## FORM FBOT—EXHIBIT B

**Request:** Attach the following, separately labeling each description:

(1) A description of the categories of membership and participation in the foreign board of trade and the access and trading privileges provided by the foreign board of trade. The description should include any restrictions applicable to members and other participants to which the foreign board of trade intends to grant direct access to its trading system.

(2) A description of all requirements for each category of membership and participation on the trading system and the manner in which members and other participants are required to demonstrate their compliance with these requirements. The description should include, but not be limited to, the following:

(i) Professional Qualification. A description of the specific professional requirements, qualifications, and/or competencies required of members or other participants and/or their staff and a description of the process by which the foreign board of trade confirms compliance with such requirements.

(ii) Authorization, Licensure and Registration. A description of any regulatory and self-regulatory authorization, licensure or registration requirements that the foreign board of trade imposes upon, or enforces against, its members and other participants including, but not limited to any authorization, licensure or registration requirements imposed by the regulatory regime/authority in the home country jurisdiction(s) of the foreign board of trade. Please also include a description of the process by which the foreign board of trade confirms compliance with such requirements.

(iii) Financial Integrity. A description of the following:

(A) The financial resource requirements, standards, guides or thresholds required of members and other participants.

(B) The manner in which the foreign board of trade evaluates the financial resources/holdings of its members or participants.

(C) The process by which applicants demonstrate compliance with financial requirements for membership or participation including, as applicable:

(i) Working capital and collateral requirements, and

(ii) Risk management mechanisms for members allowing customers to place orders.

(iv) Fit and Proper Standards. A description of how the foreign board of trade ensures that potential members/other participants meet fit and proper standards.

**Response:**

Pages 11 – 17 of BVMF's 2008 No-Action Request contains descriptions of the categories of membership and participation in the foreign board of trade, the access and trading authorizations provided by the foreign board of trade, all requirements for each category of membership and participation on the trading system, and the manner in which members and other participants are required to demonstrate their compliance with these requirements. These descriptions are reproduced below for the Staff's convenience.

*Categories of Membership and Participation*

In order to ensure fair and efficient financial futures transactions on its market, as well as to ensure the financial integrity of its market, only those entities with access authorization may trade directly on the BVMF exchange. As a result of demutualization, the former BVMF memberships were converted into shares and access rights. As with other demutualized exchanges, access rights—the right to trade on the exchange—are now separate from ownership interests in the exchange. BVMF has two types of access rights, Trading Rights (DNs) and Settlement Rights (DLs).[1] BVMF requires that its access rights holders be fit and meet financial soundness requirements. These requirements are discussed in greater detail below. In order to become a BVMF access rights holder, an applicant must file an application with the exchange and demonstrate its compliance with the applicable minimum requirements. Individuals or entities that do not hold access rights may trade or settle on the BVMF market only through an entity having Trading Rights or Settlement Rights, respectively. As discussed in greater detail below, in order to act as an agent for a customer, the Trading Rights Holder must be a licensed broker. BVMF designates such entities as "Commodities Brokerage Houses."

*Requirements for Membership and Participation*

Trading Rights

Trading Rights are divided into full and restricted rights. Full DN rights permit the holder to execute transactions in any BVMF exchange-traded product and to register OTC trades in the BVMF systems.[2] Trading Rights may also be restricted to categories of products as specifically authorized by BVMF. For example, access may be restricted to derivatives on interest rates, foreign exchange, equity indexes, grains, livestock, coffee, energy, and metals.[3]

Full and restricted Trading Rights may be held by either individuals or entities. Individuals must be Brazilian and 21 years of age. Legal entities that are Trading Rights holders must be incorporated in Brazil and duly authorized under CVM Instruction No. 402-04 (January 27, 2004) (Attachment A-5-3) as eligible to trade for their own accounts and to intermediate for the accounts of customers.

In order to maintain their access rights, DN holders must meet minimum professional standards with respect to their supervisory and compliance personnel[4] and desk, floor and electronic traders, and others.[5] Such personnel must demonstrate their competence through a testing program administered by BVMF, and though meeting minimum required documentation and educational standards. BVMF as part of this program issues professional certifications to persons found to be professionally qualified. The certification is valid for a period of two years. New

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[1] *See* BVMF Circular Letter 039/2012 (July 20, 2012) establishing the rules and procedures for granting access authorization to trading and settlement systems of BVMF (included as Attachment B-1).

[2] MDDA at 2.

[3] *Id.* at 3. Restricted access rights are also available for OTC derivatives, Brazilian Federal Government Bonds, and spot foreign currencies.

[4] *Id.* These positions are denominated in the MDDA as "Officer responsible for BM&F transactions," "Officer and/or person responsible for the compliance area" and "Manager of BM&F Transactions or equivalent."

[5] BVMF Circular Letter 039/2012-DP established these professional certification requirements.

Trading Rights Holders must meet these minimum professional standard requirements within six months.

In addition to professional standards, DN holders must meet minimum technology qualifications, including providing for business continuity planning, testing and redundancy of the IT systems, and the provision of adequate technical security.[6] Finally, DN holders must meet requirements with respect to reporting of information and its storage.

In addition, Trading Rights holders must meet minimum financial requirements. All DN holders are required to enter into a formal agreement with a Settlement Rights Holder (DLs) to guarantee their executed trades. In addition, DN holders in their own right are required to have substantial financial resources. Commodities Brokerage Houses are required to maintain a minimum proprietary working capital. Full DN holders must maintain working capital of R$3.75 million and restricted DN rights holders must maintain R$3 million with respect to trading rights in interest rates, currency exchange rates and equity derivatives and R$l million with respect to trading in other types of derivatives. And, as discussed in greater detail below, Commodity Brokerage Houses and Locals must also pledge a significant amount of collateral to the Operational Performance Fund ("FDO").[7] In furtherance of their prudentiality requirements, DN holders are required to provide risk management limits with respect to the size of orders which may be entered by their customers in connection with trading on the Puma System. These limits, as discussed in greater detail *infra*, reside on the Puma System and act as a credit filter or screen applicable to any non-DN trader with direct access to the trading system that the DN holder guarantees.

Full and restricted Trading Rights Holders are not limited with respect to the number of Puma System trading terminals that they employ. However, BVMF may impose a policy regarding the ratio of bids and asks entered into the trading system and the number of executed trades by such Trading Rights Holders. Beginning in 2005, BVMF launched a voluntary program to strengthen brokerages by establishing higher standards under which brokerages could be certified by BVMF of meeting enhanced standards of excellent service within a particular business segment. A full service brokerage could be certified as excelling in all business segments, including the trade execution, carrying broker, agricultural, retail and web-based broker business segments. Others that specialize in one of the above segments, could be so certified. As of July 31, 2012, BVMF has granted a total of 99 seals.

In addition to the above BVMF requirements, CVM Instruction 402-04 requires Commodity Brokerage Houses to be registered with the CVM.[10] Registration as a Commodity Brokerage House requires that the broker be incorporated as a joint-stock company or limited company and

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[6] The minimum technical requirements are included in the MDDA as Annex II.

[7] *See Id.* at 7. The FDO is a safeguard structure created for the Derivatives Clearinghouse after the demutualization of BVMF. Commodities Brokerage Houses with full Trading Rights must deposit R$6 million and Locals with full Trading Rights must deposit R$I.6 million. Commodities Brokerage Houses and Locals with restricted Trading Rights are required to post lesser amounts of collateral, but not less than R$3 million and R$I million, respectively.

[10] *See* CVM Instruction No. 402-04, Article 2.

admitted as a Trading Rights or Settlement Rights Holder of the Exchange. It also requires that the company appoint a qualified managing partner.[11]

Commodity Brokerage Houses are required by CVM Instruction 402-04 to make good and actual settlement of transactions, to make bona fide deliveries of legitimate securities, to provide for legitimate transactions under their power of attorney appointment from clients and to operate generally with high ethical standards. Commodity Brokerage Houses must maintain the confidentiality of client information, releasing such information only as authorized or pursuant to law or regulation.[12] Commodity Brokerage Houses are required to inform CVM of any violation of the law or regulations by the broker's clients or of a client default.[13]

Under CVM Instruction 402-04, brokerages are required to meet the minimum financial requirements established by the exchange. They must be audited by an independent auditor twice yearly. They must also prepare and publicly disclose on their websites monthly trial balances of their financial statements. Commodity Brokerage Houses are prohibited from funding, making loans, or advancing payments to clients.[14]

Commodity Brokerage Houses, when filing for registration with the CVM, must provide documentation with respect to their Managing Partners or officers. This includes making required representations that the individual manager or officer is not subject to a disqualification from occupying a position in a financial institutions which depends upon authorization by the CVM, the Central Bank of Brazil or other regulatory authorities, that the individual has not been convicted of any crimes, that the individual has not been the manager of an enterprise subject to control and surveillance by CVM or the Central Bank of Brazil or subject to reorganization in bankruptcy, or the subject of an adverse judgment for breach of the rules of the CVM, Central Bank of Brazil or other regulatory authorities.[15] The CVM must approve all new managing partners, officers and directors prior to their investiture.[16]

Settlement Rights

Settlement Rights granted by BVMF enable the holders to use the clearing and settlement systems managed by the Exchange, permitting for the clearance and settlement of transactions by the Derivatives Clearinghouse.[17] As with Trading Rights which included various categories of access rights, Settlement Rights are divided into various categories. These include:

- Type 1 DL, which are permitted to settle only their proprietary trades and those of affiliates;

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11 *Id.*
12 *Id.* at Article 5.
13 *Id.* at Article 5, Paragraph 1.
14 *Id.* at Article 6.
15 *Id.* at Schedule 1.
16 *Id.* at Article 15.
17 As discussed *infra* there are in addition, clearinghouses for Foreign Exchange and Securities transactions. Those clearinghouse are not relevant to this application.

- Type 2 DL, which may settle the same transactions as the Type 1 DL and transactions of customers of Commodity Brokerage Houses that are under a common corporate ownership with the DL holder; and
- Type 3 DL, which may settle the same transactions as the Type 2 DL, the transactions performed by customers of Commodity Brokerage Houses that are not under common ownership with the DL holder and Locals.[18]

The requirements for holding Settlement Rights vary depending upon whether the entity is a Type 1, Type 2 or Type 3 DL. All Settlement Rights Holders must be Brazilian legal entities with their headquarters or offices in São Paulo. In addition, DL holders must be financial institutions whose operations are authorized by the Central Bank of Brazil.

As is the case with DN holders, DL holders must also meet minimum professional standards with respect to their supervisory and compliance personnel[19] and with respect to their back office managers and employees.[20] Such personnel must demonstrate their competence through a testing program administered by BVMF, and though meeting minimum required documentation and educational standards. BVMF as part of this program issues professional certifications to persons found to be professionally qualified. The certification is valid for a period of two years and new DL holders must meet these minimum professional standard requirements within six months.

Pursuant to the Rules and Operations Manual of the Derivatives Clearing House,[21] DL holders are responsible for the positions which they carry, including settlement of such positions. As a consequence, they must meet high proprietary working capital requirements and must pledge significant collateral to the FDO. Specifically, Type 1, 2 and 3 Settlement Rights Holders must maintain working capital of R$6, 7 and 8 million, respectively and must contribute R$5.5, 6.5 and 7.5 million respectively, to the FDO.[22] In addition, as a consequence of their status as Settlement Rights Holders, they must contribute to the Clearing House's clearing fund in the amount of R$2, 3 and 4 million, respectively.[24]

DL holders are also required to implement risk management systems and procedures that are appropriate to the nature, volume and complexity of the positions that they carry.[26] DL holders are also required to have an account with the Central Bank of Brazil or have a correspondent relationship with such an institution.[27]

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18 *See* MDDA at 12.

19 *See ld.* at 16.

20 *See* BVMF Circular Letter 038/2007-DG (May 2, 2007) [Do we need to add this as an attachment?] which establishes these professional certification requirements.

21 *See* Derivatives Clearinghouse Rulebook (Attachment SA-5-3) and Operating Procedure Manual (Attachment SA-5-2).

22 BVMF Circular Letter 078/2008-DP, Attachment IV, Chapter II, Section II, items 3.6.1.1 and 3.6.1.2 (November 4, 2008).

24 *Id*. at Attachment IV, Chapter II, Section II, item 6.6.1.3.

26 *See* MDDA at 14.

27 *Id.*

As with DN holders, DL holders must meet technical requirements, including those of the CVM and the Central Bank of Brazil. These requirements are specified in the MDDA and Annex II thereto.

A list of current Settlement Rights Holders of the Derivatives Clearing House is included as Attachment B-1- [ ].

Direct Market Access Through Globex

In addition to the BVMF Access Rights Holders discussed above, BVMF and CME have entered into an Order Routing Agreement under which CME Globex terminal users may directly access BVMF's Puma System through their Globex terminal connection. In the first instance, entities with a Globex terminal will have satisfied CME access rules with respect to Globex. Entities with access to a Globex terminal will also be required to satisfy BVMF policies and procedures for granting permission to Globex terminal users to access BVMF's Puma System via their Globex terminals. This includes the requirement that all such market users have their direct market access rights guaranteed by a BVMF Settlement Rights Holder. Thus, all positions that are entered into the BVMF trading system through a Globex terminal will be required to be cleared by a BVMF Settlement Rights Holder (clearing member). In addition, each Globex user will receive authorization for the direct market access from a local Commodity Brokerage House (a DN holder). The BVMF clearing member, through the clearing relationship with the DN holder, and as a requirement for and, as a condition of the DN holder's permitting direct access to the BVMF trading system of the Globex user, is required to:

- guarantee and assume all financial responsibility for all activity related to BVMF markets conducted through each Globex user's (Authorized Customer) direct market access connection;
- assist in a timely manner BVMF in any investigation into potential violations of BVMF Rules, the Commodity Exchange Act ("CEA"), or the terms and conditions set forth in the requested no-action relief, including, but not limited to, requiring the Authorized Customer to answer questions from BVMF, and/or appear in connections with the investigation; and
- suspend or terminate the Authorized Customer's access if BVMF determines that the actions of the Authorized Customer threatens the integrity or liquidity of any contract, violates any BVMF Rule, or if the Authorized Customer fails to cooperate in an investigation.

Orders for execution on the BVMF market by Globex terminal users that have not satisfied BVMF's access requirements will be rejected by the trading engine.