, (ii) revokes the designation, or (iii) suspends the designation of an Authorized Representative.

(d) An Authorized Representative who is suspended remains subject to the Rules and the Clearinghouse's jurisdiction throughout the period of suspension.

(e) To request the termination of the designation of an Authorized Representative, the Clearing Member or the Authorized Representative must notify the Clearinghouse providing the information and complying with the procedures and requirements established by the Clearinghouse.

(f) An Authorized Representative remains subject to the Rules and the jurisdiction of the Clearinghouse for acts done and omissions made while registered as such, and a Clearinghouse Proceeding relating to an individual whose designation as an Authorized Representative has been terminated or suspended shall occur as if the Authorized Representative were still registered as such.

Rule 305. Capital Requirements

Clearing Members must at all times maintain minimum regulatory capital in excess of the greater of (i) $5,000,000, and (ii) the capital requirements imposed by any Government Agency, Self-Regulatory Organization or other examining authority or regulator to which it is subject by statute, regulation or agreement. The Clearinghouse may prescribe additional capital requirements with respect to any Clearing Member.

Rule 306. Financial Reporting Requirements [*Amended 05/07/2012*]

Each Clearing Member shall submit the following statements of its financial condition:

(a) Each Clearing Member shall submit to the Clearinghouse:

(1) a Form 1-FR-FCM, FOCUS Report or Form G-405 as submitted to the CFTC, SEC or FINRA; provided, that if the Clearing Member is a domestic bank (as such term is defined in section 3(a)(6) of the Exchange Act) or trust company, the Clearing Member shall submit to the Clearinghouse a copy of the Clearing Member's Call Report as submitted to its Appropriate Regulatory Agency and, to the extent not contained within such Call Report (or to the extent that a Call Report is not required to be filed), information containing the Clearing Member's capital levels and ratios, as such levels and ratios are required to be provided to the Clearing Member's Appropriate Regulatory Agency (or, if such Clearing Member's Appropriate Regulatory Agency does not require such information, as would be required to be provided, if such Clearing Member's Appropriate Regulatory Agency were the Board of Governors of the Federal Reserve System); provided further, that if the Clearing Member is not required to submit such reports to the CFTC, the SEC, FINRA or an Appropriate Regulatory Agency, the Clearing Member shall submit its financial information to the Clearinghouse on Form 1-FR-FCM and calculate its adjusted net capital in accordance with the requirements applicable thereto;

(2) information relating to capital scheduled to be withdrawn within 6 months;

(3) information relating to subordinated debt maturing within 6 months; and

(4) with respect to Clearing Members that are registered as Broker-Dealers, information relating to additional capital requirements for excess margin on reverse repurchase agreements.

A Clearing Member that has filed a FOCUS Report with FINRA shall be deemed to have authorized FINRA to provide such FOCUS Report and the data and other information contained therein to the Clearinghouse, and such Clearing Member shall not otherwise be required to submit a FOCUS Report to the Clearinghouse other than in response to a request therefor by the Clearinghouse.

(b) Each Clearing Member shall submit annual financial statements to the Clearinghouse that have been certified by an independent public accountant as submitted to the CFTC, SEC, FINRA or the Appropriate Regulatory Authority. A Clearing Member that is not a domestic bank (as such term is defined in section 3(a)(6) of the Exchange Act) or trust company and is not registered as a Broker-Dealer or FCM shall submit a Form 1-FR-FCM that has been certified by an independent public accountant in accordance with CFTC Regulation 1.10.

(c) All reports or other information required to be submitted to the Clearinghouse pursuant to paragraphs (a) or (b) shall be submitted at such times as specified by the Clearinghouse from time to time and Clearing Members shall make such reports and information available to the CFTC upon its request. A Clearing Member may be required to provide additional reports in such form and at such times as the Clearinghouse may require, including without limitation, submission of daily or weekly capital computations and segregated funds statements.

(d) As used in this Rule 306:

(1) "Appropriate Regulatory Agency" means, with respect to a Clearing Member that is a bank (as such term is defined in section 3(a)(6) of the Exchange Act) or a trust company:

(i) the Comptroller of the Currency, in the case of a national bank, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(ii) the Board of Governors of the Federal Reserve System, in the case of a bank (other than a national bank) that is a member of the Federal Reserve System or a trust company that is a member of the Federal Reserve System; and

(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Call Report" means, as applicable, Federal Financial Institutions Examination Council Form FFIEC 031 or FFIEC 041.

Rule 307. Parent Company, Cross-Ownership Guarantees

(a) Parent Guaranty Requirement

(1) Subject to the last sentence of this subparagraph (1), each Clearing Member shall provide and maintain with the Clearinghouse a roster of every Person (including natural persons) that directly or indirectly is the beneficial owner (determined in accordance with Rule 13d-3 under the Exchange Act) of 5% or more of any class of equity security of the Clearing Member (a "5% Owner"). For purposes of this Rule, the term "equity security" shall include any stock, partnership interest, membership interest or similar security, or any security convertible into such a security, or any option, warrant or right to subscribe to or purchase such a security, or any other instrument or right that the Clearinghouse deems to be of similar nature and considers necessary or appropriate to treat as an equity security. If the intermediary's shareholders, partners or members are not natural persons or public reporting companies subject to Sections 12 or 15(d) of the Exchange Act, the Clearing Member shall continue the chain of ownership of 5% Owners until natural persons or public reporting companies subject to Sections 12 or 15(d) of the Exchange Act are listed.

(2) Each Clearing Member shall submit to the Clearinghouse a written guarantee, on a form provided by the Clearinghouse, from each 5% Owner pursuant to which such 5% Owner shall guarantee all Obligations arising out of accounts cleared by the Clearing Member that are:

(i) non-Customer Accounts, including Proprietary Accounts of the Clearing Member; and

(ii) accounts carried by another FCM if such accounts would be considered non-Customer Accounts, including Proprietary Accounts of the Clearing Member, if carried directly by the Clearing Member.

Notwithstanding anything herein to the contrary, the guarantee required by this paragraph (2) shall not apply to (A) any Obligations of the Clearing Member to pay an assessment to the Clearinghouse pursuant to Rule 504(b) or (B) any Obligations of the Clearing Member to the Clearinghouse arising under Rule 503(c)(2) resulting from a remaining deficiency in a Customer Account after the setoffs referred to in Rule 503(c)(1). In addition, each 5% Owner shall only be required to guarantee his, her or its share of the Clearing Member's Obligations pursuant to this paragraph (2) in proportion to his, her or its ownership interest in the Clearing Member (but not in duplication of amounts paid by another 5% Owner that controls, is controlled by or under common control with such 5% Owner); provided, however, that any 5% Owner owning 50% or more of the Clearing Member shall guarantee the full amount of the Clearing Member's Obligations pursuant to this paragraph (2).

(b) Cross-Ownership Guaranty

If any Person directly or indirectly controls, owns 10% or more of, or has the right to 10% or more of the profits of two or more Clearing Members, then each such Clearing Member shall submit to the Clearinghouse a written guarantee, on a form provided by the Clearinghouse, of the Obligations of the other such Clearing Member(s) to the Clearinghouse.

Rule 308. Notices Required of Clearing Members [*Amended 05/07/2012*]

(a) Financial and Other Notices

(1) A Clearing Member shall provide immediate notice to the Clearinghouse, orally and in writing, if the Clearing Member or, if applicable, its Cross-Margining Affiliate:

(i) is in Default or otherwise unable to meet its Obligations to the Clearinghouse;

(ii) fails to remain in compliance with the minimum capital or "early warning" requirements of any Government Agency or Self-Regulatory Organization;

(iii) if an FCM, fails to maintain funds in any Customer Account sufficient to comply with applicable CFTC requirements;

(iv) fails to maintain current books and records;

(v) determines the existence of a material inadequacy as provided in CFTC Regulation 1.16(d)(2) or SEC Rule 17a-5(g)(3), in each case as applicable to such Clearing Member;

(vi) fails to comply with additional accounting, reporting, financial and/or operational requirements prescribed by the Clearinghouse; or

(vii) there exists any financial or business development that may materially affect the Clearing Member's ability to continue to comply with the Rules.

(2) A Clearing Member shall provide prompt written notice to the Clearinghouse if:

(i) it experiences a reduction in adjusted net capital as reported on its Form 1-FR-FCM, net capital as reported on its FOCUS Report or liquid capital as reported on its Form G-405, as applicable, of 20% or more, from the most recent filing of such report or it has a planned reduction in equity capital that would cause a reduction in excess adjusted net capital, excess net capital or excess liquid capital of 30% or more, provided that no such notice shall be required in the case of a reduction in capital resulting from (a) the repayment or prepayment of subordinated liabilities for which notice has been given pursuant to applicable CFTC, SEC or Treasury requirements, or (b) any futures or securities transaction in the ordinary course of business between a Clearing Member and any affiliate where the Clearing Member makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for such transaction within two Business Days from the date of the transaction;

(ii) Initial Margin calls in one or more Customers' accounts exceed the Clearing Member's excess net capital and one or more of such Margin calls remains unsatisfied by the close of business on the Business Day following the issuance of the calls; or

(iii) it changes its fiscal year or its public accountants.

(b) Operational Notices

(1) A Clearing Member shall provide immediate notice to the Clearinghouse, orally and in writing, of:

(i) any damage to, or failure or inadequacy of, the systems, facilities or equipment of the Clearing Member used to perform the Clearing Member's Obligations under or in connection with Contracts that is not promptly remedied;

(ii) any suspension, expulsion, bar (including any refusal or denial of admission to or withdrawal of any application for membership, registration or license), cease-and-desist order, temporary or permanent injunction, denial of trading privileges or any other sanction or discipline (but excluding censures and fines or monetary penalties of $25,000 or less), through an adverse determination, voluntary settlement or otherwise, by any Government Agency or Self-Regulatory Organization;

(iii) the imposition of any restriction or limitation on the business conducted by the Clearing Member, or by any Cross-Margining Affiliate or 5% Owner of such Clearing Member, on or with any securities or futures clearing organization or exchange other than restrictions or limitations imposed generally on all members of or participants in such clearing organization or exchange;

(iv) any failure by the Clearing Member, or by any Cross-Margining Affiliate or guarantor (including any 5% Owner) of the Clearing Member, to perform any of its Obligations or any other material contract, guarantee, or agreement;

(v) any determination that the Clearing Member, any Cross-Margining Affiliate or guarantor (including any 5% Owner) of the Clearing Member, will be unable to perform any of its Obligations or any other material contract, guarantee, or agreement;

(vi) the institution of an Insolvency proceeding by or against the Clearing Member, any affiliate of the Clearing Member, or any guarantor (including any 5% Owner) of the Clearing Member;

(vii) the receipt by the Clearing Member, or a filing by the Clearing Member with a Self-Regulatory Organization, of a notice of material inadequacy pursuant to applicable CFTC, SEC or Treasury regulations; or

(viii) the receipt by the Clearing Member from its independent auditors of an audit opinion that is qualified.

(2) A Clearing Member shall provide prompt written notice to the Clearinghouse if:

(i) it changes its name, business address, telephone or facsimile number, electronic mail address or any number or access code for any electronic communication device used by it to communicate with the Clearinghouse;

(ii) any Person directly or indirectly becomes a 5% Owner.

(3) A Clearing Member shall, unless it is impractical to do so (in which case it shall provide written notice to the Clearinghouse as promptly as possible), provide at least ninety days prior written notice to the Clearinghouse of:

(i) any proposed change in the organizational or ownership structure or management of a Clearing Member, including any merger, combination or consolidation between the Clearing Member and another Person;

(ii) the assumption or guaranty by the Clearing Member of all or substantially all of the liabilities of another Person in connection with a direct or indirect acquisition of all or substantially all of that Person's assets;

(iii) the sale of all or a significant portion of the Clearing Member's business or assets to another Person;

(iv) a change in the direct or indirect beneficial ownership of 20% or more of the Clearing Member; or

(v) any change in the Clearing Member's systems provider or facilities manager used by the Clearing Member to process transactions in Contracts.

(c) Large Trader Reports

(1) A Clearing Member shall provide the Clearinghouse copies of all Forms 102 that the Clearing Member files with the CFTC pursuant to Part 17 of the CFTC Regulations. The Clearing Member shall provide such reports to the Clearinghouse no later than the time that it provides such reports to the CFTC.

Rule 309. Adequate Assurances

If the Clearinghouse has reason to believe that a Clearing Member may fail to comply with any of the Rules, it may require the Clearing Member to provide it, within such timeframe, in

such detail, and in such manner as the Clearinghouse shall determine, with adequate assurances that the Clearing Member shall not violate any of the Rules.

Rule 310. Restrictions on Activity [*Amended 08/07/2012; 2/14/2013*]

(a) If (i) a Clearing Member is in Default, (ii) a Termination Event occurs with respect to such Clearing Member, or (iii) the Clearinghouse determines that the financial or operational condition of a Clearing Member or one of its affiliates is such that to allow that Clearing Member to continue its operation would adversely affect the Clearinghouse or adversely affect the financial markets (whether or not the Clearing Member continues to meet the required minimum financial requirements), the Clearinghouse may:

(1) allow such Clearing Member to submit Contracts solely for its Proprietary Accounts;

(2) limit or restrict the type of Contracts that may be cleared by such Clearing Member in any of its accounts with the Clearinghouse;

(3) limit or restrict the number of Contracts that are permitted to be maintained by such Clearing Member in any of its accounts with the Clearinghouse;

(4) decline to accept new trades or positions in Contracts for the accounts of the Clearing Member;

(5) increase such Clearing Member's Margin and Guaranty Fund requirements and/or require such Clearing Member to deposit the same in cash or Eligible Securities in proportions different than those that are applicable to Clearing Members generally;

(6) allow such Clearing Member to submit Contracts for liquidation only;

(7) prohibit such Clearing Member from withdrawing excess Original Margin;

(8) cause open Contracts in the Proprietary Accounts or Customer Accounts of the Clearing Member to be transferred to another Clearing Member;

(9) cause open Contracts to be settled in cash or liquidated in accordance with Rule 601(d);

(10) impose such additional capital, Margin, financial reporting or other requirements as the Clearinghouse shall deem appropriate for the protection of the Clearinghouse and its Clearing Members; and

(11) terminate the Clearing Member's membership in the Clearinghouse.

(b) In addition to the powers conferred by this Rule, the Clearinghouse shall have the authority conferred by Rule 503 when a Clearing Member is in Default.

Rule 311. Withdrawal of Clearing Membership [*Amended 08/07/2012; 2/14/2013*]

A Clearing Member may withdraw from membership upon approval of the Clearinghouse, which approval shall be granted not later than thirty days after (1) the liquidation or, with the approval of the Clearinghouse, transfer to another Clearing Member of all open positions (including Customer positions) in the Clearing Member's accounts at the Clearinghouse; (2) the satisfaction of all Obligations of the withdrawing Clearing Member, including any assessment under Rule

504(b); and (3) if applicable, the payment of all amounts owing to FICC pursuant to a Clearing Member Cross-Margining Agreement. When a Clearing Member withdraws from membership or its membership is terminated, all Obligations of the Clearing Member to the Clearinghouse, of whatever nature or kind, shall be accelerated and become due and payable upon the effective date of such withdrawal or termination. The Clearing Member's Guaranty Fund deposit and any Margin and other deposits required by the Clearinghouse shall be released when the Clearinghouse determines that all such Clearing Member's Obligations have been settled and all sums owing to the Clearinghouse have been paid. Subject to the foregoing, the Clearinghouse will use reasonable efforts to treat all withdrawing Clearing Members in a consistent and equitable manner.

Rule 312. Fees

The Clearinghouse shall have the right to instruct a Settlement Bank to debit the proprietary Margin account maintained by a Clearing Member, and/or any other account designated by such Clearing Member for purposes of this Rule, for any payment of fees, charges or other amounts (other than fines or penalties) due to the Clearinghouse or due to the Exchange (if and to the extent the Clearinghouse shall be acting as a collection agent for the Exchange).

Rule 313. Risk Management Policies [*Added 05/07/2012*]

Each Clearing Member shall adopt and maintain in effect written risk management policies and procedures that address the risk such Clearing Member may pose to the Clearinghouse. Each Clearing Member shall make available, upon request by the Clearinghouse or the CFTC, information and documents regarding the Clearing Member's risk management policies, procedures and practices, including information and documents relating to the liquidity of such Clearing Member's financial resources and settlement procedures.

CHAPTER 4. CLEARANCE AND SETTLEMENT

Rule 401. Submission of Contracts

(a) The submission of a Contract to the Clearinghouse by or on behalf of the buying and selling Clearing Members shall constitute a request, by such Clearing Members, for the clearing of such Contract by the Clearinghouse. Upon the acceptance thereof by the Clearinghouse, which shall be deemed to occur upon the receipt of matched trade data from the Exchange, the Contract shall be novated and the Clearinghouse shall be substituted as, and assume the position of, seller to the Clearing Member buying such Contract and buyer from the Clearing Member selling such Contract. Upon such substitution, such buying and selling Clearing Members shall be released from their obligations to each other, and the Clearinghouse shall be deemed to have succeeded to all the rights, and to have assumed all the Obligations, of the Clearing Members that were party to such Contracts, in each case as provided in the Rules.

(b) Notwithstanding the provisions of paragraph (a), the Clearinghouse shall be substituted at the time payment of the Original Margin and Variation Margin due for transfers of Contracts made pursuant to Rule 409 and trades made pursuant to exchanges of futures for physicals, exchanges of futures for swaps or similar transactions is made by or for both Clearing Members.

(c) Upon the written request of an Exchange, the Clearinghouse may, in its sole discretion, terminate the novation and substitution described above with respect to one or more Contracts upon notice thereof by the Clearinghouse to the relevant Clearing Members. The Clearinghouse shall have no further obligations to such Clearing Members with respect to such Contracts thereafter.

(d) The Rules shall constitute part of the terms of each Contract submitted to the Clearinghouse.

Rule 402. Original Margin [*Amended 08/07/2012*]

(a) The Clearinghouse shall, from time to time, calculate the amount of Original Margin which shall be deposited by Clearing Members to protect the Clearinghouse on Contracts accepted for clearing. Original Margin calls shall ordinarily be uniform, but where particular risks are deemed hazardous, the Clearinghouse may call for additional Margin from a particular Clearing Member.

(b) Clearing Members shall transfer Original Margin to a Clearing Bank for deposit in an account designated by the Clearinghouse. The Clearinghouse shall retain control over such Original Margin, which shall be and shall remain unencumbered by the lien or security interest of any party other than the Clearinghouse or, if applicable, FICC as provided in the Cross-Margining Agreement.

(c) One or more times on each Business Day, the Clearinghouse shall make available to each Clearing Member the amount of its Original Margin Obligations for all open Contracts. The Clearing Member shall transfer Original Margin to a Clearinghouse account at a Clearing Bank by no later than the time specified therefor by the Clearinghouse. Original Margin may be in the form of cash and securities of such types and in such amounts as may be determined by the Clearinghouse.

(d) Original Margin deposits may be withdrawn by the Clearing Member with authorization from the Clearinghouse upon the performance or closing out of Contracts thus secured. In the event it shall become necessary to apply all or part of a Clearing Member's Original Margin to meet Obligations of the Clearinghouse pursuant to Rule 503, such Clearing Member shall immediately restore any such deficiency in Original Margin.

(e) If a Clearing Member is in Default, the Clearinghouse may foreclose on and sell any of the Margin deposited by such Clearing Member without notice. In such an event, Margin that has been deposited for the Clearing Member's Customer Account and any proceeds thereof shall be applied against the Margin requirements for the Customer Account, and Margin deposited for the Clearing Member's Proprietary Accounts and any proceeds thereof shall be applied first to any Margin deficiency in the Customer Account and, thereafter, against the requirements for the Clearing Member's Proprietary Accounts.

Rule 403. Variation Margin

(a) Where Contracts are accepted for clearance in accordance with Rule 401 and the price of such Contracts is less than the Settlement Price therefor, the selling Clearing Member shall be obligated to pay Variation Margin to, and the buying Clearing Member shall be entitled to receive Variation Margin from, the Clearinghouse as set forth below and in the policies and procedures of the Clearinghouse. Where Contracts are accepted for clearance in accordance with Rule 401 and the price of such Contracts is greater than the Settlement Price, the buying Clearing Member shall be obligated to pay Variation Margin to, and the selling Clearing Member shall be entitled to receive Variation Margin from, the Clearinghouse in accordance with the process set forth below and any other policies and procedures of the Clearinghouse. Thereafter, Clearing Members shall be obligated to pay or entitled to receive Variation Margin on all open Contracts and on all Contracts that have been closed on the books of the Clearinghouse. All Variation Margin payments to the Clearinghouse shall be made in cash.

(b) All payments of Variation Margin by a Clearing Member to the Clearinghouse, and all collections of Variation Margin by a Clearing Member from the Clearinghouse, shall be effected through a Settlement Bank as follows:

(1) One or more times on each Business Day, the Clearinghouse shall make available (i) to each Clearing Member, its Net Settlement Amount, and (ii) to each Settlement Bank, the Net Settlement Amounts of all Clearing Members for which such Settlement Bank is acting and the Net Settlement Amount due from or owed to such Settlement Bank. If the Settlement Bank's net amount is a debit, it shall pay such amount to the Clearinghouse in Federal funds by no later than the time specified therefor by the Clearinghouse. If the Settlement Bank's net amount is a credit, it shall receive such amount from the Clearinghouse in Federal funds by no later than the time specified therefor by the Clearinghouse.

(2) By the deadline established by the Clearinghouse and in accordance with procedures as announced in notices issued by the Clearinghouse, a Settlement Bank must acknowledge to the Clearinghouse its Net Settlement Amount and (i) its intention to settle with the Clearinghouse its Net Settlement Amount by the applicable deadline, or (ii) its refusal to settle for one or more Clearing Members. A refusal to settle by a Settlement Bank for a particular Clearing Member is a refusal to settle all accounts of the Clearing Member.

Notwithstanding the foregoing, a Settlement Bank that is a Clearing Member and settles solely for its own account is not required to acknowledge its Variation Margin settlement obligation.

(3) If a Settlement Bank sends a refusal message in respect of one or more Clearing Members and its new Net Settlement Amount is a credit, it shall immediately acknowledge that amount. If its new Net Settlement Amount is a debit, it shall immediately acknowledge its intention to settle the new Net Settlement Amount with the Clearinghouse by the payment deadline.

(4) A Settlement Bank that is unable to transmit an acknowledgment or refusal message to the Clearinghouse because of operational difficulties may telephone its instructions to the Clearinghouse, using the number specified therefor by the Clearinghouse.

(5) DTC provides the Clearinghouse with services with respect to the Clearinghouse's settlement process as described herein. DTC acts as Settlement Agent (as that term is used in Federal Reserve Bank Operating Circular 12) for the Clearinghouse and for the Settlement Banks with respect to NSS, as the means of effecting settlement.

(6) Settlement Banks must settle their Net Settlement Amounts via NSS. The Settlement Agent will send a pre-advice to each Settlement Bank, notifying it that the Settlement Agent is about to send its NSS transmission to the relevant Federal Reserve Bank that will instruct such Federal Reserve Bank to debit or credit, as applicable, the Settlement Bank's account at the Federal Reserve Bank by the requisite amount.

(7) If a Settlement Bank is experiencing extenuating circumstances and, as a result, must opt out of NSS for one Business Day, the Settlement Bank must notify the Clearinghouse prior to the acknowledgment deadline. A Clearing Member that has appointed such Settlement Bank to act on its behalf shall in such circumstances remain obligated, pursuant to the Rules, to satisfy its Variation Margin obligations by the payment deadline and shall do so by causing such payment to be made to the depository institution designated by the Clearinghouse from time to time to receive such payment.

(8) No improper or unauthorized action, or failure to act, by a Settlement Bank or other depository institution on behalf of a Clearing Member shall excuse or otherwise affect such Clearing Member's obligations to the Clearinghouse pursuant to this Rule. Without limiting the generality of the foregoing:

(i) Each Settlement Bank shall monitor its Federal Reserve Bank account to ensure accuracy of debits and credits made through the NSS process. If the Settlement Bank's account at the Federal Reserve Bank has insufficient funds, DTC will receive notification from the Federal Reserve Bank that the account was not debited. The Clearinghouse will in such circumstances notify affected Clearing Members, who shall pay the required amounts by wire transfer of immediately available funds to the depository institution designated by the Clearinghouse for this purpose by the payment deadline.

(ii) In the event a Settlement Bank fails to make Variation Margin payments in the manner and at the time prescribed by the Clearinghouse, each Clearing Member represented by such Settlement Bank shall remain obligated to the Clearinghouse for such Clearing Member's Variation Margin payment. Such payment shall be made by

the payment deadline. If the Clearinghouse has made payment to a failed Settlement Bank, the Clearinghouse shall have no obligation to a Clearing Member that has appointed such Settlement Bank to act on its behalf for Variation Margin payments that were made by the Clearinghouse to the Settlement Bank for the account of such Clearing Member.

(iii) Pursuant to Federal Reserve Bank Operating Circular No. 12, an indemnity claim made by a Federal Reserve Bank as a result of processing Variation Margin payments and collections via NSS shall be apportioned by the Clearinghouse to the Clearing Members for whom the Settlement Bank to which the indemnity claim relates was acting. Such liability for each applicable Clearing Member shall be in proportion to the amount of all such Clearing Members' Net Settlement Amounts on the Business Day in question. If for any reason such allocation is not sufficient to fully satisfy the Federal Reserve Bank indemnity claim, the remaining loss shall be charged against the Guaranty Fund.

(9) Notwithstanding anything to the contrary in the Rules, on any Business Day on which a Clearing Member is notified by the Clearinghouse that it must deposit Original Margin or increase the amount of its Guaranty Fund deposit and the Clearing Member has Variation Margin due to it from the Clearinghouse, in lieu of paying Variation Margin to the Clearing Member, the Clearinghouse may retain the lesser of (x) the increase in the Original Margin and/or Guaranty Fund deposit or (y) such Variation Margin and apply such amount against the Clearing Member's Original Margin and/or Guaranty Fund obligations.

(c) The following entities shall be eligible to become Settlement Banks: (i) a bank or trust company that is a DTC Settling Bank as defined in FICC Government Securities Division Rule 1; (ii) a Clearing Member that is a bank, trust company or other entity and that has direct access to a relevant Federal Reserve Bank and the NSS; and (iii) any other bank or trust company that has direct access to a relevant Federal Reserve Bank and the NSS. Upon submission of such documentation as the Clearinghouse shall require, the Clearinghouse will determine whether to approve an entity as a Settlement Bank. An entity described in clause (i), (ii) or (iii) that desires to become a Settlement Bank shall sign and deliver to the Clearinghouse: (x) a Settlement Bank Agreement, in the form provided by the Clearinghouse, in which it shall agree to abide by the Rules applicable to Settlement Banks, agree to be bound by the provisions thereof (including any amendment thereto with respect to any transaction occurring subsequent to such time such amendment takes effect as fully as though such amendment were now a part of the Rules), and agree that the Clearinghouse shall have all the rights and remedies contemplated by the Rules; (y) an Appointment of Settlement Bank, in the form provided by the Clearinghouse, for each Clearing Member for which such Settlement Bank agrees to act as Settlement Bank; and (z) an agreement, in the form provided by the Clearinghouse, authorizing DTC to utilize NSS for funds-only settlement as the relevant Federal Reserve Bank may require.

(d) The following shall apply to all Settlement Banks:

(1) In addition to paragraph (b) of this Rule, this paragraph (d) and applicable provisions of Rule 101, the following Rules shall apply to Settlement Banks in the same manner as they apply to Clearing Members: Rule 207, Rule 302 (other than paragraph (b) thereof), Rule 304, Rule 501, Rule 601 through Rule 604, Rule 704, Rule 706, Rule 708, Rule 709 and Rule 712.

(2) A Settlement Bank that is a DTC Settling Bank or Clearing Member must maintain its status as such. A Settlement Bank that is not a DTC Settling Bank or Clearing Member must comply with such financial responsibility and operational capability standards as the Clearinghouse may establish from time to time.

(3) If required by the Clearinghouse, a Settlement Bank shall submit financial and other information as may be specified by the Clearinghouse from time to time.

(4) A Settlement Bank shall provide to the Clearinghouse written notice of its intention to terminate its status as a Settlement Bank or its representation of a Clearing Member. Such termination shall not be effective until accepted by the Clearinghouse, and affected Clearing Members shall be required to appoint replacement Settlement Banks prior to the effective date of termination.

(5) Based on its judgment that adequate cause exists to do so, the Clearinghouse may at any time terminate an entity's status as a Settlement Bank and its right to act as a Settlement Bank.

(6) A Settlement Bank's books and records relating to the Clearinghouse's settlement process shall be open to the inspection by duly authorized representatives of the Clearinghouse upon reasonable prior notice and during the Settlement Bank's normal business hours.

(7) Each Settlement Bank shall comply in all material respects with all applicable law, including applicable laws relating to taxation and anti-money laundering in connection with its activities as a Settlement Bank.

(8) Each Settlement Bank shall fulfill, within the timeframes established by the Clearinghouse, any operational testing requirements (the scope of such testing to be determined by the Clearinghouse in its sole discretion) and related reporting requirements that may be imposed by the Clearinghouse from time to time to ensure the continuing operational capability of the Settlement Bank.

Rule 404. Settlement Prices

As used in the Rules, the term "Settlement Price" means the settlement price for a Contract for each Contract for which positions remain open, as determined: (i) intra-day by the Clearinghouse based upon prices of Contracts made on the Exchange and other sources of information deemed reliable by the Clearinghouse; and (ii) by the Exchange in accordance with its rules at the close of trading on each Business Day, except in the case of manifest error or where the Clearinghouse believes that such settlement price does not reasonably reflect the value or price of the Contract, in which case the Clearinghouse, using its best efforts to consult with the Exchange, shall determine the official settlement price; provided, that the Clearinghouse shall in such circumstances promptly notify the Exchange and Clearing Members, and the reasons for that determination and the basis for the Settlement Price determined by the Clearinghouse shall be published in a notice to the Exchange and Clearing Members.

Rule 405. Long Position Reports

Clearing Members shall maintain and submit, at such times and in such manner as shall be prescribed by the Clearinghouse, a complete and accurate record of dates of all open purchases in Contracts that are settled by physical delivery where the rules of the Exchange permit delivery to be made on more than one Business Day. Unless otherwise provided by the Clearinghouse, beginning on the day following the first day on which holders of long positions may be assigned delivery notices, all purchases and sales made in one day in the lead month Contract by a Person holding a long position in that Contract must first be netted out as day trades with only the excess buys being considered new long positions or the excess sales being considered offsets of the long position.

Rule 406. Offsets

Where, as the result of novation under Rule 401, a Clearing Member has bought and sold a Contract on or subject to the Rules of an Exchange with the same delivery month or a put or call option with the same strike price and expiration month, the purchase and sale will be offset by the Clearinghouse either automatically or, where the Clearinghouse has not offset such positions, through the timely submission of instructions by the Clearing Member containing such information as the Clearinghouse may require in accordance with its procedures. A Clearing Member shall be required to pay the loss or entitled to collect the profit, as the case may be, upon such offsetting transactions, and shall have no further rights or be under any further obligation with respect thereto. For purposes of this Rule, the first Contracts made shall be deemed the first Contracts offset.

Rule 407. Deliveries

Deliveries of Eligible Securities in satisfaction of Contracts shall be effected through FICC in accordance with its rules. The Clearinghouse shall cease to have any obligation for the performance of a Contract upon the receipt by FICC of instructions from the Clearinghouse relating thereto.

Rule 408. Cash Settlement

After trading ceases on the last day of trading for a Contract that is cash-settled, any open positions in Contracts will be settled in cash at the Settlement Price established therefor.

Rule 409. Transfers of Contracts [*Amended 08/31/2011*]

(a) Trades and positions may be transferred on the books of a Clearing Member or from one Clearing Member to another Clearing Member provided that:

(1) the transfer constitutes a change from one account to another account where the underlying beneficial ownership in such accounts remains the same;

(2) an error has occurred in the clearing of a trade and a transfer to correct such error is undertaken and is completed within two Business Days after the trade date;

(3) 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; or

(4) if, in the judgment of the Clearinghouse, the situation so requires and such transfer is in the best interest of the Clearinghouse.

(b) Any transfer that is permitted pursuant to this Rule of a Contract that is physically settled must be recorded and carried on the books of the receiving Clearing Member at the original trade date(s); any transfer that is permitted pursuant to this Rule of a Contract that is not physically settled may be recorded and carried on the books of the receiving Clearing Member at the original trade date(s) or at the transfer date. Unless the Clearinghouse determines that it would be contrary to the best interests of the Clearinghouse, futures Contracts may be transferred using either the original trade price or the prior Business Day's Settlement Price and options Contracts may be transferred using either the original trade price or a trade price of zero.

Rule 410. Customer Accounts [***Amended 08/07/2012***]

(a) Clearing Members shall collect Initial Margin from Customers as required by the Clearinghouse. A Clearing Member may for this purpose net offsetting positions (if any) of a given Customer, but shall not permit the positions of one Customer to reduce the Initial Margin obligation of any other Customer.

(b) A Clearing Member shall not permit a Customer to withdraw money, securities or other property from such Customer's account with the Clearing Member unless the net liquidating equity plus Initial Margin in such Customer's account with the Clearing Member after such withdrawal would be sufficient to satisfy Initial Margin requirements with respect to all Contracts held in such Customer's account with the Clearing Member.

(c) A Clearing Member required by law to segregate Customer transactions with the Clearinghouse shall maintain a segregated Customer Account for that purpose and shall comply with CFTC Regulations 1.20 through 1.30, 1.32, 1.36 and 1.49, as applicable. The Clearinghouse shall maintain all funds held in a Customer Account in accordance with the CEA and CFTC regulations. When so designated by the Clearing Member, a Customer Account shall be treated as to Margin and all other operations separately from the Proprietary Accounts of the Clearing Member, except as provided in paragraph (d). A Clearing Member that has been authorized by the Clearinghouse to cross-margin the Eligible Positions of Market Professionals shall maintain a separate Customer Account for such purpose.

(d) If the Clearing Member is in Default under Rule 503 or for any reason ceases to be a Clearing Member, any excess funds in the Proprietary Accounts of the Clearing Member may be applied against any deficit in such Clearing Member's Customer Accounts, in each case first to the Customer Account of such Clearing Member that is maintained for Customers that are not Market Professionals and, thereafter, to the Customer Account that is maintained for Customers that are Market Professionals.

(e) The Clearinghouse will, upon request by a Customer, promptly transfer, from the Customer Account of one Clearing Member (the "Transferor Clearing Member") to the Customer Account of another Clearing Member (the "Transferee Clearing Member"), all or a portion of such Customer's Contracts if:

(1) The Customer delivers to the Transferor Clearing Member a request, in form and substance satisfactory to the Clearinghouse, to effect the transfer of all or a specified portion of such Customer's Contracts and the Margin associated therewith to the Transferee Clearing Member ("Customer Request");

(2) The Transferor Clearing Member does not, within two Business Days following its receipt of the Customer Request, provide written notice to the Clearinghouse to the effect that the Customer's account on the books of the Transferor Clearing Member is not, or after giving effect to the Customer Request would not be, in compliance with applicable margin, performance bond or other collateral requirements;

(3) The Transferee Clearing Member provides written confirmation to the Clearinghouse that it consents to the transfers contemplated by the Customer Request and that giving effect thereto will not, to the knowledge of the Transferee Clearing Member, result in such Customer being undermargined on the books of the Transferee Clearing Member; and

(4) Neither the Transferee Clearing Member nor the Transferor Clearing Member is in Default or has been suspended pursuant to Rule 601.

Without prejudice to its right to provide notice pursuant to paragraph (2), the Transferor Clearing Member shall transmit the Customer Request to the Clearinghouse promptly upon receipt thereof by the Transferor Clearing Member. If the Customer Request relates to all of the Customer's Contracts on the books of the Transferee Clearing Member, the Clearinghouse will transfer any Margin associated therewith to the Transferee Clearing Member. If the Customer Request relates to fewer than all of the Contracts carried on the books of the Transferor Clearing Member for such Customer, the Clearinghouse will determine the Margin required for those Contracts that will remain in the Customer Account of the Transferor Clearing Member (the "Residual Margin Requirement") and transfer to the Transferee Clearing Member any Margin held by the Clearinghouse for all such Contracts being transferred, less the Residual Margin Requirement.

Rule 411. Cross-Margining [***Amended 08/07/2012***]

(a) General

(1) The Clearinghouse may enter into a Cross-Margining Agreement pursuant to which a Joint Clearing Member or a Clearing Member and its Cross-Margining Affiliate may, at the discretion of the Clearinghouse and in accordance with the provisions of the Rules, elect to have its or their Margin requirements in respect of Eligible Positions at the Clearinghouse and at FICC calculated:

(i) in respect of such Clearing Member's (and, if applicable, its Cross-Margining Affiliate's) Proprietary Accounts cleared by such Clearing Member (and, if applicable, its Cross-Margining Affiliate) by taking into consideration the net risk of such Eligible Positions at the Clearinghouse and FICC; and

(ii) in respect of the accounts of Market Professionals cleared by such Clearing Member (and, if applicable, its Cross-Margining Affiliate) by taking into consideration the net risk of Eligible Positions held for each such Market Professional (but not any other Market Professional) at the Clearinghouse and FICC.

The following provisions of this Rule and the provisions of the Cross-Margining Agreement and the Clearing Member Cross-Margining Agreement, which shall be deemed to be Rules, shall be applicable to any such Clearing Member.

(2) A Clearing Member desiring to elect cross-margining as described in this Rule shall execute the Clearing Member Cross-Margining Agreement and such other documents as the Clearinghouse may specify. Such election shall be subject to the approval of the Clearinghouse and FICC and shall remain in effect until the applicable Clearing Member Cross-Margining Agreement is terminated in accordance with its terms. Failure to comply with the terms of such Agreement may constitute an act detrimental to the interest or welfare of the Clearinghouse and result in the suspension or termination of clearing privileges.

(3) A Clearing Member that is an affiliate of a Clearing Member that elects cross-margining will be deemed to have consented to provisions of the Cross-Margining Agreement that permit or require the Clearinghouse to furnish information relating to such non-cross-margining Clearing Member to FICC.

(4) The provisions of this Rule shall apply to all Contracts and positions held pursuant to a Clearing Member Cross-Margining Agreement and shall supersede all other provisions of the Rules to the extent inconsistent therewith.

(b) Margin for Cross-Margin Positions

Margin requirements for cross-margined positions shall be determined as set forth in the Cross-Margining Agreement, which Agreement shall govern the forms of Margin that are permitted and how such Margin is held.

(c) Close-Out of Cross-Margin Positions

The cross-margin account of a Clearing Member may be liquidated by the Clearinghouse at the request of FICC, whether or not the Clearinghouse suspends such Clearing Member. Upon the suspension of a Joint Clearing Member, or upon receiving notice from FICC of its suspension of a Clearing Member or its Cross-Margining Affiliate, the Clearinghouse shall, in addition to the rights otherwise conferred by the Rules, have the right to liquidate the positions in the cross-margin account, convert the Margin in such account to cash, and dispose of the proceeds thereof, in accordance with the terms of the Cross-Margining Agreement, the Clearing Member Cross-Margining Agreement and the Rules.

(d) Payment Obligations

In addition to a Clearing Member's other obligations to the Clearinghouse under the Rules, in the event that the Clearinghouse becomes obligated to make a Cross-Margin Payment to FICC under the Cross-Margining Agreement, the Clearing Member responsible therefor shall thereupon immediately be obligated, whether or not the Clearinghouse has then made payment to FICC, to pay to the Clearinghouse an amount equal to the Cross-Margin Payment. In such an event, the Clearinghouse shall either:

(1) apply any Cross-Margin Payment received by the Clearinghouse in accordance with the Cross-Margining Agreement: (i) to the unpaid obligations of the Clearing Member to the Clearinghouse, and (ii) to reduce the assessments made or that otherwise would be made

against other Clearing Members pursuant to Rule 504(b) (each, a "Cross-Margin Beneficiary Member"); or

(2) retain any Cross-Margin Payment received by the Clearinghouse and not apply such Cross-Margin Payment to reduce any such assessments against the Cross-Margin Beneficiary Members until the Clearinghouse determines that the Clearinghouse is no longer liable for any Cross-Margin Repayment, at which point the Cross-Margin Payment shall be treated as an amount that has been recovered and will be credited ratably to the account of the Cross-Margin Beneficiary Members.

(e) Cross-Margin Repayment Deposits

Except to the extent the Clearinghouse otherwise determines: (1) in addition to the other deposits to the Guaranty Fund, a Cross-Margin Beneficiary Member shall be required to make a deposit to the Guaranty Fund (a "Cross-Margin Repayment Deposit") in an amount equal to the amount of the reduction in the assessment made or that otherwise would have been made against such Cross-Margin Beneficiary Member if the Clearinghouse had not received a Cross-Margin Payment, and (2) such Cross-Margin Repayment Deposit shall be retained by the Clearinghouse for so long as the Clearinghouse determines that it may be liable for a Cross-Guaranty Repayment.

(f) Cross-Margin Beneficiary Member Obligations

Except to the extent the Clearinghouse otherwise determines: (1) if the Clearinghouse makes a Cross-Margin Repayment in respect of any Cross-Margin Payment, the appropriate Cross-Margin Beneficiary Members shall be obligated to reimburse the Clearinghouse for such Cross-Margin Repayment pro rata up to the full amount of such Cross-Margin Repayment Deposits, and (2) the Clearinghouse shall be entitled to apply the deposits of its Cross-Margin Beneficiary Members to the Guaranty Fund in satisfaction of such obligation to reimburse the Clearinghouse.

(g) Certain Definitions

As used in this Rule 411:

(1) The term "Cross-Margin Payment" means any payment, other than a Cross-Margin Repayment, that the Clearinghouse makes or receives pursuant to a Cross-Margin Guaranty.

(2) The term "Cross-Margin Repayment" means (i) any amount of a Cross-Margin Payment received by the Clearinghouse that the Clearinghouse (A) repays to FICC pursuant to the Cross-Margining Agreement or (B) pays over to a Clearing Member or its legal representative pursuant to a court order or judgment, or (ii) any amount of a Cross-Margin Payment made by the Clearinghouse that the Clearinghouse receives back from FICC pursuant to a Cross-Margining Agreement.

(3) The term "Cross-Margin Guaranty" means a guaranty by the Clearinghouse of the obligations of a Clearing Member to FICC or, as the context requires, a guaranty by FICC of the obligations of an FICC clearing member.

CHAPTER 5. OBLIGATIONS OF THE CLEARINGHOUSE

Rule 501. Limitation of Liability

(a) The liability of the Clearinghouse relating to or arising out of Contracts shall be limited to losses resulting from the novation of the Contracts in accordance with the Rules. Subject to the foregoing, the Clearinghouse shall not be responsible for any action taken, or any delay or failure to take any action, hereunder or otherwise to fulfill the Clearinghouse's obligations to Clearing Members, other than for losses caused directly by the Clearinghouse's gross negligence or willful misconduct and shall not be liable for any other obligations, including but not limited to obligations of a non-Clearing Member, obligations of a Clearing Member to a Customer or other non-Clearing Member or obligations of a Clearing Member to another Clearing Member that is acting for it as broker; nor shall the Clearinghouse become liable to make deliveries to or accept deliveries from Clearing Members or Customers. Under no circumstances will the Clearinghouse be liable for the acts, delays, omissions, bankruptcy, or insolvency, of any third party, including, without limitation, any depository, custodian, subcustodian, clearing or settlement system unless the Clearinghouse was grossly negligent or engaged in willful misconduct. Under no circumstances will the Clearinghouse be liable for any indirect, consequential, incidental, special, punitive or exemplary loss or damage (including, but not limited to, loss of business, loss of profits, trading losses, loss of opportunity and loss of use) howsoever suffered or incurred, regardless of whether the Clearinghouse has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

(b) Except as otherwise expressly provided by written agreement between the Clearinghouse and any other entity, including FICC:

(1) the Clearinghouse shall not be liable for any obligations of such other entity nor shall any funds or any other assets of the Clearinghouse be available to such other entity (or any Person claiming through such other entity) for any purpose, and no Clearing Member shall assert against the Clearinghouse any claim based upon any obligations of any other entity to such Clearing Member; and

(2) such other entity shall not be liable for any obligations of the Clearinghouse nor shall any funds or any other assets of such other entity be available to the Clearinghouse (or any Person claiming through the Clearinghouse) for any purpose, and no Clearing Member shall assert against such other entity any claim based upon any obligations of the Clearinghouse to such Clearing Member.

(c) The Clearinghouse may accept and rely upon any information or instruction given to the Clearinghouse by a Clearing Member or its Authorized Representative, which reasonably is understood by the Clearinghouse to have been delivered to the Clearinghouse by the Clearing Member and such Clearing Member shall indemnify the Clearinghouse, and any of its employees, officers, directors, members, agents and Clearing Members against any loss, liability or expense as a result of any act done in reliance upon the authenticity of any information or instruction received by the Clearinghouse, the inaccuracy of the information contained therein or effecting transactions in reliance upon such information or instruction.

(d) A Clearing Member shall reimburse the Clearinghouse for all fees, expenses, charges and costs assessed by a depository against the Clearinghouse with respect to Margin maintained

in such Clearing Member's account, and the Clearinghouse shall not have any obligation or responsibility to preserve, protect, collect or realize upon, and under no circumstances shall the Clearinghouse be liable for, any loss or diminution in value or depreciation in Margin deposited by Clearing Members. Clearing Members that deposit Margin with a Clearing Bank pursuant to the Rules shall hold the Clearinghouse harmless from all liability, losses and damages which may result from or arise with respect to the care and sale of such Margin.

(e) Any obligation of the Clearinghouse to a Clearing Member arising from a Contract or from any provision of the Rules shall be subject to all the terms of the Rules, including the setoff and other rights set forth herein. The rights of the Clearinghouse set forth herein shall be in addition to other rights that the Clearinghouse may have under applicable law and governmental regulations, other provisions of the Rules, additional agreements with the Clearing Member or any other source.

Rule 502. Liens Held by the Clearinghouse

The Clearinghouse shall have a first lien and perfected security interest in, and right of setoff against, all Margin, Guaranty Fund deposits, Contracts, collateral and other property held in or for the accounts of a Clearing Member in connection with its Obligations and all proceeds of any of the foregoing. The Clearinghouse may assign, pledge, repledge or otherwise create a lien on or security interest in, and enter into repurchase agreements involving, Margin, Guaranty Fund deposits, Contracts, collateral and other property held in or for the accounts of a Clearing Member to secure the repayment of funds that may be borrowed by the Clearinghouse.

Rule 503. Clearing Member Default; Application of Clearinghouse Resources [*Amended 08/07/2012*]

(a) If a Clearing Member is in Default, its Margin, Guaranty Fund deposit and any other assets held by, pledged to or otherwise available to the Clearinghouse, including any guarantee issued pursuant to Rule 307, shall be applied by the Clearinghouse to discharge the Obligations of such Clearing Member to the Clearinghouse (including any amounts owed by the Clearinghouse to FICC under the Cross-Margining Agreement, and costs and expenses associated with the liquidation, transfer or management of Contracts held in or for the accounts of such Clearing Member, and any fees, assessments or fines imposed by the Clearinghouse on such Clearing Member), and the Clearinghouse may cause all Contracts of such Clearing Member (whether or not carried in a Customer Account) to be closed or offset, transferred to any other Clearing Member, or otherwise resolved as provided in Rule 601. If a Clearing Member that is in Default is a party to a Clearing Member Cross-Margining Agreement, the Clearing Member's Contracts and Margin and the positions and margin deposits of its Cross-Margining Affiliate, if applicable, in either case in an account established pursuant to the Clearing Member Cross-Margining Agreement, shall be considered assets of the Clearing Member available to the Clearinghouse to the extent provided in the Cross-Margining Agreement.

(b) If the Margin, Guaranty Fund deposit and other assets held by, pledged to or otherwise available to the Clearinghouse, including any guarantee issued pursuant to Rule 307, are insufficient to satisfy the defaulting Clearing Member's Obligations to the Clearinghouse after giving effect to the application of such amounts pursuant to paragraph (a), such defaulting Clearing Member shall continue to be liable therefor. In such event, the amount of the deficiency,

exclusive of any fees, assessments and fines that may have been imposed by the Clearinghouse (the "Clearing Member Deficiency") shall, until collected, be met from the following sources of funds, with each such source being completely exhausted, to the extent practicable, before the next following source is applied:

(1) twenty-five percent of the Retained Earnings of the Clearinghouse;

(2) the Guaranty Fund deposits of all Clearing Members (other than a Clearing Member that is in Default), in direct proportion to the total Guaranty Fund deposits of each Clearing Member (other than a Clearing Member that is in Default);

(3) cash operating surplus of the Clearinghouse for the current year in excess of amounts necessary for normal operations remaining after the deduction required by subparagraph (1);

(4) the NYSE Guaranty; and

(5) assessments levied by the Clearinghouse upon all the Clearing Members (other than the Clearing Member that is in Default) as provided in Rule 504(b).

(c) In closing, offsetting, transferring or otherwise resolving the Contracts of a Clearing Member as provided herein and in Rule 601, the Clearinghouse shall have the right:

(1) with respect to Contracts in a Customer Account of such Clearing Member, to set off (i) any proceeds received by the Clearinghouse from the disposition of such Contracts and any property or proceeds thereof deposited with or held by the Clearinghouse as Margin for such Customer Account against (ii) any amounts paid by the Clearinghouse in the disposition of such Contracts, including any commissions or other losses or expenses incurred in connection therewith or in connection with the liquidation of Margin deposits in such Customer Account and any other amounts owed to the Clearinghouse as a result of transactions in or otherwise lawfully chargeable against such Customer Account; and

(2) with respect to the Contracts in any other account of such Clearing Member, to set off (i) any proceeds received by the Clearinghouse from the disposition of such Contracts, any property or proceeds thereof deposited with or held by the Clearinghouse as Margin for such accounts and any other property of the Clearing Member within the possession or control of the Clearinghouse other than property that has been identified by such Clearing Member as required to be segregated as provided for in Rule 410, against (ii) any amounts paid by the Clearinghouse in the disposition of such Contracts, including any commissions or other losses or expenses incurred in connection therewith or in connection with the liquidation of Margin deposits in such accounts, and any other Obligations of the Clearing Member to the Clearinghouse, including Obligations of the Clearing Member to the Clearinghouse remaining after the setoffs referred to in paragraph (1) above, and any Obligations arising from any other accounts maintained by the Clearing Member with the Clearinghouse.

(d) For purposes of this Rule, each Default by a Clearing Member will be considered a separate Default.

(e) If a Clearing Member is in Default and a payment is made to the Clearinghouse pursuant to the NYSE Guaranty, the Clearinghouse may assign to NYSE Euronext all of the Clearinghouse's rights and remedies against such Clearing Member under the Rules and the

Clearinghouse's agreements with such Clearing Member. Upon such assignment, NYSE Euronext shall have such rights and remedies, and may bring a claim in its own name, to pursue recovery of any amounts paid by NYSE Euronext under the NYSE Guaranty.

(f) A Clearing Member shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of the Clearinghouse or, as provided in paragraph (e), NYSE Euronext to exercise its rights under the Rules and its agreements with such Clearing Member.

Rule 504. Guaranty Fund [*Amended 08/07/2012; 2/14/2013*]

(a) Each Clearing Member shall deposit and maintain a contribution to the Guaranty Fund in such form and in such amount as determined by the Clearinghouse from time to time. The Clearinghouse shall determine the appropriate size of the Guaranty Fund. If at any time the Clearing Member does not have a sufficient deposit in the Guaranty Fund, any such deficiency shall remain a liability of the Clearing Member to the Clearinghouse, which it may collect from any other assets of such Clearing Member or by legal process. Additionally, the Clearinghouse may deposit, or may cause to be deposited, such amount to the Guaranty Fund as it determines, which amount shall not be subject to the restrictions on return set forth in paragraph (4) below.

(1) Calculation

The amount required to be deposited by each Clearing Member shall be determined by a formula that reflects certain components of risk and volume and shall be calculated by the Clearinghouse daily. A Clearing Member whose requirement has increased relative to its current contribution shall be required to deposit cash, securities or other property acceptable to the Clearinghouse to remedy such deficiency, subject to certain thresholds established by the Clearinghouse from time to time. A Clearing Member whose Guaranty Fund requirement has decreased relative to its current contribution may withdraw its excess contribution upon request and at intervals established by the Clearinghouse from time to time.

(2) Custody

(i) The Guaranty Fund shall be deposited in a special account in the name of the Clearinghouse in such depositories or other acceptable locations as may be designated by the Clearinghouse.

(ii) The Clearinghouse shall be empowered to invest and reinvest all or part of the funds constituting the Guaranty Fund. Such investments and deposits shall be for the account and risk of the Clearinghouse, including the risk of any investment losses. Any income and gains on such investments and interest on such deposits shall belong to the Clearinghouse and may be withdrawn from the Guaranty Fund and deposited with the general funds of the Clearinghouse. No interest shall be paid to any Clearing Member on any funds deposited in the Guaranty Fund.

(3) Impairment

If the Guaranty Fund or any part thereof shall be lost or become unavailable from any cause other than investment loss or the Default of the depositing Clearing Member, the amount so lost or made unavailable shall be forthwith restored by transferring

thereto such of the surplus funds of the Clearinghouse as may be necessary, except such amount as the Clearinghouse may, in its discretion, decide to retain as surplus for future operating expenses, and if the amount thus transferred from surplus is insufficient to cover the entire loss, the balance of such loss shall be made up by an assessment upon each Clearing Member pursuant to paragraph (b). Such assessment shall be paid by a Clearing Member immediately after the issuance of notice to such Clearing Member.

(4) Return of Clearing Member Guaranty Fund Deposit

The Clearinghouse shall return a Clearing Member's Guaranty Fund deposit upon the withdrawal of such Clearing Member from membership in the Clearinghouse, as provided in Rule 311. Expenses incurred by the Clearinghouse in connection with a Clearing Member's deposit or the return thereof may be charged to the Clearing Member.

(5) Certain Borrowings

(i) The Clearinghouse may at any time and from time to time assign, pledge, repledge or otherwise create a lien on or security interest in the Guaranty Fund and/or the cash, securities and other property held in the Guaranty Fund to secure the repayment of funds borrowed by the Clearinghouse and any interest, fees and other amounts payable in connection therewith.

(ii) Any funds so borrowed shall be used and applied by the Clearinghouse solely for the purposes for which cash, securities and other property held in the Guaranty Fund are authorized to be used pursuant to the Rules; provided that the failure of the Clearinghouse to use such funds in accordance with this Rule shall not impair any of the rights or remedies of any assignee, pledgee or holder of any such lien or security interest.

(iii) Any such borrowing shall be on terms and conditions deemed necessary or advisable by the Clearinghouse, and may be in amounts greater, and extend for periods of time longer than the Obligations, if any, of any Clearing Member to the Clearinghouse for which such cash, securities or other property was pledged to or deposited with the Clearinghouse.

(iv) Cash, securities and other property held in the Guaranty Fund shall remain the property of the Clearing Members depositing such cash securities and other property, except that:

(A) such property shall be subject to the rights and powers of the Clearinghouse with respect thereto as set forth in the Rules and the agreements between such Clearing Member and the Clearinghouse, including any Clearing Member Cross-Margining Agreement; and

(B) such property shall be subject to the rights and powers of any Person to which the Guaranty Fund or any of the cash, securities or other property held therein shall have been assigned, pledged, repledged or otherwise subjected to a lien or security interest.

(b) Clearing Member Assessment

(1) The balance of the Clearinghouse loss remaining after application of the funds set forth in Rule 503(b)(1) through Rule 503(b)(4) ("Clearinghouse Loss") shall be assessed against all Clearing Members (excluding any Clearing Member that is in Default). Each Clearing Member (excluding any Clearing Member that is in Default) shall be subject to an assessment in an amount, as determined by the Clearinghouse, that is proportional to such Clearing Member's Guaranty Fund requirement compared to the total Guaranty Fund requirement of all Clearing Members (excluding any Clearing Member that is in Default). Such assessment amount shall not exceed the greater of (i) 275 percent of such Clearing Member's Guaranty Fund requirement at the time of the Default with respect to the Clearinghouse Loss attributed to a single defaulting Clearing Member and (ii) 550 percent of such Clearing Member's Guaranty Fund requirement at the commencement of a Cooling Off Period with respect to the Clearinghouse Loss attributed to all defaulting Clearing Members during such Cooling Off Period.

(c) Guaranty Fund Contributions to be Restored. In the event it shall become necessary to apply all or part of Clearing Members' Guaranty Fund deposits to meet obligations pursuant to this Rule, Clearing Members shall restore their Guaranty Fund contributions to the previously required level prior to the close of business on the next banking day.

(d) Multiple Defaults. The provisions set forth in paragraph (b) of this Rule shall apply with respect to each Default by a Clearing Member. If more than one Default occurs at a time or in close sequence, including a Default that occurs by reason of a Clearing Member's failure to satisfy an assessment, the Clearinghouse shall manage the Defaults separately. Upon any Default, non-defaulting Clearing Members shall be subject to a maximum obligation during the relevant Cooling-Off Period to contribute to the Guaranty Fund and to fund assessments as set forth in paragraph (b) of this Rule. However, such maximum obligation does not limit Clearing Members' obligations to restore their required Guaranty Fund contributions as set forth in paragraph (c) of this Rule, except that if the Clearing Member's Guaranty Fund requirement would exceed such maximum obligation, the Clearing Member's Guaranty Fund requirement shall be reduced accordingly for the remainder of the Cooling Off Period. Following a Cooling Off Period, the Clearinghouse shall notify each Clearing Member of its Guaranty Fund requirement and its assessment exposure.

(e) Withdrawal.

(1) If a Clearing Member has (i) made payment of all amounts assessed against it pursuant to this Rule in connection with any single Default or multiple Defaults during a Cooling Off Period, (ii) has replenished any deficiency in its Guaranty Fund contribution in accordance with paragraphs (b) and (c) of this Rule and (iii) within five Business Days after making such payments, has satisfied the other conditions for withdrawal set forth in Rule 311, it may notify the Clearinghouse in writing that it is terminating its status as a Clearing Member. Upon receipt of such notice, provided that the foregoing conditions have been satisfied, the withdrawing Clearing Member shall not be subject to any residual assessment to cover any Clearinghouse Loss or Defaults occurring after the related Cooling Off Period. Further, the Guaranty Fund contribution that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearinghouse pursuant to this Rule that arises with respect to Defaults occurring after the related Cooling Off Period, and the

withdrawing Clearing Member's Guaranty Fund contribution shall be released in accordance with Rule 311.

(2) A Clearing Member that terminates its status as a Clearing Member in accordance with subparagraph (1) of this paragraph (e) shall be ineligible to be readmitted to the Clearinghouse unless the Clearing Member agrees to such reimbursement of the persons who were Clearing Members at the time of such termination as the Clearinghouse deems fair and equitable in the circumstances.

(3) During the hours in which the Federal Reserve's wire transfer system (Fedwire) is in operation, a Clearing Member shall pay the amount of any assessment made pursuant to this Rule in immediately available funds prior to the close of Fedwire on the day written notice of such assessment shall have been delivered to such Clearing Member; provided, however, that all amounts assessed within one hour prior to the close of Fedwire shall be paid to the Clearinghouse within one hour after Fedwire next opens. Any Clearing Member that does not satisfy an assessment timely and in full shall be in Default.

Rule 505. Cross-Guaranty Agreements

(a) The Clearinghouse may, from time to time, enter into one or more Cross-Guaranty Agreements.

(b) In addition to a Clearing Member's other obligations to the Clearinghouse under the Rules, a Cross-Guaranty Defaulting Member on whose account the Clearinghouse has made a Cross-Guaranty Payment shall be obligated to the Clearinghouse for the amount of such Cross-Guaranty Payment less the amount of any Cross-Guaranty Repayment received by the Clearinghouse in respect thereof.

(c) The Clearinghouse shall either:

(1) apply any Cross-Guaranty Payment received by the Clearinghouse on account of a Cross-Guaranty Defaulting Member: (i) to the unpaid obligations of such Cross-Guaranty Defaulting Member to the Clearinghouse, and (ii) to reduce the assessments made or that otherwise would be made against other Clearing Members pursuant to Rule 504(b) (each, a "Cross-Guaranty Beneficiary Member"); or

(2) retain any Cross-Guaranty Payment received by the Clearinghouse and not apply such Cross-Guaranty Payment to reduce any such assessments against other Clearing Members until the Clearinghouse determines that the Clearinghouse is no longer liable for any Cross-Guaranty Repayment, at which point the Cross-Guaranty Payment shall be treated as an amount that has been recovered and will be credited ratably to the account of Cross-Guaranty Beneficiary Members.

(d) Except to the extent the Clearinghouse otherwise determines, (1) in addition to the other deposits to the Guaranty Fund, a Cross-Guaranty Beneficiary Member shall be required to make a deposit to the Guaranty Fund (a "Cross-Guaranty Repayment Deposit") in an amount equal to the amount of the reduction in the assessment made or that otherwise would have been made against such Cross-Guaranty Beneficiary Member if the Clearinghouse had not received a Cross-Guaranty Payment on account of a Cross-Guaranty Defaulting Member and (2) such Cross-Guaranty Repayment Deposit shall be retained by the Clearinghouse for so long as the Clearinghouse determines that it may be liable for a Cross-Guaranty Repayment.

(e) Except to the extent the Clearinghouse otherwise determines, (1) if the Clearinghouse makes a Cross-Guaranty Repayment in respect of any Cross-Guaranty Payment, the appropriate Cross-Guaranty Beneficiary Members shall be obligated to reimburse the Clearinghouse for such Cross-Guaranty Repayment pro rata up to the full amount of their respective Cross-Guaranty Repayment Deposits, and (2) the Clearinghouse shall be entitled to apply the deposits of such Cross-Guaranty Beneficiary Members to the Guaranty Fund in satisfaction of such obligation to reimburse the Clearinghouse.

(f) As used in this Rule 505:

(1) The term "Cross-Guaranty Payment" means any payment, other than a Cross-Guaranty Repayment, that the Clearinghouse makes or receives pursuant to a Cross-Guaranty Agreement.

(2) The term "Cross-Guaranty Repayment" means (i) any amount of a Cross-Guaranty Payment received by the Clearinghouse that the Clearinghouse (A) repays to a Cross-Guaranty Counterparty pursuant to a Cross-Guaranty Agreement or (B) pays over to a Cross-Guaranty Defaulting Member or its legal representative pursuant to a court order or judgment, or (ii) any amount of a Cross-Guaranty Payment made by the Clearinghouse that the Clearinghouse receives back from a Cross-Guaranty Counterparty pursuant to a Cross-Guaranty Agreement.

Rule 506. Close-Out Netting [*Amended 01-04-2012*]

(a) Insolvency of the Clearinghouse

If at any time the Clearinghouse: (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger), (ii) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or presents or has presented against it a petition for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for the Clearinghouse's winding-up or liquidation that remains unstayed for a period of at least 90 days from the issue thereof, (iii) approves resolutions authorizing any proceeding or petition described in clause (ii) above or (iv) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, which if not sought by the Clearinghouse, remains unstayed for a period of at least 90 days from the issue thereof (any such event, a "Bankruptcy Event"), all open positions in the Clearinghouse shall be closed promptly.

(b) Default of the Clearinghouse

If at any time the Clearinghouse fails to comply with an undisputed obligation to pay money or deliver property to a Clearing Member that is due and owing in connection with a transaction on the Clearinghouse or cleared by the Clearinghouse, for a period of 30 days from the date that the Clearinghouse receives notice from the Clearing Member of the past due obligation, the Clearing Member's open proprietary and Customer positions at the Clearinghouse shall, at the election of that Clearing Member, be closed promptly.

(c) Netting and Close Out

As promptly as reasonably practicable, but in any event within 30 days of the time that the Clearing Member's positions are closed in accordance with paragraph (a) or (b) of this Rule, the obligations of the Clearinghouse to such Clearing Member in respect of all of its proprietary positions, accounts, collateral and deposits to the Guaranty Fund shall be netted, in accordance with the Bankruptcy Code, the CEA and the regulations adopted thereunder in each case, against the obligations of that Clearing Member in respect of its proprietary positions, accounts, collateral and its obligations to the Guaranty Fund to the Clearinghouse. All obligations of the Clearinghouse to such Clearing Member in respect of its Customer positions, accounts, and collateral shall be separately netted against the positions, accounts and collateral of its Customers in accordance with the requirements of the Bankruptcy Code, the CEA and the regulations adopted thereunder. Any amounts due upon such netting shall be promptly paid from the applicable Clearing Member to the Clearinghouse or from the Clearinghouse to the applicable Clearing Member, as the case may be. At the time a Bankruptcy Event takes place or the time a Clearing Member elects to have its open positions closed as described in paragraph (b) of this Rule, the authority of the Clearinghouse, pursuant to Rule 504(b), to make new assessments and/or require each Clearing Member or the applicable Clearing Member, as the case may be, to cure a deficiency in its Guaranty Fund deposit, arising after the Bankruptcy Event or election, as the case may be, shall terminate, and each applicable position open immediately prior to the close-out shall be valued in accordance with the procedures of paragraph (d) of this Rule.

(d) Valuation

Whenever a Clearing Member's positions are closed in accordance with paragraph (a) or (b) of this Rule, the Clearinghouse shall fix a U.S. dollar amount (the "Close-out Amount") to be paid to or received from the Clearinghouse with respect to each position in each account of such Clearing Member. In fixing Close-out Amounts, the Clearinghouse shall exercise its discretion, acting in good faith and in a commercially reasonable manner, in adopting methods of valuation expected to produce reasonably accurate substitutes for the values that would have been obtained from the relevant market if it were operating normally, including but not limited to the use of pricing models to determine a value for a cleared Contract based on the market price of the underlying interest or the market prices of its components. In determining a Close-out Amount, the Clearinghouse may consider any information that it deems relevant, including, but not limited to, any of the following:

(1) prices for underlying interests in recent transactions, as reported by the market or markets for such interests;

(2) quotations from leading dealers in the underlying interest, setting forth the price (which may be a dealing price or an indicative price) that the quoting dealer would charge or pay for a specified quantity of the underlying interest;

(3) relevant historical and current market data for the relevant market, provided by reputable outside sources or generated internally; and

(4) values derived from theoretical pricing models using available prices for the underlying interest or a related interest and other relevant data.

Amounts stated in a currency other than U.S. dollars shall be converted to U.S. dollars at the current rate of exchange, as determined by the Clearinghouse.

(e) Interpretation in Relation to FDICIA

The Clearinghouse intends that certain provisions of this Rule be interpreted in relation to certain terms identified by quotation marks that are defined in the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), as amended, as follows:

(1) The Clearinghouse is a "clearing organization."

(2) An obligation of a Clearing Member to make a payment to the Clearinghouse, or of the Clearinghouse to make a payment to a Clearing Member, subject to a netting agreement, is a "covered clearing obligation" and a "covered contractual payment obligation."

(3) An entitlement of a Clearing Member to receive a payment from the Clearinghouse, or of the Clearinghouse to receive a payment from a Clearing Member, subject to a netting contract, is a "covered contractual payment entitlement."

(4) The Clearinghouse is a "member," and each Clearing Member is a "member."

(5) The amount by which the covered contractual payment entitlements of a Clearing Member or the Clearinghouse exceed the covered contractual payment obligations of such Clearing Member or the Clearinghouse after netting under a netting contract is its "net entitlement."

(6) The amount by which the covered contractual payment obligations of a Clearing Member or the Clearinghouse exceed the covered contractual payment entitlements of such Clearing Member or the Clearinghouse after netting under a netting contract is its "net obligation."

(7) The Rules of the Clearinghouse, including this Rule 506, are a "netting contract."

(f) Cross-Margining Agreement

If a Bankruptcy Event should occur, the Clearinghouse shall immediately seek to exercise its authority under the Cross-Margining Agreement to cause the immediate liquidation of all assets and liabilities in all cross-margining accounts of each Clearing Member subject to such Agreement and to reduce all such accounts to a single net obligation to or from such Clearing Member or its Cross-Margining Affiliate to be settled in accordance with the terms of the Cross-Margining Agreement.

CHAPTER 6. SUSPENSION; DISCIPLINARY PROCEEDINGS

Rule 601. Suspension [*Amended 05/07/2012; 2/14/2013; 12/19/2013*]

(a) General

The Board ~~or the Risk Committee~~ may summarily suspend any Clearing Member if the Clearing Member or its Cross-Margining Affiliate:

(1) is in Default; or

(2) is in such financial or operating difficulty or is not in compliance with the Rules, such that the Board ~~or the Risk Committee~~ determines that suspension is necessary for the protection of the Clearinghouse, other Clearing Members, or the general public.

(b) Notice of Suspension to Clearing Members

Upon the suspension of a Clearing Member, the Clearinghouse shall as soon as possible notify all Clearing Members of the suspension. Such notice shall state to the extent practicable in general terms how pending transactions, open positions and other pending matters will be affected and what steps are to be taken in connection therewith.

(c) Pending Transactions

Notwithstanding any other provision of the Rules, the Clearinghouse shall have no obligation to accept any transaction of a suspended Clearing Member that was effected after the time at which the Clearing Member was suspended. In the event a transaction of a suspended Clearing Member is rejected by the Clearinghouse, such transaction shall be closed by the other party thereto in accordance with the rules of the Exchange or other market on which the transaction was effected.

(d) Open Positions

The Clearinghouse shall have the right to cause open positions in Contracts in any of the accounts of a suspended Clearing Member:

(1) to be closed in the most orderly manner practicable, including through exchanges of futures for physicals or exchanges of futures for swaps;

(2) to be transferred to the account of one or more other Clearing Members;

(3) to be offset against each other and, to the extent of any remaining imbalance, against the Contracts of other Clearing Members; or

(4) to be settled at the Settlement Price for such Contracts, or at such other price or prices as the Clearinghouse may deem fair and reasonable under the circumstances, in which event the Clearinghouse may cause Contracts in the accounts of other Clearing Members to be settled at such price or prices.

In connection with any action undertaken by the Clearinghouse pursuant to subparagraphs (1) through (4) above, the Clearinghouse shall have the right to apply the Margin and Guaranty Fund deposit of the applicable Clearing Member and any other assets of such Clearing Member held by, pledged to or otherwise available to the Clearinghouse, including any guarantee issued pursuant to Rule 307, to discharge the Obligations of such Clearing

Member to the Clearinghouse (including any amounts owed by the Clearinghouse to FICC under the Cross-Margining Agreement, and costs and expenses associated with the liquidation, transfer or management of Contracts held in or for the accounts of such Clearing Member, and any fees, assessments or fines imposed by the Clearinghouse on such Clearing Member).

Any liquidation of Contracts pursuant to this paragraph (d) shall, to the extent feasible under market conditions at the time of such liquidation, be conducted in a manner that results in competitive pricing. The Clearinghouse may delegate to specified officers or agents of the Clearinghouse the authority to determine, within such guidelines, if any, as the Clearinghouse shall prescribe, the nature and timing of transactions of the type described in subparagraph (1). Notwithstanding the preceding provisions of this paragraph (d), if the Clearinghouse shall determine, taking into account the size and nature of a suspended Clearing Member's positions, market conditions prevailing at the time, the potential market effects of liquidating transactions that might be directed by the Clearinghouse, and such other circumstances as the Clearinghouse deems relevant, that the closing out of some or all of the suspended Clearing Member's positions would not be in the best interests of the Clearinghouse, other Clearing Members, or the general public, such positions need not be closed out.

(e) Protective Action

If the Clearinghouse (i) is unable, for any reason, to close out in a prompt and orderly manner any positions or to convert to cash any Margin deposits of a suspended Clearing Member, or (ii) elects pursuant to paragraph (d) of this Rule not to close out any such positions, the Clearinghouse may authorize the execution of hedging transactions from time to time for the account of the Clearinghouse, solely for the purpose of reducing the risk to the Clearinghouse resulting from the continued maintenance of such positions or the continued holding of such Margin deposits. The Clearinghouse may delegate to specified officers or agents of the Clearinghouse the authority to determine, within such guidelines, if any, as the Clearinghouse shall prescribe, the nature and timing of such hedging transactions.

(f) Reimbursement of Costs and Expenses

Any costs or expenses, including losses, sustained by the Clearinghouse in connection with transactions effected for its account pursuant to this Rule shall be charged to the suspended Clearing Member, and any gains realized on such transactions shall be credited to such Clearing Member; provided, however, that costs, expenses, and gains allocable to the hedging of positions in a Customer Account shall be charged or credited, as the case may be, to the Customer Account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Clearing Member. Reasonable allocations of costs, expenses, and gains among accounts made by the Clearinghouse for the purpose of implementing the proviso to the preceding sentence shall be binding on the Clearing Member and any persons claiming through the Clearing Member and their respective successors and assigns.

Rule 602. Right of Appeal

A Clearing Member suspended pursuant to Rule 601 shall be entitled, upon request, to a written statement of the grounds for its suspension and shall have the right to appeal its suspension in accordance with the following procedure:

(1) A suspended Clearing Member may appeal its suspension by filing a written notice of appeal within five Business Days after the date of the suspension.

(2) Appeals shall be considered and decided by the Appeal Panel. Appeals shall be heard as promptly as possible, and in no event more than five Business Days after the filing of the notice of appeal. The appellant shall be notified of the time, place and date of the hearing not less than three Business Days in advance of such date. At the hearing, the appellant shall be afforded an opportunity to be heard and to present evidence in its own behalf, and may, if it so desires, be represented by counsel. As promptly as possible after the hearing, the Appeal Panel shall, by the vote of a majority of its members, affirm or reverse the suspension or modify the terms thereof. The appellant shall be notified in writing of the Appeal Panel's decision; and if the decision shall have been to affirm or modify the suspension, the appellant shall be given a written statement of the grounds therefor.

(3) Any decision by the Appeal Panel to affirm or modify a suspension shall be reviewable by the Board on its own motion or on written demand by the appellant filed with the Clearinghouse within three Business Days after receipt of notice of the Appeal Panel's decision. The Board may afford the appellant a further opportunity to be heard or to present evidence. The appellant shall be notified in writing of the decision of the Board; and if the decision shall have been to affirm or modify the suspension, the appellant shall be given a written statement of the grounds therefor.

(4) The filing of an appeal pursuant to this Rule shall not impair the validity or stay the effect of the suspension appealed from. The reversal or modification of a suspension shall not invalidate any acts of the Clearinghouse taken pursuant to such suspension prior to such reversal or modification, and the rights of any person which may arise out of any such acts shall not be affected by such reversal or modification.

(5) A record shall be kept of any hearing held pursuant hereto. The cost of the transcript may, in the discretion of the body holding the hearing, be charged in whole or in part to the suspended Clearing Member in the event that the suspension is finally affirmed.

Rule 603. Sanctions from Disciplinary Proceedings

(a) The Clearinghouse may censure, suspend, expel or limit the activities, functions or operations of, and/or impose a fine on, a Clearing Member for (i) a violation of the Rules or its agreements with the Clearinghouse, (ii) any neglect or refusal by such Clearing Member to comply with any applicable order or direction of the Clearinghouse, (iii) any error, delay or other conduct that materially and adversely affects the operations of the Clearinghouse, or (iv) a failure to provide adequate personnel or facilities for its transactions with the Clearinghouse.

(b) The Clearinghouse shall provide prompt notice to the CFTC of any action taken in accordance with this Rule 603.

Rule 604. Procedures for Disciplinary Proceedings [*Amended 08/31/2011*]

(a) Before any sanction is imposed, the Clearinghouse shall furnish the person against whom the sanction is sought to be imposed ("Respondent") with a concise written statement of the charges against the Respondent. The Respondent shall have ten Business Days after the service of such statement to file with the Clearinghouse a written answer thereto. The answer shall admit or deny each allegation contained in the statement of charges and may also contain any defense which the Respondent wishes to submit. Allegations contained in the statement of charges which are not denied in the answer shall be deemed to have been admitted, and any defense not raised in the answer shall be deemed to have been waived. If an answer is not filed within the time prescribed above or any extension thereof granted pursuant to paragraph (d) of this Rule, the allegations contained in the statement of charges shall be deemed to have been admitted, and any sanction specified in the statement of charges shall be imposed without further proceedings and the Respondent shall be notified thereof in writing. If an answer is timely filed, the Clearinghouse shall (unless the Respondent and the Clearinghouse shall have stipulated to the imposition of an agreed sanction) schedule an early hearing before the Disciplinary Panel. The Respondent shall be given not less than three Business Days advance notice of the place and time of such hearing. At the hearing, the Respondent shall be afforded the opportunity to be heard and to present evidence in its behalf and may be represented by counsel. A record of the hearing shall be prepared and the cost of the transcript may, in the discretion of the Disciplinary Panel, be charged in whole or in part to the Respondent in the event any sanction is imposed on the Respondent. As soon as practicable after the conclusion of the hearing, the Disciplinary Panel shall furnish the Respondent and the Board with a written statement of its decision. If the decision shall have been to impose a disciplinary sanction, the written statement shall set forth (i) any act or practice in which the Respondent has been found to have engaged, or which the Respondent has been found to have omitted; (ii) the specific provisions of the Rules which any such act, practice or omission has been deemed to violate; and (iii) the sanction imposed and the reasons therefor.

(b) In the event that the Disciplinary Panel censures, fines, suspends, expels or limits the activities, functions or operations of any Respondent, any affected person may apply for review to the Board, by written motion filed with the Clearinghouse within five Business Days after issuance of the Disciplinary Panel's written statement of its decision.

(c) The granting of any such motion shall be within the discretion of the Board. In addition, the Board may determine to review any such action by a Disciplinary Panel on its own motion. Review by the Board shall be on the basis of the written record of the proceedings in which the sanction was imposed, but the Board may, in its discretion, afford the Respondent a further opportunity to be heard or to present evidence. A record shall be kept of any such further proceedings. Based upon such review, the Board may affirm, reverse or modify, in whole or in part, the decision of the Disciplinary Panel. The Respondent shall be notified in writing of the decision of the Board and if the decision shall have been to affirm or modify the imposition of any disciplinary sanction, the Respondent shall be given a written statement setting forth (i) any act or practice in which the Respondent has been found to have engaged, or which the Respondent has been found to have omitted; (ii) the Rules which any such act, practice or omission has been deemed to violate; and (iii) the sanction imposed and the reasons therefor.

(d) Any time limit set forth in this Rule may be extended by the body having jurisdiction over the matter in respect of which the time limit is imposed.

(e) Any action taken by the Disciplinary Panel hereunder shall be deemed to be final upon (i) expiration of the time provided for the filing of a motion for review, or any extension thereof granted pursuant to paragraph (d) hereof; or (ii) if a motion for review is timely filed, when the Respondent is notified of the denial of the motion or the decision of the Board on review, as the case may be; or (iii) if the Board shall determine on its own motion to review the action by the Disciplinary Panel, when the Respondent is notified of the decision of the Board on review.

(f) The summary suspension of a Clearing Member pursuant to Rule 601 shall not be deemed to be a "sanction" within the meaning of this Rule, and the provisions of this Rule shall be inapplicable to any such summary suspension.

Rule 605. Discipline by Other Self-Regulatory Organizations

Nothing in this Chapter 6 shall affect the right of any Self-Regulatory Organization to discipline its members pursuant to the provisions of its rules for a violation of the Rules of the Clearinghouse.

CHAPTER 7. MISCELLANEOUS

Rule 701. Force Majeure

(a) Notwithstanding any other provision of the Rules, the Clearinghouse shall not be obligated to perform its obligations under the Rules or any agreement with a Clearing Member, or to compensate any Person for losses occasioned by any delay or failure of performance, to the extent such delay or failure is the result of any circumstance that may have a severe, adverse effect upon the functions and facilities of the Clearinghouse, including, but not limited to, acts of God, fire or other natural disasters, bomb threats, acts of terrorism or war or severely inclement weather.

(b) If the Clearinghouse shall, as a result of any of the above-described events, fail to perform any of its obligations, such failure shall be excused for a period equal to the period of delay caused by such event. In such an event, the Clearinghouse shall give written notice thereof to such Clearing Member, as soon as it is reasonably practicable and attempt diligently to remove such condition.

Rule 702. Material Non-Public Information

(a) No member of the Board or of any committee or panel of the Clearinghouse shall use or disclose, for any purpose other than the performance of such person's official duties as a member of the Board or such committee or panel, any material non-public information obtained by such person as a result of such person's participation on the Board or on any such committee or panel; provided, however, that if any such person who effects any transactions after having received any such material, non-public information so obtained can show that such transaction was effected in the ordinary course of such person's business, such person shall not be deemed to have used such information in violation of this Rule 702, unless it can be shown that such person would not have effected such transaction in the absence of such information.

(b) For the purposes of this Rule 702, the terms "material" and "non-public information" have the meaning set forth in CFTC Regulation 1.59(a).

Rule 703. Trading Prohibition

(a) No employee of the Clearinghouse shall trade, directly or indirectly, any commodity interest cleared by the Clearinghouse or any related commodity interest, or any commodity interest cleared by any other DCO where the employee of the Clearinghouse has access to material non-public information concerning such commodity interest.

(b) The Chief Executive Officer (or, in the case of the Chief Executive Officer, the Board) may grant exemptions from the provisions of paragraph (a) to employees on a case-by-case basis under circumstances which are not contrary to the purposes of this Rule, the CEA, CFTC Regulation 1.59, the public interest, or just and equitable principles of trade. Such circumstances may include, but are not necessarily limited to:

(1) participation in pooled investment vehicles where the employee of the Clearinghouse has no direct or indirect control over transactions executed by the pool;

(2) service as an executor or administrator of an estate;

(3) service in any other fiduciary capacity, such as an officer of a charitable organization, in which the employee receives no pecuniary benefit from the trading of commodity interests;

(4) trading in commodity interests cleared by any other DCO or transactions cleared by FICC under circumstances in which the employee's access to material non-public information as to those commodity interests is sufficiently minimal or attenuated so as to be insignificant; and

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

Participation in a Clearinghouse-sponsored savings or retirement plan shall not be deemed to constitute trading directly or indirectly in a commodity interest, notwithstanding such plan's use of pooled funds which utilize commodity interests or the trading thereof.

(c) Any employee that has received an exemption under paragraph (b) must:

(1) furnish to the Clearinghouse at the request of the Chief Executive Officer (or, in the case of the Chief Executive Officer, at the request of the Board) account statements and other documents relevant to the trading activities that are so exempted; and

(2) inform the Chief Executive Officer (or, in the case of the Chief Executive Officer, the Board) within one Business Day of any material change of information that may affect the employee's qualification for such exemption.

(d) Terms used in this Rule 703 and not otherwise defined in the Rules shall have the meanings set forth in CFTC Regulation 1.59(a).

(e) If the Chief Executive Officer (or, in the case of the Chief Executive Officer, the Board) finds that any employee has committed a violation of this Rule 703, such employee shall be subject to such sanctions, including but not limited to demotion, suspension or discharge, as the Chief Executive Officer (or, in the case of the Chief Executive Officer, the Board) deems appropriate.

Rule 704. Market Data

(a) Subject to paragraph (b), all Clearing Members, Authorized Representatives, and all employees, agents, vendors, and other Persons affiliated with the foregoing hereby acknowledge and agree that the Clearinghouse (or the Exchange, as applicable) is the owner of all right, title and interest in and to all intellectual property and proprietary rights, including all copyright, patent, trademark or trade secret rights, in the items set forth in paragraphs (1) through (6) below and further agree not to use the items set forth in paragraphs (1) through (6) below in any way without the prior written consent of the Clearinghouse, which consent may be withheld in the Clearinghouse's discretion:

(1) the price and quantity data from each and every transaction executed by the Clearing System, including the time at which the transaction was executed by, or submitted to, the Clearing System;

(2) the price and quantity data for each and every Contract submitted for entry into the Clearing System, including the time at which the Contract was entered into the Clearing System;

(3) the daily Settlement Price and the expiration value of each Contract;

(4) any data or other information derived from any of the foregoing, including the format, compilation and presentation thereof;

(5) all derivative works of the foregoing; and

(6) any data or information transmitted, published or disseminated to Clearing Members, Authorized Representatives, any publisher of the data or information with whom the Clearinghouse has a written agreement, and any other Persons.

(b) The Clearinghouse, all Clearing Members, Authorized Representatives, and all employees, agents, vendors, and other Persons affiliated with the foregoing hereby acknowledge and agree that, as between the Clearinghouse (or the Exchange, as applicable) and a Clearing Member, the Clearing Member retains such rights as it may enjoy under applicable law with respect to all data regarding transactions and Contracts in the form submitted to the Clearing System by such Clearing Member in circumstances where such data is not aggregated with the data of any other Clearing Member.

(c) Absent legal process or as otherwise provided elsewhere in the Rules, data relating to transactions of a Clearing Member which identifies such Clearing Member or could reasonably link such data back to such Clearing Member will be released by the Clearinghouse only to such Clearing Member, a Government Agency or a Self-Regulatory Organization.

Rule 705. Books and Records

The Clearinghouse shall keep, or cause to be kept, complete and accurate books and records of accounts of the Clearinghouse, including, without limitation, all books and records required to be maintained pursuant to the CEA and CFTC Regulations. The Clearinghouse shall retain all such books and records for at least five years, or such longer time as may be required by applicable law, and shall make such books and records readily accessible for inspection by any Government Agency as may be required by applicable law.

Rule 706. Information-Sharing Agreements

(a) The Clearinghouse may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with FICC and with other markets or clearing organizations on which Contracts or financial instruments related to Contracts trade or are cleared. As part of any information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule, the Clearinghouse may, among other things:

(1) provide market surveillance reports to other markets and clearing organizations;

(2) share information and documents concerning current and former Clearing Members with other markets and clearing organizations;

(3) share information and documents concerning ongoing and completed investigations with other markets and clearing organizations; and/or

(4) require its Clearing Members to provide information and documents to the Clearinghouse at the request of other markets or clearing organizations with which the Clearinghouse has an information-sharing agreement or other arrangements or procedures.

(b) The Clearinghouse may enter into an information-sharing arrangement with any Person or body (including, without limitation, any Governmental Authority or any Self-Regulatory Organization) if the Clearinghouse (i) believes that such Person or body exercises a legal or regulatory function under any law or regulation, or a function comprising or associated with the enforcement of a legal or regulatory function, or (ii) considers such arrangement to be in furtherance of the Clearinghouse's purpose or duties under applicable law. The Clearinghouse may disclose to any Person or body information concerning or associated with a Clearing Member or other Person that the Clearinghouse believes is necessary and appropriate in exercising a legal or regulatory function (including, without limitation, information concerning any aspect of the business of the Clearinghouse) whether or not a formal arrangement governing the disclosure exists or a request for information was made.

Rule 707. Confidentiality

All information received by the Clearinghouse concerning positions carried by the Clearinghouse or any other clearing organization for a Clearing Member, margin payments between the Clearinghouse or any other clearing organization and a Clearing Member, or deliveries made by or to a Clearing Member, and any other information provided by a Clearing Member to the Clearinghouse, including, without limitation, financial statements filed with the Clearinghouse by a Clearing Member, shall be held in confidence by the Clearinghouse and shall not be made known to any other Person except as follows:

(a) With the consent of the Clearing Member;

(b) To a Government Agency or the regulatory authority of any foreign jurisdiction, if the Clearinghouse is requested or legally required to do so by such Government Agency;

(c) Pursuant to legal process;

(d) To an Exchange of which such Clearing Member is a member; provided that information relating to positions, margin payments and deliveries that is furnished to an Exchange shall relate solely to Contracts traded on that Exchange;

(e) To any Person providing services to the Clearinghouse, subject to appropriate confidentiality requirements;

(f) To the Board, any Committee, the Clearinghouse's officers, employees, attorneys and auditors, and to agents and independent contractors that have been engaged by the Clearinghouse who require such information in connection with the discharge of their duties to the Clearinghouse; and

(g) As otherwise permitted under the Rules.

Rule 708. Extension or Waiver of Rules [*Amended 08/31/2011*]

The performance of any act required by the Rules or the time fixed by the Rules for the performance thereof may be waived or extended by the Clearinghouse if such waiver or extension is necessary or in the best interest of the Clearinghouse. A written report of any such

waiver or extension, stating the pertinent facts and the reason such waiver or extension was deemed necessary or expedient, shall be presented to the Board at its next regular meeting.

Rule 709. Anti-Money Laundering

Each Clearing Member that is a "financial institution" under the Bank Secrecy Act (31 U.S.C. 5311 et seq.) shall develop and implement a written anti-money laundering program that is approved in writing by such Clearing Member's senior management and that is reasonably designed to achieve and monitor the Clearing Member's compliance with applicable requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder by the Treasury and, as applicable, the CFTC. That anti-money laundering program shall, at a minimum:

(a) establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;

(b) provide for independent testing for compliance to be conducted by Clearing Member personnel or by a qualified outside party;

(c) designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and

(d) provide ongoing training for appropriate personnel.

Rule 710. Disaster Recovery; Business Continuity

(a) Each Clearing Member 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 considered in the Clearing Member's policies and procedures:

(1) The Clearing Member must have procedures in place to allow it to continue to operate during periods of stress or to transfer accounts to another fully operational Clearing Member with minimal disruption to either the Clearinghouse or its Customers. The Clearing Members 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

(2) The Clearing Member must maintain and, at the request of the Clearinghouse, provide accurate and complete information for its key personnel. A Clearing Member must inform the Clearinghouse in a timely manner whenever a change to its key personnel is made.

(b) Clearinghouse staff may prescribe additional and/or alterative requirements for Clearing Members' compliance with this Rule.

Rule 711. Just and Equitable Principles of Trade; Acts Detrimental

(a) The Clearinghouse shall have the power to suspend or revoke clearing privileges or authorize the assessment of fines or charges against Clearing Members for engaging in conduct inconsistent with just and equitable principles of trade.

(b) The Clearinghouse shall have the power to suspend or revoke clearing privileges or authorize the assessment of fines or charges against Clearing Members for engaging in acts detrimental to the interest or welfare of the Clearinghouse.

Rule 712. Signatures

(a) The Clearinghouse may, at its option, in lieu of relying on an original signature, rely on a signature as if it were (and the signature shall be considered and have the same effect as) a valid and binding original signature that is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, photocopying, electronic mail, electronic data interchange, telegram, or telex).

Rule 713. Governing Law

The Rules, and the rights and obligations of the Clearinghouse and Clearing Members 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.

CHAPTER 8. LIMITED PURPOSE PARTICIPANTS

Rule 801. Limited Purpose Participants

(a) A Limited Purpose Participant shall have the ability to have access, through the Clearinghouse, to the arrangement that is the subject of the Cross-Margining Agreement.

(b) Except as otherwise provided in the LPP Agreement:

(1) Trades that are within the scope of the LPP Agreement and that would otherwise be cleared by such Limited Purpose Participant shall instead be submitted to the Clearinghouse, which shall act as central counterparty and DCO in respect thereof and shall include such trades in the arrangement that is the subject of the Cross-Margining Agreement;

(2) Members of the Limited Purpose Participant shall be bound by the Rules as fully as if they were Clearing Members of the Clearinghouse, and the Clearinghouse shall have all of its rights, under the Rules and otherwise, in the event of a Default by a member of the Limited Purpose Participant;

(3) A Limited Purpose Participant shall make a contribution to the Guaranty Fund, in form and substance similar to and in an amount that is no less than the amount of, the NYSE Guaranty;

(4) The Clearinghouse shall not be required to accept trades in any product that is not eligible for clearing pursuant to the Cross-Margining Agreement; and

(5) Clearing fees shall be allocated between the Clearinghouse and the Limited Purpose Participant as may be agreed by the Clearinghouse and the Limited Purpose Participant, taking into account the cost of services (including capital expenditures incurred by the Clearinghouse), technology that may be contributed by the Limited Purpose Participant, the volume of transactions, and such other factors as may be relevant.

(c) As used in this Rule 801:

(1) "Limited Purpose Participant" means a clearinghouse or clearing organization, other than the Clearinghouse or FICC, that (i) does not limit its provision of clearing services on a vertical basis to a single Market or limited number of Markets and operates pursuant to a business model that requires such clearinghouse or clearing organization to provide clearing services to any qualified Market, (ii) agrees to participate using the uniform risk methodology and risk management policies, systems and procedures that have been adopted by the Clearinghouse and FICC for implementation and administration of the arrangement that is the subject of the Cross-Margining Agreement; and (iii) is party to an LPP Agreement.

(2) "LPP Agreement" means an agreement between the Clearinghouse and a Limited Purpose Participant which provides, *inter alia*, that the Limited Purpose Participant shall be deemed to be a Clearing Member for purposes of the Rules, except to the extent otherwise provided in such agreement, the Cross-Margining Agreement or in this Rule 801.

(3) "Market" means a "trading facility" or "organized exchange," as such terms are defined in the CEA as in effect on April 16, 2010; provided, that the term "trading facility"

shall for this purpose include the entities otherwise excluded by Section 1a(34)(B) of the CEA as in effect on such date.