

FORM FBOT—EXHIBIT F

Request: With respect to each relevant regulatory regime or authority governing the foreign board of trade, attach the following (including, where appropriate, an indication as to whether the applicable regulatory regime is dependent on the home country's classification of the product being traded on the foreign board of trade as a future, option, swap, or otherwise, and a description of any difference between the applicable regulatory regime for each product classification type):

(1) A description of the regulatory regime/authority's structure, resources, staff, and scope of authority; the regulatory regime/authority's authorizing statutes, including the source of its authority to supervise the foreign board of trade; the rules and policy statements issued by the regulator with respect to the authorization and continuing oversight of markets, electronic trading systems, and clearing organizations; and the financial protections afforded customer funds.

(2) A description of and, where applicable, copies of the laws, rules, regulations and policies applicable to:¹

(i) The authorization, licensure or registration of the foreign board of trade.

(ii) The regulatory regime/authority's program for the ongoing supervision and oversight of the foreign board of trade and the enforcement of its trading rules.

(iii) The financial resource requirements applicable to the authorization, licensure or registration of the foreign board of trade and the continued operations thereof.

(iv) The extent to which the IOSCO Principles are used or applied by the regulatory regime/authority in its supervision and oversight of the foreign board of trade or are incorporated into its rules and regulations and the extent to which the regulatory regime/authority reviews the applicable trading systems for compliance therewith.

(v) The extent to which the regulatory regime/authority reviews and/or approves the trading rules of the foreign board of trade prior to their implementation.

(vi) The extent to which the regulatory regime/authority reviews and/or approves futures, option or swap contracts prior to their being listed for trading.

(vii) The regulatory regime/authority's approach to the detection and deterrence of abusive trading practices, market manipulation, and other unfair trading practices or disruptions of the market.

(3) A description of the laws, rules, regulations and policies that govern the authorization and ongoing supervision and oversight of market intermediaries who may deal with members and other participants located in the United States participants, including:

¹ To the extent that any such laws, rules, regulations or policies were provided as part of Exhibit A-5, they need not be duplicated. They may be cross-referenced.

- (i) Recordkeeping requirements.
 - (ii) The protection of customer funds.
 - (iii) Procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.
- (4) A description of the regulatory regime/authority's inspection, investigation and surveillance powers; and the program pursuant to which the regulatory regime/authority uses those powers to inspect, investigate, and enforce rules applicable to the foreign board of trade.
- (5) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S-1), a report confirming that the foreign board of trade and clearing organization are in regulatory good standing, which report should be prepared subsequent to consulting with the regulatory regime/authority governing the activities of the foreign board of trade and any associated clearing organization. The report should include:
- (i) Confirmation of regulatory status (including proper authorization, licensure and registration) of the foreign board of trade and clearing organization.
 - (ii) Any recent oversight reports generated by the regulatory regime/authority that are, in the judgment of the regulatory regime/authority, relevant to the foreign board of trade's status as a registered foreign board of trade.
 - (iii) Disclosure of any significant regulatory concerns, inquiries or investigations by the regulatory regime/authority, including any concerns, inquiries or investigations with regard to the foreign board of trade's arrangements to monitor trading by members or other participants located in the United States or the adequacy of the risk management controls of the trading or of the clearing system.
 - (iv) A description of any investigations (formal or informal) or disciplinary actions initiated by the regulatory regime/authority or any other self-regulatory, regulatory or governmental entity against the foreign board of trade, the clearing organization or any of their respective senior officers during the past year.
- (6) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S-1), a confirmation that the regulatory regime/authority governing the activities of the foreign board of trade and the clearing organization agree to cooperate with a Commission staff visit subsequent to submission of the application on an "as needed basis," the objectives of which will be to, among other things, familiarize Commission staff with supervisory staff of the regulatory regime/authority; discuss the laws, rules and regulations that formed the basis of the application and any changes thereto; discuss the cooperation and coordination between the authorities, including, without limitation, information sharing arrangements; and discuss issues of concern as they may develop from time to time (for example, linked contracts or unusual trading that may be of concern to Commission surveillance staff).

Response:

(1) Regulatory Regime/Authority

Structure, resources, staff, and scope of authority

The Canadian provinces regulate the offer and sale of Canadian securities and the operation of Canadian exchanges. NGX resides in Calgary, Alberta, and so is regulated under Alberta law. Because NGX Participants reside in other Canadian provinces, NGX is regulated by those provinces as well; these provinces have entered into a Memorandum of Understanding acknowledging Alberta as NGX's lead regulator.

The Alberta Securities Commission is a corporation consisting of members appointed by the Lieutenant Governor in Council.² The Executive Director is the chief administrative officer of the ASC. Commission Members are empowered to hear enforcement proceedings and consider applications for exemptions from the requirements of securities legislation. ASC Members also hear appeals of decisions made by certain regulatory authorities.

The ASC is a member of the Canadian Securities Administrators, which is a council of the 13 securities regulators of Canada's provinces and territories, whose mandate is to coordinate and harmonize the regulation of Canada's capital markets.

The ASC has the ability to exercise and perform any duties that it has been given pursuant to the Act in a jurisdiction other than Alberta if such jurisdiction consents to such action.³ In addition, subject to any regulations adopted by the ASC's extra-provincial regulatory authority, the ASC has the authority under the Act to adopt or incorporate by reference all or a portion of any securities laws of another province or territory of Canada that deals with the securities markets in that province or territory to be applied to persons or entities whose primary jurisdiction is the other province or territory or trades or conducts other activities with respect thereto.⁴ The ASC may also base a decision about a person, company, trade, security or exchange contract on a decision previously made by the applicable regulatory authority of another province with respect to the same matter.⁵

The ASC has a staff of approximately 170 persons.

(2) Laws, Rules, Regulations, and Policies

Authorizing statutes

(i) Authorization, licensure, or registration of the foreign board of trade

² The Alberta Securities Commission is an Associate Member of IOSCO.

³ *Id.* at section 24(1).

⁴ *Id.* at section 211.4(1).

⁵ *Id.* at section 211.5(1).

The Securities Act (Alberta), RSA 2000 cS-4, establishes Alberta's securities laws and gives the Alberta Securities Commission its powers and duties. The Revised Statutes of Alberta (RSA) 2000 went into effect on January 1, 2002, and the Act has been amended several times since. The Act is included in Exhibit A-5.

No person or entity may trade in an exchange contract on an exchange in Alberta unless the ASC has recognized the exchange and accepted the form of exchange contract.⁶ The ASC may recognize a person or company as an exchange or clearing agency, subject to any terms and conditions the ASC may impose, if it believes that recognition would not be prejudicial to the public interest.⁷

In the public interest, the ASC is also authorized to: (1) approve, suspend or cancel recognition of an exchange; (2) remove, vary or replace any terms or conditions that were previously imposed on such recognition; (3) make decisions that it considers necessary to ensure that issuers whose securities are listed and posted for trading on the exchange comply with the Alberta securities laws; and (4) make decisions with respect to: (a) the manner in which an exchange carries on business; (b) the bylaws, rules, regulations, policy, procedure, interpretation or practice of the exchange; (c) trading on or through the facilities of the exchange; (d) any security that is listed and posted for trading on an exchange; and (e) any exchange contract that is trading on a recognized exchange.⁸

Recognition and Variation Orders Concerning NGX

In 2008, NGX applied to the ASC for recognition under the Securities Act (Alberta) as both an exchange and a clearing agency with respect to its trading, clearing and settlement of natural gas, electricity and related contracts (the "Contracts"). NGX received such recognition pursuant to an exchange recognition order and a clearing recognition order issued by the ASC as of October 9, 2008 (the "Recognition Orders").⁹ Subsequently, NGX applied to the ASC for and received (as of April 14, 2009) a variation of such Recognition Orders to allow NGX to offer crude oil commodity contracts on the NGX Trading and Clearing Systems as those terms are defined therein, and, in turn, allow NGX's Contracting Parties to transact in crude oil contracts on the NGX Trading and Clearing Systems (the "Variation Order").¹⁰

Pursuant to the Recognition Orders, NGX has undertaken (1) to comply with applicable securities legislation, (2) to operate the NGX Trading System in accordance with specified "Operating Principles," (3) to operate the NGX Clearing System in accordance with specified "Clearing Principles," (4) to report to the ASC in accordance with specified "Reporting Requirements," (5) to take reasonable steps to ensure the fitness and reasonable conduct of its officers and directors, (6) to maintain proper conflicts of interest policies, (7) to notify the ASC in advance of (a) its outsourcing any key Trading System functions or key Clearing System functions, (b) any significant change in the operating of the Trading System or the Clearing System and (c) any change in the beneficial ownership of NGX, (8) to seek the ASC's prior

⁶ Securities Act (Alberta), R.S.A. 2000, c. S-4, at § 106.

⁷ *Id.* at §§ 62 and 64.

⁸ *Id.* at §§ 62 and 63.

⁹ Appended as Attachments A-7a and A-7c.

¹⁰ Appended as Attachment A-7b.

approval of any significant changes to the NGX Sophistication Thresholds, (9) to seek the ASC's acceptance of, or any exemption for, any new or revised contract that differs significantly from the contracts that have already been exempted by the ASC, (10) to notify the ASC immediately upon NGX becoming aware that any of its representations in the Recognition Orders are no longer true and accurate or if NGX becomes unable to fulfill any of its undertakings set out in the Recognition Orders; and (11) to comply with any request from the Executive Director of the ASC for electronic or any other form of access to the NGX Trading System or the NGX Clearing System to assist the ASC in its oversight of NGX as an exchange and/or as a clearing agency.

Operating Principles

NGX, as part of its exchange Recognition Order, is required to meet on a continuing basis eight Operating Principles that are similar to the Core Principles with which U.S. Designated Contract Markets must comply.¹¹ These Operating Principles establish the basic regulatory requirements that NGX must meet as an exchange. They include all of the material requirements applicable to U.S. designated contract markets. The Operating Principles mandate that NGX meet the following requirements:

- Financial Resources—the exchange must maintain financial, operational and managerial resources to operate the Trading System and support its trade execution functions.
- Operational Information—the exchange must disclose to participants information about contract terms and conditions, trading conventions, trading volume and other relevant information.
- Market Oversight—the exchange must establish minimum standards for participants and a program for on-going monitoring of financial status or credit worthiness of participants, monitoring trading to ensure an orderly market; maintain authority to collect or capture all necessary information; and to intervene in the market as necessary to ensure an orderly market.
- Rule enforcement—the exchange shall monitor the market and enforce its rules.
- System safeguards—the exchange must establish a program to oversee the integrity and proper functioning of its systems, including adequate capacity and security and a disaster recover plan, and a risk review of every significant new service or enhancement.
- Record keeping—the exchange must maintain books and records.
- Risk management—the exchange shall identify and manage risks through risk analysis.
- Governance and conflict of interest—the exchange must have rules to minimize conflict of interest in its decision-making process.

(ii) Ongoing supervision and oversight of the FBOT and its enforcement of trading rules

An exchange recognized by the ASC is required to regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with the bylaws, rules, regulations, policy, procedure, interpretation or practice of the

¹¹ As part of its clearing Recognition Order, NGX is required to meet on a continuing basis thirteen Operating Principles, which are similar in substance and effect to the Core Principles which apply to NGX under its registration as a U.S. DCO.

exchange.¹² The CPA constitutes NGX's exchange policies, procedures and practices. Under the CPA, NGX regulates the operations, standards of practice, and business conduct of its Participants.

The ASC also requires every recognized exchange and clearing agency, as well as all reporting issuers and officers, directors, promoters and transfer agents thereof, to maintain proper books and records, and to deliver any such books and records that the ASC may require.¹³ The Executive Director of the ASC may appoint a person (1) to examine the financial affairs, books, records and other documents of an exchange for the purposes of determining if it is complying with the Alberta securities laws and (2) to make an investigation that the Executive Director considers necessary (a) for the administration of the Alberta securities laws or those of another jurisdiction; or (b) concerning matters that involve trading in securities or exchange contracts in Alberta or in another jurisdiction.¹⁴

Every recognized exchange is required to appoint an auditor and to select a panel of auditing firms for its members and require such members to appoint one of the selected firms to examine its annual financial statements and regulatory filings and report on its financial affairs to the exchange of which it is a member.¹⁵

The Executive Director of the ASC has the ability, pursuant to the Act, to examine the financial affairs and books and records of any person or entity registered under the Act, any reporting issuer or director, officer, promoter or transfer agent thereof, and any recognized exchange, self-regulatory organization, clearing agency or quotation and trade reporting system for the purpose of determining if such person or entity is complying with Alberta securities laws.¹⁶

Reporting Requirements

NGX must comply with a significant number and variety of reporting requirements. These are an important tool by which the ASC ensures its ability to carry out its oversight functions, oversees the continued operations of NGX and ensures that NGX complies with NGX's regulatory obligations. These reporting requirements apply to NGX through the exchange Recognition Order. They include immediate reporting to ASC of the following:

- Any event, circumstance or occurrence that renders NGX unable to comply with applicable securities law.
- Any default by NGX, including details of the default and an explanation of its impact on NGX.
- Any order, sanction or directive from a regulatory or governmental body. Thus, if the Commission were to sanction or issue a directive with respect to NGX's DCO, NGX would be required to report the facts surrounding that occurrence immediately to the ASC.

¹² Securities Act at at § 63(2).

¹³ *Id.* at § 60.1(1).

¹⁴ *Id.* at § 41(1) and 58(1).

¹⁵ *Id.* at § 59(1)-(5).

¹⁶ *Id.* at § 58(1).

- Any investigation of NGX by a regulatory or governmental body.
- Any criminal or quasi government charges brought against NGX.
- Any civil suits brought against NGX that are likely to have a significant impact on NGX.

ASC requires that other events be reported to it within two days. These include changes of directors, changes to senior management, any significant change to the CPA (which acts in many instances as the rules of the exchange), and any default under the terms of the CPA. In addition, NGX is required to provide the ASC on a quarterly basis with a list of Participants and interim financial statements.

On an annual basis, NGX must provide audited financial statements and a self-assessment which includes a summary of new products introduced and expansion plans, a report detailing the testing undertaken to ensure adequacy of system safeguards, including risk management methodologies, emergency procedures and disaster recovery plans, and a summary of staffing changes.

The Executive Director of the ASC may require further information from NGX as provided under the securities legislation.

(iii) The financial resource requirements for the foreign board of trade

Under its Operating Principles, NGX must maintain adequate financial, operational, and managerial resources to operate the Trading System and support its trade execution functions.

(iv) IOSCO Principles

The Alberta Securities Commission is an Associate Member of IOSCO, and an active participant in the organization.¹⁷ It strives to take into account IOSCO pronouncements on exchange regulation, such as the IOSCO Principles.¹⁸

(v) Approval of trading rules

Under the Recognition Order and Reporting Requirements, NGX must report to the ASC any significant changes to the Contracting Party's Agreement.

(vi) Review and approval of futures, option, or swap contracts

In 2008, NGX applied to the ASC for recognition under the Securities Act (Alberta) as both an exchange and a clearing agency with respect to its trading, clearing and settlement of natural gas, electricity and related contracts (the "Contracts"). NGX received such recognition pursuant to an exchange recognition order and a clearing recognition order issued by the ASC as of October 9, 2008 (the "Recognition Orders"). Subsequently, NGX applied to the ASC for and received (as of April 14, 2009) a variation of such Recognition Orders to allow NGX to offer

¹⁷ http://www.iosco.org/lists/display_members.cfm?memID=2&orderBy=none

¹⁸ See, e.g., Press Release, "Canadian Securities Regulators Take Steps to Reduce Risks Associated with Electronic Trading," April 8, 2011, Attachment F-1a; National Policy 47-201, "Trading Securities Using the Internet and Other Electronic Means," Attachment F-1b.

crude oil commodity contracts on the NGX Trading and Clearing Systems as those terms are defined therein, and, in turn, allow NGX's Contracting Parties to transact in crude oil contracts on the NGX Trading and Clearing Systems (the "Variation Order").

Under the Recognition Order and Reporting Requirements, NGX must report to the ASC any significant changes to the Contracting Party's Agreement. Under the Recognition Order, NGX must seek the ASC's acceptance of, or an exemption for, any new or revised contract that differs significantly from the exchange contracts that have already been exempted by the ASC.

(vii) Detection and deterrence of unfair trading practices

The Act prohibits the use of "unfair practice" in furtherance of causing a person to, or prohibiting a person from, purchasing, holding or selling a security or an exchange contract. Unfair practices include: (1) putting unreasonable pressure on a person; (2) taking advantage of a person's inability or incapacity to reasonably protect his or her own interest; and (3) imposing terms, conditions, restrictions or requirements that are harsh, oppressive, or excessively one-sided.¹⁹ It is also prohibited under the Act for a person or company to engage or participate in any action, whether directly or indirectly, in respect of a security or exchange contract that it knows or reasonably should know is fraudulent or will result in or contribute to a false or misleading appearance of trade activity or an artificial pricing.²⁰ The use of information about a person's intention to trade a security which would reasonably be expected to affect the price of such security cannot be used to purchase or sell such security, take any action with respect to an option or related financial instrument concerning such security, or change a person's ownership, control, or direction over any of the foregoing.²¹ In addition, Part 15 the Act prohibits insider trading and self-dealing.

The Act provides that a person or company, and any director or officer or other authorized person with respect to such person or company, who breaches, or permits or acquiesces with respect to a breach of Alberta securities laws can be subject to one or both of a fine of up to \$5,000,000 and imprisonment for up to one day less than five years. In addition, a person who knows a material fact or material change with respect to a reporting issuer because of such person's relationship to such reporting issuer, and who uses or discloses such material fact to benefit from a transaction with respect to the securities of such reporting issuer, is liable to a fine of at least the amount of profit made by such person with respect to such transaction and an amount not more than the greater of \$5,000,000 and an amount equal to triple the amount of profit made or loss avoided due to the use or disclosure of such material information. The court also has the authority to require any person who is guilty of a breach of the Alberta securities laws to compensate or make restitution to a person or company that has been harmed by its actions and may make any other order that the court considers appropriate in the circumstances.²²

The Executive Director of the ASC may apply to the Court of Queen's Bench for a declaration that any person or company is not in compliance with any provisions of Alberta

¹⁹ Securities Act at §§ 92(3)(d) and 92(5).

²⁰ *Id.* at § 93.

²¹ *Id.* at §§ 93.3(1) and (2).

²² *Id.* at § 194(1)-(6).

securities laws without the requirement for a hearing.²³ If the Court makes such a declaration, it may, in addition to the specific penalties set forth in the Act, make any order that it considers appropriate, including, but not limited to, requiring a purchase of securities, rescinding a transaction, requiring the issuance, cancellation, purchase, exchange or disposition of a security or exchange contract, prohibiting the exercise of any rights applicable to a security or exchange contract, appointing or replacing officer and/or directors, requiring that a person or entity submit to an ASC review of its policies and procedures, requiring repayment of money paid by a security holder for a security or exchange contract, and/or making restitution to an aggrieved person or company, payment of general or punitive damages, or payment to the Minister responsible for the Act any amounts obtained as a result of non-compliance with the Alberta securities laws.²⁴

In addition, where the ASC considers it in the public interest to do so, it may restrict or prohibit a person or entity from taking certain actions with respect to securities and exchange contracts, as well as with respect to entities that are registered or recognized under the Alberta securities laws.²⁵ If, after a hearing, the ASC determines that a person or company has contravened or failed to comply with the Alberta securities laws or that a director or officer of a company or a person other than an individual, permitted or acquiesced in such a contravention or failure to comply, it may order the person or company to pay an administrative penalty of not more than \$1,000,000 for each such instance if it considers it in the public interest to do so.²⁶ Such an order may be made without regard for the fact that another penalty or sanction has been issued with respect to the same matter.²⁷

(3) Intermediaries

NGX is non-intermediated. Accordingly, each NGX participant enters into transactions on NGX as principal for its own account and is self-cleared. No U.S. (or Canadian) person carries positions for an NGX participant. Accordingly, there is no issue of Canadian law or regulation which applies with respect to the protection of customer funds or the failure of a market intermediary leaving to a loss to NGX participants.

Article 3.2(c) of the CPA provides that a Participant may designate particular persons as “Authorized Representatives.” Such persons are permitted to enter information into the NGX Trading System through the ICE Platform on behalf of the Participant.²⁸ An Authorized Representative may include a person acting as a broker with respect to off-market transactions. These may be transactions entered into under NGX’s provision of the CPA governing Exchange of Futures for Related Products (“EFRP”)(which ordinarily will be forward contracts) or block

²³ *Id.* at § 197(1).

²⁴ *Id.* at § 197(2)-(4).

²⁵ *Id.* at § 198(1).

²⁶ *Id.* at § 199(1).

²⁷ *Id.* at § 199(2).

²⁸ Under an exemption under Securities Act § 144(1) provided in the Recognition Order, intermediaries are not required to register with the ASC.

trades. The Participant must file with NGX an “access notice” notifying NGX of the access rights provided by the Participant to an Authorized Representative.²⁹

The use of Authorized Representatives does not alter the nature of the relationship between the Participants nor does it change the disintermediated nature of the NGX Trading Platform. All transactions executed on or cleared through NGX currently are done on a principal-to-principal basis. The Participant accepts responsibility for all contract rights and obligations for all transactions on NGX, including any transaction processed by an Authorized Representative that acts as a broker with respect to off-market transactions (such as EFRPs or block trades) for the Participant. Such Authorized Representatives do not themselves enter into contracts traded on NGX. It is anticipated that Authorized Representatives that are U.S. persons or act on behalf of U.S. persons will remain an integral part of the NGX market in connection with arranging block trades or EFRP transactions and other permitted off-market transactions that are submitted to NGX subject to its rules.

To the extent that the new rules under the Dodd-Frank Act will require registration of Authorized Representatives with the CFTC in connection with their activities for U.S. persons, these Authorized Representatives will be regulated by the CFTC.³⁰

(4) Inspection, investigation, and surveillance powers

By order, the Executive Director of the ASC may appoint a person to make any investigation considered necessary for the administration of the Alberta securities laws, to assist in the administration of the securities or exchange contract laws of another jurisdiction, in respect of matters relating to trading in securities or exchange contracts in Alberta, or in respect of matters in Alberta relating to trading in securities or exchange contracts in another jurisdiction.³¹ The order shall prescribe the scope of the investigation.³²

The person appointed to conduct the investigation has the power to investigate, inquire into, and examine:

- The affairs of the person or company;
- Documents, records, correspondence, communications, negotiations, trades, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with that person or company;
- The property, assets, or things owned, acquired, or alienated in whole or in part by that person or company or by any person or company acting on behalf of or as agent for the person or company;
- The assets at any time held by, the liabilities, undertakings and obligations at any time existing, and the financial or other conditions at any time prevailing in respect of the person or company; and

²⁹ Such Authorized Representatives may be required to register with the Commission as Introducing Brokers in connection with activities related to U.S. persons.

³⁰ As a registered DCO, NGX has made clear that it would be willing to accept customer clearing if its participants requested access to NGX DCO through market intermediaries.

³¹ *Id.* at § 41(1).

³² *Id.* at § 41(3).

- The relationship that may at any time exist or have existed between the person or company, and any other person or company, by virtue of certain enumerated reasons.³³

The person appointed to make an investigation has the same power as is vested in the Court of Queen's Bench for the trial of civil actions to summon and enforce the attendance of witnesses; compel witnesses to give evidence on oath or otherwise; and compel witnesses to produce documents, records, securities, exchange contracts, contracts, and things.³⁴ If authorized by court order, the person conducting an investigation may enter into and search premises, and may seize and take possession of any documents, records, securities, exchange contracts, contracts, or things.³⁵ The person conducting the investigation shall produce a report for the Executive Director.³⁶

Under certain conditions, the Executive Director may order that funds, property, or other assets be frozen.³⁷ Under certain conditions, the Executive Director may also apply to the Court of Queen's Bench for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of a person or company.³⁸

Pursuant to a MOU among the ASC and the Securities Commissions of the Provinces of Saskatchewan, Manitoba, Ontario, Quebec and British Columbia (the "Exempting Regulators")³⁹ which became effective on January 1, 2010, the ASC serves as the lead regulator for the NGX exchange, responsible for its oversight.⁴⁰ The "Oversight Program" required to be carried out by ASC with respect to NGX pursuant to the MOU is required to include the following items, at a minimum: (1) review of information filed by NGX on critical financial and operational matters, risk management and significant changes to operations, including information filed that relates to corporate governance, rules, systems and operations, access, listing criteria and/or financial instrument development, fees, financial viability and regulation; (2) review and approval, if necessary of the bylaws, rules, policies and other similar instruments of NGX under the procedures established by the ASC from time to time; and (3) periodic oversight of NGX's (a) corporate finance policies, (b) policies with respect to trading suspensions and de-listings, (c) coordination with the markets of the underlying securities, (d) monitoring of trading and position limits, (e) surveillance and enforcement, (f) access, (g) information transparency, (h) corporate governance, (i) risk management and (j) systems and technology.

The ASC has discretion concerning the manner in which to carry out the Oversight Program, but must review the aforementioned functions of NGX at least every three years. The ASC is required to send the final report of any oversight review that it performs with respect to

³³ *Id.* at § 41(4).

³⁴ *Id.* at § 42(1).

³⁵ *Id.* at § 42(6). There have been no disciplinary or enforcement actions or proceeding brought against NGX or any of its senior officers in the past five years.

³⁶ *Id.* at § 44(1).

³⁷ *Id.* at § 47.

³⁸ *Id.* at § 48.

³⁹ The Exempting Regulators exempt NGX from recognition as an exchange on the basis that (1) it is and will continue to be recognized by the ASC as an exchange, (2) the ASC is responsible for conducting the regulatory oversight of NGX and (3) the ASC will inform the Exempting Regulators of its oversight activities and the Exempting Regulators will have the opportunity to raise issues concerning the oversight of NGX with the ASC.

⁴⁰ Attachment F-1c, Inter-Province MOU.

NGX and any responses thereto from NGX to each Exempting Regulator. An Exempting Regulator is permitted, pursuant to the MOU, to require that NGX provide it with copies of filings that it makes with the ASC as well as any bylaws, rules, policies or other similar instruments that it is required to provide to the ASC and other similar documentation. An Exempting Regulator is also permitted to request that the ASC perform an oversight review of NGX specifically related to the jurisdiction of the Exempting Regulator, in which circumstance the ASC could determine to conduct a review of the office of NGX in the jurisdiction of the applicable Exempting Regulator or of a specific function performed by NGX in such jurisdiction. If the ASC determines not to perform any review after being requested to do so by an Exempting Regulator, the Exempting Regulator shall have the authority to perform such a review on its own.

Pursuant to the MOU, there shall be an oversight committee (the “Oversight Committee”), including staff representatives from each of the parties to the MOU, to act as a forum and venue for the discussion of issues, concerns and proposals related to the oversight of the marketplaces by such parties. The Oversight Committee is required to meet at least once annually in person and to participate in conference calls at least quarterly. The parties to the MOU are required to provide summary reports of their oversight activities to the other parties no less frequently than quarterly and to provide to the Canadian Securities Administrators a written report of the oversight activities of the parties at least annually.

(5) Regulatory Good Standing

The ASC has been apprized of the Commission’s request for verification that NGX is in good standing and a statement relating to any regulatory concerns or pending investigations.

(6) Regulator Cooperation

NGX is a U.S. registered entity (by virtue of being a registered U.S. DCO). Although NGX’s execution facility is a foreign board of trade, the Commission is a direct regulator of NGX as a DCO. Accordingly, the Commission need not rely on any information sharing agreement to obtain books and records or any other information from NGX. The Commission would request information from NGX as it would any other registered entity without recourse to or reliance upon an information-sharing agreement. We know of no Canadian or Alberta blocking statute which would hinder NGX from complying with any request for information from the Commission.

Insofar as NGX has entered into a services arrangement with ICE, each has in place agreements for the sharing of information to meet regulatory requirements in the conduct of their respective offerings.

The Canadian provincial authorities have in place information sharing arrangements, so that coordination of surveillance and enforcement issues is possible throughout Canada.

NGX believes that the arrangements that are in place, including in particular its status as a U.S. registered entity, provide Alberta, Canadian and U.S. regulators access to the information

necessary for the performance of market surveillance of trading activity in contracts which are the subject of this registration application.