



June 27, 2014

**BY ELECTRONIC MAIL: [submissions@cftc.gov](mailto:submissions@cftc.gov)**

Melissa Jurgens  
Office of the Secretariat  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: Submission 07-14: Certification Pursuant to Commission Rule 40.6 – Rule Amendments**

Dear Ms. Jurgens:

Pursuant to Section 5c(c) of the Commodity Exchange Act (the “Act”) and Section 40.6(a) of the regulations of the Commodity Futures Trading Commission (the “CFTC” or “Commission”), SwapEx, LLC (“SwapEx”, or the “Company”) hereby notifies the Commission that it has amended its Rulebook and that it is certifying those amendments. The Rulebook has been amended in response to comments and questions received from potential users of SwapEx’s swap execution facility and guidance from the Commission. The amended Rulebook will become effective on July 15, 2014.

A concise explanation of the amendments to the Rulebook and their compliance with applicable provisions of the Act, including core principles and the Commission’s regulations, is attached hereto as Exhibit A. A clean copy of the amended Rulebook is attached hereto as Exhibit B, and a copy of the Rulebook marked to show changes against the version submitted to the Commission as part of the Rule certification on April 1, 2014, is attached hereto as Exhibit C. SwapEx hereby certifies that: (i) the amended Rulebook complies with the Act and the Commission’s regulations thereunder, and (ii) a notice and copy of this submission is being concurrently posted on SwapEx’s web site. There were no substantive opposing views to the amendments to the Rulebook.

In the event that you have questions, please contact the undersigned at (212) 259-3025 or [BJRegan@statestreet.com](mailto:BJRegan@statestreet.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Regan".

Brian J. Regan  
Chief Compliance Officer

Encl. (Exhibits A, B and C)

## Exhibit A

### Explanation of Amendments to Rulebook

Capitalized terms used but not defined herein have the meanings assigned to them in the Rulebook.

<b>Amendment</b>	<b>Explanation</b>
<u>Table of Contents</u> Conformed chapter and page references	Clarification
<u>Rule 101</u>  1. Added definition of “Direct Losses” in connection with the addition of new Rule 914  2. Changed the defined term “Loss” to “Losses”	1. Clarification; Commercial term  2. Clarification
<u>Rule 402(d)</u> Corrected spacing	Correction of typo
<u>Rule 405</u> Changed the term “Authorized Trader” to “Authorized Traders”	Correction of typo
<u>Rule 409(b)</u> Clarified the scope of the Rule	Clarification
<u>Rule 524(b)</u> Amended to clarify that, for Permitted Transactions, SwapEx will offer an Order Book and such other execution methods for Permitted Transactions as notified by the SwapEx to Participants and Authorized Traders from time to time	Clarification; CFTC Regulations 37.3 and 37.9
<u>Rule 526(a)</u> Deleted the provisions of the Rule permitting parties to resubmit a Swap transaction for clearing that has failed to clear because of a clerical or operational error or omission and conformed the outline numbering	Core Principle 7; Expiration of CFTC No-Action Letter 13-66

Amendment	Explanation
<u>Rule 526(f)</u> Deleted the requirement to charge an administrative fee to a Participant that is responsible for an Order or RFQ that gives rise to a trade bust or price adjustment	Core Principle 2
<u>Rule 527(a), (b) and (c)</u> Amended to clarify that certain of the limitations on liability do not apply to the indemnification provided in Rule 914	Clarification; Commercial term
<u>Rule 719</u> Changed reference to “Company” to “Trading System”	Clarification
<u>Rule 914</u> Added new Rule 914 specifying the circumstances in which the Company would indemnify a Participant for Direct Losses	Commercial term

**Exhibit B**

**Rulebook (clean)**

[see attached]

**SWAPEX, LLC**

**RULEBOOK**

**JULY 15, 2014**

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## CHAPTER 1. DEFINITIONS

### Rule 101. General

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

“Affiliate” means, with respect to any Person, any Person who, directly or indirectly, Controls, is Controlled by, or is under common Control with, such other Person.

“Appeal Panel” means the panel appointed in accordance with Rule 715 to consider an appeal from an order of a Hearing Panel pursuant to Rule 713 or a notice of summary action imposed pursuant to Rule 717 or appointed to consider an appeal from a summary imposition of a fine pursuant to Rule 716, and to affirm, modify or reverse all or any portion of such order, notice or fine.

“Appeal Panel Member” means an individual who is appointed to, and serves as, a member of an Appeal Panel.

“Applicable Law” means, with respect to any Person, any statute, or any rule, regulation or ordinance of any Government Agency, Derivatives Clearing Organization or Self-Regulatory Organization, in any case applicable to such Person.

“Audit Trail” has the meaning given that term in Rule 518(b).

“Authorized Trader” means a Person (not an individual) who is authorized by a Participant to access the Trading System pursuant to Rule 304.

“Authorized User” means an individual who is employed by or is an agent of a Participant, an Authorized Trader or a Clearing Firm and who has been authorized to access the Trading System pursuant to Rule 305. When used in reference to a Participant, “Authorized User” means and includes (i) such Participant’s Authorized Users and (ii) employees and agents of the Participant’s Authorized Traders who have been designated by the Authorized Trader as Authorized Users.

“Block Trade” means transactions in Contracts effected in accordance with Chapter 6.

“Board” means the Board of Directors of the Company.

“Breakage Agreement” means any arrangement that provides for the assessment of liability or payment of damages between the parties to the Cleared Contract in the event the Cleared Contract is rejected from clearing, as such term is defined or interpreted by the CFTC from time to time.

“Business Day” means a day on which the Company is open for trading.

“CEA” means the Commodity Exchange Act.

“CFTC” means the Commodity Futures Trading Commission.

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

“Chairman” means the chairman of the Board.

“Chief Compliance Officer” means the individual appointed by the Board as the Company’s chief compliance officer.

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

“Cleared Contracts” has the meaning given that term in Rule 1002.

“Clearing Firm” means a Person, whether or not a Participant, that has been approved as a member or participant in one or more Derivatives Clearing Organizations and that is authorized pursuant to the rules of such a Derivatives Clearing Organization to clear Contracts for customers; provided that, the term “Clearing Firm” as used herein shall be deemed to refer to such Person solely in its capacity as a Clearing Firm and not, as applicable, in its capacity as a Participant.

“Committee” means a committee established by the Board.

“Company” means SwapEx, LLC or any successor thereto.

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

“Company Proceeding” means any Disciplinary Proceeding or an appeal from a Disciplinary Proceeding.

“Company Requirements” means (i) the Rules and other requirements implemented by the Company under the Rules, (ii) the applicable Contract Specifications, and (iii) the Participant Documentation and other contractual obligations between a Participant, Authorized Trader and/or Authorized User and the Company.

“Contract” means a Swap and an Exempt Swap.

“Contract Specifications” means, with respect to any Contract, the terms and conditions, rules or other trading protocols, as adopted, amended, supplemented or otherwise modified from time to time by the Company.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. The terms “Controlling” or “Controlled” shall have meanings correlative to the foregoing.

“Covered Person” has the meaning given that term in Rule 903(b).

“CTI” has the meaning given that term in Rule 518(d).

“Customer” means an Eligible Contract Participant that has authorized a Participant or Authorized Trader to cause transactions in Contracts to be made for its account.

“Customer Order” means, with respect to a Participant or Authorized Trader, an Order or Request for Quote that has been provided to such Participant or Authorized Trader, as applicable, by or on behalf of a Customer.

“Derivatives Clearing Organization” has the meaning given that term in section 1a(9) of the CEA and, as used in these Rules, means a derivatives clearing organization that is registered or exempt from registration as such with the CFTC and that is engaged in the clearing of one or more Contracts.

“Designated Representative” means an individual, designated by a Participant or an Authorized Trader pursuant to Rule 309, with authority to act on behalf of such Participant or Authorized Trader, as applicable.

“Direct Losses” means any Losses other than those described in Rule 527(d).

“Director” means any member of the Board.

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

“Disciplinary Panel Member” means an individual who is appointed to, and serves as, a member of a Disciplinary Panel.

“Disciplinary Proceeding” means any inquiry, investigation, disciplinary proceeding, summary imposition of fines, summary suspension or other summary action conducted pursuant to Chapter 7 of the Rules.

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

“Emergency” means any occurrences or circumstance which, in the opinion of the Board, the Chairman or the Chief Executive Officer, requires immediate action, and which threatens, or may threaten, the fair and orderly trading in, or the settlement or integrity of, any Contract, including the following:

(1) any circumstance that may materially affect the performance of a Contract, including failure of the clearing system of a Derivatives Clearing Organization;

(2) any action taken by any United States or foreign regulatory, self-regulatory, judicial, arbitral, or governmental (whether national, state or municipal) or quasi-governmental authority, any agency, department, instrumentality, or sub-division

thereof; or other Person exercising, or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; any Derivatives Clearing Organization, board of trade or other exchange (foreign or domestic) that, in any such case, may have a direct impact on trading on the Trading System 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 Company, including acts of God, fire, flood 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 Trading System, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;

(5) the Insolvency of any Clearing Firm or the imposition of any injunction or other restraint by any Government Agency, Derivatives Clearing Organization, court or arbitrator upon a Clearing Firm which may affect the ability of a Clearing Firm to trade in or perform its obligations on a Contract; or

(6) any circumstance in which it appears that: (i) a Person has failed to perform on a Contract; (ii) a Participant or Authorized Trader is Insolvent or is in a financial or operational condition or is conducting business such that the Participant or Authorized Trader cannot be permitted to continue in business without jeopardizing the safety or integrity of other Participants, Authorized Traders or the Company; or (iii) any other unusual, unforeseeable or adverse circumstance as determined by the Company.

“Exempt Swap” means a swap, as defined under Section 1a(47) of the CEA and CFTC Regulations, that is listed for trading on the Trading System but that is not required to be cleared pursuant to Section 2(h)(2)(D) of the CEA and CFTC Regulation 39.5, without regard to whether such Exempt Swap is submitted to a Derivatives Clearing Organization for clearing.

“Government Agency” means the CFTC and any other governmental agency or department that regulates the activities of the Company, a Participant, an Authorized Trader or Authorized User, as applicable.

“Hearing Panel” means the panel appointed pursuant to Rule 710 to conduct hearings in connection with Disciplinary Proceedings (other than summary impositions of fines pursuant to Rule 716), to make findings, render decisions, and impose sanctions pursuant to Chapter 7 of the Rules.

“Independent Software Vendor” or “ISV” means a Person that makes available to Participants and Authorized Traders a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide the ability to effect the execution of Contracts other than through the Trading System.

“Indication of Interest” means an indication of interest for a Contract that is not executable.

“Insolvent” and “Insolvency” means the occurrence of any of the following events with respect to a Person:

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

(2) if the Person is a member of the Securities Investor Protection Corporation, a court of competent jurisdiction finds that the Person 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 Person 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 Person 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 Person or for any substantial part of its property, (iv) ordering the winding up or liquidation of the Person’s affairs or (v) consenting to the institution by the Person of proceedings to be adjudicated as a bankrupt or insolvent; or

(4) the filing by the Person 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 Person 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 Person or for any substantial part of its property, or the making by the Person of an assignment for the benefit of its creditors, or the admission by the Person in writing of its inability to pay its debts generally as they become due, or the taking of corporate or similar action by the Person in furtherance of the foregoing.

“Interested Person” has the meaning given that term in Rule 206(a).

“Investigation Report” has the meaning given that term in Rule 703(a).

“ISDA” means the International Swaps and Derivatives Association Inc.

“LLC Agreement” means the Limited Liability Company Agreement of the Company, as it may be amended, amended and restated or otherwise modified from time to time.

“Losses” means any losses, damages, costs or expenses (including attorneys’ fees) whether direct, indirect, special, incidental, consequential, punitive or otherwise of any kind, including any loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of goodwill, loss of reputation or loss of, damage to or corruption of data.

“Maker” has the meaning given that term in Rule 524(a).

“Market Data” means:

(1) all data and other information submitted for entry into the Trading System or relating in any way to a Contract, including the time at which such data or information was submitted to or generated by the Trading System;

(2) any data or other information contained in, derived from or related to any of the foregoing, including the format, compilation and presentation thereof; and

(3) any data or information transmitted, published or disseminated by the Company to Participants, Authorized Traders, Authorized Users or any publisher of such data or information with whom the Company has a written agreement relating thereto.

“Market Order” means an order to buy or sell an instrument at the current market price.

“Market Regulation Department” means all officers, employees and agents of the Company (including the Regulatory Services Provider) that assist the Company in the implementation, surveillance and enforcement of the Rules and other Company Requirements.

“NFA” means the National Futures Association.

“No-Bust Ranges” has the meaning given to that term in Rule 526(g).

“Nominating Committee” means the Committee of the Board constituted pursuant to Rule 204.

“Officer” has the meaning given that term in Rule 202.

“Order” means either a bid or an offer for a Contract on the Trading System, and includes any modification to or cancellation of such a bid or offer, but does not include a Request for Quote or an Indication of Interest.

“Order Book” has the meaning given that term in CFTC Regulation 37.3.

“Participant” means a Person that has been authorized by the Company to have access to the Trading System pursuant to Rule 303 and to permit Authorized Traders and Authorized Users to have access to the Trading System pursuant to Rule 304 and Rule 305.

“Participant Committee” means the committee of the Board constituted pursuant to Rule 204.

“Participant Documentation” means the agreements (together with any applicable schedules, exhibits or appendices thereto) that are required to be executed and delivered to the Company before a Person may have access to the Trading System, including the Participant Agreement, Appointment of Authorized Trader, Authorized User ID Request Form, and User License Agreement, as applicable.

“Permitted Transaction” means any transaction involving a Contract that is not a Required Transaction.

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

“Proprietary Information” has the meaning given that term in Rule 904.

“Public Director” means (i) prior to the time at which the CFTC Regulations establish required qualifications for public directors, any Director, and (ii) from and after such time at which the CFTC Regulations establish required qualifications for public directors, a Director found by the Board to have satisfied such requirements.

“Regulatory Oversight Committee” means the committee of the Board constituted pursuant to Rule 204.

“Regulatory Services Provider” means NFA and such other organizations, if any, that provide regulatory services to the Company, in each case, together with those certain employees and agents of any such organization that provide regulatory services to the Company.

“Reporting Counterparty” means, for purposes of Part 45 of CFTC Regulations, the Participant or Authorized Trader that is designated as such pursuant to Rule 528(b).

“Request for Quote” and “RFQ” have the meaning given those terms in Rule 524(a) and, unless the context otherwise requires, include both requests for quotes pursuant to Rule 524(a) and responses to any such requests.

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

“Required Transaction” means any transaction involving a Contract that is subject to the trade execution mandate under section 2(h)(8) of the CEA and is not a Block Trade.

“Review Panel” means the panel, if any, appointed pursuant to Rule 705 to review a completed Investigation Report and to determine whether a reasonable basis exists for finding a violation of the Rules and authorizing the issuance of a notice of charges pursuant to Rule 706.

“Rule” or “Rules” means the rules of SwapEx as set forth in this Rulebook.

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

“Significant Liquidity Provider” has the meaning given that term in Rule 408(b).

“Stop Loss Order” means a Stop Order that turns into a Market Order when triggered.

“Stop Order” means an instruction to submit a buy or sell when the market rate reaches a specified rate.

“Summary Proceeding” means a Disciplinary Proceeding conducted pursuant to Rule 716 or Rule 717.

“Swap” has the meaning given that term in section 1a(47) of the CEA and CFTC Regulations but does not include Exempt Swaps, and, as used in these Rules, refers solely to transactions in Swaps (including Orders and RFQs) that are listed for trading on the Trading System.

“Swap Data Repository” has the meaning given that term in section 1a(48) of the CEA and, as used in these Rules, means a swap data repository that is registered or exempt from registration as such with the CFTC and that receives Required Swap Creation Data in respect of one or more Contracts.

“Taker” has the meaning given that term in Rule 524(a).

“Terms Incorporated by Reference” has the meaning given that term in Rule 525(b).

“Trade Communication” has the meaning given that term in Rule 525(b).

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

“Trading Privileges” means the right, granted to a Participant, an Authorized Trader or an Authorized User to transmit Orders and originate and/or respond to Requests for Quotes through the Trading System.

“Trading System” means the Company’s electronic trade execution system that is used for the trading of Contracts, including the associated hardware, software, systems and communications links.

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

“User License Agreement” means the User License Agreement between the Company and a Person that the Company allows to access and use the Trading System.



**Rule 102. Rules of Construction**

In the Rules, unless the context otherwise requires: (i) headings are for convenience only and do not affect the construction of the Rules; (ii) words in the singular include the plural and words in the plural include the singular; (iii) references to the Rules and to a particular Rule are to the Rules and such Rule as they may be amended, amended and restated or otherwise modified from time to time; (iv) references to statutory provisions include those provisions, and any rules or regulations promulgated thereunder, as they may be amended, amended and restated or otherwise modified from time to time; (v) any reference to a time means the time in New York City; and (vi) all uses of the word “including” are to be construed to mean “including, but not limited to.”

## CHAPTER 2. GOVERNANCE

### Rule 201. Board

(a) The Board shall have overall responsibility for the business and affairs of the Company. The Board has the power and authority to call for the review of, and to affirm, modify, suspend or overrule, any and all decisions and actions of any Committee or Officer of the Company.

(b) The Board may act by the decision of a majority of the Directors present and voting at a meeting, by unanimous written consent without a meeting, or as otherwise set forth in the LLC Agreement.

(c) At least 35%, but no fewer than two (2), of the Directors shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the LLC Agreement, and shall serve until his or her successor is duly appointed, or until his or her earlier resignation or removal, with or without cause.

### Rule 202. Officers

(a) The Board shall appoint a Chief Executive Officer, a Chief Compliance Officer, and such other officers of the Company (all of the foregoing, collectively, the "Officers") as it may deem necessary or appropriate from time to time, in accordance with the LLC Agreement.

(b) Any Officer may also be a director or employee of the Company or a director, officer or employee of any of its Affiliates.

(c) The Officers shall have such powers and duties in the management of the Company as the Board may prescribe from time to time.

### Rule 203. Qualifications of Directors, Officers, Committee Members, Disciplinary Panel Members and Appeal Panel Members

(a) No Person may serve as a Director or Officer, or serve on a Committee, a Disciplinary Panel or an Appeal Panel, or hold a 10% or greater ownership interest in the Company, if such Person:

(1) within the prior three (3) years has been found, by a final decision in any action or proceeding brought in or by a court of competent jurisdiction, the CFTC, or any Self-Regulatory Organization or any Derivatives Clearing Organization, to have committed a disciplinary offense;

(2) within the prior three (3) years has entered into a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged, included a disciplinary offense;

(3) is currently suspended from trading on any contract market or swap execution facility, is suspended or expelled from membership in a Self-Regulatory

Organization or Derivatives Clearing Organization, is serving any sentence or probation, or owes any portion of a fine or penalty related to either:

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

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

(4) is currently subject to an agreement with the CFTC, a Self-Regulatory Organization or a Derivatives Clearing Organization not to apply for registration with the CFTC or for membership or participant status in the Self-Regulatory Organization or Derivatives Clearing Organization;

(5) is currently, or within the past three (3) years has been, subject to a revocation or suspension of registration by the CFTC or has been convicted of a felony listed in sections 8a(2)(D)(i) through (iv) of the CEA;

(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," as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934, as amended; or

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

(b) Any Director, Officer, member of a Committee, Disciplinary Panel or Appeal Panel, any individual nominated to serve in any such role, or any individual authorized by the Market Regulation Department to take summary action shall immediately notify the Chief Compliance Officer if such individual meets one or more of the criteria in Rule 203(a).

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

#### **Rule 204. Standing Committees**

(a) The Board shall initially have three (3) standing Committees: the Nominating Committee, the Participant Committee and the Regulatory Oversight Committee.

(b) Each member of such Committees must be a Director, one of whom the Board shall designate as the chairperson of such Committee. A temporary member of any such Committee may be appointed, using the same process required for regular appointments to a Committee, during the absence or inability to act of a regular member, and such temporary appointee shall have all the rights, power, authority, duties and obligations of the regular Committee member until the latter is again present and able to act.

(c) Each standing Committee shall assist in the supervision, management and control of the affairs of the Company within its particular area of responsibility, subject to the authority of the Board.

(d) Subject to the authority of the Board, each standing Committee shall determine the manner and form in which its proceedings shall be conducted. Each standing Committee may act only by the decision of a majority of the members of such Committee present and voting at a meeting or by unanimous written consent without a meeting. The Board has the authority to overrule the decisions of a standing Committee.

(e) If the Board rejects a recommendation or supersedes an action of the Regulatory Oversight Committee or the Participant Committee, the Company shall submit a written report to the CFTC detailing: (i) the recommendation of or action proposed to be taken by the Regulatory Oversight Committee or the Participant Committee; (ii) the rationale for such recommendation or action; (iii) the rationale of the Board for rejecting such recommendation or superseding such action; and (iv) the course of action that the Board decided to take contrary to such recommendation or action.

**Rule 205. Additional Committees**

(a) In addition to the standing Committees of the Board, the Board may from time to time constitute and appoint Committees and designate their composition, responsibilities and powers. The members of such Committees may be Directors, Participants, Authorized Traders, Authorized Users or such other individuals as may be qualified to serve on such Committee. The Board shall designate the chairperson of each such additional Committee.

(b) Each such additional Committee shall assist the Board in the management and control of the affairs of the Company within its particular area of responsibility.

(c) Subject to the authority of the Board, each such Committee shall determine the manner and form in which its proceedings shall be conducted. Each such Committee may act only by the decision of a majority of the members of such Committee present and voting at a meeting or by unanimous written consent without a meeting.

**Rule 206. Conflicts of Interest**

(a) A Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member who, in respect of a Company Proceeding or an Emergency, is subject to a "material conflict of interest" between his or her position as a Director, Officer, member of a Committee, Disciplinary Panel Member or Appeal Panel Member and his or her personal interests (any such Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member, an "Interested Person") may not participate in deliberations or votes of the Board, a Committee, Disciplinary Panel or Appeal Panel in respect of such Company Proceeding or an Emergency, or otherwise exercise any authority with respect to such Company Proceeding or Emergency that involves his or her personal interest, except as described in Rule 206(d).

(b) For purposes of Rule 206(a), a “material conflict of interest” in respect of a Company Proceeding or an Emergency means a Director, Officer, member of a Committee, Disciplinary Panel Member or Appeal Panel Member:

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

(2) being an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent in such Company Proceeding;

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

(4) having a family relationship with a respondent or potential respondent in such Company Proceeding (including the individual’s spouse, co-habitator, former spouse, parent, step-parent, child, step-child, sibling, step-brother, step-sister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law);

(5) having a direct and substantial financial interest in the result of the deliberations or vote based upon trades or positions that could reasonably be expected to be affected by such Company Proceeding or Emergency. A direct and substantial financial interest includes (but is not limited to) trades and positions in accounts of, controlled by, or affiliated with the Interested Person or in any other types of direct and substantial financial positions of the Interested Person that could reasonably be expected to be affected by such deliberations or vote; and/or

(6) any other circumstance that gives rise to a conflict between the exercise of authority by the Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member concerning such Company Proceeding or Emergency and his or her personal interests.

(c) Before considering a Company Proceeding or Emergency, an Interested Person must disclose in writing to the Chief Compliance Officer, and where appropriate, the Board, Committee, Disciplinary Panel or Appeal Panel, the material facts concerning his or her relationship or interest therein.

(d) An Interested Person who would be required otherwise to abstain from deliberations and voting pursuant to Rule 206(a) as a result of having a direct and substantial financial interest in the result of the deliberations and vote within the meaning of Rule 206(b)(5) may participate in deliberations, prior to a vote on the Company Proceeding or Emergency, if:

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

(2) the Board, Committee, Disciplinary Panel or Appeal Panel determines that the participation by the Interested Person would be consistent with the public interest and the interests of the Company; and

(3) a majority of the members of the Board, Committee, Disciplinary Panel or Appeal Panel (as applicable), excluding any Interested Persons, vote to allow the Interested Person to participate in deliberations on the Company Proceeding or Emergency.

(e) If a determination is made pursuant to Rule 206(d) that an Interested Person may participate in deliberations prior to a vote, the minutes of the meeting of the Board, Committee, Disciplinary Panel or Appeal Panel will reflect the fact thereof and the reasons therefor.

(f) If a determination is made that all Committee members, Disciplinary Panel Members or Appeal Panel Members are Interested Persons with respect to a matter relating to a Company Proceeding or Emergency that is subject to a vote by such Committee, such Disciplinary Panel or the Appeal Panel (as applicable), the Board shall be authorized to appoint a panel of individuals who are not Interested Persons with respect to such matter. This panel shall have the same authority and powers over such matter that the Committee, Disciplinary Panel or Appeal Panel (as applicable) would have if the Committee members, Disciplinary Panel Members or Appeal Panel Members were not Interested Persons with respect to such matter. The Board shall have the same power to appoint individuals who are not Interested Persons if necessary to permit a Committee, Disciplinary Panel or Appeal Panel to satisfy quorum requirements.

**Rule 207. Maintenance of Books and Records by the Company**

(a) The Company shall keep, or cause to be kept, all books and records required to be maintained pursuant to the CEA and CFTC Regulations for at least five (5) years, and shall make such books and records readily accessible for inspection by the CFTC and the United States Department of Justice during the first two (2) years of such five-year period.

(b) The Company may disclose to any Government Agency, Self-Regulatory Organization or other Person information concerning or associated with a Participant or other Person that the Company believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## CHAPTER 3. TRADING SYSTEM

### **Rule 301. Access to the Trading System**

(a) A Participant will be granted Trading Privileges if it has been authorized by the Company pursuant to Rule 303.

(b) A Participant shall designate at least one (1) of its employees, agents or authorized contractors who are individuals as an Authorized User and may designate other employees, agents and authorized contractors who are individuals as Authorized Users pursuant to Rule 305. Authorized Users may access and use the Trading System on behalf of such Participant and, to the extent permitted by Applicable Law, on behalf of, such Participant's Customers or the Customers of Authorized Traders.

(c) A Participant may designate one or more customers, investment managers or other third parties that are not individuals as Authorized Traders pursuant to Rule 304. An Authorized Trader will be given access to the Trading System and shall designate at least one (1) of its employees, agents or authorized contractors who are individuals as an Authorized User and may designate other employees, agents and authorized contractors as Authorized Users pursuant to Rule 305. Authorized Users may access and use the Trading System on behalf of such Authorized Trader and, to the extent permitted by Applicable Law, Customers of the Authorized Trader.

(d) A Participant must establish and maintain appropriate credit and/or risk controls for its Authorized Traders and Authorized Users.

(e) A Participant may be held accountable by the Company for the actions and omissions of its Authorized Traders and its and their Authorized Users.

(f) An Independent Software Vendor will be granted access to the Company if it has been authorized by the Company pursuant to Rule 306.

### **Rule 302. Participant Eligibility Requirements**

(a) To be eligible for admission as a Participant, an applicant must demonstrate to the satisfaction of the Company that it:

(1) is an Eligible Contract Participant, and, if applicable, is in compliance with CFTC Regulation 1.17;

(2) is organized or established under the laws of the United States, any State, or a jurisdiction in which the Company is permitted by Applicable Law to offer the Trading System and, if the applicant is organized or established under the laws of a country other than the United States or intends to access and use the Trading System from a jurisdiction other than the United States, the applicant shall submit, upon request by the Company, an opinion of appropriately qualified and reputable outside counsel on home country law and, if applicable, other relevant non-domestic law, in form and substance acceptable to the Company;

(3) has all registrations, licenses and consents required by its constituent documents and by Applicable Law to trade Contracts on the Trading System and is not subject to any trading ban, prohibition or suspension issued by the CFTC or by any Self-Regulatory Organization that is subject to the CFTC's oversight, including the NFA;

(4) with respect to Contracts that are to be cleared by a Derivatives Clearing Organization, (i) is a member of a Derivatives Clearing Organization that is authorized to clear Contracts for its own account and, if applicable, for the account(s) of its Customers, Authorized Traders and its and their Customers or (ii) has delivered to the Company evidence satisfactory to the Company, in its sole discretion, that at least one Clearing Firm has agreed to accept Contracts for clearing into the account of such Participant and/or, if applicable, its Authorized Traders and its and/or their Customers; and

(5) is of good reputation and business integrity, maintains adequate financial resources and credit, and satisfies such other criteria as the Company may establish from time to time.

(b) Once admitted, a Participant shall continue to comply with all applicable eligibility criteria in Rule 302(a) and shall provide the Company with such information in relation thereto as the Company may require.

(c) Each Participant shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 302(a).

**Rule 303. Participant Application Procedure**

(a) A Person that desires to become a Participant shall:

(1) complete and submit the Participant Documentation;

(2) provide such information and documentation as may be requested by the Company, and comply with the procedures established by the Company for admission;

(3) distribute the Rules to its Authorized Traders and Authorized Users or cause the Rules to be so distributed; and

(4) if such Person is organized or established under the laws of a country other than the United States:

(i) maintain a presence in the United States, either directly or through a suitable agent, whose personnel are fluent in English, are knowledgeable about the applicant's business, and can assist representatives of the Company as necessary;

(ii) pursuant to CFTC Regulation 15.05, enter into a written agreement acceptable to the Company appointing a third party as its agent for service of process in the United States and shall provide the Company with a copy of such agreement;



(iii) make such other representations as the Company deems necessary;  
and

(iv) upon request by the Company, 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 Company.

(b) The Company may require additional information from an applicant in order to establish the applicant's eligibility to access the Trading System and may conduct an investigation to verify information submitted by the applicant.

(c) If the Company decides to admit an applicant as a Participant, it shall promptly notify the applicant in writing. Admission as a Participant does not confer any right of ownership in, right to attend or vote at meetings of, or right to share in the profits of, the Company or ownership of any of the Company's Market Data, software supporting the Trading System and other intellectual property.

(d) The Company may deny or condition an application for admission as a Participant:

(1) if the applicant is unable to satisfactorily demonstrate its ability to satisfy the eligibility criteria to become or remain a Participant;

(2) if the applicant is unable to satisfactorily demonstrate its capacity to adhere to the Rules and Applicable Law;

(3) for such other cause as the Company may reasonably determine.

(e) If the Company decides to deny or condition an application for admission as a Participant, the Company shall promptly notify the applicant in writing, setting forth the reasons for the denial or conditioning of Participant status. The applicant may, within fourteen (14) days of the date of such notice, request in writing that the Participant Committee reconsider that determination. The Participant Committee may request additional information from the applicant or establish any other process that it believes is necessary and appropriate to consider the request for reconsideration. Unless extended with the consent of the applicant, the Participant Committee shall confirm, reverse or modify the denial or conditioning of the application within thirty (30) days of receiving the request for reconsideration or such longer period as may be agreed by the applicant. The Participant Committee shall promptly notify the applicant of its decision in writing. The decision of the Participant Committee shall be final and not subject to appeal.

#### **Rule 304. Authorized Traders**

(a) A Participant may grant permission to one or more Authorized Traders to enter Orders and Indications of Interest, originate and respond to Requests for Quotes, and otherwise access the Trading System in accordance with the criteria and procedures established by the Company.

(b) By agreeing to act as an Authorized Trader, such Person agrees to be bound by the duties and responsibilities of an Authorized Trader under the Rules and other Company Requirements and to be subject to, and comply with, the Rules.

(c) An Authorized Trader must at all times:

(1) be an Eligible Contract Participant;

(2) if applicable, be in compliance with CFTC Regulation 1.17;

(3) be organized in, located in and access the Trading System, and permit its Authorized Users to access the Trading System, solely from within the United States or a jurisdiction in which the Company is permitted by Applicable Law to offer the Trading System;

(4) ensure that activity conducted under the User IDs assigned to it and its Authorized Users complies with the Rules;

(5) have the authority, at the Company's request, to adjust or withdraw any Order or Request for Quote submitted under such User IDs;

(6) have and maintain all necessary regulatory approvals and/or licenses to operate as an Authorized Trader and not be subject to any trading ban, prohibition or suspension issued by the CFTC or by any Self-Regulatory Organization that is subject to CFTC oversight, including the NFA; and

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

(d) The Company will promptly notify a Participant in writing of its approval, or refusal to approve, the designation of an Authorized Trader. The Company may, in its sole discretion, revoke or suspend the designation of an Authorized Trader, and shall promptly notify the Participant in writing of such action in accordance with procedures established by the Company.

(e) Each Authorized Trader shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 304(c). Participant shall notify the Company in writing if it becomes aware that any of its Authorized Traders ceases to meet any of the requirements of Rule 304(c).

(f) A Participant that seeks to terminate the designation of an Authorized Trader shall notify the Company in writing, providing such information as the Company may require. The Company shall terminate the Trading Privileges of such Authorized Trader and its Authorized Users in accordance with procedures established by the Company.

**Rule 305. Authorized Users**

(a) A Participant, an Authorized Trader or a Clearing Firm shall designate one or more Authorized Users in accordance with the criteria and procedures established by the Company. Each Authorized User shall be identified to the Company, in the manner prescribed by the Company, and shall be subject to the Rules. Any Authorized User designated by a Clearing Firm shall only be permitted to access and use administrative, credit control functionality on the Trading System and shall have no Trading Privileges.

(b) By agreeing to act as an Authorized User, an individual agrees to be bound by the duties and responsibilities of an Authorized User under the Rules and other Company Requirements and to be subject to, and comply with, the Rules.

(c) Each Authorized User must have and use a unique User ID to access the Trading System. It shall be the responsibility of an Authorized User and its sponsoring Participant, its sponsoring Authorized Trader or its sponsoring Clearing Firm, as applicable, to ensure that each such User ID is registered with the Company, and that such registration is accurate at all times. In no event may a Person other than the Authorized User to whom a User ID has been assigned exercise Trading Privileges or otherwise access the Trading System using such User ID.

(d) An Authorized User must at all times:

(1) ensure that activity conducted under the User ID assigned to such Authorized User, or any automated trading system for which the User ID is linked to such Authorized User, complies with the Rules;

(2) if such Authorized User was designated by a Participant or an Authorized Trader, have the authority, at the Company's request, to adjust or withdraw any Order, Indication of Interest or Request for Quote submitted to the Trading System under any User ID assigned or linked to such Authorized User;

(3) have and maintain all necessary regulatory approvals and/or licenses to act as an Authorized User; and

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

(e) The Company will promptly notify, in writing, the Participant, the Authorized Trader or the Clearing Firm, as applicable of its approval, or refusal to approve, the designation of an Authorized User. The Company may, in its sole discretion, revoke or suspend the designation of an individual as an Authorized User, and shall promptly notify, in writing, the Participant, the Authorized Trader or the Clearing Firm of such action.

(f) Each Authorized User shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 305(d). A Participant, Authorized Trader or Clearing Firm, as applicable, shall notify the Company in writing if it becomes aware that any of its Authorized Users ceases to meet any of the requirements of Rule 305(d).

(g) A Participant, Authorized Trader or Clearing Firm that seeks to terminate the designation of an individual as an Authorized User shall notify the Company in writing in accordance with procedures established by the Company. The Company shall act to terminate such Authorized User's Trading Privileges or other use of and access to the Trading System in accordance with procedures established by the Company.

**Rule 306. Independent Software Vendors**

A Person seeking to act as an ISV must satisfy the Company's technological integrity requirements and not adversely affect the Company's ability to comply with the CEA and CFTC Regulations.

**Rule 307. Limitations on Access to the Trading System**

(a) The Company may at any time revoke, suspend, limit, restrict or qualify a Participant's Trading Privileges, and those of its Authorized Traders and its and their Authorized Users, in accordance with the procedures set forth in Chapter 7.

(b) Subject to the terms of any agreement between a Participant, Authorized Trader and/or its or their Customers and a Clearing Firm, the Clearing Firm may at any time revoke the authorization of the Participant, Authorized Trader and/or its or their Customers, as applicable, to submit Contracts to a Derivatives Clearing Organization for clearing by such Clearing Firm. Any such revocation shall become effective as soon as practicable after the receipt of written notice thereof by the Company or at such later date as may be specified in the written notice from the Clearing Firm, at which time the Trading Privileges of the Participant, its Authorized Traders and its Authorized Users with respect to the Contracts that are cleared for such Participant or its Authorized Traders or its or their respective Customers by that Clearing Firm shall be terminated, unless, prior to such termination such Participant has designated, in the form and in a manner satisfactory to the Company, another Clearing Firm to clear such Contracts. For the avoidance of doubt, such revocation shall not be effective with respect to any transaction executed prior to such termination of Trading Privileges.

**Rule 308. Notices and Other Communications**

The Company shall publish on the Company's website and transmit to each Designated Representative by electronic mail each addition to or modification of the Company Requirements in accordance with CFTC Regulations, as applicable; provided that publication on the Company's website shall constitute notice to all Participants, Authorized Traders and Authorized Users.

**Rule 309. Designated Representatives**

(a) Each Participant shall designate in writing one or more Designated Representatives who are authorized to represent the Participant before the Company and its committees and receive notices on behalf of the Participant and its Authorized Users. The Company shall be entitled to rely on the actions of the Designated Representative as binding on the Participant and its Authorized Users. Each Participant must provide the Company with the

telephone number, mailing and electronic mail address of its Designated Representatives and shall promptly update this information by written notice whenever it changes.

(b) Each Authorized Trader shall designate in writing one or more Designated Representatives who are authorized to represent the Authorized Trader before the Company and its committees and receive notices on behalf of the Authorized Trader and its Authorized Users. The Company shall be entitled to rely on the actions of the Designated Representative as binding on the Authorized Trader and its Authorized Users. Each Authorized Trader must provide the Company with the telephone number, mailing and electronic mail address of its Designated Representatives and shall promptly update this information by written notice whenever it changes.

**Rule 310. Application of Rules; Jurisdiction of the Company**

(a) By becoming a Participant, Authorized Trader or Authorized User, as applicable, and without any need for any further action, undertaking or agreement, such Participant, Authorized Trader or Authorized User agrees:

(1) to be bound by, and comply with the Rules, Company Requirements and Applicable Law, in each case to the extent applicable to it;

(2) to be bound by the acts and omissions of its Authorized Traders and/or Authorized Users, as applicable;

(3) to assist the Company in complying with the Company's legal and regulatory obligations and to cooperate with the Company in any inquiry, investigation, audit, examination or proceeding; and

(4) to authorize the Company to provide information regarding such Participant, Authorized Trader or Authorized User as provided in Rule 207(b).

(b) A Participant, Authorized Trader or Authorized User whose Trading Privileges and/or ability to otherwise access the Trading System are suspended, revoked or terminated shall remain bound by the Rules, Company Requirements and Applicable Law, in each case to the extent applicable to it, her or him.

(c) Any Person initiating or executing a transaction on the Trading System or subject to the Rules directly or through an intermediary, and any Person for whose benefit such transaction has been initiated or executed, consents to the jurisdiction of the Company with respect to all matters arising from or related to such activity and such transactions.

**Rule 311. Withdrawal of Participant**

(a) To withdraw from the Company, a Participant must notify the Company in writing in accordance with procedures established by the Company for such purpose. Except as otherwise required by law or regulation or by request or order of a Government Agency, such withdrawal will be effective immediately upon receipt of the withdrawal by the Company.

(b) Upon the effective date of the withdrawal of a Participant, all rights and privileges of such Participant, its Authorized Traders and its and their Authorized Users shall terminate (including such Participant's Trading Privileges and ability to access the Trading System). The withdrawal of a Participant shall not affect the rights of the Company under the Rules or relieve the former Participant of its obligation under the terms of any Contract entered into or otherwise arising under the Rules before the effective date of such withdrawal. A Participant that has withdrawn remains subject to the Rules, the Company Requirements and the jurisdiction of the Company for acts done and omissions made while a Participant, and must cooperate in any Company Proceeding under Chapter 7 as if the withdrawn Participant were still a Participant.

**Rule 312. Dues, Assessments and Fees**

Each Participant, Authorized Trader and ISV shall pay when due all dues, assessments and fees as may be established by the Company and published on the Company's website or otherwise agreed between the Company and such Participant, Authorized Trader or ISV. The Company shall charge comparable dues, assessments and fees to Persons that receive comparable access to the Trading System. The Company may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant, Authorized Trader or ISV and its ability to otherwise access the Trading System if such Participant, Authorized Trader or ISV fails to pay such amounts when due. The provisions of Chapter 7 (other than Rule 716) shall not apply to any such suspension, revocation, limitation, condition, restriction or qualification.

## CHAPTER 4. BUSINESS CONDUCT

### **Rule 401. Duties and Responsibilities of Participants and Authorized Traders**

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

(1) use the Company's Trading System in a responsible manner and not for any improper purpose;

(2) use the Company's Trading System only to conduct business that is subject to the Rules and in a manner consistent with the Rules and Company Requirements;

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

(4) comply with the rules of a Derivatives Clearing Organization that accepts for clearing a Contract traded by the Participant, Authorized Trader or Authorized User on the Trading System, to the extent applicable to such Participant, Authorized Trader or Authorized User and such Contract;

(5) observe high standards of commercial honor and just and equitable principles of trade while conducting or seeking to conduct any business connected with or concerning the Company;

(6) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the Company or in connection with a Company Proceeding;

(7) keep all User IDs, account numbers and passwords related to the Company's Trading System confidential; and

(8) keep, or cause to be kept, complete and accurate books and records relating to Participant's or its Authorized Traders' use of the Trading System as required by Applicable Law, including records of their activity in the index or instrument used as a reference price, the underlying instrument and related derivatives markets with respect to Swaps, and make such books and records available for inspection by a representative of the Company or the Regulatory Services Provider in accordance with Rule 403 and otherwise as required by Applicable Law.

(b) In addition to the requirements of Rule 401(a), each Participant shall be responsible for all Orders, RFQs, Indications of Interest and transactions effected on the Trading System by or for the account of such Participant, its Authorized Traders and Authorized Users or by any Person using its or their User IDs or, at the election and sole discretion of Participant, cause its Customer to be fully responsible for all trading losses and bear all financial responsibility for Orders, RFQs, Indications of Interest and transactions effected on the Trading System for the account of or on the behalf of such Customer.

(c) Each Participant and Authorized Trader that is registered, or required to be registered, with the CFTC as a swap dealer or a major swap participant is responsible for compliance with the mandatory trading requirement of Section 2(h)(8) of the CEA when such Participant or Authorized Trader enters into, or facilitates entry into, a Swap.

**Rule 402. Required Notices**

Each Participant, Authorized Trader or ISV shall immediately notify the Market Regulation Department in writing upon becoming aware of any of the following events:

(a) any material changes to the information provided to the Company by the Participant pursuant to Rule 302, 303, 304, 305, 306 or 309;

(b) any refusal of admission to any Self-Regulatory Organization by the Participant or any of its Authorized Traders;

(c) any expulsion, suspension or fine in excess of \$25,000 in the case of an individual or \$50,000 in the case of a firm (whether through an adverse determination, voluntary settlement or otherwise) imposed on the Participant, Authorized Trader or ISV or any of their Authorized Users by any Self-Regulatory Organization;

(d) any revocation, suspension or conditioning of a registration or license granted by the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association or the Financial Industry Regulatory Authority, Inc. to the Participant, Authorized Trader or ISV or any of their Authorized Users;

(e) the commencement of any judicial or administrative proceeding against the Participant, Authorized Trader or ISV or any of their Authorized Users by any commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the Financial Industry Regulatory Authority, Inc. or any Self-Regulatory Organization or the imposition of a fine in excess of \$25,000 in the case of an individual or \$50,000 in the case of a firm, cease and desist order, denial of trading privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the Financial Industry Regulatory Authority, Inc., any Self-Regulatory Organization or, with respect to activity subject to the Rules, any court;

(f) the indictment or conviction of, or any confession of guilt or plea of guilty or *nolo contendere* by, the Participant, Authorized Trader or ISV or any of their Authorized Users, senior officers or principals for any felony or for any misdemeanor involving, arising from, or related to, the purchase or sale of any Contract or other financial instrument, or involving or arising from fraud or moral turpitude; and



(g) the Insolvency of the Participant, any of its Authorized Traders, or any of its or their Affiliates.

**Rule 403. Inspections by the Company**

The Company and the Regulatory Services Provider shall have the right with such prior reasonable advance notice as is practicable under the circumstances, in connection with determining whether the Rules and Company Requirements are being, will be or have been complied with by the Participant or Authorized Trader, to: (a) inspect the books and records of the Participant or Authorized Trader relating to the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades), (b) inspect systems, equipment and software, wherever located, operated by a Participant or Authorized Trader in connection with the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades) (c) access the systems, equipment, software, and the premises on which the Participant's or Authorized Trader's systems, equipment, and software are located, data stored in such systems or equipment, in each case, related to the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades), during the regular business hours and Trading Hours of Company and (d) copy and/or reproduce such data as may be necessary to monitor such Participant or Authorized Trader for compliance with the requirements of Rule 518.

**Rule 404. Financial and Related Reporting Requirements**

(a) Each Participant and Authorized Trader that is registered with or authorized or supervised by a Government Agency shall comply with the provisions of Applicable Law relating to minimum financial and related reporting and recordkeeping requirements.

(b) Each Participant and Authorized Trader must notify the Company and the Regulatory Services Provider immediately when it ceases to be an Eligible Contract Participant, and if the Participant or Authorized Trader is registered with the CFTC as a futures commission merchant, when it ceases to satisfy the minimum financial requirements set out in CFTC Regulation 1.17. Each Participant and Authorized Trader that is registered with the CFTC as a futures commission merchant that is unable to demonstrate that it is in compliance with the minimum financial requirements of CFTC Regulation 1.17 shall not effect transactions in Contracts except for the purpose of closing open positions to the extent not prohibited by Applicable Law.

**Rule 405. Restrictions on Activity**

(a) The Company may limit or restrict the number or type of Contracts that may be traded by a Participant or its Authorized Traders on the Trading System or terminate the Trading Privileges of such Participant, its Authorized Traders and/or its and their Authorized Users if any of the following occurs:

(1) a representation or warranty made by such Participant to the Company under or in connection with any agreement between the Company and the Participant

shall be false or misleading in any material respect as of the date on which made or repeated;

(2) the Participant does not meet the requirements set forth in Rule 302;

(3) the material breach by the Participant or any of its Authorized Traders or Authorized Users of any of the Company Requirements; or

(4) the Company determines that the financial or operational condition of a Participant, one of its Affiliates or an Authorized Trader is such that to allow that Participant to continue to have access to the Trading System would adversely affect the Company or the financial markets

#### **Rule 406. Customers**

The Participant or Authorized Trader shall have arrangements in place with each of its Customers such that every Contract executed for, or other activity engaged in by the Participant or Authorized Trader on the Trading System on behalf of, its Customer is subject to the terms of the Rules insofar as they are applicable to that Contract or activity. Additionally, a Participant or Authorized Trader, as applicable, will be deemed to have made the following representations and warranties each time it makes use of the Trading System on behalf of a Customer:

(a) such Customer is an Eligible Contract Participant; and

(b) with respect to Contracts that are to be cleared by a Derivatives Clearing Organization, either (i) such Participant or the Participant who designated such Authorized Trader, as applicable, is a member of the Derivatives Clearing Organization that is authorized to clear such Contracts for the account(s) of such Customer, or (ii) such Participant or the Participant who designated such Authorized Trader, as applicable, has delivered to the Company evidence satisfactory to the Company, in its sole discretion, that at least one Clearing Firm has agreed to accept Contracts for clearing into the account of such Customer.

#### **Rule 407. Publication of Trade Information**

The Company shall daily publish on its website information regarding volume, price ranges (based on non-cancelled bids, non-cancelled offers, and sales) subject to such prices accurately reflecting market conditions within the discretion of the Company, and opening and closing prices and settlement prices. The Company shall also publish on its website, on a daily basis, the total quantity of Block Trades that are included in the total volume of trading.

#### **Rule 408. Disaster Recovery; Business Continuity**

Each Participant shall have written disaster recovery and business continuity policies and procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations.

**Rule 409. Anti-Money Laundering Obligations**

Each Participant and Authorized Trader will be deemed to have made the following representations, warranties and covenants to the Company, on behalf of itself and its respective Authorized Users and Customers, each time it makes use of the Trading System:

(a) Such Participant or Authorized Trader is in compliance with all laws, rules and regulations applicable to it pertaining to anti-money laundering and anti-terrorism, including those related to sanctions screening and customer identification and verification. Such Participant or Authorized Trader shall provide to the Company, upon request, so long as permitted by Applicable Law, including those pertaining to data privacy, any documents and other information reasonably requested by the Company in order to satisfy any anti-money laundering, anti-terrorism, sanctions screening or other customer identification and verification laws, rules and regulations applicable to the Company; and

(b) To the extent that such Participant or Authorized Trader, or any of their respective Customers, is located within the United States, or is otherwise subject to the jurisdiction of the United States, such Participant, Authorized Trader or Customer is a U.S. person as defined by applicable regulations administered and enforced by the Office of Foreign Assets Control ("OFAC"), is subject to such regulations, and, to the extent applicable, has implemented a program reasonably designed to comply with such regulations. To the extent applicable, as part of its OFAC compliance program, such Participant, Authorized Trader or Customer has screened and will continue periodically to screen against the most recent version of OFAC's List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations and Specially Designated Narcotics Traffickers, the name and address of any counterparty to a transaction it executed or that was executed on its behalf on the Trading System.

## CHAPTER 5. TRADING PRACTICES

### **Rule 501. Scope**

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

### **Rule 502. Rule Violations**

It shall be a violation for any Person subject to the Company's jurisdiction to violate any Rule or any Company Requirement.

### **Rule 503. Just and Equitable Principles of Trade; Acts Detrimental**

It shall be a violation of these Rules for any Person subject to the Company's jurisdiction to engage in conduct inconsistent with just and equitable principles of trade or that is detrimental to the interest or welfare of the Company. A Participant that has actual or constructive notice of a violation of the Rules involving the use of the Trading System by any of its Authorized Traders or any of their respective Authorized Users or Customers may be found to have committed an act detrimental to the Company.

### **Rule 504. Fraudulent Acts Prohibited**

No Person subject to the Company's jurisdiction shall engage in any fraudulent act or engage in any scheme to defraud, deceive or mislead another Person (including the Company and the Regulatory Services Provider) in connection with or relating to any Contract.

### **Rule 505. Fictitious or Noncompetitive Transactions Prohibited**

No Person subject to the Company's jurisdiction shall engage in fictitious or noncompetitive transactions except, in the case of noncompetitive transactions, as otherwise provided in Rules 512(b) and (c) and 515(b) and Chapter 6, or enter an Order, or originate or respond to a Request for Quote or Indication of Interest for such a purpose.

### **Rule 506. Market Manipulation Prohibited**

(a) No Person subject to the Company's jurisdiction shall attempt to manipulate or manipulate the market in any Contract.

(b) Without limiting the generality of the foregoing, parties involved in the solicitation or negotiation of a Block Trade and parties that are privy to nonpublic information regarding a consummated Block Trade may not disclose such information to any other party prior to the reporting of the Block Trade by the Company and may not trade in the same product or closely-related product for the purpose of taking advantage of such information. In addition, pre-hedging or anticipatory hedging of any portion of a Block Trade in the same product or a closely-related product based upon a solicitation to participate in a Block Trade is not permitted. A closely related product is a product that is highly correlated to, serves as a substitute for, or is

the functional economic equivalent of the product being traded as a Block Trade. Counterparties to a Block Trade are permitted to initiate trades to hedge or offset the risk associated with the Block Trade following the consummation of the Block Trade.

**Rule 507. Disruptive Trading Practices Prohibited**

No Person subject to the Company's jurisdiction shall engage in any trading practice or conduct that constitutes a "disruptive trading practice," as such term is described either in Section 4c(a)(5) of the CEA or in interpretive guidance issued by the CFTC, in relation to the trading of any Contract. Conduct prohibited under this Rule 507 includes: violating bids or offers; demonstrating intentional or reckless disregard for the orderly execution of transactions during the closing period; activity that is, or is of the character of, or is commonly known to the trade as "spoofing" (bidding or offering with the intent to cancel the bid or offer before execution); and the entry of data or other information into the Trading System, including Orders, Requests for Quote and Indications of Interest, for the purpose of upsetting the equilibrium of the market in any Contract or creating a condition in which prices do not or will not reflect fair market values.

**Rule 508. Prohibition of Misstatements**

No Person subject to the Company's jurisdiction shall make a misstatement of a material fact to the Company, including any Committee, Disciplinary Panel or Appeal Panel, or to the Regulatory Services Provider, or knowingly omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

**Rule 509. Misuse of the Trading System**

Misuse of the Trading System is strictly prohibited. No Participant, Authorized Trader, Authorized User or other Person subject to the Company's jurisdiction shall (i) permit unauthorized use of the Trading System; (ii) assist any Person in obtaining unauthorized access to the Trading System; (iii) trade in any Swap on the Trading System without an agreement and an established account in good standing with a Clearing Firm; (iv) interfere with the operation of the Trading System; (v) intercept or interfere with information provided by or to the Trading System; or (vi) in any way use the Trading System in a manner contrary to the Rules.

**Rule 510. Financial or Other Incentive Programs**

The Company may from time to time establish programs that provide Participants with financial or other incentives for meeting trading volume, liquidity or other thresholds as may be established by the Company.

**Rule 511. Withholding of Customer Orders Prohibited; Priority of Customer Orders**

(a) Customer Orders (other than a Customer Order allowing discretion as to time and price) must be entered into the Trading System as soon as practicable and in the sequence in which they were received by a Participant or Authorized Trader, as applicable. A Person that

receives a Customer Order shall electronically record the time when such Customer Order was received.

(b) No Person shall withhold or withdraw from the market any Customer Order, or any part of a Customer Order, for the benefit of any Person other than the Customer for whom such Person is placing the Customer Order. No Person shall knowingly enter an Order or submit a Request for Quote into the Trading System for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority (other than an Order allowing discretion as to time and price) when such Person is in possession of a Customer Order for the same Contract that can be but has not been submitted to the Trading System.

(c) Nothing in this Rule 511 shall limit the ability of an “eligible account manager” to bunch Orders in accordance with CFTC Regulation 1.35(b)(5).

**Rule 512. Handling of Customer Orders**

(a) Except as provided in paragraphs (b) and (c), no Person in possession of a Customer Order shall knowingly take, directly or indirectly, the opposite side of such Customer Order on the Trading System’s Order Book for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority.

(b) A Person may knowingly trade on the Trading System’s Order Book against a Customer Order for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority, if the Customer Order has been entered into the Trading System’s Order Book as promptly as practicable after receipt of the Customer Order and has been exposed on the Trading System’s Order Book for a minimum of fifteen (15) seconds.

(c) Except as provided in paragraph (d), opposite Orders for different beneficial owners may not knowingly be simultaneously entered into the Trading System’s Order Book by an Authorized User on behalf of a Participant or Authorized Trader with discretion over both accounts unless one Order is exposed for a minimum of fifteen (15) seconds.

(d) A Customer Order allowing for price and/or time discretion may be knowingly entered into the Trading System’s Order Book opposite another Order entered by the same Person only if it is entered immediately upon receipt or exposed to the market for a minimum of fifteen (15) seconds.

(e) The Company may adjust the fifteen (15) second time delay required under Rule 512(c) for a given Contract, based upon such Contract’s liquidity and other product-specific considerations, provided however that any amended time delay shall provide Participants, Authorized Traders and Authorized Users sufficient time to have a meaningful opportunity to execute against such Order.

(f) The provisions of this Rule 512 shall not apply to Block Trades.

**Rule 513. Disclosing Orders and Requests for Quotes Prohibited**

(a) No Person subject to the Company's jurisdiction shall disclose the terms of an Order, Request for Quote or Indication of Interest prior to its entry into the Trading System, except to a Company Official, the Regulatory Services Provider or a Government Agency, and no Person subject to the Company's jurisdiction shall solicit or induce another Person to disclose such information.

(b) The foregoing shall not apply to pre-execution communications conducted in accordance with Rule 515(b), to Block Trades, to statements of opinion, or to indications of the price at which a market may open or trade.

**Rule 514. Wash Sales Prohibited**

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

**Rule 515. "Money passing," Prearranged, Pre-Negotiated and Noncompetitive Transactions Prohibited**

(a) No Person subject to the Company's jurisdiction may enter Orders or Requests for Quote the purpose of which is to enter into Contracts with a resulting profit to one account and a loss to the other account but no net change in the open positions in either account, commonly known as a "money pass."

(b) No Person subject to the Company's jurisdiction shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any Required Transaction on the Trading System. Notwithstanding the foregoing, a Person may engage in pre-execution communications with regard to Required Transactions executed or to be executed on the Trading System if one party (the first party) wishes to be assured that a contra party (the second party) will take the opposite side of the first party's Order, subject to the following restrictions:

(1) A party may not engage in pre-execution communications with other market participants on behalf of another party unless the party for whose benefit the trade is being made has previously agreed to permit such communications.

(2) Parties to pre-execution communications shall not disclose to a non-party the details of such communications or enter an Order to take advantage of information conveyed during such communications except in accordance with this Rule.

(3) The first party's Order must be entered into the Trading System first, and the second party's Order may not be entered into the Trading System until a period of fifteen (15) seconds has elapsed from the time of entry of the first Order.

(4) Each such Order will be processed and matched separately and the Company does not guarantee that the first and second party's Orders will be matched with each other or that both Orders will be executed.

(c) The provisions of paragraph (b) shall not apply to Permitted Transactions, Block Trades or Requests for Quotes.

**Rule 516. Responsibility for Customer Orders**

A Participant, Authorized Trader or Authorized User may not directly or indirectly guarantee the execution of a Customer Order or any of its terms such as the quantity or price and may only report an execution that has been effected through the Trading System or has been executed pursuant to Chapter 6. This Rule shall not be construed to prevent a Participant or Authorized Trader from assuming or sharing in the losses resulting from an error or the mishandling of a Customer Order.

**Rule 517. Discretionary Customer Orders**

No Person shall submit a discretionary Customer Order to the Trading System without the prior written consent of such Customer to the exercise of such discretion. A Customer Order that solely gives a Participant, Authorized Trader or Authorized User time and price discretion shall not be subject to this Rule.

**Rule 518. Recordkeeping; Audit Trail**

(a) Each Person entering an Order or Indication of Interest into the Trading System or originating or responding to a Request for Quote shall include with such Order, Indication of Interest or Request for Quote such information as may be required by the Company, including, to the extent applicable, the legal entity identifier assigned to each party to a Contract and to each party for whom an Order or Indication of Interest is submitted or Request for Quote is originated or responded to. If a Person receives a Customer Order that cannot be immediately entered into the Trading System or as to which such Person has been given time and price discretion, such Person shall create an electronic record that identifies the Customer from whom the Customer Order has been received, including an electronic timestamp reflecting the date and time (to the nearest second) of receipt.

(b) Participants that provide connectivity to the Trading System to Authorized Traders or other third parties are responsible for maintaining or causing such Authorized Traders or other third parties to maintain a routing/front-end audit trail for all Orders, Indications of Interest and Requests for Quotes, including entry, modification, cancellation and responses to such messages, entered into the Trading System through any gateway to the Trading System, including the times thereof to the highest level of precision achievable by the Participant's operating system, but at least to the nearest second ("Audit Trail"). Times that are so captured must not be capable of being modified.

(1) Participants shall maintain, or shall cause Authorized Traders and other third parties to whom they have provided connectivity to the Trading System to maintain, Audit Trail data in the form and manner required by CFTC Regulations and in



accordance with such additional requirements as may be established by the Company. Participants must have the ability to produce such data, or cause such data to be produced, in a standard format upon request of the Market Regulation Department.

(2) A Participant whose Customer is itself a Participant may agree with such Customer that it is the Customer's obligation to maintain the Audit Trail for such Customer's Orders, Indications of Interest and Requests for Quotes. Any such agreement shall be in writing, a copy of which shall be provided to the Market Regulation Department.

(c) A suspense account may be used at the time of entry of an Order or Request for Quote provided that a contemporaneous electronic or written record of the Order or Request for Quote with the account designation is made, time-stamped and maintained in accordance with this Rule 518, and provided that the correct account designation is provided to the Clearing Firm prior to the end of the trading day. A suspense account may also be used at the time of entry for bunched Orders or Requests for Quote that are eligible for post-trade allocation and that are executed and allocated in accordance with CFTC Regulation 1.35(b)(5).

(d) A Person must include the customer type indicator ("CTI") code with each Order and Request for Quote. The CTI codes are as follows:

(1) CTI 1 - Transactions initiated and executed by a Participant or Authorized Trader for its own account, for an account it controls or for an account in which it has an ownership or financial interest.

(2) CTI 2 - Transactions executed for the proprietary account (as such term is defined in CFTC Regulation 1.3(y)) of a Participant, Authorized Trader or Clearing Firm.

(3) CTI 3 - Transactions in which a Participant, Authorized Trader or Authorized User is trading (i) for the personal account of another Participant, Authorized Trader or Authorized User, (ii) for an account that is controlled by such other Participant, Authorized Trader or Authorized User, or (iii) for an account in which such other Participant, Authorized Trader or Authorized User has an ownership or financial interest.

(4) CTI 4 - Any transaction not within CTIs 1, 2 or 3.

#### **Rule 519. Position Accountability**

A Person who holds or controls aggregate positions in any Swap in excess of the applicable position accountability levels set forth in Rule 523 shall:

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

(b) if so ordered by the Market Regulation Department, not further increase positions that exceed the position accountability levels specified in Rule 523.

**Rule 520. Position Limits**

The Company may establish position limits for one or more Contracts, which, if and when established will be set forth in Rule 523, and grant exemptions from position limits, in accordance with CFTC Regulations. A Person seeking an exemption from position limits must apply to the Market Regulation Department in the form and manner required by the Company.

**Rule 521. Position Information**

Without limiting any other rights of the Company under these Rules or otherwise, the Company shall have the right to request position and trading information in respect of a given Contract from any Participant, Authorized Trader, Authorized User or Customer that has a position in such Contract at or above the applicable position accountability level.

**Rule 522. Aggregation of Positions**

For purposes of Rules 519, 520 and 521, positions in Contracts shall be aggregated in accordance with CFTC Regulations.

**Rule 523. Position Limits and Position Accountability Levels**

The position limits and position accountability levels for Swaps will be calculated on a net basis and are as follows. SwapEx will enforce position limits and position accountability levels only for Contracts executed on the Trading System and Block Trades executed pursuant to Chapter 6 of the Rules.

<b>Contracts</b>	<b>Daily Position Accountability Level</b>	<b>Position Limit Level</b>
Interest Rate Swaps:		
• Floating Rate Index: 3 Month USD LIBOR	\$250 billion	N/A
• Floating Rate Index: 6 Month EURIBOR	€185 billion	N/A
• Floating Rate Index: 6 Month GBP LIBOR	£150 billion	N/A

**Rule 524. Operation of the Trading System**

The following is a summary of the execution methods and credit and risk limit functionality available on the Trading System. It is not intended to provide a comprehensive

description of the operation of the Trading System or the execution methods and/or credit and risk functionality available thereon. Certain execution methods may not be available for certain Contracts (e.g., Contracts that are not cleared, Contracts in certain product types, etc.). Additional information with respect to the operation of the Trading System, the execution methods and credit and risk functionality is provided in the applicable user guide and other specific information that the Company may make available to Participants, Authorized Traders and Authorized Users.

(a) *Execution Methods for Required Transactions:*

(1) *Order Book.* The Trading System's Central Limit Order Book functionality uses a price/time algorithm to match Orders that are eligible to be matched. Whether an Order is eligible to be matched depends on a number of factors including, the order type and expiry type and, if applicable, credit and/or risk limits established for transactions effected through the Trading System.

(2) *Request for Quote.* Under the request for quote ("Request for Quote" or "RFQ") functionality, a Person (the "Taker") may submit an RFQ to not less than the minimum number of market participants ("Makers") required by CFTC Regulations.

(i) A Maker affiliated with a Taker will not count towards the minimum number of Makers required by CFTC Regulations, and Makers that are Affiliates shall for such purposes count only as a single Maker.

(ii) The manner in which Makers receive RFQs on the Trading System and the manner in which the Trading System transmits and displays their responses to RFQs to the Taker will comply with CFTC Regulations.

(iii) At the same time that the Taker receives the first responsive bid or offer from a Maker, the Taker will also receive any firm bid or offer pertaining to the same Contract resting on the Trading System's Order Book.

(iv) The Taker shall have the opportunity to (A) execute against any responsive bid or offer from a Maker or a firm resting bid or offer provided pursuant to subparagraph (iii), or (B) elect not to accept any such bids or offers.

(b) *Execution Methods for Permitted Transactions.* The Trading System will provide the execution method as described in Paragraph (a)(1) above for Permitted Transactions. In addition, the Trading System may provide various other execution methods (including, without limitation the execution method as described in Paragraph (a)(2) above) for Permitted Transactions as notified by the Company to Participants and Authorized Traders from time to time. A Permitted Transaction will be deemed executed on the Trading System upon the Company providing a record of the terms of an executed Order to each counterparty as provided in Rule 525.

(c) *Credit and Risk Limits.* The Trading System permits Participants, Authorized Traders and Clearing Firms to input and establish credit and/or risk limits on the Trading System. The Company may also require Participants, Authorized Traders and/or Clearing Firms to input

and establish credit and/or risk limits on the Trading System. A Person establishing credit and/or risk limits on the Trading System shall be solely responsible for evaluating the creditworthiness of each Person for whom it establishes such limit and for determining whether such Person is in compliance with any such limits with respect to its activity on the Trading System. The Company shall not have any responsibility for compliance with credit limits by a Participant, Authorized Trader or Authorized User, notwithstanding that such credit limits may have been input into the Trading System, or for monitoring, maintaining or enforcing any such credit limits.

**Rule 525. Confirmation of Transactions**

(a) The Company will confirm all of the terms of a transaction (a "Confirmation") as required by CFTC Regulations at the time such Contract is executed on the Trading System. A Contract that is effected as a Block Trade shall be confirmed by the Company when it is executed on the Trading System. Such Confirmation shall legally supersede any previous agreement between the counterparties to such Contract.

(b) With respect to a transaction in a Contract that is not a Cleared Contract, a Confirmation shall, for purposes of CFTC Regulation 37.6(b), consist of the Trade Communication and the Terms Incorporated by Reference. In the event of any conflict between (i) the Trade Communication and (ii) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of any inconsistency. "Trade Communication" means the written communication containing the economic terms specific to a transaction provided by the Company to the Participant(s) and/or Authorized Trader(s) who executed such transaction on the Trading System and shall be deemed to include the applicable Contract Specifications. "Terms Incorporated by Reference" means the documents and agreements between the counterparties to the transaction (including, without limitation, ISDA master agreements, other master agreements, terms supplements, master confirmation agreements and incorporated industry definitions) governing such transactions existing at the time of execution of the transaction. The Participant(s) and/or Authorized Trader(s) must, as applicable, maintain in accordance with Rule 401(a)(8) copies of all Terms Incorporated by Reference and, for purposes of compliance with these Rules and CFTC Regulations, shall be deemed to hold such Terms Incorporated by Reference on behalf of the Company.

**Rule 526. Trade Cancellations and Price Adjustments**

(a) Cancellation of Cleared Contracts Not Accepted for Clearing.

(1) If a transaction is submitted to, but not accepted for clearing by, a Derivatives Clearing Organization, such transaction shall be deemed to be void *ab initio* following receipt of a clearing rejection notice from the Derivatives Clearing Organization and neither of the parties thereto nor the Company shall have any further responsibility for such transaction under these Rules.

(2) No Participant, Authorized Trader or Customer or prospective Participant, Authorized Trader or Customer may enforce a Breakage Agreement with another Participant, Authorized Trader or Customer, or require such an agreement as a condition

to trading with such other Participant, Authorized Trader or Customer on or pursuant to the Rules in respect of a Cleared Contract.

(b) Company Authority

(1) The Company has authority to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market-disrupting events caused by the improper or erroneous use of the Trading System or by a malfunction or other technological error in the Trading System.

(2) Notwithstanding any other provision of this Rule 526, the Company may adjust trade prices or bust any trade if the Company determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market.

(c) Review of Trades

(1) The Company may determine to review a trade based on its independent analysis of market activity or upon request for review by a Participant. A request for review must be made within fifteen (15) minutes of the execution of the trade.

(2) The Company shall determine whether or not a trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the Company deems it to be appropriate, the Company may determine, in its sole discretion, that a trade shall not be subject to review. In addition, notwithstanding anything to the contrary herein, any trade that is entered into pursuant to a Market Order or a Stop Loss Order or that has been accepted for clearing by a Derivatives Clearing Organization shall not be subject to review.

(3) Upon deciding to review a trade, the Company shall promptly issue an alert to all Participants via the Trading System or electronic mail indicating that the trade is under review.

(d) Price Adjustments and Trade Busts

(1) *Company Review Procedures.* In reviewing a trade, the Company shall first determine whether the trade price is within the No-Bust Range set forth in paragraph (g).

(2) *Trade Price Inside the No-Bust Range.* If the Company determines that the price of the trade is inside the No-Bust Range, the Company shall issue an alert indicating that the trade shall stand.

(3) *Trade Price Outside the No-Bust Range.* If the Company determines that a trade price is outside the No-Bust Range, the Company may cancel the trade if the Company determines (i) that the trade was the result of an error, (ii) that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market or (iii) that cancellation is necessary to mitigate market-disrupting events caused

by the improper or erroneous use of the Trading System or by a malfunction or other technological error in the Trading System. The Company shall issue an alert regarding such cancellation.

(4) *Trade Cancellations and Adjustments.* Busted trade prices and any prices that have been adjusted shall be cancelled in the Company's official record of time and sales. Trades that are price-adjusted shall be inserted in the time and sales record at the adjusted trade price.

(e) Alternative Resolution by Agreement of Parties.

(1) With the approval of the Company, parties to a trade that is price-adjusted may instead mutually agree to cancel the trade.

(2) With the approval of the Company, parties to a trade that is busted may instead mutually agree to price adjust the trade by cancelling the trade and reporting a new trade at the adjusted price.

(f) [Reserved.]

(g) No-Bust Ranges

<b>Contracts</b>	<b>No-Bust Ranges</b>	
Interest Rate Swaps – Rate Negotiated	A yield off by 5 basis points from the determination of fair market value by the Company.	
Interest Rate Swaps – NPV Negotiated	A yield equivalent off by 5 basis points from the determination of fair market value by the Company.	
Non-deliverable Foreign Exchange Forwards	An exchange rate off by a set number of “pips” (as such term is commonly understood in the foreign exchange marketplace) from the determination of fair market value by the Company. The number of pips for the currency pairs available for trading on the Trading System are set forth in the table below:	
	<b>Currency Pair</b>	<b>Pips</b>
	USD/ARS	100
	USD/BRL	100
	USD/CLP	150
	USD/CNY	100
	USD/COP	50

	USD/IDR	200
	USD/INR	30
	USD/KRW	5
	USD/MYR	150
	USD/PEN	200
	USD/PHP	20
	USD/RUB	10
	USD/TWD	10

(h) Company Determinations Final

All determinations and decisions of the Company with respect to the foregoing matters shall be final.

**Rule 527. Limitation of Liability; No Warranties**

(a) EXCEPT IN INSTANCES IN WHICH THE DISCLAIMING PARTY (DEFINED BELOW) HAS BEEN FINALLY ADJUDICATED BY A COURT OF COMPETENT JURISDICTION TO HAVE ENGAGED IN FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN WHICH CASE THE DISCLAIMING PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE 527 AND WITHOUT LIMITING THE COMPANY'S INDEMNIFICATION OBLIGATIONS UNDER RULE 914, NEITHER THE COMPANY, NOR ANY AFFILIATE OF THE COMPANY, NOR ANY OF THEIR RESPECTIVE MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, EQUITYHOLDERS, AGENTS, CONSULTANTS OR SERVICE PROVIDERS (INCLUDING ANY REGULATORY SERVICES PROVIDER), NOR ANY MEMBER OF ANY COMMITTEE OR OTHER GOVERNING BODY OF ANY AFFILIATE OF THE COMPANY (EACH OF THE FOREGOING, AS APPLICABLE, THE "DISCLAIMING PARTY" AND, COLLECTIVELY, "DISCLAIMING PARTIES"), SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES ARISING OUT OF OR IN CONNECTION WITH:

(1) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER EVENT, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF THE TRADING SYSTEM OR ANY OTHER SYSTEMS AND SERVICES OF THE COMPANY, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING ELECTRONIC ORDER ENTRY AND DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY CLEARING FIRMS, PARTICIPANTS, AUTHORIZED TRADERS, AND AUTHORIZED USERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE AND FIRMWARE RELATING THERETO; OR

(2) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER EVENT, OF

ANY SYSTEM OR SERVICE OF THE COMPANY, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR

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

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

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM IS BASED ON BREACH OF CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, NEGLIGENT MISREPRESENTATION, RESTITUTION, BREACH OF STATUTORY DUTY, BREACH OF WARRANTY OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM.

(b) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS PROVIDED BY THE COMPANY OR ANY OTHER DISCLAIMING PARTIES, RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE TRADING SYSTEM AND THE COMPANY HEREBY SPECIFICALLY DISCLAIMS, OVERRIDES AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS WITH RESPECT TO THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE COMPANY OR ANY OTHER DISCLAIMING PARTY OR OTHERWISE (INCLUDING BUT NOT LIMITED TO, AS TO TITLE, SATISFACTORY QUALITY, ACCURACY, COMPLETENESS, UNINTERRUPTED USE, NON-INFRINGEMENT, TIMELINESS, TRUTHFULNESS, SEQUENCE AND ANY IMPLIED WARRANTIES, CONDITIONS AND OTHER CONTRACTUAL TERMS ARISING FROM TRANSACTION USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE) RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE TRADING SYSTEM.

(c) THE COMPANY'S TOTAL COMBINED AGGREGATE LIABILITIES SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED BY ALL PERSONS FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,000,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS IN A SINGLE CALENDAR YEAR. If the number of allowed claims arising out of any failures or malfunctions on a single day or single month cannot be fully satisfied because of the above dollar limitations, all such claims shall be limited to a pro rata share of the maximum amount for the respective period. In no event shall the total combined aggregate liability of the Disclaiming Parties for all claims arising out of any failures, malfunctions, faults in delivery, delays, omissions, suspensions, inaccuracies, interruptions, terminations or any other causes in connection with the furnishing, performance, operation, maintenance, use of or inability to use all or any part of any of the Company's systems or services, or services, equipment or facilities used to support such systems or services, including the Trading System, or the negligence of the Company or any Disclaiming Party exceed \$2,000,000 in any given calendar year. The limitations of liability in this Rule 527(c) shall not apply to the Company's indemnification obligations under Rule 914.



(d) Under no circumstances shall the Company be liable to a Participant or any other Person for any indirect, special, incidental, consequential, exemplary loss or punitive damages of any kind, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties or otherwise, including any loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of market share, loss of goodwill, loss of reputation or loss of, damage to or corruption of data, however suffered or incurred, regardless of whether the Company has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

(e) Under no circumstances shall the Company be liable for the acts, errors or omissions of any third party, including any data communication service, Swap Data Repository or Derivatives Clearing Organization.

(f) Any dispute arising out of the use of the systems or services of the Company or services, equipment, or facilities used to support such systems or services, including the Trading System, in which one or more Disclaiming Parties is a party shall be arbitrated pursuant to the Rules in Chapter 8, and references in Chapter 8 to a "Participant" shall, to the extent relevant, be deemed for such purpose to mean and include the Disclaiming Parties. Any such claim against a Disclaiming Party shall be brought within one (1) year from the time that a cause of action has accrued. This paragraph (f) shall in no way be construed to create a cause of action and shall not authorize an action that would otherwise be prohibited by the Rules. If for any reason, a court of competent jurisdiction finds that a dispute is not arbitrable, such dispute may be litigated only in accordance with Rule 912.

#### **Rule 528. Swap Data Reporting**

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

(b) The Reporting Counterparty for each Contract executed on the Trading System shall be established pursuant to CFTC Regulation 45.8. If both counterparties are equal in the hierarchy set out in CFTC Regulation 45.8 (for example, both are swap dealers), the Reporting Counterparty for such Contract shall be (a) with respect to foreign exchange Contracts, the seller of the currency that is higher in alphabetical order determined based on currency code (for example, in a USD/BRL trade, the seller of BRL would be the Reporting Counterparty because B is alphabetically higher than U) and (b) for interest rate swap Contracts, determined in accordance with *Dodd Frank Act - Swap Transaction Reporting Party Requirements* (version July 15, 2013), published by ISDA.

(c) The Company shall from time to time designate a Swap Data Repository in respect of one or more Contracts in accordance with the notice provisions of Rule 308.

(d) Each Participant and Authorized Trader:

(1) authorizes the Company to send Required Swap Creation Data on its behalf and, if applicable, on behalf of its Customers to the relevant Swap Data Repository designated in accordance with Rule 528(c) and further agrees to take all such actions as are deemed necessary or required by such Swap Data Repository to facilitate or confirm such authorization; and

(2) consents to the maintenance of such Required Swap Creation Data by the relevant Swap Data Repository designated in accordance with Rule 528(c).

(e) Each Participant, Authorized Trader and Authorized User that enters an Order, an Indication of Interest or a Request for Quote into the Trading System shall include with each such Order, an Indication of Interest or a Request for Quote the following information (to the extent such information is not provided by the Trading System):

(1) the legal entity identifier of such Participant or Authorized Trader, if available;

(2) a yes/no indication of whether such Participant or Authorized Trader is a swap dealer with respect to the Contract for which the Order, Indication of Interest or Request for Quote is placed;

(3) a yes/no indication of whether such Participant or Authorized Trader is a major swap participant with respect to the Contract for which the Order, Indication of Interest or Request for Quote is placed;

(4) a yes/no indication of whether such Participant or Authorized Trader is a financial entity as such term has been defined by the CFTC;

(5) a yes/no indication of whether such Participant or Authorized Trader is a U.S. person as such term has been defined by the CFTC; and

(6) if the Contract will be allocated:

(A) an indication that the Contract will be allocated;

(B) the legal entity identifier of the agent;

(C) an indication of whether the Contract is a post-allocation swap; and

(D) if the Contract is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent.

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

**Rule 529. Updating Required Swap Creation Data**

Any Participant, Authorized Trader or Customer that discovers any error, omission or required amendment to Required Swap Creation Data for a Contract submitted on its behalf shall promptly submit corrected data to the Company and, if the error or omission relates to a Block Trade, the counterparty to such Block Trade.

## CHAPTER 6. BLOCK TRADES

### Rule 601. Block Trades

(a) Block Trades shall be permitted to the extent consistent with CFTC Regulations and these Rules.

(b) The following shall govern Block Trades:

(1) A Block Trade must be for a quantity that is at or in excess of the applicable minimum block size established by the CFTC. Orders for different accounts may not be aggregated to achieve the minimum block size, except as permitted pursuant to applicable CFTC Regulations, interpretations or guidance.

(2) Spread trades may be executed as Block Trades, provided that the quantity of each leg of the spread meets the minimum quantity for each respective maturity.

(3) A Participant or Authorized Trader must receive instructions from a Customer or obtain the Customer's prior consent before entering into a Block Trade on behalf of that Customer.

(4) A Block Trade may only be executed pursuant to the Rules and Company Requirements and submitted to the Company if both counterparties to the trade are Participants, Authorized Traders or Customers of Participants or Authorized Traders, and all Block Trades must be executed on the Trading System.

(5) The Company shall transmit all required Block Trade data to a Swap Data Repository as soon as technologically practicable following receipt of such data by the Company.

### Rule 602. Time-Stamp Requirements for Block Trades

All Block Trades executed in accordance with Chapter 6 are subject to the following requirements.

(a) The record of each Block Trade maintained by the parties to the Block Trade pursuant to Rule 401(a)(8) shall include an electronic time-stamp reflecting the date and time of execution.

(b) The Company shall time-stamp the transaction and pricing data with the date and time (to the nearest second) that the Company receives such data from the party reporting the Block Trade and the date and time when the Company transmits such data to a Swap Data Repository.

## CHAPTER 7. DISCIPLINARY RULES

### Rule 701. General

(a) A Person subject to the Company's jurisdiction shall be subject to this Chapter 7 if such Person is alleged to have violated, to have aided and abetted a violation of, to be violating, or to be about to violate, any Rule.

(b) The Company, through the Market Regulation Department and the Disciplinary Panel, will conduct Disciplinary Proceedings. The Market Regulation Department will maintain an enforcement staff that will prosecute violations in accordance with this Chapter 7. The enforcement staff shall not include Participants, Authorized Traders, Authorized Users, Customers or Persons whose interests conflict with their enforcement duties. Members of the enforcement staff shall not operate under the direct control of any person with Trading Privileges. No member of the Market Regulation Department may be a Disciplinary Panel Member or Appeal Panel Member. Any reference to the Market Regulation Department in this Chapter 7 shall also be a reference to the enforcement staff.

(c) No Company Official, Director or Officer will interfere with or attempt to influence the process or resolution of any Disciplinary Proceeding, except to the extent provided under the Rules with respect to a Disciplinary Proceeding in which an Officer or Company Official is a member of the enforcement staff or a Director is a member of the relevant Disciplinary Panel or Appeal Panel.

(d) No Person subject to the Company's jurisdiction may knowingly or intentionally impede or delay any Disciplinary Proceeding or any inquiry or investigation by the Market Regulation Department.

(e) A Person who acts in violation of Rule 701(d) may be subject to summary suspension or other summary action in accordance with Rule 717.

(f) Any Person subject to the Company's jurisdiction may be represented in a Disciplinary Proceeding by legal counsel or any other representative of its choosing at its own expense.

(g) Liability.

(1) The Company may hold a Participant liable for, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation of these Rules as well as for the acts and omissions of (i) such Participant's Authorized Traders and Authorized Users or (ii) a Person using the User ID of any of such Participant's Authorized Users, in each case, that constitute a violation as if such violation were that of the Participant.

(2) The Company may hold an Authorized Trader liable for, and impose sanctions against such Authorized Trader, for such Authorized Trader's own acts and omissions that constitute a violation of these Rules as well as for the acts and omissions of (i) such Authorized Trader's Authorized Users or (ii) a Person using the

User ID of any of such Authorized Trader's Authorized Users, in each case, that constitute a violation as if such violation were that of the Authorized Trader.

(3) The Company may hold an Authorized User liable for, and impose sanctions against such Authorized User, for such Authorized User's own acts and omissions that constitute a violation of these Rules, as well as or for the acts and omissions of a Person using such Authorized User's User ID that constitute a violation as if such violation were that of the Authorized User.

(4) The Company may hold any Person subject to the Company's jurisdiction liable for, and impose sanctions against such Person, for such Person's own acts and omissions that constitute a violation of these Rules.

(h) Ex Parte Communications.

(1) A Person subject to a Disciplinary Proceeding (and any legal counsel or other representative of such Person) and the Market Regulation Department (and any legal counsel or other representative of the Market Regulation Department) shall not knowingly make or cause to be made an ex parte communication relevant to the merits of a Disciplinary Proceeding to any member of the Disciplinary Panel or the Appeal Panel hearing such proceeding or appeal, as applicable.

(2) Members of the Disciplinary Panel or the Appeal Panel, as applicable, shall not knowingly make or cause to be made an ex parte communication relevant to the merits of a Disciplinary Proceeding to any Person subject to such proceeding, the Market Regulation Department or any legal counsel or other representative of such Person or the Market Regulation Department.

(3) Any Person who receives makes or learns of any communication that is prohibited by this Rule shall promptly give written notice of such communication and any response thereto to the Market Regulation Department and all parties to the Disciplinary Proceeding to which the communication relates.

(4) A Person shall not be deemed to have violated this Rule if the Person refuses an attempted communication concerning the merits of a Disciplinary Proceeding as soon as it becomes apparent the communication concerns the merits.

**Rule 702. Inquiries and Investigation**

(a) The Market Regulation Department shall make such inquiries as it deems necessary or appropriate to monitor Participants' and other Persons' compliance with the Rules. The Market Regulation Department shall commence an investigation, as provided in paragraph (b), if it has reason to believe that the Rules have been or may be violated or upon the receipt of a request from the CFTC. Any member of the Market Regulation Department must promptly recuse himself or herself and notify the Chief Compliance Officer if such member has a material conflict of interest with respect to any potential respondent in an Investigation Report.

(b) Persons subject to the Company's jurisdiction shall assist the Company and the Regulatory Services Provider in any investigation into potential violations of the Rules and the Company or the Regulatory Services Provider may require such Person to furnish such information concerning such Person's business that is subject to the Rules and Company Requirements as the Company may deem necessary to enable the Company to perform its obligations under Applicable Law, including information relating to Contracts and related financial instruments, and information requested by a Government Agency, Self-Regulatory Organization, Derivatives Clearing Organization or service provider or licensor relating to the Company's business as a swap execution facility and/or the Company's compliance with Applicable Law. The Company or the Regulatory Services Provider may require such Person to produce documents, to answer questions from the Company, and/or to appear in connection with an investigation.

(c) The Market Regulation Department will investigate apparent violations of the Rules of which it becomes aware. The Market Regulation Department will commence an investigation upon the receipt of a request from CFTC staff or upon the discovery or receipt of information by the Company that, in the judgment of the Market Regulation Department, indicates a reasonable basis for finding that a violation has occurred or will occur. The Market Regulation Department will determine the nature and scope of its inquiries and investigations in its sole discretion and will function independently of the commercial interests of the Company.

(d) The Market Regulation Department has the authority to:

- (1) initiate and conduct inquiries and investigations;
- (2) prepare Investigation Reports and make recommendations concerning initiating Disciplinary Proceedings; and
- (3) prosecute alleged violations within the Company's disciplinary jurisdiction.

(e) Each Person subject to the Company's jurisdiction is obligated to appear and testify and respond in writing to requests for information from the Market Regulation Department and to produce books, records, papers, documents or other tangible evidence in such Person's possession, custody or control within the time period required by the Market Regulation Department.

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

(a) The Market Regulation Department will maintain a log of all investigations and their disposition. The Market Regulation Department will prepare a written report of each investigation (the "Investigation Report"), regardless of whether the evidence gathered during an investigation forms a reasonable basis to believe that a violation within the Company's jurisdiction has occurred or is about to occur or whether the evidence gathered results in closing the matter without further action or through summary action.

(b) The Investigation Report shall include the reasons for initiating the investigation (including a summary of the complaint, if any), all relevant facts and evidence gathered, Market

Regulation Department staff's analysis and conclusions and the recommendation of the Market Regulation Department. For each potential respondent, the Market Regulation Department will recommend either:

- (1) closing the investigation without further action;
- (2) resolving the investigation through an informal disposition, including the issuance of a warning letter. An informal disposition (including the issuance of a warning letter) shall not constitute a finding of a violation or a sanction;
- (3) summary action;
- (4) the preparation and service of a notice of charges for instituting a Disciplinary Proceeding and recommended sanctions if a violation is found to have occurred by a Hearing Panel; or
- (5) a negotiated settlement.

(c) The Investigation Report shall be provided to the Chief Compliance Officer for a determination as to whether the Investigation Report is complete.

(d) Each Market Regulation Department investigation shall be completed in a timely manner and, absent mitigating factors, no later than twelve (12) months after the date that an investigation is opened. Mitigating factors that may justify an investigation taking longer than twelve (12) months to complete include the complexity of the investigation, the number of potential wrongdoers, the number of potential violations to be investigated and the volume of documents and data to be examined and analyzed.

#### **Rule 704. Opportunity to Respond**

(a) After completing its Investigation Report, the Market Regulation Department shall, where applicable and with the authorization of the Chief Compliance Officer, notify each potential respondent that the Market Regulation Department has recommended formal disciplinary charges against the potential respondent.

(b) The Market Regulation Department shall allow a potential respondent to submit a written statement explaining why a Disciplinary Proceeding should not be instituted and/or one or more of the potential charges should not be brought. The potential respondent shall submit any written statement within the time limit established by the Market Regulation Department.

#### **Rule 705. Review of Investigation Reports**

(a) After the completion of the Investigation Report and the receipt of any submission made by the proposed respondent pursuant to Rule 704(b), the Chief Compliance Officer shall decide whether to refer the Investigation Report to the Market Regulation Department for further review or to establish a Review Panel. The Market Regulation Department or Review Panel, as appropriate, shall, within thirty (30) days, take one of the following actions:



(1) If the Market Regulation Department or Review Panel, as appropriate, determines that additional investigation or evidence is needed, it shall promptly conduct such further investigation;

(2) If the Market Regulation Department or Review Panel, as appropriate, determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it shall direct that no further action be taken. Such determination shall be in writing, and shall include a written statement setting forth the facts and analysis supporting the decision; or

(3) If the Market Regulation Department or Review Panel, as appropriate, determines that a reasonable basis exists for finding a violation and adjudication is warranted, it shall direct that the Person alleged to have committed the violation be served with a notice of charges and proceed in accordance with this Chapter 7 or to be issued a warning letter meeting the requirements set forth in Rule 714(b)(1).

(b) A failure of the Market Regulation Department or Review Panel, as appropriate, to act within the time prescribed in paragraph (a) shall not prevent the Chief Compliance Officer from issuing a warning letter if he or she deems it appropriate to do so. The Chief Compliance Officer shall inform the Regulatory Oversight Committee of any such failure of the Market Regulation Department or Review Panel, as appropriate, to act.

**Rule 706. Notice of Charges**

(a) If the Market Regulation Department or Review Panel, as appropriate, authorizes Disciplinary Proceedings pursuant to Rule 705(a)(3), it will prepare, and serve in accordance with Rule 707, a notice of charges.

(b) A notice of charges shall:

(1) state the acts, practices or conduct that the respondent is alleged to have engaged in;

(2) state each specific Rule alleged to have been violated or about to be violated;

(3) advise the respondent of its right to a hearing;

(4) advise the respondent that it has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process (other than a Director, Officer or employee of the Company, any member of the Disciplinary Panel or any person substantially related to the Disciplinary Proceedings such as a material witness or other respondent);

(5) state the period of time within which the respondent may file an answer to, and request a hearing on, the notice of charges, which will, except for good cause, not be less than twenty (20) days after service of the notice of charges;

(6) advise the respondent that any failure to request a hearing within the period stated, except for good cause, will be deemed to constitute a waiver of the right to a hearing; and

(7) advise the respondent that any allegation in the notice of charges that is not expressly denied will be deemed to be admitted.

**Rule 707. Service of Notice**

Any notice of charges or other documents to be served pursuant to this Chapter 7 may be served upon the respondent, and service shall be deemed complete, upon: (i) deposit in the United States mail, postage prepaid, via registered or certified mail; (ii) delivery of the same to a recognized courier service, addressed to the respondent at the respondent's last known place of business or residence; or (iii) transmittal by electronic mail to the electronic mail address as it appears on the books and records of the Company, if followed by a hard copy of the document sent promptly thereafter by United States mail, postage prepaid, via registered or certified mail.

**Rule 708. Answer to Notice of Charges**

(a) If the respondent determines to answer a notice of charges, the respondent shall file its answer within twenty (20) days after being served with such notice, or within such other reasonable time period as may be determined by the Chief Compliance Officer.

(b) To answer a notice of charges, the respondent must in writing:

(1) specify the allegations that the respondent denies or admits;

(2) specify the allegations that the respondent does not have sufficient information to either deny or admit;

(3) specify any specific facts that contradict the notice of charges;

(4) specify any affirmative defenses to the notice of charges;

(5) sign and serve the answer on the Chief Compliance Officer; and

(6) if applicable, request a hearing before a Hearing Panel.

(c) Any failure by the respondent to timely serve an answer to a notice of charges will be deemed to be an admission to the allegations in such notice and a waiver of any right to a hearing before a Hearing Panel and to appeal any sanction that may be imposed. Any failure by the respondent to answer one or more allegations in a notice of charges will be deemed to be an admission of that allegation or those allegations. Any allegation in a notice of charges that the respondent fails to expressly deny will be deemed to be admitted. A general denial by the respondent, without more, will not satisfy the requirements of paragraph (b).

(d) If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Hearing Panel shall find that the violations set forth in such allegations

have been committed and shall impose a sanction for such violations. The Hearing Panel shall promptly notify the respondent in writing of any sanction imposed pursuant to this Rule 708 and advise the respondent that the respondent may request, in writing, a hearing on such sanction within twenty (20) days of respondent being served with such notice. Any failure by the respondent to timely request a hearing with respect to a notice of sanctions will be deemed to be an acceptance of the sanctions in such notice and a waiver of any right to appeal such sanctions.

#### **Rule 709. Settlements**

(a) A respondent or potential respondent may at any time propose in writing an offer of settlement related to anticipated or instituted Disciplinary Proceedings. All offers of settlement shall be submitted to the Chief Compliance Officer.

(b) A respondent or potential respondent may offer to settle Disciplinary Proceedings without admitting or denying the findings contained in the order of the Disciplinary Proceedings but must accept the jurisdiction of the Company over it and over the subject matter of the proceedings, consent to the entry of the findings and sanctions imposed and waive its right to notice, opportunity for a hearing and any and all right to review and appeal under Applicable Law.

(c) If a respondent or potential respondent submits an offer of settlement in accordance with paragraph (a) above, the Chief Compliance Officer will forward the offer, together with his or her recommendation on whether to accept or reject the offer, to the Disciplinary Panel. The respondent or potential respondent may withdraw such offer of settlement at any time before acceptance by the Disciplinary Panel, but may not withdraw such offer at any time after acceptance by the Disciplinary Panel.

(d) If an offer of settlement is accepted by the Disciplinary Panel, it shall issue a written decision specifying:

(1) the Rule violations it has reason to believe were committed, including the basis or reasons for its conclusions;

(2) any sanction to be imposed, which must include full customer restitution where customer harm is demonstrated; and

(3) if applicable, that the respondent has accepted the sanctions imposed without either admitting or denying the Rule violations.

(e) In the event that the Disciplinary Panel accepts an offer of settlement without the agreement of the Market Regulation Department, the decision must adequately support such acceptance. Upon issuance of the written decision in accordance with paragraph (d), the respondent's submission of the offer will be deemed to constitute a waiver of any right to notice, the opportunity for a hearing and review and appeal under the Rules.

(f) If the offer of settlement of a respondent or potential respondent is not accepted by the Disciplinary Panel or for any other reason fails to become final, the matter will proceed as if the offer had not been made and the offer and all documents relating to it will not become part

of the record that is made available to a subsequent Disciplinary Panel or Appeal Panel but may be retained by the Company in its records. Neither a respondent or potential respondent nor the Market Regulation Department may use an unaccepted offer of settlement in any manner at a hearing of, or appeal from, Disciplinary Proceedings.

**Rule 710. Disciplinary Panel**

(a) A Review Panel, if established pursuant to Rule 705(a), is responsible for reviewing a completed Investigation Report and for determining whether a reasonable basis exists for finding a violation of the Rules and authorizing the issuance of a notice of charges. A Hearing Panel shall conduct hearings in connection with any Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 716), to make findings, render decisions, and impose sanctions pursuant to this Chapter 7.

(b) A Disciplinary Panel for a Disciplinary Proceeding other than a Summary Proceeding shall be composed of three (3) individuals that have been appointed by the Chief Compliance Officer. To the greatest extent practicable, the members shall be from diverse industry participant groups so that no group or class of industry participants dominates or exercises a disproportionate influence on the Disciplinary Panel. No employee of the Company may serve on a Disciplinary Panel. Subject to paragraphs (c) and (d), the appointment of a member of a Disciplinary Panel will not expire until the relevant Disciplinary Proceedings are completed.

(c) If an individual selected is an Interested Person or if a member of a Disciplinary Panel later becomes an Interested Person, a replacement for such individual shall be selected by the Chief Compliance Officer. Except as may otherwise be provided in the Rules, the Board may at any time remove any member of a Disciplinary Panel for cause.

(d) Within ten (10) days of being notified of the appointment of a Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in Rule 206 by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the respondent will be deemed to have waived any objection to the composition of a Disciplinary Panel. The Chair of the Regulatory Oversight Committee will decide the merits of any request for disqualification within his or her sole discretion. Any such decision shall be final and not subject to appeal.

(e) All information, records, materials and documents provided to a Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a Company investigation or as otherwise required by law. No individual shall serve on a Disciplinary Panel unless that individual has agreed in writing that he or she will not publish, divulge, or make known in any manner facts or information regarding the business of any Person or other information which may come to his attention in his official capacity as a member of the Disciplinary Panel, except when reporting to the Board or to a Committee concerned with such information or to the Market Regulation Department, when requested by the CFTC or other Government Agency, or when compelled to testify in any judicial or administrative proceeding.

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

(a) Prior to the commencement of a hearing, each respondent will be given the opportunity, subject to paragraphs (b) and (c), to review all books, records, documents, papers, transcripts of testimony and other tangible evidence in the possession or under the control of the Company that the Market Regulation Department will use to support the allegations and proposed sanctions in the notice of charges or which the chair of the Hearing Panel otherwise deems relevant to the Disciplinary Proceedings. Unless determined otherwise by the chair of the Hearing Panel, all such requests for access to information must be made not less than ten (10) days prior to the scheduled hearing date. Notwithstanding the foregoing, a respondent shall not have the right to review, and the Company shall have no obligation to disclose, information that (i) is protected by attorney-client privilege or attorney work product; (ii) was prepared by an employee of the Company but will not be offered in evidence in the Disciplinary Proceedings; (iii) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or (iv) discloses the identity of a confidential source.

(b) The Market Regulation Department may redact, edit or code data and information before furnishing it to the respondent if books, records, documents, papers, transcripts of testimony or other tangible evidence that would otherwise be required to be provided to a respondent contain data or information that could adversely affect the competitive position of the Person providing such data or information or if such data or information might compromise other investigations being conducted by the Market Regulation Department. For purposes of this Rule 711, data and information that could adversely affect a Person's competitive position include positions in Contracts, trading strategies, the identity of any Participant, Authorized Trader or Authorized User and the finances of the Person providing the information. Notwithstanding the foregoing, the Market Regulation Department shall not redact, edit or code competitive or investigative data or information contained in documents in a manner that materially impairs the respondent's ability to defend against the allegations or proposed sanctions in the notices of charges and shall provide the respondent with reasonable access to the information and portions of the documents that the Market Regulation Department intends to rely on to support the allegations or proposed sanctions in the notice of charges.

(c) The respondent shall treat as confidential all data and information provided to it pursuant to this Rule 711, and shall not disclose any such data or information, except as necessary to the respondent's defense of notice of charges and any appeal of the decision of the Hearing Panel.

**Rule 712. Hearings**

(a) All Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 716) will be conducted at a hearing before a Hearing Panel, which will be convened promptly after reasonable notice to each respondent. Parties to a Disciplinary Proceeding shall include each respondent and the Market Regulation Department.

(b) At a hearing conducted in connection with any Disciplinary Proceeding, the Market Regulation Department will present its case supporting the allegations and proposed sanctions in the notice of charges to the Hearing Panel. If a respondent has timely filed an

answer to the notice of charges in accordance with Rule 708, the respondent shall be entitled to attend and participate in the hearing. All hearings will be conducted privately and confidentially.

(c) At a hearing conducted in connection with Disciplinary Proceedings, the Market Regulation Department and each respondent entitled to participate in such hearing may:

- (1) present evidence and facts determined relevant and admissible by the chair of the Hearing Panel;
- (2) call and examine witnesses; and
- (3) cross-examine witnesses called by other parties.

(d) If the respondent fails to file an answer, has filed a general denial, or if any or all of the allegations in the notice of charges are not expressly denied in the respondent's answer, the chair of the Hearing Panel may limit evidence concerning any allegations not expressly denied in determining the sanctions to impose. If, in such a case, the respondent appears at the hearing, the respondent may not participate in the hearing with respect to such allegations that the respondent failed to properly deny (unless such hearing is a hearing conducted pursuant to Rule 708(d)) by calling or cross-examining witnesses, testifying in defense, presenting evidence concerning the notice of charges or otherwise, unless the respondent's failure to properly deny the allegations was solely the result of respondent's failure to timely file an answer and the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Hearing Panel shall adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 708.

(e) Any Person entitled, or required or called upon, to attend a hearing before a Hearing Panel pursuant to paragraph (c) above shall be given reasonable notice, confirmed in writing, specifying the date, time and place of the hearing. All Participants, Authorized Traders and Authorized Users who are called as witnesses are required to appear at the hearing and, where applicable, produce evidence. The Company shall make reasonable efforts to secure the presence of other Persons called as witnesses whose testimony would be relevant (as determined by the chair of the Hearing Panel). A Hearing Panel may appoint an expert to attend any hearing and assist in deliberations if such expert is made subject to appropriate confidentiality requirements.

(f) The Company will arrange for any hearing conducted in connection with Disciplinary Proceedings to be recorded verbatim, or substantially verbatim, in a manner capable of accurate transcription. If the respondent requests a copy of all or portions of the record, the chair of the Hearing Panel may require the respondent to pay the costs of preparing such transcript.

(g) The chair of the Hearing Panel may continue, adjourn or otherwise conduct the hearing as he or she may deem appropriate. The chair of the Hearing Panel will determine all procedural and evidentiary matters, including the admissibility and relevance of any evidence proffered. In determining procedural and evidentiary matters, the chair of the Hearing Panel may be counseled by the Company's legal advisors and shall not be bound by evidentiary or

procedural rules of law. Once admitted during the hearing, the Hearing Panel may consider, and attach the weight it believes appropriate to, evidence or other materials.

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

(i) The Hearing Panel may summarily impose sanctions on any Participant, Authorized Trader or Authorized User who impedes, delays or substantially disrupts the progress of a hearing.

**Rule 713. Decision of Hearing Panel**

(a) As promptly as reasonable following a hearing, the Hearing Panel will issue a written order rendering its decision based on the weight of the evidence contained in the record of the Disciplinary Proceedings. A decision by a majority of the Hearing Panel will constitute the decision of the Hearing Panel.

(b) The Company will provide a copy of the order of the Hearing Panel to the respondent and the Market Regulation Department. The order will include:

- (1) the notice of charges or summary of the allegations;
- (2) the answer, if any, or a summary of the answer filed by the respondent;
- (3) a brief summary of the evidence introduced at the hearing or, where appropriate, incorporation by reference of the Investigation Report;
- (4) findings of fact and conclusions concerning each allegation, including a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each allegation;
- (5) each specific Rule that the respondent is found to have violated; and
- (6) the imposition of sanctions, if any, pursuant to Rule 714, including the basis for such sanctions and the effective date of each sanction.

(c) A Hearing Panel shall be dissolved automatically when it has decided the matter for which it was appointed and has notified the respondent and the Chief Compliance Officer in writing of its decision.

(d) Unless a timely notice of appeal is filed pursuant to Rule 715, the order of the Hearing Panel will become final upon the expiration of twenty (20) days after the order is served on the respondent and the Market Regulation Department.

**Rule 714. Sanctions**

(a) In the event that a respondent is found in accordance with this Chapter 7 to have violated or to have attempted to violate a Rule or if sanctions are imposed pursuant to an accepted settlement offer, the Hearing Panel shall impose such sanctions as it deems appropriate, commensurate with the violations committed and sufficient to deter recidivism or similar violations by other Participants, Authorized Traders and Authorized Users. Any such sanctions shall take into account the respondent's disciplinary history (if any) and, in the event of demonstrated customer harm, shall include full customer restitution.

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

(1) a warning letter, provided that no more than one (1) warning letter may be issued to the same respondent found to have committed the same rule violation within a rolling twelve (12) month period;

(2) censure;

(3) limitation, restriction or qualification of Trading Privileges, ability to otherwise access the Trading System, and/or other activities, functions or operations;

(4) suspension, for a period not to exceed twelve (12) months, of Trading Privileges and/or ability to otherwise access the Trading System;

(5) termination of Trading Privileges and/or ability to otherwise access the Trading System;

(6) expulsion;

(7) a fine;

(8) restitution or disgorgement; or

(9) any other sanction or remedy deemed to be appropriate.

(c) The Company may impose a fine of up to \$100,000 for each violation of a Rule. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Authorized Traders or Authorized Users.

(d) A Hearing Panel may order a respondent to pay some or all of the costs associated with the Disciplinary Proceedings, including costs that the Hearing Panel believes were unnecessarily caused by the respondent. Costs may include costs associated with the inquiry or investigation, the prosecution by the Market Regulation Department or Regulatory Services Provider, legal and professional assistance, the conduct of the hearing, and administrative and other expenses incurred by the Hearing Panel.



**Rule 715. Appeal from Hearing Panel Decisions and Summary Actions (Other than Summary Impositions of Fines)**

(a) In the event that a respondent is found, pursuant to Rule 713, to have violated or to have attempted to violate a Rule:

(1) such respondent may appeal the decision within twenty (20) days of receiving the order of the Hearing Panel by filing a written notice of appeal with the Chief Compliance Officer;

(2) the Market Regulation Department may appeal all or any part of a decision of the Hearing Panel, including any sanctions that may or may not have been imposed by the Hearing Panel, within twenty (20) days of receiving the order of the Hearing Panel by filing a notice of appeal with the Chief Compliance Officer; and/or

(3) the Appeal Panel may, on its own initiative, order a review of any aspect of a decision by the Hearing Panel within twenty (20) days of the order of the Hearing Panel by filing a notice of appeal with the Chief Compliance Officer.

(b) While an appeal is pending, the effect of the order of the Hearing Panel (including any sanctions, remedies or costs imposed thereby) shall be suspended, except with respect to any denial or limit on Trading Privileges or ability to otherwise access the Company's Trading System

(c) The notice of appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the respondent objects. A respondent may appeal the order of the Hearing Panel on the grounds that:

(1) the order was arbitrary, capricious, an abuse of discretion or not in accordance with the Rules; or

(2) the order exceeded the authority or jurisdiction of the Hearing Panel, the Chief Compliance Officer or the Company.

(d) The Company will forward copies of any notice of appeal received by it to all parties to the hearing before the Hearing Panel except the appellant. On or before the twentieth (20<sup>th</sup>) day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve on all other parties a brief supporting the notice of appeal and documents supporting the brief. On or before the twentieth (20<sup>th</sup>) day after the date on which the appellant serves supporting brief, the appellee must file and serve its brief in opposition with the Market Regulation Department. On or before the tenth (10<sup>th</sup>) day after the date on which the appellee serves its brief in opposition, the appellant must file and serve a brief in reply with the Market Regulation Department.

(e) In connection with any appeal, the Company will furnish to the Chief Compliance Officer and to the respondent/appellant a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal and briefs filed to support and oppose the appeal.

(f) An Appeal Panel shall be composed of three (3) individuals that have been appointed by the Chief Compliance Officer. To the greatest extent practicable, the members shall be from diverse industry participant groups so that no group or class of industry participants dominates or exercises a disproportionate influence on the Appeal Panel. No individual shall be selected to serve on the Appeal Panel for any Disciplinary Proceeding if such individual has served on the Hearing Panel for such Disciplinary Proceeding.

(g) If an individual selected is an Interested Person or if a member of the Appeal Panel later becomes an Interested Person, a replacement for such individual shall be selected by the Chief Compliance Officer. Except as may be otherwise provided in the Rules, the Board may at any time remove any member of an Appeal Panel for cause.

(h) All information, records, materials and documents provided to the Appeal Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a Company investigation or as otherwise required by law. No individual shall serve on an Appeal Panel unless that individual has agreed in writing that he or she will not publish, divulge, or make known in any manner facts or information regarding the business of any Person or other information which may come to his attention in his official capacity as a member of the Appeal Panel, except when reporting to the Board or to a Committee concerned with such information or to the Market Regulation Department, when requested by the CFTC or other Government Agency, or when compelled to testify in any judicial or administrative proceeding.

(i) Within ten (10) days of being notified of the appointment of the Appeal Panel, either party may seek to disqualify any individual named to the Appeal Panel for the reasons identified in Rule 206 by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the parties will be deemed to have waived any objection to the composition of an Appeal Panel. The Chair of the Regulatory Oversight Committee will decide the merits of any request for disqualification within his or her sole discretion. Any such decision shall be final and not subject to appeal.

(j) The Appeal Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Appeal Panel may appoint an expert to attend any hearing and assist in the deliberations if such individuals agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeal Panel will not be bound by evidentiary or procedural rules or law.

(k) Except for procedural and evidentiary matters decided by the Appeal Panel pursuant to paragraph (j), unless such appellant otherwise consents, the entire Appeal Panel must be present in person during the entire appeal hearing and must be present, in person or by telephone, during any related deliberations.

(l) The Appeal Panel will only consider on appeal the record before the Hearing Panel, the notice of appeal, the briefs filed in support and opposition of the appeal, and any oral arguments of the parties. The Appeal Panel may only consider new evidence when the Appeals

Panel determines that good cause exists as to why the evidence was not introduced during the Disciplinary Proceeding.

(m) After completing its review, the Appeal Panel may affirm, modify or reverse any order of the Hearing Panel under appeal, in whole or in part, including increasing, decreasing or eliminating any sanction or remedy imposed, imposing any other sanction or remedy authorized by the Rules, remanding the matter to the same or a different Hearing Panel for further Disciplinary Proceedings, or ordering a new hearing.

(n) As promptly as reasonably possible following its review, the Appeal Panel will issue a written decision based on the weight of the evidence before the Appeal Panel. The decision of the Appeal Panel shall meet the same informational requirements as set forth in Rule 713(b).

(o) The Appeal Panel's written order will be the final action of the Company and will not be subject to appeal within the Company.

**Rule 716. Summary Imposition of Fines**

(a) The Chief Compliance Officer may summarily fine a Participant, Authorized Trader or Authorized User for failing to make timely and accurate submissions to the Company of notices, reports or other information required by the Rules or to keep books and records required by the Rules.

(b) The Market Regulation Department, acting on behalf of the Chief Compliance Officer, will give notice of any fine imposed pursuant to this Rule 716 to each Participant, Authorized Trader or Authorized User subject thereto. The notice will specify the violations of the Rules for which the fine is being imposed and the amount of the fine. The Participant, Authorized Trader or Authorized User, as the case may be, shall pay or cause the payment of the fine within twenty (20) days of the date of notice.

(c) The Company shall establish, and from time to time revise, schedules of fines to be imposed pursuant to this Rule 716. Such schedules of fines shall provide for progressively larger fines for recurring violations, with the maximum fine not to exceed \$5,000. Summary imposition of fines pursuant to this Rule 716 will not preclude the Company from bringing any other action against the Participant, Authorized Trader or Authorized User, as the case may be.

(d) Appeals of the summary imposition of fines imposed pursuant to this Rule 716 shall be heard by the Appeal Panel. The appellant shall be advised of its right to a prompt hearing before the Appeal Panel and its right to be represented, at its own cost, by legal counsel or any other representative at such hearing. The appellant may present evidence in support of its appeal. The Appeal Panel's decision shall be final. The Appeal Panel shall not set aside, modify or amend the summary fines imposed unless the Appeal Panel determines by a majority vote that the decision to impose the fine was either:

(1) arbitrary, capricious, or an abuse of the Chief Compliance Officer's discretion; or

- (2) in excess of the Chief Compliance Officer's authority or jurisdiction.

**Rule 717. Summary Suspensions and Other Summary Actions**

(a) Notwithstanding anything in the Rules to the contrary, the Chief Compliance Officer may, after consultation with the Regulatory Oversight Committee if practicable, summarily suspend, revoke, limit, condition, restrict or qualify a Participant's Trading Privileges and/or a Participant's or any other Person's ability to otherwise access the Trading System, and may take other summary action against a Participant, Authorized Trader or Authorized User in accordance with the Rules (including any imposition of a fine under Rule 716) if the Chief Compliance Officer reasonably believes that immediate action is necessary to protect the best interests of the public or the Company.

(b) Where practicable, the Company shall provide prior written notice to the party against whom action in accordance with paragraph (a) is to be taken. If prior notice is not practicable, the Company will give notice at the earliest possible opportunity. Any such notice shall describe the action taken or to be taken by the Company, the reasons therefor, the effective date, time and duration thereof, and advise the recipient of the notice of its right to a prompt hearing before a Hearing Panel and its right to be represented by legal counsel or other representative at such hearing. A request by a Participant or other person for such a hearing shall not delay the effectiveness of the summary action.

(c) At the request of the Company, a respondent against whom a summary action is brought pursuant to this Rule 717 shall provide books and records over which the respondent has access or control and shall furnish information to, or appear or testify before, the Market Regulation Department and a Disciplinary Panel in connection with the enforcement of any Rule.

(d) If a hearing is requested pursuant to paragraph (b), the Hearing Panel will promptly convene a hearing to be conducted in accordance with Rule 712.

(e) As promptly as reasonably possible after the hearing, the Hearing Panel will issue to the respondent a written order based on the weight of the evidence affirming, modifying, or reversing the summary action. The order will include a description of the summary action taken, a summary of the evidence introduced at the hearing, a statement of findings of fact and conclusions, a description of any action taken or to be taken by the Company, and the effective date, time and duration thereof.

**Rule 718. Rights and Responsibilities After Suspension or Termination**

(a) With respect to a Participant, Authorized Trader or Authorized User whose Trading Privileges and/or ability to otherwise access the Trading System have been suspended, none of its rights (including the right to hold oneself out to the public as a Participant, Authorized Trader or Authorized User, enter Orders and Indications of Interest into the Trading System and originate or respond to Requests for Quotes) will apply during the period of the suspension, except for the right of the Participant, Authorized Trader or Authorized User in question to assert a claim as provided in Chapter 8. Any such suspension will not relieve the Participant, Authorized Trader or Authorized User in question of its, his or her obligations under the Rules to perform any obligation incurred prior to the suspension, or for any Company fees,

costs, or charges incurred during the suspension. The Company may discipline a suspended Participant, Authorized Trader or Authorized User under this Chapter 7 for any violation of a Rule committed by the Participant, Authorized Trader or Authorized User before, during or after the suspension.

(b) When a Participant's, Authorized Trader's or Authorized User's Trading Privileges and/or ability to otherwise access the Trading System are terminated, all of its, his or her related rights will terminate, except for the right of the Participant, Authorized Trader or Authorized User in question to assert a claim as provided in Chapter 8.

(c) A suspended or terminated Participant, Authorized Trader or Authorized User remains subject to the Rules and the jurisdiction of the Company for acts and omissions prior to the suspension or termination, and must cooperate in any Disciplinary Proceeding or appeal of Disciplinary Proceedings as if the suspended or terminated Participant, Authorized Trader or Authorized User still had Trading Privileges or ability to otherwise access the Trading System.

**Rule 719. Notice of Disciplinary Proceedings**

The Company will provide written notice of final decisions in Disciplinary Proceedings to the parties to the Disciplinary Proceeding consistent with applicable CFTC Regulations and the Rules. Whenever the Company suspends, expels, fines or otherwise disciplines or denies any Person access to the Trading System, the Company will make any public disclosures required by CFTC Regulations.

**Rule 720. Regulatory Services Provider**

(a) Any of the functions of the Company under Chapter 4 and Chapter 5 or this Chapter 7 may be performed by a Regulatory Service Provider pursuant to a delegation of such functions by the Company to such Regulatory Services Provider, and references to the Market Regulation Department shall in such circumstances be deemed to be references to such Regulatory Service Provider. The Company may provide information regarding any Participant, Authorized Trader or Authorized User to the Regulatory Services Provider in connection with the performance by the Regulatory Services Provider of those functions. A failure to comply with a request or direction from the Regulatory Services Provider shall be deemed to be a failure to comply with a request or direction from the Market Regulation Department.

(b) The Company shall retain exclusive authority over all substantive decisions made by the Regulatory Service Provider (including decisions involving the cancellation of trades, the issuance of disciplinary charges, suspensions or terminations of Trading Privileges and/or ability to otherwise access the Trading System) and will document instances where its actions differ in any material respect from those recommended by the Regulatory Service Provider.

(c) The Company shall retain ultimate decision-making authority with respect to any functions that are performed by a Regulatory Services Provider, including the reasons for the course of action recommended by the Regulatory Services Provider and the reasons why the Company chose a different course of action.

## CHAPTER 8. ARBITRATION RULES

### **Rule 801. General**

(a) Participants, Authorized Traders, Authorized Users and other Persons subject to the Company's jurisdiction shall arbitrate through NFA's arbitration program all disputes, controversies or claims between or among themselves that relate to or arise out of any Contract or otherwise arise out of one or more transactions made or alleged to have been made on the Trading System or subject to the Rules and that are based upon facts and circumstances that occurred at a time when the parties were Participants, Authorized Traders, Authorized Users or otherwise subject to the Company's jurisdiction.

(b) Notwithstanding the foregoing, this Chapter 8 does not apply to disputes between Participants, Authorized Traders, Authorized Users and other Persons subject to the Company's jurisdiction that: (i) such Persons are required by the rules of a Self-Regulatory Organization to submit to the dispute resolution procedures of that Self-Regulatory Organization; or (ii) that such Persons have, by valid and binding agreement, committed to negotiate or litigate in a forum other than NFA.

(c) Notwithstanding the foregoing, this Chapter 8 does not require arbitration of claims alleging employment discrimination (including sexual harassment) in violation of Applicable Law.

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

NFA will conduct arbitrations described in this Chapter 8 pursuant to NFA's Member Arbitration Rules, as if each party to such arbitration was an "NFA Member," and references in the Member Arbitration Rules to an "Associate" of an "NFA Member" shall mean and include an Authorized User.

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

(a) A Participant, Authorized Trader, Authorized User or other Person subject to the Company's jurisdiction may initiate an arbitration claim by submitting the required documents and fees to the NFA.

(b) A Participant, Authorized Trader, Authorized User or other Person submitting an arbitration claim shall provide written notice of such claim to the Company.

### **Rule 804. Claims Relating to Trade Cancellations or Price Adjustments**

All claims relating to trade cancellations or price adjustments pursuant to Rule 526 shall be arbitrated in accordance with this Chapter 8.

### **Rule 805. Penalties**

(a) Any failure by a Participant, Authorized Trader or Authorized User subject to the Company's jurisdiction to arbitrate a dispute subject to this Chapter 8, or the commencement by

such a Person of a suit in any court prior to arbitrating a case subject to this Chapter 8, shall constitute a violation of these Rules and shall subject such Participant, Authorized Trader or Authorized User to Disciplinary Proceedings pursuant to Chapter 7. A Participant, Authorized Trader or Authorized User that does not arbitrate a dispute through the NFA's arbitration program as provided in Rule 801(b) or Rule 801(c) shall not be deemed to have violated these Rules.

(b) The Company may summarily suspend, pursuant to Rule 717, a Participant, Authorized Trader or Authorized User that fails to timely satisfy an arbitration award rendered in any arbitration conducted pursuant to this Chapter 8.

## CHAPTER 9. MISCELLANEOUS

### **Rule 901. Contract Specifications**

(a) Notwithstanding any provision of these Rules, the Contract Specification with respect to a particular Contract shall govern the applicability of the Rules to trading in such Contract and, in the event of any conflict between the Rules and the Contract Specification with respect to trading in such Contract, the Contract Specification shall govern.

(b) The Contract Specification for each individual Contract may specify: (i) whether such Contract may be settled via cash settlement, physical delivery of the underlying commodity, or by any other means, as applicable; (ii) the method for determining settlement prices; and (iii) such other terms as are determined by the Company to be relevant.

(c) The Contract Specifications for each Contract will be published by the Company on its website.

### **Rule 902. Legal Certainty**

No Contract listed for trading on the Trading System shall be void, voidable, subject to rescission or otherwise invalidated or rendered unenforceable as a result of either: (1) any violation by the Company of any provision of the CEA or CFTC Regulations; (2) any action taken by the CFTC that has the effect of amending, altering or supplementing the Rules or any of the terms or conditions of a Contract listed for trading on the Trading System; or (3) any other proceeding that has the effect of amending, altering or supplementing the Rules or any terms or conditions of a Contract listed for trading on the Trading System or requiring the Company to take or refrain from taking any specific action.

### **Rule 903. Trading by Company Officials Prohibited; Misuse of Material, Non-Public Information**

(a) No Company Official may trade, directly or indirectly any Contract or any commodity interest related thereto.

(b) No member of the Board, member of any Committee, Disciplinary Panel Member or Appeal Panel Member (each, a "Covered Person") and no Company Official may trade, directly or indirectly any Contract, any swap traded on another swap execution facility or other market, or any commodity interest related thereto where such Covered Person or Company Official has access to material non-public information concerning such Contract or commodity interest that was obtained as a result of the individual's duties and responsibilities as a Covered Person or Company Official, as applicable. Participation by a Company Official in a retirement plan sponsored by the Company shall not be deemed to constitute trading directly or indirectly in a Contract or commodity interest, notwithstanding such plan's trading of swaps or commodity interests.

(c) The Chief Compliance Officer (or, in the case of the Chief Compliance Officer, the Board) may grant exemptions from the provisions of paragraph (a) to Company Officials on



a case-by-case basis under circumstances that are not contrary to the purposes of this Rule and CFTC Regulation 1.59. Such circumstances may include, but are not necessarily limited to:

(1) participation in pooled investment vehicles where such Company Official has no direct or indirect control over transactions effected by or for the account of the pool;

(2) service by such Company Official as an executor or administrator of an estate;

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

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

(d) Any Company Official that has received an exemption under paragraph (c) must:

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

(2) inform the Chief Compliance Officer (or, in the case of the Chief Compliance Officer, the Board) within one business day of any material change of information that may affect such Company Official's qualification for such exemption.

(e) Covered Persons and Company Officials are prohibited from using or disclosing for any purpose other than the performance of their official duties and responsibilities material non-public information obtained as a result of their employment, agency relationship or engagement with the Company where the Covered Person or Company Official expected or should have reasonably expected that the information disclosed may assist a Person in trading any Contract, any swap traded on another swap execution facility or other market, or any commodity interest related thereto. Notwithstanding the foregoing, Covered Persons and Company Officials may disclose material, non-public information if required by law or a court order.

(f) Terms used in this Rule 903 and not otherwise defined in the Rules shall have the meaning set forth in CFTC Regulations 1.3 and 1.59.

#### **Rule 904. Proprietary Information; Use of Market Data**

(a) By accessing or otherwise using the Trading System, each Participant, Authorized Trader, Authorized User, ISV, Customer or other Person subject to the Company's jurisdiction hereby acknowledges and agrees that the Company owns and shall retain all right, title and interest in and to the Trading System, all components thereof, including all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including all registered or unregistered, as applicable

(i) copyright, (ii) trade mark, (iii) service mark, (iv) trade secret, (v) trade name, (vi) data or database rights, (vii) design rights, (viii) moral rights, (ix) inventions, whether or not capable of protection by patent or registration, (x) rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, (xi) patent, and (xii) other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Trading System and all other related proprietary rights of the Company and/or any of its affiliates (together, with any and all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing and any and all data or information of any kind transmitted by means of any of the foregoing, including the Market Data, "Proprietary Information"). Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction further acknowledges and agrees that the Proprietary Information is the exclusive, valuable and confidential property of the Company. Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction acknowledges and agrees that it shall not and shall not permit other Persons affiliated it to, reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Trading System or the Proprietary Information. Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction further agrees to keep, and to cause each of its employees and agents to keep, Proprietary Information confidential and not to transfer, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Trading System or any Proprietary Information except as may be expressly permitted in writing by the Company.

(b) Each Participant and each Authorized Trader retains such rights as it may enjoy under Applicable Law with respect to Market Data solely in the form such Market Data was submitted to the Trading System by such Participant or Authorized Trader or their respective Authorized Users. Except as may otherwise be permitted by Rule 905 or in any written agreement between the Company and a Participant or Authorized Trader, the Company shall not (i) use Market Data to compete directly with the Participant or Authorized Trader, or (ii) attribute Market Data to a Participant or Authorized Trader.

(c) Notwithstanding any other provision of this Rule 904, each Person subject to the jurisdiction of the Company hereby grants the Company a non-exclusive, perpetual, freely transferable, world-wide and royalty-free license to use, distribute, sub-license and disclose Market Data in any manner, media and jurisdiction as may be necessary for the operation of the Trading System or as may be required by CFTC Regulations.

(d) Subject to paragraph (b) or unless otherwise provided in the Participant Agreement, each Person subject to the jurisdiction of the Company hereby consents to the use by the Company for business or marketing purposes (including the sale, licensing or other commercialization) of Market Data, proprietary data and personal information that is collected or received from or on behalf of such Person.

(e) Each Person subject to the jurisdiction of the Company acknowledges and agrees that the Company may disclose and disseminate swap transaction and pricing data relating to Contracts executed on the Trading System or reported to the Company in accordance with

Chapter 6 to other Persons with access to the Trading System simultaneous with or subsequent to the Company's transmittal of such data to a Swap Data Repository.

(f) Each Participant and Authorized Trader represents and warrants that, to the extent it provides personal information to SwapEx the use and/or transfer of which is subject to regulation under the laws and/or regulations of the jurisdiction(s) from which such Participant or Authorized Trader or its Authorized Users are accessing SwapEx, it has obtained any and all consents and disseminated any and all disclosures, in each case as required under such laws and regulations, in order to provide SwapEx with such information.

**Rule 905. Confidentiality**

Except as provided in Rule 904, all non-public information provided to the Company by a Participant, Authorized Trader or Authorized User shall be held in confidence and shall not be made known to any other Person except as follows:

(a) with the consent of the Participant, Authorized Trader or Authorized User providing such information;

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

(c) pursuant to legal process;

(d) to a Derivatives Clearing Organization of which such Participant is a member or in connection with the clearing of a Contract;

(e) to a Swap Data Repository or other registered entity (as such term is defined in CFTC Regulations);

(f) subject to appropriate confidentiality requirements, to any Person providing services to the Company, including the Regulatory Services Provider;

(g) with respect to Market Data, in accordance with Rule 904(c);

(h) pursuant to an information-sharing agreement or other arrangement or procedures in accordance with Rule 907; and

(i) subject to appropriate confidentiality requirements, to the Board, any Committee, Company Officials, attorneys and auditors, and to agents and independent contractors that have been engaged by the Company who require such information in connection with the discharge of their duties to the Company; and

(j) as otherwise permitted under the Rules.

### **Rule 906. Recording of Communications**

The Company and/or the Regulatory Services Provider may record conversations and retain copies of electronic communications between Company Officials and Participants, Authorized Traders, Authorized Users and Clearing Firms. Any such recordings may be retained by the Company and/or the Regulatory Services Provider in such manner and for such periods of time as the Company may deem necessary or appropriate, including as may be required by Applicable Law, but the Company assumes no obligation to Participants, Authorized Traders, Authorized Users or Clearing Firms to retain any such recordings. The Company and/or the Regulatory Services Provider may disclose such recordings as required by Applicable Law or regulation or upon the request of any Government Agency. This Rule 906 shall be deemed to constitute the consent of each Participant, Authorized Trader, Authorized User and Clearing Firm to such recording and a waiver of any tone or other notice requirement in the State or country of such Person's residence, place of organization or place of business.

### **Rule 907. Information-Sharing Agreements**

(a) The Company may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets. As part of any such information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule, the Company may:

- (1) provide market surveillance reports to other markets;
- (2) share information and documents concerning current and former Participants, Authorized Traders and Authorized Users with other markets;
- (3) share information and documents concerning ongoing and completed Disciplinary Proceedings with other markets; and/or
- (4) require Participants and Authorized Traders to provide information and documents to the Company at the request of other markets with which the Company has an information-sharing agreement or other arrangements or procedures.

(b) The Company may enter into any information-sharing agreement or arrangement with any Person or body (including the NFA, any Self-Regulatory Organization, any exchange, market, clearing organization, foreign regulatory authority, data repository or third-party reporting service) if the Company considers such information-sharing agreement or arrangement to be in furtherance of the Company's purpose or duties under the Rules or any law or regulation applicable to the Company's operation of swap execution facility.

(c) The Company will not disclose any non-public information of any Participant, Authorized Trader, Authorized User or Customer pursuant to any information-sharing agreement or arrangement entered into in accordance with Rule 907(a) and (b) without a corresponding confidentiality agreement, unless the Person requesting the information is a Government Agency or the regulatory authority of any foreign jurisdiction or such disclosure is otherwise required by Applicable Law.

**Rule 908. Force Majeure**

Notwithstanding any other provision of the Rules, any delay in or failure by the Company to perform its obligations under the Rules or any agreement with a Participant (including exhibits and schedules thereto) will not be considered a breach and will be excused to the extent that such delay or failure is caused by any event beyond the reasonable control of the Company, including, without limitation, acts of God, acts of civil or military authorities, strikes or other labor disputes, fire or other natural disasters, interruption in telecommunications or internet or network provider services, acts or omission of a third party hardware or software supplier or a third party communications provider, power outages and governmental restrictions.

**Rule 909. Extension or Waiver of Rules**

The Company may, in its sole discretion, waive, or extend the time period for performing, any act or acts designated by the Rules, but only to the extent such waiver or extension is not inconsistent with the CEA or CFTC Regulations.

**Rule 910. Effect of Amendment, Repeal or New Rule**

(a) The Company may, in compliance with the CEA and CFTC Regulations, amend or repeal any Rule and/or adopt new Rules.

(b) Except as provided in Rule 910(c), any such amendment or repeal of a Rule or adoption of a new Rule, shall, as of the effective date of such amendment, repeal or adoption, as applicable, be binding on all Persons subject to the jurisdiction of the Company and all Contracts.

(c) If an amendment or repeal of a Rule or adoption of a new Rule materially changes the terms or conditions of a Contract or affects the value of open Contracts, then the amendment or repeal of a Rule or adoption of a new Rule will be binding only on Contracts entered into on or after the effective date of such amendment, repeal or adoption, unless otherwise specifically approved by the Board or required by the CFTC.

**Rule 911. Signatures**

Rather than rely on an original signature, the Company may elect to rely on a signature that is transmitted, recorded or stored by any electronic, optical, or similar means (including telecopy, imaging, photocopying, electronic mail, electronic data interchange, telegram or telex) as if it were (and the signature shall be considered and have the same effect as) a valid and binding original.

**Rule 912. Governing Law; Legal Proceedings**

(a) The Rules, and the rights and obligations of the Company, Participants, Authorized Traders and Authorized Users under the Rules, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed wholly within the State of New York, without regard to any provisions of New York law that would apply the substantive law of a different jurisdiction.

(b) Subject to Rule 527, any action, suit or proceeding against the Company, its officers, directors, limited liability company members, employees, agents, or any member of any Committee must be brought within one (1) year from the time that a cause of action has accrued. Any such action, suit or proceeding shall be brought in the State or Federal courts located within Borough of Manhattan in the City of New York. Each Participant and Authorized Trader expressly consents, for itself and its Authorized Users, to the jurisdiction of any such court, waives any objection to venue therein, and waives any right it may have to a trial by jury.

### **Rule 913. 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 (including Core Principle 8 and Part 40). If the Chief Executive Officer (or, in the event that the Chief Executive Officer is unavailable, the Chairman) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, the Chief Executive Officer (or, if applicable, the Chairman) shall have the authority, without Board action, to implement Emergency Rules with respect to such Emergency as he or she deems necessary or appropriate to respond to such Emergency. The Company may take such other action as may be directed by the CFTC in response to an Emergency.

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

- (1) suspending or curtailing trading or limiting trading to liquidation only (in whole or in part);
- (2) extending, limiting or changing expiration dates or Trading Hours for one or more Contracts;
- (3) in coordination with applicable Derivatives Clearing Organizations, ordering the liquidation or transfer of Contracts or the reduction of positions;
- (4) temporarily modifying or suspending any provision of the Rules;
- (5) in coordination with applicable Derivatives Clearing Organizations, requiring additional Margin to be collected from Customers;
- (6) imposing or modifying price limits, position limits or intraday market restrictions;
- (7) in coordination with applicable Derivatives Clearing Organizations, transferring Customer contracts and related Margin and/or altering any Contract's settlement terms or conditions; and/or

(8) providing for the carrying out of any actions under this Rule 913(b) by the Regulatory Services Provider.

(c) The Company will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not practicable, the Company will notify the CFTC as soon as reasonably practicable, but in all circumstances within twenty-four (24) hours of the implementation, modification or termination of such Emergency Rule.

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

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

(f) Upon taking any action in response to an Emergency, the Company shall document the decisions and deliberations related to such action. Such documentation will be maintained for at least five (5) years following the date on which the Emergency ceases to exist or to affect the Company, and all such documentation will be provided to the CFTC upon request.

#### **Rule 914. Indemnification**

The Company will indemnify, defend and hold harmless each Participant from and against Direct Losses to the extent arising out of any claim, action or allegation brought against such Participant under the laws of the United States of America by any third party that the use of the Trading System by such Participant violates the copyright, patent or other intellectual property rights of such third party, provided, however, that such Participant (a) gives prompt written notice to the Company of any such claims, actions or allegations against it, (b) allows the Company to take control of the defense and settlement thereof at the sole expense of the Company and (c) does not agree to any settlement without the prior written consent of the Company. The obligation of the Company to provide the foregoing indemnity will not apply to the extent that (i) any software or hardware supplied to such Participant in respect of the Trading System is modified by persons or entities other than the Company and the alleged violation relates, directly or indirectly, to such modification, (ii) any such software or hardware is combined with other products, processes or materials not supplied or recommended in writing by the Company and such alleged violation would not have arisen but for such combination, (iii) any such software or hardware is modified by the Company in compliance with the directions of such Participant and the alleged violation relates to such modification, (iv) such Participant continues to use such software or hardware after the Company has made available a non-infringing alternative to such Participant or (v) the Direct Losses arise as a result of the fraud or willful misconduct of such Participant or any of its Authorized Traders or any of its Authorized Users or a breach of the terms of the Participant Agreement or the Rules by such Participant, any of its Authorized Traders or its Authorized Users.

## CHAPTER 10. CLEARING

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

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

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

Contracts executed on or through the Trading System that are required to be cleared under Section 2(h) of the CEA or that are voluntarily cleared by the counterparties to such Contract ("Cleared Contracts") shall be cleared through a Derivatives Clearing Organization. The Company shall submit Cleared Contracts entered into on or pursuant to the Rules to a Derivatives Clearing Organization on behalf of the parties to such Cleared Contracts.

### **Rule 1003. Clearing Firm Representation**

Each Participant that is not a Clearing Firm must ensure and, upon request from the Company, provide evidence satisfactory to the Company that a Clearing Firm has, subject to such Clearing Firm's credit limits and/or risk controls, guaranteed to the relevant Derivatives Clearing Organization the transactions in Cleared Contracts executed for the account(s) of the Participant, its Authorized Trader(s) and/or its or their Customer(s), as applicable.

### **Rule 1004. Responsibility of Participants and Authorized Traders**

Participants and Authorized Traders must, if requested, assist their respective Clearing Firms and the relevant Derivatives Clearing Organization in the clearing of its transactions in Cleared Contracts.

### **Rule 1005. Rules of the Derivatives Clearing Organization**

The clearing services provided by the Derivatives Clearing Organization with respect to any Contract, and the rights and obligations of purchasers and sellers under Cleared Contracts (including rights and obligations in respect of clearing and settlement, variation payments and performance at maturity), will be governed by the rules of the Derivatives Clearing Organization.



**Exhibit C**

**Rulebook (redline)**

[see attached]

**SWAPEX, LLC**

**RULEBOOK**

~~APRIL 16~~ JULY 15, 2014

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## CHAPTER 1. DEFINITIONS

### Rule 101. General

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

“Affiliate” means, with respect to any Person, any Person who, directly or indirectly, Controls, is Controlled by, or is under common Control with, such other Person.

“Appeal Panel” means the panel appointed in accordance with Rule 715 to consider an appeal from an order of a Hearing Panel pursuant to Rule 713 or a notice of summary action imposed pursuant to Rule 717 or appointed to consider an appeal from a summary imposition of a fine pursuant to Rule 716, and to affirm, modify or reverse all or any portion of such order, notice or fine.

“Appeal Panel Member” means an individual who is appointed to, and serves as, a member of an Appeal Panel.

“Applicable Law” means, with respect to any Person, any statute, or any rule, regulation or ordinance of any Government Agency, Derivatives Clearing Organization or Self-Regulatory Organization, in any case applicable to such Person.

“Audit Trail” has the meaning given that term in Rule 518(b).

“Authorized Trader” means a Person (not an individual) who is authorized by a Participant to access the Trading System pursuant to Rule 304.

“Authorized User” means an individual who is employed by or is an agent of a Participant, an Authorized Trader or a Clearing Firm and who has been authorized to access the Trading System pursuant to Rule 305. When used in reference to a Participant, “Authorized User” means and includes (i) such Participant’s Authorized Users and (ii) employees and agents of the Participant’s Authorized Traders who have been designated by the Authorized Trader as Authorized Users.

“Block Trade” means transactions in Contracts effected in accordance with Chapter 6.

“Board” means the Board of Directors of the Company.

“Breakage Agreement” means any arrangement that provides for the assessment of liability or payment of damages between the parties to the Cleared Contract in the event the Cleared Contract is rejected from clearing, as such term is defined or interpreted by the CFTC from time to time.

“Business Day” means a day on which the Company is open for trading.

“CEA” means the Commodity Exchange Act.

“CFTC” means the Commodity Futures Trading Commission.

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

“Chairman” means the chairman of the Board.

“Chief Compliance Officer” means the individual appointed by the Board as the Company’s chief compliance officer.

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

“Cleared Contracts” has the meaning given that term in Rule 1002.

“Clearing Firm” means a Person, whether or not a Participant, that has been approved as a member or participant in one or more Derivatives Clearing Organizations and that is authorized pursuant to the rules of such a Derivatives Clearing Organization to clear Contracts for customers; provided that, the term “Clearing Firm” as used herein shall be deemed to refer to such Person solely in its capacity as a Clearing Firm and not, as applicable, in its capacity as a Participant.

“Committee” means a committee established by the Board.

“Company” means SwapEx, LLC or any successor thereto.

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

“Company Proceeding” means any Disciplinary Proceeding or an appeal from a Disciplinary Proceeding.

“Company Requirements” means (i) the Rules and other requirements implemented by the Company under the Rules, (ii) the applicable Contract Specifications, and (iii) the Participant Documentation and other contractual obligations between a Participant, Authorized Trader and/or Authorized User and the Company.

“Contract” means a Swap and an Exempt Swap.

“Contract Specifications” means, with respect to any Contract, the terms and conditions, rules or other trading protocols, as adopted, amended, supplemented or otherwise modified from time to time by the Company.

“Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. The terms “Controlling” or “Controlled” shall have meanings correlative to the foregoing.

“Covered Person” has the meaning given that term in Rule 903(b).

“CTI” has the meaning given that term in Rule 518(d).

“Customer” means an Eligible Contract Participant that has authorized a Participant or Authorized Trader to cause transactions in Contracts to be made for its account.

“Customer Order” means, with respect to a Participant or Authorized Trader, an Order or Request for Quote that has been provided to such Participant or Authorized Trader, as applicable, by or on behalf of a Customer.

“Derivatives Clearing Organization” has the meaning given that term in section 1a(9) of the CEA and, as used in these Rules, means a derivatives clearing organization that is registered or exempt from registration as such with the CFTC and that is engaged in the clearing of one or more Contracts.

“Designated Representative” means an individual, designated by a Participant or an Authorized Trader pursuant to Rule 309, with authority to act on behalf of such Participant or Authorized Trader, as applicable.

“Direct Losses” means any Losses other than those described in Rule 527(d).

“Director” means any member of the Board.

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

“Disciplinary Panel Member” means an individual who is appointed to, and serves as, a member of a Disciplinary Panel.

“Disciplinary Proceeding” means any inquiry, investigation, disciplinary proceeding, summary imposition of fines, summary suspension or other summary action conducted pursuant to Chapter 7 of the Rules.

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

“Emergency” means any occurrences or circumstance which, in the opinion of the Board, the Chairman or the Chief Executive Officer, requires immediate action, and which threatens, or may threaten, the fair and orderly trading in, or the settlement or integrity of, any Contract, including the following:

(1) any circumstance that may materially affect the performance of a Contract, including failure of the clearing system of a Derivatives Clearing Organization;

(2) any action taken by any United States or foreign regulatory, self-regulatory, judicial, arbitral, or governmental (whether national, state or municipal) or quasi-governmental authority, any agency, department, instrumentality, or sub-division

thereof; or other Person exercising, or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; any Derivatives Clearing Organization, board of trade or other exchange (foreign or domestic) that, in any such case, may have a direct impact on trading on the Trading System 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 Company, including acts of God, fire, flood 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 Trading System, or other system breakdowns or interruptions such as power, computer, communication or transportation systems or the Internet;

(5) the Insolvency of any Clearing Firm or the imposition of any injunction or other restraint by any Government Agency, Derivatives Clearing Organization, court or arbitrator upon a Clearing Firm which may affect the ability of a Clearing Firm to trade in or perform its obligations on a Contract; or

(6) any circumstance in which it appears that: (i) a Person has failed to perform on a Contract; (ii) a Participant or Authorized Trader is Insolvent or is in a financial or operational condition or is conducting business such that the Participant or Authorized Trader cannot be permitted to continue in business without jeopardizing the safety or integrity of other Participants, Authorized Traders or the Company; or (iii) any other unusual, unforeseeable or adverse circumstance as determined by the Company.

“Exempt Swap” means a swap, as defined under Section 1a(47) of the CEA and CFTC Regulations, that is listed for trading on the Trading System but that is not required to be cleared pursuant to Section 2(h)(2)(D) of the CEA and CFTC Regulation 39.5, without regard to whether such Exempt Swap is submitted to a Derivatives Clearing Organization for clearing.

“Government Agency” means the CFTC and any other governmental agency or department that regulates the activities of the Company, a Participant, an Authorized Trader or Authorized User, as applicable.

“Hearing Panel” means the panel appointed pursuant to Rule 710 to conduct hearings in connection with Disciplinary Proceedings (other than summary impositions of fines pursuant to Rule 716), to make findings, render decisions, and impose sanctions pursuant to Chapter 7 of the Rules.

“Independent Software Vendor” or “ISV” means a Person that makes available to Participants and Authorized Traders a system or platform offering smart order routing, front-end trading applications, an aggregator platform or a combination of the foregoing but that does not provide the ability to effect the execution of Contracts other than through the Trading System.

“Indication of Interest” means an indication of interest for a Contract that is not executable.

“Insolvent” and “Insolvency” means the occurrence of any of the following events with respect to a Person:

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

(2) if the Person is a member of the Securities Investor Protection Corporation, a court of competent jurisdiction finds that the Person 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 Person 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 Person 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 Person or for any substantial part of its property, (iv) ordering the winding up or liquidation of the Person’s affairs or (v) consenting to the institution by the Person of proceedings to be adjudicated as a bankrupt or insolvent; or

(4) the filing by the Person 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 Person 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 Person or for any substantial part of its property, or the making by the Person of an assignment for the benefit of its creditors, or the admission by the Person in writing of its inability to pay its debts generally as they become due, or the taking of corporate or similar action by the Person in furtherance of the foregoing.

“Interested Person” has the meaning given that term in Rule 206(a).

“Investigation Report” has the meaning given that term in Rule 703(a).

“ISDA” means the International Swaps and Derivatives Association Inc.

“LLC Agreement” means the Limited Liability Company Agreement of the Company, as it may be amended, amended and restated or otherwise modified from time to time.

“~~Loss~~Losses” means any losses, damages, costs or expenses (including attorneys’ fees) whether direct, indirect, special, incidental, consequential, punitive or otherwise of any kind, including any loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of goodwill, loss of reputation or loss of, damage to or corruption of data.

“Maker” has the meaning given that term in Rule 524(a).

“Market Data” means:

(1) all data and other information submitted for entry into the Trading System or relating in any way to a Contract, including the time at which such data or information was submitted to or generated by the Trading System;

(2) any data or other information contained in, derived from or related to any of the foregoing, including the format, compilation and presentation thereof; and

(3) any data or information transmitted, published or disseminated by the Company to Participants, Authorized Traders, Authorized Users or any publisher of such data or information with whom the Company has a written agreement relating thereto.

“Market Order” means an order to buy or sell an instrument at the current market price.

“Market Regulation Department” means all officers, employees and agents of the Company (including the Regulatory Services Provider) that assist the Company in the implementation, surveillance and enforcement of the Rules and other Company Requirements.

“NFA” means the National Futures Association.

“No-Bust Ranges” has the meaning given to that term in Rule 526(g).

“Nominating Committee” means the Committee of the Board constituted pursuant to Rule 204.

“Officer” has the meaning given that term in Rule 202.

“Order” means either a bid or an offer for a Contract on the Trading System, and includes any modification to or cancellation of such a bid or offer, but does not include a Request for Quote or an Indication of Interest.

“Order Book” has the meaning given that term in CFTC Regulation 37.3.

“Participant” means a Person that has been authorized by the Company to have access to the Trading System pursuant to Rule 303 and to permit Authorized Traders and Authorized Users to have access to the Trading System pursuant to Rule 304 and Rule 305.

“Participant Committee” means the committee of the Board constituted pursuant to Rule 204.

“Participant Documentation” means the agreements (together with any applicable schedules, exhibits or appendices thereto) that are required to be executed and delivered to the Company before a Person may have access to the Trading System, including the Participant Agreement, Appointment of Authorized Trader, Authorized User ID Request Form, and User License Agreement, as applicable.

“Permitted Transaction” means any transaction involving a Contract that is not a Required Transaction.

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

“Proprietary Information” has the meaning given that term in Rule 904.

“Public Director” means (i) prior to the time at which the CFTC Regulations establish required qualifications for public directors, any Director, and (ii) from and after such time at which the CFTC Regulations establish required qualifications for public directors, a Director found by the Board to have satisfied such requirements.

“Regulatory Oversight Committee” means the committee of the Board constituted pursuant to Rule 204.

“Regulatory Services Provider” means NFA and such other organizations, if any, that provide regulatory services to the Company, in each case, together with those certain employees and agents of any such organization that provide regulatory services to the Company.

“Reporting Counterparty” means, for purposes of Part 45 of CFTC Regulations, the Participant or Authorized Trader that is designated as such pursuant to Rule 528(b).

“Request for Quote” and “RFQ” have the meaning given those terms in Rule 524(a) and, unless the context otherwise requires, include both requests for quotes pursuant to Rule 524(a) and responses to any such requests.

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

“Required Transaction” means any transaction involving a Contract that is subject to the trade execution mandate under section 2(h)(8) of the CEA and is not a Block Trade.

“Review Panel” means the panel, if any, appointed pursuant to Rule 705 to review a completed Investigation Report and to determine whether a reasonable basis exists for finding a violation of the Rules and authorizing the issuance of a notice of charges pursuant to Rule 706.

“Rule” or “Rules” means the rules of SwapEx as set forth in this Rulebook.

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

“Significant Liquidity Provider” has the meaning given that term in Rule 408(b).

“Stop Loss Order” means a Stop Order that turns into a Market Order when triggered.

“Stop Order” means an instruction to submit a buy or sell when the market rate reaches a specified rate.

“Summary Proceeding” means a Disciplinary Proceeding conducted pursuant to Rule 716 or Rule 717.

“Swap” has the meaning given that term in section 1a(47) of the CEA and CFTC Regulations but does not include Exempt Swaps, and, as used in these Rules, refers solely to transactions in Swaps (including Orders and RFQs) that are listed for trading on the Trading System.

“Swap Data Repository” has the meaning given that term in section 1a(48) of the CEA and, as used in these Rules, means a swap data repository that is registered or exempt from registration as such with the CFTC and that receives Required Swap Creation Data in respect of one or more Contracts.

“Taker” has the meaning given that term in Rule 524(a).

“Terms Incorporated by Reference” has the meaning given that term in Rule 525(b).

“Trade Communication” has the meaning given that term in Rule 525(b).

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

“Trading Privileges” means the right, granted to a Participant, an Authorized Trader or an Authorized User to transmit Orders and originate and/or respond to Requests for Quotes through the Trading System.

“Trading System” means the Company’s electronic trade execution system that is used for the trading of Contracts, including the associated hardware, software, systems and communications links.

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

“User License Agreement” means the User License Agreement between the Company and a Person that the Company allows to access and use the Trading System.



**Rule 102. Rules of Construction**

In the Rules, unless the context otherwise requires: (i) headings are for convenience only and do not affect the construction of the Rules; (ii) words in the singular include the plural and words in the plural include the singular; (iii) references to the Rules and to a particular Rule are to the Rules and such Rule as they may be amended, amended and restated or otherwise modified from time to time; (iv) references to statutory provisions include those provisions, and any rules or regulations promulgated thereunder, as they may be amended, amended and restated or otherwise modified from time to time; (v) any reference to a time means the time in New York City; and (vi) all uses of the word “including” are to be construed to mean “including, but not limited to.”

## CHAPTER 2. GOVERNANCE

### **Rule 201. Board**

(a) The Board shall have overall responsibility for the business and affairs of the Company. The Board has the power and authority to call for the review of, and to affirm, modify, suspend or overrule, any and all decisions and actions of any Committee or Officer of the Company.

(b) The Board may act by the decision of a majority of the Directors present and voting at a meeting, by unanimous written consent without a meeting, or as otherwise set forth in the LLC Agreement.

(c) At least 35%, but no fewer than two (2), of the Directors shall be Public Directors. Each Director (including Public Directors) shall be appointed in accordance with the LLC Agreement, and shall serve until his or her successor is duly appointed, or until his or her earlier resignation or removal, with or without cause.

### **Rule 202. Officers**

(a) The Board shall appoint a Chief Executive Officer, a Chief Compliance Officer, and such other officers of the Company (all of the foregoing, collectively, the "Officers") as it may deem necessary or appropriate from time to time, in accordance with the LLC Agreement.

(b) Any Officer may also be a director or employee of the Company or a director, officer or employee of any of its Affiliates.

(c) The Officers shall have such powers and duties in the management of the Company as the Board may prescribe from time to time.

### **Rule 203. Qualifications of Directors, Officers, Committee Members, Disciplinary Panel Members and Appeal Panel Members**

(a) No Person may serve as a Director or Officer, or serve on a Committee, a Disciplinary Panel or an Appeal Panel, or hold a 10% or greater ownership interest in the Company, if such Person:

(1) within the prior three (3) years has been found, by a final decision in any action or proceeding brought in or by a court of competent jurisdiction, the CFTC, or any Self-Regulatory Organization or any Derivatives Clearing Organization, to have committed a disciplinary offense;

(2) within the prior three (3) years has entered into a settlement agreement in which any of the findings or, in the absence of such findings, any of the acts charged, included a disciplinary offense;

(3) is currently suspended from trading on any contract market or swap execution facility, is suspended or expelled from membership in a Self-Regulatory

Organization or Derivatives Clearing Organization, is serving any sentence or probation, or owes any portion of a fine or penalty related to either:

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

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

(4) is currently subject to an agreement with the CFTC, a Self-Regulatory Organization or a Derivatives Clearing Organization not to apply for registration with the CFTC or for membership or participant status in the Self-Regulatory Organization or Derivatives Clearing Organization;

(5) is currently, or within the past three (3) years has been, subject to a revocation or suspension of registration by the CFTC or has been convicted of a felony listed in sections 8a(2)(D)(i) through (iv) of the CEA;

(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," as that term is defined in section 3(a)(26) of the Securities Exchange Act of 1934, as amended; or

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

(b) Any Director, Officer, member of a Committee, Disciplinary Panel or Appeal Panel, any individual nominated to serve in any such role, or any individual authorized by the Market Regulation Department to take summary action shall immediately notify the Chief Compliance Officer if such individual meets one or more of the criteria in Rule 203(a).

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

#### **Rule 204. Standing Committees**

(a) The Board shall initially have three (3) standing Committees: the Nominating Committee, the Participant Committee and the Regulatory Oversight Committee.

(b) Each member of such Committees must be a Director, one of whom the Board shall designate as the chairperson of such Committee. A temporary member of any such Committee may be appointed, using the same process required for regular appointments to a Committee, during the absence or inability to act of a regular member, and such temporary appointee shall have all the rights, power, authority, duties and obligations of the regular Committee member until the latter is again present and able to act.

(c) Each standing Committee shall assist in the supervision, management and control of the affairs of the Company within its particular area of responsibility, subject to the authority of the Board.

(d) Subject to the authority of the Board, each standing Committee shall determine the manner and form in which its proceedings shall be conducted. Each standing Committee may act only by the decision of a majority of the members of such Committee present and voting at a meeting or by unanimous written consent without a meeting. The Board has the authority to overrule the decisions of a standing Committee.

(e) If the Board rejects a recommendation or supersedes an action of the Regulatory Oversight Committee or the Participant Committee, the Company shall submit a written report to the CFTC detailing: (i) the recommendation of or action proposed to be taken by the Regulatory Oversight Committee or the Participant Committee; (ii) the rationale for such recommendation or action; (iii) the rationale of the Board for rejecting such recommendation or superseding such action; and (iv) the course of action that the Board decided to take contrary to such recommendation or action.

#### **Rule 205. Additional Committees**

(a) In addition to the standing Committees of the Board, the Board may from time to time constitute and appoint Committees and designate their composition, responsibilities and powers. The members of such Committees may be Directors, Participants, Authorized Traders, Authorized Users or such other individuals as may be qualified to serve on such Committee. The Board shall designate the chairperson of each such additional Committee.

(b) Each such additional Committee shall assist the Board in the management and control of the affairs of the Company within its particular area of responsibility.

(c) Subject to the authority of the Board, each such Committee shall determine the manner and form in which its proceedings shall be conducted. Each such Committee may act only by the decision of a majority of the members of such Committee present and voting at a meeting or by unanimous written consent without a meeting.

#### **Rule 206. Conflicts of Interest**

(a) A Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member who, in respect of a Company Proceeding or an Emergency, is subject to a "material conflict of interest" between his or her position as a Director, Officer, member of a Committee, Disciplinary Panel Member or Appeal Panel Member and his or her personal interests (any such Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member, an "Interested Person") may not participate in deliberations or votes of the Board, a Committee, Disciplinary Panel or Appeal Panel in respect of such Company Proceeding or an Emergency, or otherwise exercise any authority with respect to such Company Proceeding or Emergency that involves his or her personal interest, except as described in Rule 206(d).

(b) For purposes of Rule 206(a), a “material conflict of interest” in respect of a Company Proceeding or an Emergency means a Director, Officer, member of a Committee, Disciplinary Panel Member or Appeal Panel Member:

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

(2) being an employer, employee, fellow employee or an Affiliate of a respondent or potential respondent in such Company Proceeding;

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

(4) having a family relationship with a respondent or potential respondent in such Company Proceeding (including the individual’s spouse, co-habitator, former spouse, parent, step-parent, child, step-child, sibling, step-brother, step-sister, grandparent, grandchild, uncle, aunt, nephew, niece, father-in-law, mother-in-law, brother-in-law or sister-in-law);

(5) having a direct and substantial financial interest in the result of the deliberations or vote based upon trades or positions that could reasonably be expected to be affected by such Company Proceeding or Emergency. A direct and substantial financial interest includes (but is not limited to) trades and positions in accounts of, controlled by, or affiliated with the Interested Person or in any other types of direct and substantial financial positions of the Interested Person that could reasonably be expected to be affected by such deliberations or vote; and/or

(6) any other circumstance that gives rise to a conflict between the exercise of authority by the Director, Officer, member of any Committee, Disciplinary Panel Member or Appeal Panel Member concerning such Company Proceeding or Emergency and his or her personal interests.

(c) Before considering a Company Proceeding or Emergency, an Interested Person must disclose in writing to the Chief Compliance Officer, and where appropriate, the Board, Committee, Disciplinary Panel or Appeal Panel, the material facts concerning his or her relationship or interest therein.

(d) An Interested Person who would be required otherwise to abstain from deliberations and voting pursuant to Rule 206(a) as a result of having a direct and substantial financial interest in the result of the deliberations and vote within the meaning of Rule 206(b)(5) may participate in deliberations, prior to a vote on the Company Proceeding or Emergency, if:

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

(2) the Board, Committee, Disciplinary Panel or Appeal Panel determines that the participation by the Interested Person would be consistent with the public interest and the interests of the Company; and

(3) a majority of the members of the Board, Committee, Disciplinary Panel or Appeal Panel (as applicable), excluding any Interested Persons, vote to allow the Interested Person to participate in deliberations on the Company Proceeding or Emergency.

(e) If a determination is made pursuant to Rule 206(d) that an Interested Person may participate in deliberations prior to a vote, the minutes of the meeting of the Board, Committee, Disciplinary Panel or Appeal Panel will reflect the fact thereof and the reasons therefor.

(f) If a determination is made that all Committee members, Disciplinary Panel Members or Appeal Panel Members are Interested Persons with respect to a matter relating to a Company Proceeding or Emergency that is subject to a vote by such Committee, such Disciplinary Panel or the Appeal Panel (as applicable), the Board shall be authorized to appoint a panel of individuals who are not Interested Persons with respect to such matter. This panel shall have the same authority and powers over such matter that the Committee, Disciplinary Panel or Appeal Panel (as applicable) would have if the Committee members, Disciplinary Panel Members or Appeal Panel Members were not Interested Persons with respect to such matter. The Board shall have the same power to appoint individuals who are not Interested Persons if necessary to permit a Committee, Disciplinary Panel or Appeal Panel to satisfy quorum requirements.

**Rule 207. Maintenance of Books and Records by the Company**

(a) The Company shall keep, or cause to be kept, all books and records required to be maintained pursuant to the CEA and CFTC Regulations for at least five (5) years, and shall make such books and records readily accessible for inspection by the CFTC and the United States Department of Justice during the first two (2) years of such five-year period.

(b) The Company may disclose to any Government Agency, Self-Regulatory Organization or other Person information concerning or associated with a Participant or other Person that the Company believes is necessary and appropriate in exercising a legal or regulatory function, whether or not a formal arrangement governing the disclosure exists or a request for information was made.

## CHAPTER 3. TRADING SYSTEM

### **Rule 301. Access to the Trading System**

(a) A Participant will be granted Trading Privileges if it has been authorized by the Company pursuant to Rule 303.

(b) A Participant shall designate at least one (1) of its employees, agents or authorized contractors who are individuals as an Authorized User and may designate other employees, agents and authorized contractors who are individuals as Authorized Users pursuant to Rule 305. Authorized Users may access and use the Trading System on behalf of such Participant and, to the extent permitted by Applicable Law, on behalf of, such Participant's Customers or the Customers of Authorized Traders.

(c) A Participant may designate one or more customers, investment managers or other third parties that are not individuals as Authorized Traders pursuant to Rule 304. An Authorized Trader will be given access to the Trading System and shall designate at least one (1) of its employees, agents or authorized contractors who are individuals as an Authorized User and may designate other employees, agents and authorized contractors as Authorized Users pursuant to Rule 305. Authorized Users may access and use the Trading System on behalf of such Authorized Trader and, to the extent permitted by Applicable Law, Customers of the Authorized Trader.

(d) A Participant must establish and maintain appropriate credit and/or risk controls for its Authorized Traders and Authorized Users.

(e) A Participant may be held accountable by the Company for the actions and omissions of its Authorized Traders and its and their Authorized Users.

(f) An Independent Software Vendor will be granted access to the Company if it has been authorized by the Company pursuant to Rule 306.

### **Rule 302. Participant Eligibility Requirements**

(a) To be eligible for admission as a Participant, an applicant must demonstrate to the satisfaction of the Company that it:

(1) is an Eligible Contract Participant, and, if applicable, is in compliance with CFTC Regulation 1.17;

(2) is organized or established under the laws of the United States, any State, or a jurisdiction in which the Company is permitted by Applicable Law to offer the Trading System and, if the applicant is organized or established under the laws of a country other than the United States or intends to access and use the Trading System from a jurisdiction other than the United States, the applicant shall submit, upon request by the Company, an opinion of appropriately qualified and reputable outside counsel on home country law and, if applicable, other relevant non-domestic law, in form and substance acceptable to the Company;

(3) has all registrations, licenses and consents required by its constituent documents and by Applicable Law to trade Contracts on the Trading System and is not subject to any trading ban, prohibition or suspension issued by the CFTC or by any Self-Regulatory Organization that is subject to the CFTC's oversight, including the NFA;

(4) with respect to Contracts that are to be cleared by a Derivatives Clearing Organization, (i) is a member of a Derivatives Clearing Organization that is authorized to clear Contracts for its own account and, if applicable, for the account(s) of its Customers, Authorized Traders and its and their Customers or (ii) has delivered to the Company evidence satisfactory to the Company, in its sole discretion, that at least one Clearing Firm has agreed to accept Contracts for clearing into the account of such Participant and/or, if applicable, its Authorized Traders and its and/or their Customers; and

(5) is of good reputation and business integrity, maintains adequate financial resources and credit, and satisfies such other criteria as the Company may establish from time to time.

(b) Once admitted, a Participant shall continue to comply with all applicable eligibility criteria in Rule 302(a) and shall provide the Company with such information in relation thereto as the Company may require.

(c) Each Participant shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 302(a).

**Rule 303. Participant Application Procedure**

(a) A Person that desires to become a Participant shall:

(1) complete and submit the Participant Documentation;

(2) provide such information and documentation as may be requested by the Company, and comply with the procedures established by the Company for admission;

(3) distribute the Rules to its Authorized Traders and Authorized Users or cause the Rules to be so distributed; and

(4) if such Person is organized or established under the laws of a country other than the United States:

(i) maintain a presence in the United States, either directly or through a suitable agent, whose personnel are fluent in English, are knowledgeable about the applicant's business, and can assist representatives of the Company as necessary;

(ii) pursuant to CFTC Regulation 15.05, enter into a written agreement acceptable to the Company appointing a third party as its agent for service of process in the United States and shall provide the Company with a copy of such agreement;



(iii) make such other representations as the Company deems necessary;  
and

(iv) upon request by the Company, 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 Company.

(b) The Company may require additional information from an applicant in order to establish the applicant's eligibility to access the Trading System and may conduct an investigation to verify information submitted by the applicant.

(c) If the Company decides to admit an applicant as a Participant, it shall promptly notify the applicant in writing. Admission as a Participant does not confer any right of ownership in, right to attend or vote at meetings of, or right to share in the profits of, the Company or ownership of any of the Company's Market Data, software supporting the Trading System and other intellectual property.

(d) The Company may deny or condition an application for admission as a Participant:

(1) if the applicant is unable to satisfactorily demonstrate its ability to satisfy the eligibility criteria to become or remain a Participant;

(2) if the applicant is unable to satisfactorily demonstrate its capacity to adhere to the Rules and Applicable Law;

(3) for such other cause as the Company may reasonably determine.

(e) If the Company decides to deny or condition an application for admission as a Participant, the Company shall promptly notify the applicant in writing, setting forth the reasons for the denial or conditioning of Participant status. The applicant may, within fourteen (14) days of the date of such notice, request in writing that the Participant Committee reconsider that determination. The Participant Committee may request additional information from the applicant or establish any other process that it believes is necessary and appropriate to consider the request for reconsideration. Unless extended with the consent of the applicant, the Participant Committee shall confirm, reverse or modify the denial or conditioning of the application within thirty (30) days of receiving the request for reconsideration or such longer period as may be agreed by the applicant. The Participant Committee shall promptly notify the applicant of its decision in writing. The decision of the Participant Committee shall be final and not subject to appeal.

#### **Rule 304. Authorized Traders**

(a) A Participant may grant permission to one or more Authorized Traders to enter Orders and Indications of Interest, originate and respond to Requests for Quotes, and otherwise access the Trading System in accordance with the criteria and procedures established by the Company.

(b) By agreeing to act as an Authorized Trader, such Person agrees to be bound by the duties and responsibilities of an Authorized Trader under the Rules and other Company Requirements and to be subject to, and comply with, the Rules.

(c) An Authorized Trader must at all times:

(1) be an Eligible Contract Participant;

(2) if applicable, be in compliance with CFTC Regulation 1.17;

(3) be organized in, located in and access the Trading System, and permit its Authorized Users to access the Trading System, solely from within the United States or a jurisdiction in which the Company is permitted by Applicable Law to offer the Trading System;

(4) ensure that activity conducted under the User IDs assigned to it and its Authorized Users complies with the Rules;

(5) have the authority, at the Company's request, to adjust or withdraw any Order or Request for Quote submitted under such User IDs;

(6) have and maintain all necessary regulatory approvals and/or licenses to operate as an Authorized Trader and not be subject to any trading ban, prohibition or suspension issued by the CFTC or by any Self-Regulatory Organization that is subject to CFTC oversight, including the NFA; and

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

(d) The Company will promptly notify a Participant in writing of its approval, or refusal to approve, the designation of an Authorized Trader. The Company may, in its sole discretion, revoke or suspend the designation of an Authorized Trader, and shall promptly notify the Participant in writing of such action in accordance with procedures established by the Company.

(e) Each Authorized Trader shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 304(c). Participant shall notify the Company in writing if it becomes aware that any of its Authorized Traders ceases to meet any of the requirements of Rule 304(c).

(f) A Participant that seeks to terminate the designation of an Authorized Trader shall notify the Company in writing, providing such information as the Company may require. The Company shall terminate the Trading Privileges of such Authorized Trader and its Authorized Users in accordance with procedures established by the Company.

**Rule 305. Authorized Users**

(a) A Participant, an Authorized Trader or a Clearing Firm shall designate one or more Authorized Users in accordance with the criteria and procedures established by the Company. Each Authorized User shall be identified to the Company, in the manner prescribed by the Company, and shall be subject to the Rules. Any Authorized User designated by a Clearing Firm shall only be permitted to access and use administrative, credit control functionality on the Trading System and shall have no Trading Privileges.

(b) By agreeing to act as an Authorized User, an individual agrees to be bound by the duties and responsibilities of an Authorized User under the Rules and other Company Requirements and to be subject to, and comply with, the Rules.

(c) Each Authorized User must have and use a unique User ID to access the Trading System. It shall be the responsibility of an Authorized User and its sponsoring Participant, its sponsoring Authorized Trader or its sponsoring Clearing Firm, as applicable, to ensure that each such User ID is registered with the Company, and that such registration is accurate at all times. In no event may a Person other than the Authorized User to whom a User ID has been assigned exercise Trading Privileges or otherwise access the Trading System using such User ID.

(d) An Authorized User must at all times:

(1) ensure that activity conducted under the User ID assigned to such Authorized User, or any automated trading system for which the User ID is linked to such Authorized User, complies with the Rules;

(2) if such Authorized User was designated by a Participant or an Authorized Trader, have the authority, at the Company's request, to adjust or withdraw any Order, Indication of Interest or Request for Quote submitted to the Trading System under any User ID assigned or linked to such Authorized User;

(3) have and maintain all necessary regulatory approvals and/or licenses to act as an Authorized User; and

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

(e) The Company will promptly notify, in writing, the Participant, the Authorized Trader or the Clearing Firm, as applicable of its approval, or refusal to approve, the designation of an Authorized User. The Company may, in its sole discretion, revoke or suspend the designation of an individual as an Authorized User, and shall promptly notify, in writing, the Participant, the Authorized Trader or the Clearing Firm of such action.

(f) Each Authorized User shall immediately notify the Company in writing if it ceases to meet any of the requirements of Rule 305(d). A Participant, Authorized Trader or Clearing Firm, as applicable, shall notify the Company in writing if it becomes aware that any of its Authorized Users ceases to meet any of the requirements of Rule 305(d).

(g) A Participant, Authorized Trader or Clearing Firm that seeks to terminate the designation of an individual as an Authorized User shall notify the Company in writing in accordance with procedures established by the Company. The Company shall act to terminate such Authorized User's Trading Privileges or other use of and access to the Trading System in accordance with procedures established by the Company.

**Rule 306. Independent Software Vendors**

A Person seeking to act as an ISV must satisfy the Company's technological integrity requirements and not adversely affect the Company's ability to comply with the CEA and CFTC Regulations.

**Rule 307. Limitations on Access to the Trading System**

(a) The Company may at any time revoke, suspend, limit, restrict or qualify a Participant's Trading Privileges, and those of its Authorized Traders and its and their Authorized Users, in accordance with the procedures set forth in Chapter 7.

(b) Subject to the terms of any agreement between a Participant, Authorized Trader and/or its or their Customers and a Clearing Firm, the Clearing Firm may at any time revoke the authorization of the Participant, Authorized Trader and/or its or their Customers, as applicable, to submit Contracts to a Derivatives Clearing Organization for clearing by such Clearing Firm. Any such revocation shall become effective as soon as practicable after the receipt of written notice thereof by the Company or at such later date as may be specified in the written notice from the Clearing Firm, at which time the Trading Privileges of the Participant, its Authorized Traders and its Authorized Users with respect to the Contracts that are cleared for such Participant or its Authorized Traders or its or their respective Customers by that Clearing Firm shall be terminated, unless, prior to such termination such Participant has designated, in the form and in a manner satisfactory to the Company, another Clearing Firm to clear such Contracts. For the avoidance of doubt, such revocation shall not be effective with respect to any transaction executed prior to such termination of Trading Privileges.

**Rule 308. Notices and Other Communications**

The Company shall publish on the Company's website and transmit to each Designated Representative by electronic mail each addition to or modification of the Company Requirements in accordance with CFTC Regulations, as applicable; provided that publication on the Company's website shall constitute notice to all Participants, Authorized Traders and Authorized Users.

**Rule 309. Designated Representatives**

(a) Each Participant shall designate in writing one or more Designated Representatives who are authorized to represent the Participant before the Company and its committees and receive notices on behalf of the Participant and its Authorized Users. The Company shall be entitled to rely on the actions of the Designated Representative as binding on the Participant and its Authorized Users. Each Participant must provide the Company with the

telephone number, mailing and electronic mail address of its Designated Representatives and shall promptly update this information by written notice whenever it changes.

(b) Each Authorized Trader shall designate in writing one or more Designated Representatives who are authorized to represent the Authorized Trader before the Company and its committees and receive notices on behalf of the Authorized Trader and its Authorized Users. The Company shall be entitled to rely on the actions of the Designated Representative as binding on the Authorized Trader and its Authorized Users. Each Authorized Trader must provide the Company with the telephone number, mailing and electronic mail address of its Designated Representatives and shall promptly update this information by written notice whenever it changes.

**Rule 310. Application of Rules; Jurisdiction of the Company**

(a) By becoming a Participant, Authorized Trader or Authorized User, as applicable, and without any need for any further action, undertaking or agreement, such Participant, Authorized Trader or Authorized User agrees:

(1) to be bound by, and comply with the Rules, Company Requirements and Applicable Law, in each case to the extent applicable to it;

(2) to be bound by the acts and omissions of its Authorized Traders and/or Authorized Users, as applicable;

(3) to assist the Company in complying with the Company's legal and regulatory obligations and to cooperate with the Company in any inquiry, investigation, audit, examination or proceeding; and

(4) to authorize the Company to provide information regarding such Participant, Authorized Trader or Authorized User as provided in Rule 207(b).

(b) A Participant, Authorized Trader or Authorized User whose Trading Privileges and/or ability to otherwise access the Trading System are suspended, revoked or terminated shall remain bound by the Rules, Company Requirements and Applicable Law, in each case to the extent applicable to it, her or him.

(c) Any Person initiating or executing a transaction on the Trading System or subject to the Rules directly or through an intermediary, and any Person for whose benefit such transaction has been initiated or executed, consents to the jurisdiction of the Company with respect to all matters arising from or related to such activity and such transactions.

**Rule 311. Withdrawal of Participant**

(a) To withdraw from the Company, a Participant must notify the Company in writing in accordance with procedures established by the Company for such purpose. Except as otherwise required by law or regulation or by request or order of a Government Agency, such withdrawal will be effective immediately upon receipt of the withdrawal by the Company.

(b) Upon the effective date of the withdrawal of a Participant, all rights and privileges of such Participant, its Authorized Traders and its and their Authorized Users shall terminate (including such Participant's Trading Privileges and ability to access the Trading System). The withdrawal of a Participant shall not affect the rights of the Company under the Rules or relieve the former Participant of its obligation under the terms of any Contract entered into or otherwise arising under the Rules before the effective date of such withdrawal. A Participant that has withdrawn remains subject to the Rules, the Company Requirements and the jurisdiction of the Company for acts done and omissions made while a Participant, and must cooperate in any Company Proceeding under Chapter 7 as if the withdrawn Participant were still a Participant.

**Rule 312. Dues, Assessments and Fees**

Each Participant, Authorized Trader and ISV shall pay when due all dues, assessments and fees as may be established by the Company and published on the Company's website or otherwise agreed between the Company and such Participant, Authorized Trader or ISV. The Company shall charge comparable dues, assessments and fees to Persons that receive comparable access to the Trading System. The Company may suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant, Authorized Trader or ISV and its ability to otherwise access the Trading System if such Participant, Authorized Trader or ISV fails to pay such amounts when due. The provisions of Chapter 7 (other than Rule 716) shall not apply to any such suspension, revocation, limitation, condition, restriction or qualification.

## CHAPTER 4. BUSINESS CONDUCT

### **Rule 401. Duties and Responsibilities of Participants and Authorized Traders**

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

(1) use the Company's Trading System in a responsible manner and not for any improper purpose;

(2) use the Company's Trading System only to conduct business that is subject to the Rules and in a manner consistent with the Rules and Company Requirements;

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

(4) comply with the rules of a Derivatives Clearing Organization that accepts for clearing a Contract traded by the Participant, Authorized Trader or Authorized User on the Trading System, to the extent applicable to such Participant, Authorized Trader or Authorized User and such Contract;

(5) observe high standards of commercial honor and just and equitable principles of trade while conducting or seeking to conduct any business connected with or concerning the Company;

(6) not knowingly mislead or conceal any material fact or matter in any dealings or filings with the Company or in connection with a Company Proceeding;

(7) keep all User IDs, account numbers and passwords related to the Company's Trading System confidential; and

(8) keep, or cause to be kept, complete and accurate books and records relating to Participant's or its Authorized Traders' use of the Trading System as required by Applicable Law, including records of their activity in the index or instrument used as a reference price, the underlying instrument and related derivatives markets with respect to Swaps, and make such books and records available for inspection by a representative of the Company or the Regulatory Services Provider in accordance with Rule 403 and otherwise as required by Applicable Law.

(b) In addition to the requirements of Rule 401(a), each Participant shall be responsible for all Orders, RFQs, Indications of Interest and transactions effected on the Trading System by or for the account of such Participant, its Authorized Traders and Authorized Users or by any Person using its or their User IDs or, at the election and sole discretion of Participant, cause its Customer to be fully responsible for all trading losses and bear all financial responsibility for Orders, RFQs, Indications of Interest and transactions effected on the Trading System for the account of or on the behalf of such Customer.

(c) Each Participant and Authorized Trader that is registered, or required to be registered, with the CFTC as a swap dealer or a major swap participant is responsible for compliance with the mandatory trading requirement of Section 2(h)(8) of the CEA when such Participant or Authorized Trader enters into, or facilitates entry into, a Swap.

**Rule 402. Required Notices**

Each Participant, Authorized Trader or ISV shall immediately notify the Market Regulation Department in writing upon becoming aware of any of the following events:

(a) any material changes to the information provided to the Company by the Participant pursuant to Rule 302, 303, 304, 305, 306 or 309;

(b) any refusal of admission to any Self-Regulatory Organization by the Participant or any of its Authorized Traders;

(c) any expulsion, suspension or fine in excess of \$25,000 in the case of an individual or \$50,000 in the case of a firm (whether through an adverse determination, voluntary settlement or otherwise) imposed on the Participant, Authorized Trader or ISV or any of their Authorized Users by any Self-Regulatory Organization;

(d) any revocation, suspension or conditioning of a registration or license granted by the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association or the Financial Industry Regulatory Authority, Inc. to the Participant, Authorized Trader or ISV or any of their Authorized Users;

(e) the commencement of any judicial or administrative proceeding against the Participant, Authorized Trader or ISV or any of their Authorized Users by any commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the Financial Industry Regulatory Authority, Inc. or any Self-Regulatory Organization or the imposition of a fine in excess of \$25,000 in the case of an individual or \$50,000 in the case of a firm, cease and desist order, denial of trading privileges, censure or other sanction or remedy (whether through an adverse determination, voluntary settlement or otherwise) imposed by any commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the Financial Industry Regulatory Authority, Inc., any Self-Regulatory Organization or, with respect to activity subject to the Rules, any court;

(f) the indictment or conviction of, or any confession of guilt or plea of guilty or *nolo contendere* by, the Participant, Authorized Trader or ISV or any of their Authorized Users, senior officers or principals for any felony or for any misdemeanor involving, arising from, or related to, the purchase or sale of any Contract or other financial instrument, or involving or arising from fraud or moral turpitude; and



(g) the Insolvency of the Participant, any of its Authorized Traders, or any of its or their Affiliates.

**Rule 403. Inspections by the Company**

The Company and the Regulatory Services Provider shall have the right with such prior reasonable advance notice as is practicable under the circumstances, in connection with determining whether the Rules and Company Requirements are being, will be or have been complied with by the Participant or Authorized Trader, to: (a) inspect the books and records of the Participant or Authorized Trader relating to the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades), (b) inspect systems, equipment and software, wherever located, operated by a Participant or Authorized Trader in connection with the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades) (c) access the systems, equipment, software, and the premises on which the Participant's or Authorized Trader's systems, equipment, and software are located, data stored in such systems or equipment, in each case, related to the Participant's or Authorized Trader's business which is subject to the Rules (including, without limitation, Permitted Transactions and Block Trades), during the regular business hours and Trading Hours of Company and (d) copy and/or reproduce such data as may be necessary to monitor such Participant or Authorized Trader for compliance with the requirements of Rule 518.

**Rule 404. Financial and Related Reporting Requirements**

(a) Each Participant and Authorized Trader that is registered with or authorized or supervised by a Government Agency shall comply with the provisions of Applicable Law relating to minimum financial and related reporting and recordkeeping requirements.

(b) Each Participant and Authorized Trader must notify the Company and the Regulatory Services Provider immediately when it ceases to be an Eligible Contract Participant, and if the Participant or Authorized Trader is registered with the CFTC as a futures commission merchant, when it ceases to satisfy the minimum financial requirements set out in CFTC Regulation 1.17. Each Participant and Authorized Trader that is registered with the CFTC as a futures commission merchant that is unable to demonstrate that it is in compliance with the minimum financial requirements of CFTC Regulation 1.17 shall not effect transactions in Contracts except for the purpose of closing open positions to the extent not prohibited by Applicable Law.

**Rule 405. Restrictions on Activity**

(a) The Company may limit or restrict the number or type of Contracts that may be traded by a Participant or its Authorized ~~Trader~~ Traders on the Trading System or terminate the Trading Privileges of such Participant, its Authorized Traders and/or its and their Authorized Users if any of the following occurs:

(1) a representation or warranty made by such Participant to the Company under or in connection with any agreement between the Company and the Participant

shall be false or misleading in any material respect as of the date on which made or repeated;

(2) the Participant does not meet the requirements set forth in Rule 302;

(3) the material breach by the Participant or any of its Authorized Traders or Authorized Users of any of the Company Requirements; or

(4) the Company determines that the financial or operational condition of a Participant, one of its Affiliates or an Authorized Trader is such that to allow that Participant to continue to have access to the Trading System would adversely affect the Company or the financial markets

#### **Rule 406. Customers**

The Participant or Authorized Trader shall have arrangements in place with each of its Customers such that every Contract executed for, or other activity engaged in by the Participant or Authorized Trader on the Trading System on behalf of, its Customer is subject to the terms of the Rules insofar as they are applicable to that Contract or activity. Additionally, a Participant or Authorized Trader, as applicable, will be deemed to have made the following representations and warranties each time it makes use of the Trading System on behalf of a Customer:

(a) such Customer is an Eligible Contract Participant; and

(b) with respect to Contracts that are to be cleared by a Derivatives Clearing Organization, either (i) such Participant or the Participant who designated such Authorized Trader, as applicable, is a member of the Derivatives Clearing Organization that is authorized to clear such Contracts for the account(s) of such Customer, or (ii) such Participant or the Participant who designated such Authorized Trader, as applicable, has delivered to the Company evidence satisfactory to the Company, in its sole discretion, that at least one Clearing Firm has agreed to accept Contracts for clearing into the account of such Customer.

#### **Rule 407. Publication of Trade Information**

The Company shall daily publish on its website information regarding volume, price ranges (based on non-cancelled bids, non-cancelled offers, and sales) subject to such prices accurately reflecting market conditions within the discretion of the Company, and opening and closing prices and settlement prices. The Company shall also publish on its website, on a daily basis, the total quantity of Block Trades that are included in the total volume of trading.

#### **Rule 408. Disaster Recovery; Business Continuity**

Each Participant shall have written disaster recovery and business continuity policies and procedures in place to ensure it is able to operate in the event of a significant internal or external interruption to its operations.

**Rule 409. Anti-Money Laundering Obligations**

Each Participant and Authorized Trader will be deemed to have made the following representations, warranties and covenants to the Company, on behalf of itself and its respective Authorized Users and Customers, each time it makes use of the Trading System:

(a) Such Participant or Authorized Trader is in compliance with all laws, rules and regulations applicable to it pertaining to anti-money laundering and anti-terrorism, including those related to sanctions screening and customer identification and verification. Such Participant or Authorized Trader shall provide to the Company, upon request, so long as permitted by Applicable Law, including those pertaining to data privacy, any documents and other information reasonably requested by the Company in order to satisfy any anti-money laundering, anti-terrorism, sanctions screening or other customer identification and verification laws, rules and regulations applicable to the Company; and

(b) To the extent that such Participant or Authorized Trader, or any of their respective ~~Authorized Users or Customers~~, is located within the United States, or is otherwise subject to the jurisdiction of the United States, such Participant, Authorized Trader, ~~Authorized User or Customer~~ is a U.S. person as defined by applicable regulations administered and enforced by the Office of Foreign Assets Control ("OFAC"), is subject to such regulations, and, to the extent applicable, has implemented a program reasonably designed to comply with such regulations. As to the extent applicable, as part of its OFAC compliance program, such Participant, Authorized Trader, ~~Authorized User or Customer~~, ~~as applicable~~, has screened and will continue periodically to screen against the most recent version of OFAC's List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations and Specially Designated Narcotics Traffickers, the name and address of any counterparty to a transaction it executed or that was executed on its behalf on the Trading System.

## CHAPTER 5. TRADING PRACTICES

### **Rule 501. Scope**

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

### **Rule 502. Rule Violations**

It shall be a violation for any Person subject to the Company's jurisdiction to violate any Rule or any Company Requirement.

### **Rule 503. Just and Equitable Principles of Trade; Acts Detrimental**

It shall be a violation of these Rules for any Person subject to the Company's jurisdiction to engage in conduct inconsistent with just and equitable principles of trade or that is detrimental to the interest or welfare of the Company. A Participant that has actual or constructive notice of a violation of the Rules involving the use of the Trading System by any of its Authorized Traders or any of their respective Authorized Users or Customers may be found to have committed an act detrimental to the Company.

### **Rule 504. Fraudulent Acts Prohibited**

No Person subject to the Company's jurisdiction shall engage in any fraudulent act or engage in any scheme to defraud, deceive or mislead another Person (including the Company and the Regulatory Services Provider) in connection with or relating to any Contract.

### **Rule 505. Fictitious or Noncompetitive Transactions Prohibited**

No Person subject to the Company's jurisdiction shall engage in fictitious or noncompetitive transactions except, in the case of noncompetitive transactions, as otherwise provided in Rules 512(b) and (c) and 515(b) and Chapter 6, or enter an Order, or originate or respond to a Request for Quote or Indication of Interest for such a purpose.

### **Rule 506. Market Manipulation Prohibited**

(a) No Person subject to the Company's jurisdiction shall attempt to manipulate or manipulate the market in any Contract.

(b) Without limiting the generality of the foregoing, parties involved in the solicitation or negotiation of a Block Trade and parties that are privy to nonpublic information regarding a consummated Block Trade may not disclose such information to any other party prior to the reporting of the Block Trade by the Company and may not trade in the same product or closely-related product for the purpose of taking advantage of such information. In addition, pre-hedging or anticipatory hedging of any portion of a Block Trade in the same product or a closely-related product based upon a solicitation to participate in a Block Trade is not permitted. A closely related product is a product that is highly correlated to, serves as a substitute for, or is

the functional economic equivalent of the product being traded as a Block Trade. Counterparties to a Block Trade are permitted to initiate trades to hedge or offset the risk associated with the Block Trade following the consummation of the Block Trade.

**Rule 507. Disruptive Trading Practices Prohibited**

No Person subject to the Company's jurisdiction shall engage in any trading practice or conduct that constitutes a "disruptive trading practice," as such term is described either in Section 4c(a)(5) of the CEA or in interpretive guidance issued by the CFTC, in relation to the trading of any Contract. Conduct prohibited under this Rule 507 includes: violating bids or offers; demonstrating intentional or reckless disregard for the orderly execution of transactions during the closing period; activity that is, or is of the character of, or is commonly known to the trade as "spoofing" (bidding or offering with the intent to cancel the bid or offer before execution); and the entry of data or other information into the Trading System, including Orders, Requests for Quote and Indications of Interest, for the purpose of upsetting the equilibrium of the market in any Contract or creating a condition in which prices do not or will not reflect fair market values.

**Rule 508. Prohibition of Misstatements**

No Person subject to the Company's jurisdiction shall make a misstatement of a material fact to the Company, including any Committee, Disciplinary Panel or Appeal Panel, or to the Regulatory Services Provider, or knowingly omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

**Rule 509. Misuse of the Trading System**

Misuse of the Trading System is strictly prohibited. No Participant, Authorized Trader, Authorized User or other Person subject to the Company's jurisdiction shall (i) permit unauthorized use of the Trading System; (ii) assist any Person in obtaining unauthorized access to the Trading System; (iii) trade in any Swap on the Trading System without an agreement and an established account in good standing with a Clearing Firm; (iv) interfere with the operation of the Trading System; (v) intercept or interfere with information provided by or to the Trading System; or (vi) in any way use the Trading System in a manner contrary to the Rules.

**Rule 510. Financial or Other Incentive Programs**

The Company may from time to time establish programs that provide Participants with financial or other incentives for meeting trading volume, liquidity or other thresholds as may be established by the Company.

**Rule 511. Withholding of Customer Orders Prohibited; Priority of Customer Orders**

(a) Customer Orders (other than a Customer Order allowing discretion as to time and price) must be entered into the Trading System as soon as practicable and in the sequence in which they were received by a Participant or Authorized Trader, as applicable. A Person that

receives a Customer Order shall electronically record the time when such Customer Order was received.

(b) No Person shall withhold or withdraw from the market any Customer Order, or any part of a Customer Order, for the benefit of any Person other than the Customer for whom such Person is placing the Customer Order. No Person shall knowingly enter an Order or submit a Request for Quote into the Trading System for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority (other than an Order allowing discretion as to time and price) when such Person is in possession of a Customer Order for the same Contract that can be but has not been submitted to the Trading System.

(c) Nothing in this Rule 511 shall limit the ability of an "eligible account manager" to bunch Orders in accordance with CFTC Regulation 1.35(b)(5).

**Rule 512. Handling of Customer Orders**

(a) Except as provided in paragraphs (b) and (c), no Person in possession of a Customer Order shall knowingly take, directly or indirectly, the opposite side of such Customer Order on the Trading System's Order Book for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority.

(b) A Person may knowingly trade on the Trading System's Order Book against a Customer Order for its own account, an account in which it has a direct or indirect financial interest, or an account over which it has discretionary trading authority, if the Customer Order has been entered into the Trading System's Order Book as promptly as practicable after receipt of the Customer Order and has been exposed on the Trading System's Order Book for a minimum of fifteen (15) seconds.

(c) Except as provided in paragraph (d), opposite Orders for different beneficial owners may not knowingly be simultaneously entered into the Trading System's Order Book by an Authorized User on behalf of a Participant or Authorized Trader with discretion over both accounts unless one Order is exposed for a minimum of fifteen (15) seconds.

(d) A Customer Order allowing for price and/or time discretion may be knowingly entered into the Trading System's Order Book opposite another Order entered by the same Person only if it is entered immediately upon receipt or exposed to the market for a minimum of fifteen (15) seconds.

(e) The Company may adjust the fifteen (15) second time delay required under Rule 512(c) for a given Contract, based upon such Contract's liquidity and other product-specific considerations, provided however that any amended time delay shall provide Participants, Authorized Traders and Authorized Users sufficient time to have a meaningful opportunity to execute against such Order.

(f) The provisions of this Rule 512 shall not apply to Block Trades.

**Rule 513. Disclosing Orders and Requests for Quotes Prohibited**

(a) No Person subject to the Company's jurisdiction shall disclose the terms of an Order, Request for Quote or Indication of Interest prior to its entry into the Trading System, except to a Company Official, the Regulatory Services Provider or a Government Agency, and no Person subject to the Company's jurisdiction shall solicit or induce another Person to disclose such information.

(b) The foregoing shall not apply to pre-execution communications conducted in accordance with Rule 515(b), to Block Trades, to statements of opinion, or to indications of the price at which a market may open or trade.

**Rule 514. Wash Sales Prohibited**

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

**Rule 515. "Money passing," Prearranged, Pre-Negotiated and Noncompetitive Transactions Prohibited**

(a) No Person subject to the Company's jurisdiction may enter Orders or Requests for Quote the purpose of which is to enter into Contracts with a resulting profit to one account and a loss to the other account but no net change in the open positions in either account, commonly known as a "money pass."

(b) No Person subject to the Company's jurisdiction shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any Required Transaction on the Trading System. Notwithstanding the foregoing, a Person may engage in pre-execution communications with regard to Required Transactions executed or to be executed on the Trading System if one party (the first party) wishes to be assured that a contra party (the second party) will take the opposite side of the first party's Order, subject to the following restrictions:

(1) A party may not engage in pre-execution communications with other market participants on behalf of another party unless the party for whose benefit the trade is being made has previously agreed to permit such communications.

(2) Parties to pre-execution communications shall not disclose to a non-party the details of such communications or enter an Order to take advantage of information conveyed during such communications except in accordance with this Rule.

(3) The first party's Order must be entered into the Trading System first, and the second party's Order may not be entered into the Trading System until a period of fifteen (15) seconds has elapsed from the time of entry of the first Order.

(4) Each such Order will be processed and matched separately and the Company does not guarantee that the first and second party's Orders will be matched with each other or that both Orders will be executed.

(c) The provisions of paragraph (b) shall not apply to Permitted Transactions, Block Trades or Requests for Quotes.

**Rule 516. Responsibility for Customer Orders**

A Participant, Authorized Trader or Authorized User may not directly or indirectly guarantee the execution of a Customer Order or any of its terms such as the quantity or price and may only report an execution that has been effected through the Trading System or has been executed pursuant to Chapter 6. This Rule shall not be construed to prevent a Participant or Authorized Trader from assuming or sharing in the losses resulting from an error or the mishandling of a Customer Order.

**Rule 517. Discretionary Customer Orders**

No Person shall submit a discretionary Customer Order to the Trading System without the prior written consent of such Customer to the exercise of such discretion. A Customer Order that solely gives a Participant, Authorized Trader or Authorized User time and price discretion shall not be subject to this Rule.

**Rule 518. Recordkeeping; Audit Trail**

(a) Each Person entering an Order or Indication of Interest into the Trading System or originating or responding to a Request for Quote shall include with such Order, Indication of Interest or Request for Quote such information as may be required by the Company, including, to the extent applicable, the legal entity identifier assigned to each party to a Contract and to each party for whom an Order or Indication of Interest is submitted or Request for Quote is originated or responded to. If a Person receives a Customer Order that cannot be immediately entered into the Trading System or as to which such Person has been given time and price discretion, such Person shall create an electronic record that identifies the Customer from whom the Customer Order has been received, including an electronic timestamp reflecting the date and time (to the nearest second) of receipt.

(b) Participants that provide connectivity to the Trading System to Authorized Traders or other third parties are responsible for maintaining or causing such Authorized Traders or other third parties to maintain a routing/front-end audit trail for all Orders, Indications of Interest and Requests for Quotes, including entry, modification, cancellation and responses to such messages, entered into the Trading System through any gateway to the Trading System, including the times thereof to the highest level of precision achievable by the Participant's operating system, but at least to the nearest second ("Audit Trail"). Times that are so captured must not be capable of being modified.

(1) Participants shall maintain, or shall cause Authorized Traders and other third parties to whom they have provided connectivity to the Trading System to maintain, Audit Trail data in the form and manner required by CFTC Regulations and in



accordance with such additional requirements as may be established by the Company. Participants must have the ability to produce such data, or cause such data to be produced, in a standard format upon request of the Market Regulation Department.

(2) A Participant whose Customer is itself a Participant may agree with such Customer that it is the Customer's obligation to maintain the Audit Trail for such Customer's Orders, Indications of Interest and Requests for Quotes. Any such agreement shall be in writing, a copy of which shall be provided to the Market Regulation Department.

(c) A suspense account may be used at the time of entry of an Order or Request for Quote provided that a contemporaneous electronic or written record of the Order or Request for Quote with the account designation is made, time-stamped and maintained in accordance with this Rule 518, and provided that the correct account designation is provided to the Clearing Firm prior to the end of the trading day. A suspense account may also be used at the time of entry for bunched Orders or Requests for Quote that are eligible for post-trade allocation and that are executed and allocated in accordance with CFTC Regulation 1.35(b)(5).

(d) A Person must include the customer type indicator ("CTI") code with each Order and Request for Quote. The CTI codes are as follows:

(1) CTI 1 - Transactions initiated and executed by a Participant or Authorized Trader for its own account, for an account it controls or for an account in which it has an ownership or financial interest.

(2) CTI 2 - Transactions executed for the proprietary account (as such term is defined in CFTC Regulation 1.3(y)) of a Participant, Authorized Trader or Clearing Firm.

(3) CTI 3 - Transactions in which a Participant, Authorized Trader or Authorized User is trading (i) for the personal account of another Participant, Authorized Trader or Authorized User, (ii) for an account that is controlled by such other Participant, Authorized Trader or Authorized User, or (iii) for an account in which such other Participant, Authorized Trader or Authorized User has an ownership or financial interest.

(4) CTI 4 - Any transaction not within CTIs 1, 2 or 3.

**Rule 519. Position Accountability**

A Person who holds or controls aggregate positions in any Swap in excess of the applicable position accountability levels set forth in Rule 523 shall:

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

(b) if so ordered by the Market Regulation Department, not further increase positions that exceed the position accountability levels specified in Rule 523.

**Rule 520. Position Limits**

The Company may establish position limits for one or more Contracts, which, if and when established will be set forth in Rule 523, and grant exemptions from position limits, in accordance with CFTC Regulations. A Person seeking an exemption from position limits must apply to the Market Regulation Department in the form and manner required by the Company.

**Rule 521. Position Information**

Without limiting any other rights of the Company under these Rules or otherwise, the Company shall have the right to request position and trading information in respect of a given Contract from any Participant, Authorized Trader, Authorized User or Customer that has a position in such Contract at or above the applicable position accountability level.

**Rule 522. Aggregation of Positions**

For purposes of Rules 519, 520 and 521, positions in Contracts shall be aggregated in accordance with CFTC Regulations.

**Rule 523. Position Limits and Position Accountability Levels**

The position limits and position accountability levels for Swaps will be calculated on a net basis and are as follows. SwapEx will enforce position limits and position accountability levels only for Contracts executed on the Trading System and Block Trades executed pursuant to Chapter 6 of the Rules.

<b>Contracts</b>	<b>Daily Position Accountability Level</b>	<b>Position Limit Level</b>
Interest Rate Swaps:		
• Floating Rate Index: 3 Month USD LIBOR	\$250 billion	N/A
• Floating Rate Index: 6 Month EURIBOR	€185 billion	N/A
• Floating Rate Index: 6 Month GBP LIBOR	£150 billion	N/A

**Rule 524. Operation of the Trading System**

The following is a summary of the execution methods and credit and risk limit functionality available on the Trading System. It is not intended to provide a comprehensive

description of the operation of the Trading System or the execution methods and/or credit and risk functionality available thereon. Certain execution methods may not be available for certain Contracts (e.g., Contracts that are not cleared, Contracts in certain product types, etc.). Additional information with respect to the operation of the Trading System, the execution methods and credit and risk functionality is provided in the applicable user guide and other specific information that the Company may make available to Participants, Authorized Traders and Authorized Users.

(a) *Execution Methods for Required Transactions:*

(1) *Order Book.* The Trading System's Central Limit Order Book functionality uses a price/time algorithm to match Orders that are eligible to be matched. Whether an Order is eligible to be matched depends on a number of factors including, the order type and expiry type and, if applicable, credit and/or risk limits established for transactions effected through the Trading System.

(2) *Request for Quote.* Under the request for quote ("Request for Quote" or "RFQ") functionality, a Person (the "Taker") may submit an RFQ to not less than the minimum number of market participants ("Makers") required by CFTC Regulations.

(i) A Maker affiliated with a Taker will not count towards the minimum number of Makers required by CFTC Regulations, and Makers that are Affiliates shall for such purposes count only as a single Maker.

(ii) The manner in which Makers receive RFQs on the Trading System and the manner in which the Trading System transmits and displays their responses to RFQs to the Taker will comply with CFTC Regulations.

(iii) At the same time that the Taker receives the first responsive bid or offer from a Maker, the Taker will also receive any firm bid or offer pertaining to the same Contract resting on the Trading System's Order Book.

(iv) The Taker shall have the opportunity to (A) execute against any responsive bid or offer from a Maker or a firm resting bid or offer provided pursuant to subparagraph (iii), or (B) elect not to accept any such bids or offers.

(b) *Execution Methods for Permitted Transactions.* The Trading System will provide the execution ~~methods~~ method as described in Paragraph (a)(1) above for Permitted Transactions. In addition, the Trading System may provide various other execution methods (including, without limitation the execution method as described in Paragraph (a)(2) above) for Permitted Transactions as notified by the Company to Participants and Authorized Traders from time to time. A Permitted Transaction will be deemed executed on the Trading System upon the Company providing a record of the terms of an executed Order to each counterparty as provided in Rule 525.

(c) *Credit and Risk Limits.* The Trading System permits Participants, Authorized Traders and Clearing Firms to input and establish credit and/or risk limits on the Trading System. The Company may also require Participants, Authorized Traders and/or Clearing Firms to input

and establish credit and/or risk limits on the Trading System. A Person establishing credit and/or risk limits on the Trading System shall be solely responsible for evaluating the creditworthiness of each Person for whom it establishes such limit and for determining whether such Person is in compliance with any such limits with respect to its activity on the Trading System. The Company shall not have any responsibility for compliance with credit limits by a Participant, Authorized Trader or Authorized User, notwithstanding that such credit limits may have been input into the Trading System, or for monitoring, maintaining or enforcing any such credit limits.

**Rule 525. Confirmation of Transactions**

(a) The Company will confirm all of the terms of a transaction (a "Confirmation") as required by CFTC Regulations at the time such Contract is executed on the Trading System. A Contract that is effected as a Block Trade shall be confirmed by the Company when it is executed on the Trading System. Such Confirmation shall legally supersede any previous agreement between the counterparties to such Contract.

(b) With respect to a transaction in a Contract that is not a Cleared Contract, a Confirmation shall, for purposes of CFTC Regulation 37.6(b), consist of the Trade Communication and the Terms Incorporated by Reference. In the event of any conflict between (i) the Trade Communication and (ii) the Terms Incorporated by Reference, the Trade Communication shall prevail to the extent of any inconsistency. "Trade Communication" means the written communication containing the economic terms specific to a transaction provided by the Company to the Participant(s) and/or Authorized Trader(s) who executed such transaction on the Trading System and shall be deemed to include the applicable Contract Specifications. "Terms Incorporated by Reference" means the documents and agreements between the counterparties to the transaction (including, without limitation, ISDA master agreements, other master agreements, terms supplements, master confirmation agreements and incorporated industry definitions) governing such transactions existing at the time of execution of the transaction. The Participant(s) and/or Authorized Trader(s) must, as applicable, maintain in accordance with Rule 401(a)(8) copies of all Terms Incorporated by Reference and, for purposes of compliance with these Rules and CFTC Regulations, shall be deemed to hold such Terms Incorporated by Reference on behalf of the Company.

**Rule 526. Trade Cancellations and Price Adjustments**

(a) Cancellation of Cleared Contracts Not Accepted for Clearing.

(1) If a transaction is submitted to, but not accepted for clearing by, a Derivatives Clearing Organization, such transaction shall be deemed to be void *ab initio* following receipt of a clearing rejection notice from the Derivatives Clearing Organization and neither of the parties thereto nor the Company shall have any further responsibility for such transaction under these Rules.

~~(2) If a transaction is rejected or fails to clear at a Derivatives Clearing Organization because of clerical or operational error or omission resulting in a mismatch in the terms of the transaction, then the parties may enter into a new transaction, with terms and conditions that match the terms and conditions of the original transaction, other~~

~~than any such error and the time of execution, and submit such new transaction for clearing without such transaction having been executed pursuant to the methods set forth in CFTC Regulation 37.9(a)(2), provided that:~~

- ~~(i) — both parties' Clearing Firms agree to submit the new transaction;~~
- ~~(ii) — each Clearing Firm obtains the consent of its customer, if any, to submit the new transaction;~~
- ~~(iii) — neither Clearing Firm requires its customers to agree in advance to consent to the submission of the new transaction;~~
- ~~(iv) — the new transaction is submitted as soon as technologically practicable after receipt by the Clearing Firms of notice of the rejection from clearing, but in any case not later than thirty (30) minutes from the issuance of a notice of rejection by the Derivatives Clearing Organization to the Clearing Firms;~~
- ~~(v) — both the original transaction and the new transaction are subject to pre-execution credit checks under these Rules and applicable CFTC Regulations;~~
- ~~(vi) — both the original transaction and the new transaction are processed in accordance with the time frames set forth in CFTC Regulations 1.74, 23.610, 39.12(b)(7) and applicable CFTC staff guidance;~~
- ~~(vii) — if the new transaction is rejected by the Derivatives Clearing Organization or fails to clear for any reason, it shall be void *ab initio* and the parties may not submit a new transaction again pursuant to this Rule 526(a)(2).~~

~~For the avoidance of doubt, references to a "Clearing Firm" in this Rule 526(a)(2) include a Participant who is a member of a Derivatives Clearing Organization and who is acting in its capacity as the Clearing Firm with respect to a transaction executed by it or its Authorized Trader (in each case, whether for the account of the Participant, the Authorized Trader or a Customer).~~

~~(3)(2) No Participant, Authorized Trader or Customer or prospective Participant, Authorized Trader or Customer may enforce a Breakage Agreement with another Participant, Authorized Trader or Customer, or require such an agreement as a condition to trading with such other Participant, Authorized Trader or Customer on or pursuant to the Rules in respect of a Cleared Contract.~~

(b) Company Authority

(1) The Company has authority to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market-disrupting events caused by the improper or erroneous use of the Trading System or by a malfunction or other technological error in the Trading System.

(2) Notwithstanding any other provision of this Rule 526, the Company may adjust trade prices or bust any trade if the Company determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market.

(c) Review of Trades

(1) The Company may determine to review a trade based on its independent analysis of market activity or upon request for review by a Participant. A request for review must be made within fifteen (15) minutes of the execution of the trade.

(2) The Company shall determine whether or not a trade will be subject to review. In the absence of a timely request for review, during volatile market conditions, upon the release of significant news, or in any other circumstance in which the Company deems it to be appropriate, the Company may determine, in its sole discretion, that a trade shall not be subject to review. In addition, notwithstanding anything to the contrary herein, any trade that is entered into pursuant to a Market Order or a Stop Loss Order or that has been accepted for clearing by a Derivatives Clearing Organization shall not be subject to review.

(3) Upon deciding to review a trade, the Company shall promptly issue an alert to all Participants via the Trading System or electronic mail indicating that the trade is under review.

(d) Price Adjustments and Trade Busts

(1) *Company Review Procedures.* In reviewing a trade, the Company shall first determine whether the trade price is within the No-Bust Range set forth in paragraph (g).

(2) *Trade Price Inside the No-Bust Range.* If the Company determines that the price of the trade is inside the No-Bust Range, the Company shall issue an alert indicating that the trade shall stand.

(3) *Trade Price Outside the No-Bust Range.* If the Company determines that a trade price is outside the No-Bust Range, the Company may cancel the trade if the Company determines (i) that the trade was the result of an error, (ii) that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market or (iii) that cancellation is necessary to mitigate market-disrupting events caused by the improper or erroneous use of the Trading System or by a malfunction or other technological error in the Trading System. The Company shall issue an alert regarding such cancellation.

(4) *Trade Cancellations and Adjustments.* Busted trade prices and any prices that have been adjusted shall be cancelled in the Company's official record of time and sales. Trades that are price-adjusted shall be inserted in the time and sales record at the adjusted trade price.

(e) Alternative Resolution by Agreement of Parties.

(1) With the approval of the Company, parties to a trade that is price-adjusted may instead mutually agree to cancel the trade.

(2) With the approval of the Company, parties to a trade that is busted may instead mutually agree to price adjust the trade by cancelling the trade and reporting a new trade at the adjusted price.

~~(f)~~ Schedule of Administrative Fees

~~(g)(f)~~ When the Company busts or price-adjusts a trade, the Participant responsible for the Order or the RFQ that gave rise to the trade bust or price adjustment shall pay an administrative fee to the Company in the amount of \$500 for each such occurrence. [Reserved.]

~~(h)~~(g) No-Bust Ranges

<b>Contracts</b>	<b>No-Bust Ranges</b>	
Interest Rate Swaps – Rate Negotiated	A yield off by 5 basis points from the determination of fair market value by the Company.	
Interest Rate Swaps – NPV Negotiated	A yield equivalent off by 5 basis points from the determination of fair market value by the Company.	
Non-deliverable Foreign Exchange Forwards	An exchange rate off by a set number of “pips” (as such term is commonly understood in the foreign exchange marketplace) from the determination of fair market value by the Company. The number of pips for the currency pairs available for trading on the Trading System are set forth in the table below:	
	<b>Currency Pair</b>	<b>Pips</b>
	USD/ARS	100
	USD/BRL	100
	USD/CLP	150
	USD/CNY	100
	USD/COP	50
	USD/IDR	200
	USD/INR	30
	USD/KRW	5

	USD/MYR	150
	USD/PEN	200
	USD/PHP	20
	USD/RUB	10
	USD/TWD	10

(i)(h) Company Determinations Final

All determinations and decisions of the Company with respect to the foregoing matters shall be final.

**Rule 527. Limitation of Liability; No Warranties**

(a) EXCEPT IN INSTANCES IN WHICH THE DISCLAIMING PARTY (DEFINED BELOW) HAS BEEN FINALLY ADJUDICATED BY A COURT OF COMPETENT JURISDICTION TO HAVE ENGAGED IN FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN WHICH CASE THE DISCLAIMING PARTY FOUND TO HAVE ENGAGED IN SUCH CONDUCT CANNOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE 527 AND WITHOUT LIMITING THE COMPANY'S INDEMNIFICATION OBLIGATIONS UNDER RULE 914, NEITHER THE COMPANY, NOR ANY AFFILIATE OF THE COMPANY, NOR ANY OF THEIR RESPECTIVE MANAGERS, OFFICERS, DIRECTORS, EMPLOYEES, EQUITYHOLDERS, AGENTS, CONSULTANTS OR SERVICE PROVIDERS (INCLUDING ANY REGULATORY SERVICES PROVIDER), NOR ANY MEMBER OF ANY COMMITTEE OR OTHER GOVERNING BODY OF ANY AFFILIATE OF THE COMPANY (EACH OF THE FOREGOING, AS APPLICABLE, THE "DISCLAIMING PARTY" AND, COLLECTIVELY, "DISCLAIMING PARTIES"), SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES ARISING OUT OF OR IN CONNECTION WITH:

(1) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER EVENT, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF THE TRADING SYSTEM OR ANY OTHER SYSTEMS AND SERVICES OF THE COMPANY, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING ELECTRONIC ORDER ENTRY AND DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY CLEARING FIRMS, PARTICIPANTS, AUTHORIZED TRADERS, AND AUTHORIZED USERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE AND FIRMWARE RELATING THERETO; OR

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



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

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

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM IS BASED ON BREACH OF CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, NEGLIGENT MISREPRESENTATION, RESTITUTION, BREACH OF STATUTORY DUTY, BREACH OF WARRANTY OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM.

(b) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS PROVIDED BY THE COMPANY OR ANY OTHER DISCLAIMING PARTIES, RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE TRADING SYSTEM AND THE COMPANY HEREBY SPECIFICALLY DISCLAIMS, OVERRIDES AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, CONDITIONS, ~~OTHER CONTRACTUAL TERMS,~~ AND REPRESENTATIONS, ~~INDEMNITIES AND GUARANTEES~~ WITH RESPECT TO THE SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE COMPANY OR ANY OTHER DISCLAIMING PARTY OR OTHERWISE (INCLUDING BUT NOT LIMITED TO, AS TO TITLE, SATISFACTORY QUALITY, ACCURACY, COMPLETENESS, UNINTERRUPTED USE, NON-INFRINGEMENT, TIMELINESS, TRUTHFULNESS, SEQUENCE AND ANY IMPLIED WARRANTIES, CONDITIONS AND OTHER CONTRACTUAL TERMS ARISING FROM TRANSACTION USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE) RELATING TO ANY SYSTEMS OR SERVICES OF THE COMPANY OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE TRADING SYSTEM.

(c) THE COMPANY'S TOTAL COMBINED AGGREGATE LIABILITIES SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED BY ALL PERSONS FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,000,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED BY ALL PERSONS IN A SINGLE CALENDAR YEAR. If the number of allowed claims arising out of any failures or malfunctions on a single day or single month cannot be fully satisfied because of the above dollar limitations, all such claims shall be limited to a pro rata share of the maximum amount for the respective period. In no event shall the total combined aggregate liability of the Disclaiming Parties for all claims arising out of any failures, malfunctions, faults in delivery, delays, omissions, suspensions, inaccuracies, interruptions, terminations or any other causes in connection with the furnishing, performance, operation, maintenance, use of or inability to use all or any part of any of the Company's systems or services, or services, equipment or facilities used to support such systems or services, including the Trading System, or the negligence of the Company or any Disclaiming Party exceed \$2,000,000 in any given calendar year. The limitations of liability in this Rule 527(c) shall not apply to the Company's indemnification obligations under Rule 914.

(d) Under no circumstances shall the Company be liable to a Participant or any other Person for any indirect, special, incidental, consequential, exemplary loss or punitive damages of

any kind, regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties or otherwise, including any loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of the use of money, loss of anticipated savings, loss of business, loss of opportunity, loss of market share, loss of goodwill, loss of reputation or loss of, damage to or corruption of data, however suffered or incurred, regardless of whether the Company has been advised of the possibility of such damages or whether such damages otherwise could have been foreseen or prevented.

(e) Under no circumstances shall the Company be liable for the acts, errors or omissions of any third party, including any data communication service, Swap Data Repository or Derivatives Clearing Organization.

(f) Any dispute arising out of the use of the systems or services of the Company or services, equipment, or facilities used to support such systems or services, including the Trading System, in which one or more Disclaiming Parties is a party shall be arbitrated pursuant to the Rules in Chapter 8, and references in Chapter 8 to a "Participant" shall, to the extent relevant, be deemed for such purpose to mean and include the Disclaiming Parties. Any such claim against a Disclaiming Party shall be brought within one (1) year from the time that a cause of action has accrued. This paragraph (f) shall in no way be construed to create a cause of action and shall not authorize an action that would otherwise be prohibited by the Rules. If for any reason, a court of competent jurisdiction finds that a dispute is not arbitrable, such dispute may be litigated only in accordance with Rule 912.

#### **Rule 528. Swap Data Reporting**

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

(b) The Reporting Counterparty for each Contract executed on the Trading System shall be established pursuant to CFTC Regulation 45.8. If both counterparties are equal in the hierarchy set out in CFTC Regulation 45.8 (for example, both are swap dealers), the Reporting Counterparty for such Contract shall be (a) with respect to foreign exchange Contracts, the seller of the currency that is higher in alphabetical order determined based on currency code (for example, in a USD/BRL trade, the seller of BRL would be the Reporting Counterparty because B is alphabetically higher than U) and (b) for interest rate swap Contracts, determined in accordance with *Dodd Frank Act - Swap Transaction Reporting Party Requirements* (version July 15, 2013), published by ISDA.

(c) The Company shall from time to time designate a Swap Data Repository in respect of one or more Contracts in accordance with the notice provisions of Rule 308.

(d) Each Participant and Authorized Trader:

(1) authorizes the Company to send Required Swap Creation Data on its behalf and, if applicable, on behalf of its Customers to the relevant Swap Data Repository

designated in accordance with Rule 528(c) and further agrees to take all such actions as are deemed necessary or required by such Swap Data Repository to facilitate or confirm such authorization; and

(2) consents to the maintenance of such Required Swap Creation Data by the relevant Swap Data Repository designated in accordance with Rule 528(c).

(e) Each Participant, Authorized Trader and Authorized User that enters an Order, an Indication of Interest or a Request for Quote into the Trading System shall include with each such Order, an Indication of Interest or a Request for Quote the following information (to the extent such information is not provided by the Trading System):

(1) the legal entity identifier of such Participant or Authorized Trader, if available;

(2) a yes/no indication of whether such Participant or Authorized Trader is a swap dealer with respect to the Contract for which the Order, Indication of Interest or Request for Quote is placed;

(3) a yes/no indication of whether such Participant or Authorized Trader is a major swap participant with respect to the Contract for which the Order, Indication of Interest or Request for Quote is placed;

(4) a yes/no indication of whether such Participant or Authorized Trader is a financial entity as such term has been defined by the CFTC;

(5) a yes/no indication of whether such Participant or Authorized Trader is a U.S. person as such term has been defined by the CFTC; and

(6) if the Contract will be allocated:

(A) an indication that the Contract will be allocated;

(B) the legal entity identifier of the agent;

(C) an indication of whether the Contract is a post-allocation swap; and

(D) if the Contract is a post-allocation swap, the unique swap identifier of the original transaction between the reporting counterparty and the agent.

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

**Rule 529. Updating Required Swap Creation Data**

Any Participant, Authorized Trader or Customer that discovers any error, omission or required amendment to Required Swap Creation Data for a Contract submitted on its behalf shall promptly submit corrected data to the Company and, if the error or omission relates to a Block Trade, the counterparty to such Block Trade.

## CHAPTER 6. BLOCK TRADES

### Rule 601. Block Trades

(a) Block Trades shall be permitted to the extent consistent with CFTC Regulations and these Rules.

(b) The following shall govern Block Trades:

(1) A Block Trade must be for a quantity that is at or in excess of the applicable minimum block size established by the CFTC. Orders for different accounts may not be aggregated to achieve the minimum block size, except as permitted pursuant to applicable CFTC Regulations, interpretations or guidance.

(2) Spread trades may be executed as Block Trades, provided that the quantity of each leg of the spread meets the minimum quantity for each respective maturity.

(3) A Participant or Authorized Trader must receive instructions from a Customer or obtain the Customer's prior consent before entering into a Block Trade on behalf of that Customer.

(4) A Block Trade may only be executed pursuant to the Rules and Company Requirements and submitted to the Company if both counterparties to the trade are Participants, Authorized Traders or Customers of Participants or Authorized Traders, and all Block Trades must be executed on the Trading System.

(5) The Company shall transmit all required Block Trade data to a Swap Data Repository as soon as technologically practicable following receipt of such data by the Company.

### Rule 602. Time-Stamp Requirements for Block Trades

All Block Trades executed in accordance with Chapter 6 are subject to the following requirements.

(a) The record of each Block Trade maintained by the parties to the Block Trade pursuant to Rule 401(a)(8) shall include an electronic time-stamp reflecting the date and time of execution.

(b) The Company shall time-stamp the transaction and pricing data with the date and time (to the nearest second) that the Company receives such data from the party reporting the Block Trade and the date and time when the Company transmits such data to a Swap Data Repository.

## CHAPTER 7. DISCIPLINARY RULES

### Rule 701. General

(a) A Person subject to the Company's jurisdiction shall be subject to this Chapter 7 if such Person is alleged to have violated, to have aided and abetted a violation of, to be violating, or to be about to violate, any Rule.

(b) The Company, through the Market Regulation Department and the Disciplinary Panel, will conduct Disciplinary Proceedings. The Market Regulation Department will maintain an enforcement staff that will prosecute violations in accordance with this Chapter 7. The enforcement staff shall not include Participants, Authorized Traders, Authorized Users, Customers or Persons whose interests conflict with their enforcement duties. Members of the enforcement staff shall not operate under the direct control of any person with Trading Privileges. No member of the Market Regulation Department may be a Disciplinary Panel Member or Appeal Panel Member. Any reference to the Market Regulation Department in this Chapter 7 shall also be a reference to the enforcement staff.

(c) No Company Official, Director or Officer will interfere with or attempt to influence the process or resolution of any Disciplinary Proceeding, except to the extent provided under the Rules with respect to a Disciplinary Proceeding in which an Officer or Company Official is a member of the enforcement staff or a Director is a member of the relevant Disciplinary Panel or Appeal Panel.

(d) No Person subject to the Company's jurisdiction may knowingly or intentionally impede or delay any Disciplinary Proceeding or any inquiry or investigation by the Market Regulation Department.

(e) A Person who acts in violation of Rule 701(d) may be subject to summary suspension or other summary action in accordance with Rule 717.

(f) Any Person subject to the Company's jurisdiction may be represented in a Disciplinary Proceeding by legal counsel or any other representative of its choosing at its own expense.

(g) Liability.

(1) The Company may hold a Participant liable for, and impose sanctions against such Participant, for such Participant's own acts and omissions that constitute a violation of these Rules as well as for the acts and omissions of (i) such Participant's Authorized Traders and Authorized Users or (ii) a Person using the User ID of any of such Participant's Authorized Users, in each case, that constitute a violation as if such violation were that of the Participant.

(2) The Company may hold an Authorized Trader liable for, and impose sanctions against such Authorized Trader, for such Authorized Trader's own acts and omissions that constitute a violation of these Rules as well as or for the acts and omissions of (i) such Authorized Trader's Authorized Users or (ii) a Person using the

User ID of any of such Authorized Trader's Authorized Users, in each case, that constitute a violation as if such violation were that of the Authorized Trader.

(3) The Company may hold an Authorized User liable for, and impose sanctions against such Authorized User, for such Authorized User's own acts and omissions that constitute a violation of these Rules, as well as or for the acts and omissions of a Person using such Authorized User's User ID that constitute a violation as if such violation were that of the Authorized User.

(4) The Company may hold any Person subject to the Company's jurisdiction liable for, and impose sanctions against such Person, for such Person's own acts and omissions that constitute a violation of these Rules.

(h) Ex Parte Communications.

(1) A Person subject to a Disciplinary Proceeding (and any legal counsel or other representative of such Person) and the Market Regulation Department (and any legal counsel or other representative of the Market Regulation Department) shall not knowingly make or cause to be made an ex parte communication relevant to the merits of a Disciplinary Proceeding to any member of the Disciplinary Panel or the Appeal Panel hearing such proceeding or appeal, as applicable.

(2) Members of the Disciplinary Panel or the Appeal Panel, as applicable, shall not knowingly make or cause to be made an ex parte communication relevant to the merits of a Disciplinary Proceeding to any Person subject to such proceeding, the Market Regulation Department or any legal counsel or other representative of such Person or the Market Regulation Department.

(3) Any Person who receives makes or learns of any communication that is prohibited by this Rule shall promptly give written notice of such communication and any response thereto to the Market Regulation Department and all parties to the Disciplinary Proceeding to which the communication relates.

(4) A Person shall not be deemed to have violated this Rule if the Person refuses an attempted communication concerning the merits of a Disciplinary Proceeding as soon as it becomes apparent the communication concerns the merits.

#### **Rule 702. Inquiries and Investigation**

(a) The Market Regulation Department shall make such inquiries as it deems necessary or appropriate to monitor Participants' and other Persons' compliance with the Rules. The Market Regulation Department shall commence an investigation, as provided in paragraph (b), if it has reason to believe that the Rules have been or may be violated or upon the receipt of a request from the CFTC. Any member of the Market Regulation Department must promptly recuse himself or herself and notify the Chief Compliance Officer if such member has a material conflict of interest with respect to any potential respondent in an Investigation Report.

(b) Persons subject to the Company's jurisdiction shall assist the Company and the Regulatory Services Provider in any investigation into potential violations of the Rules and the Company or the Regulatory Services Provider may require such Person to furnish such information concerning such Person's business that is subject to the Rules and Company Requirements as the Company may deem necessary to enable the Company to perform its obligations under Applicable Law, including information relating to Contracts and related financial instruments, and information requested by a Government Agency, Self-Regulatory Organization, Derivatives Clearing Organization or service provider or licensor relating to the Company's business as a swap execution facility and/or the Company's compliance with Applicable Law. The Company or the Regulatory Services Provider may require such Person to produce documents, to answer questions from the Company, and/or to appear in connection with an investigation.

(c) The Market Regulation Department will investigate apparent violations of the Rules of which it becomes aware. The Market Regulation Department will commence an investigation upon the receipt of a request from CFTC staff or upon the discovery or receipt of information by the Company that, in the judgment of the Market Regulation Department, indicates a reasonable basis for finding that a violation has occurred or will occur. The Market Regulation Department will determine the nature and scope of its inquiries and investigations in its sole discretion and will function independently of the commercial interests of the Company.

(d) The Market Regulation Department has the authority to:

- (1) initiate and conduct inquiries and investigations;
- (2) prepare Investigation Reports and make recommendations concerning initiating Disciplinary Proceedings; and
- (3) prosecute alleged violations within the Company's disciplinary jurisdiction.

(e) Each Person subject to the Company's jurisdiction is obligated to appear and testify and respond in writing to requests for information from the Market Regulation Department and to produce books, records, papers, documents or other tangible evidence in such Person's possession, custody or control within the time period required by the Market Regulation Department.

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

(a) The Market Regulation Department will maintain a log of all investigations and their disposition. The Market Regulation Department will prepare a written report of each investigation (the "Investigation Report"), regardless of whether the evidence gathered during an investigation forms a reasonable basis to believe that a violation within the Company's jurisdiction has occurred or is about to occur or whether the evidence gathered results in closing the matter without further action or through summary action.

(b) The Investigation Report shall include the reasons for initiating the investigation (including a summary of the complaint, if any), all relevant facts and evidence gathered, Market



Regulation Department staff's analysis and conclusions and the recommendation of the Market Regulation Department. For each potential respondent, the Market Regulation Department will recommend either:

- (1) closing the investigation without further action;
- (2) resolving the investigation through an informal disposition, including the issuance of a warning letter. An informal disposition (including the issuance of a warning letter) shall not constitute a finding of a violation or a sanction;
- (3) summary action;
- (4) the preparation and service of a notice of charges for instituting a Disciplinary Proceeding and recommended sanctions if a violation is found to have occurred by a Hearing Panel; or
- (5) a negotiated settlement.

(c) The Investigation Report shall be provided to the Chief Compliance Officer for a determination as to whether the Investigation Report is complete.

(d) Each Market Regulation Department investigation shall be completed in a timely manner and, absent mitigating factors, no later than twelve (12) months after the date that an investigation is opened. Mitigating factors that may justify an investigation taking longer than twelve (12) months to complete include the complexity of the investigation, the number of potential wrongdoers, the number of potential violations to be investigated and the volume of documents and data to be examined and analyzed.

#### **Rule 704. Opportunity to Respond**

(a) After completing its Investigation Report, the Market Regulation Department shall, where applicable and with the authorization of the Chief Compliance Officer, notify each potential respondent that the Market Regulation Department has recommended formal disciplinary charges against the potential respondent.

(b) The Market Regulation Department shall allow a potential respondent to submit a written statement explaining why a Disciplinary Proceeding should not be instituted and/or one or more of the potential charges should not be brought. The potential respondent shall submit any written statement within the time limit established by the Market Regulation Department.

#### **Rule 705. Review of Investigation Reports**

(a) After the completion of the Investigation Report and the receipt of any submission made by the proposed respondent pursuant to Rule 704(b), the Chief Compliance Officer shall decide whether to refer the Investigation Report to the Market Regulation Department for further review or to establish a Review Panel. The Market Regulation Department or Review Panel, as appropriate, shall, within thirty (30) days, take one of the following actions:

(1) If the Market Regulation Department or Review Panel, as appropriate, determines that additional investigation or evidence is needed, it shall promptly conduct such further investigation;

(2) If the Market Regulation Department or Review Panel, as appropriate, determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it shall direct that no further action be taken. Such determination shall be in writing, and shall include a written statement setting forth the facts and analysis supporting the decision; or

(3) If the Market Regulation Department or Review Panel, as appropriate, determines that a reasonable basis exists for finding a violation and adjudication is warranted, it shall direct that the Person alleged to have committed the violation be served with a notice of charges and proceed in accordance with this Chapter 7 or to be issued a warning letter meeting the requirements set forth in Rule 714(b)(1).

(b) A failure of the Market Regulation Department or Review Panel, as appropriate, to act within the time prescribed in paragraph (a) shall not prevent the Chief Compliance Officer from issuing a warning letter if he or she deems it appropriate to do so. The Chief Compliance Officer shall inform the Regulatory Oversight Committee of any such failure of the Market Regulation Department or Review Panel, as appropriate, to act.

**Rule 706. Notice of Charges**

(a) If the Market Regulation Department or Review Panel, as appropriate, authorizes Disciplinary Proceedings pursuant to Rule 705(a)(3), it will prepare, and serve in accordance with Rule 707, a notice of charges.

(b) A notice of charges shall:

(1) state the acts, practices or conduct that the respondent is alleged to have engaged in;

(2) state each specific Rule alleged to have been violated or about to be violated;

(3) advise the respondent of its right to a hearing;

(4) advise the respondent that it has the right to be represented by legal counsel or any other representative of its choosing in all succeeding stages of the disciplinary process (other than a Director, Officer or employee of the Company, any member of the Disciplinary Panel or any person substantially related to the Disciplinary Proceedings such as a material witness or other respondent);

(5) state the period of time within which the respondent may file an answer to, and request a hearing on, the notice of charges, which will, except for good cause, not be less than twenty (20) days after service of the notice of charges;

(6) advise the respondent that any failure to request a hearing within the period stated, except for good cause, will be deemed to constitute a waiver of the right to a hearing; and

(7) advise the respondent that any allegation in the notice of charges that is not expressly denied will be deemed to be admitted.

**Rule 707. Service of Notice**

Any notice of charges or other documents to be served pursuant to this Chapter 7 may be served upon the respondent, and service shall be deemed complete, upon: (i) deposit in the United States mail, postage prepaid, via registered or certified mail; (ii) delivery of the same to a recognized courier service, addressed to the respondent at the respondent's last known place of business or residence; or (iii) transmittal by electronic mail to the electronic mail address as it appears on the books and records of the Company, if followed by a hard copy of the document sent promptly thereafter by United States mail, postage prepaid, via registered or certified mail.

**Rule 708. Answer to Notice of Charges**

(a) If the respondent determines to answer a notice of charges, the respondent shall file its answer within twenty (20) days after being served with such notice, or within such other reasonable time period as may be determined by the Chief Compliance Officer.

(b) To answer a notice of charges, the respondent must in writing:

(1) specify the allegations that the respondent denies or admits;

(2) specify the allegations that the respondent does not have sufficient information to either deny or admit;

(3) specify any specific facts that contradict the notice of charges;

(4) specify any affirmative defenses to the notice of charges;

(5) sign and serve the answer on the Chief Compliance Officer; and

(6) if applicable, request a hearing before a Hearing Panel.

(c) Any failure by the respondent to timely serve an answer to a notice of charges will be deemed to be an admission to the allegations in such notice and a waiver of any right to a hearing before a Hearing Panel and to appeal any sanction that may be imposed. Any failure by the respondent to answer one or more allegations in a notice of charges will be deemed to be an admission of that allegation or those allegations. Any allegation in a notice of charges that the respondent fails to expressly deny will be deemed to be admitted. A general denial by the respondent, without more, will not satisfy the requirements of paragraph (b).

(d) If a respondent admits or fails to specifically deny any of the allegations in the notice of charges, the Hearing Panel shall find that the violations set forth in such allegations

have been committed and shall impose a sanction for such violations. The Hearing Panel shall promptly notify the respondent in writing of any sanction imposed pursuant to this Rule 708 and advise the respondent that the respondent may request, in writing, a hearing on such sanction within twenty (20) days of respondent being served with such notice. Any failure by the respondent to timely request a hearing with respect to a notice of sanctions will be deemed to be an acceptance of the sanctions in such notice and a waiver of any right to appeal such sanctions.

**Rule 709. Settlements**

(a) A respondent or potential respondent may at any time propose in writing an offer of settlement related to anticipated or instituted Disciplinary Proceedings. All offers of settlement shall be submitted to the Chief Compliance Officer.

(b) A respondent or potential respondent may offer to settle Disciplinary Proceedings without admitting or denying the findings contained in the order of the Disciplinary Proceedings but must accept the jurisdiction of the Company over it and over the subject matter of the proceedings, consent to the entry of the findings and sanctions imposed and waive its right to notice, opportunity for a hearing and any and all right to review and appeal under Applicable Law.

(c) If a respondent or potential respondent submits an offer of settlement in accordance with paragraph (a) above, the Chief Compliance Officer will forward the offer, together with his or her recommendation on whether to accept or reject the offer, to the Disciplinary Panel. The respondent or potential respondent may withdraw such offer of settlement at any time before acceptance by the Disciplinary Panel, but may not withdraw such offer at any time after acceptance by the Disciplinary Panel.

(d) If an offer of settlement is accepted by the Disciplinary Panel, it shall issue a written decision specifying:

(1) the Rule violations it has reason to believe were committed, including the basis or reasons for its conclusions;

(2) any sanction to be imposed, which must include full customer restitution where customer harm is demonstrated; and

(3) if applicable, that the respondent has accepted the sanctions imposed without either admitting or denying the Rule violations.

(e) In the event that the Disciplinary Panel accepts an offer of settlement without the agreement of the Market Regulation Department, the decision must adequately support such acceptance. Upon issuance of the written decision in accordance with paragraph (d), the respondent's submission of the offer will be deemed to constitute a waiver of any right to notice, the opportunity for a hearing and review and appeal under the Rules.

(f) If the offer of settlement of a respondent or potential respondent is not accepted by the Disciplinary Panel or for any other reason fails to become final, the matter will proceed as if the offer had not been made and the offer and all documents relating to it will not become part

of the record that is made available to a subsequent Disciplinary Panel or Appeal Panel but may be retained by the Company in its records. Neither a respondent or potential respondent nor the Market Regulation Department may use an unaccepted offer of settlement in any manner at a hearing of, or appeal from, Disciplinary Proceedings.

**Rule 710. Disciplinary Panel**

(a) A Review Panel, if established pursuant to Rule 705(a), is responsible for reviewing a completed Investigation Report and for determining whether a reasonable basis exists for finding a violation of the Rules and authorizing the issuance of a notice of charges. A Hearing Panel shall conduct hearings in connection with any Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 716), to make findings, render decisions, and impose sanctions pursuant to this Chapter 7.

(b) A Disciplinary Panel for a Disciplinary Proceeding other than a Summary Proceeding shall be composed of three (3) individuals that have been appointed by the Chief Compliance Officer. To the greatest extent practicable, the members shall be from diverse industry participant groups so that no group or class of industry participants dominates or exercises a disproportionate influence on the Disciplinary Panel. No employee of the Company may serve on a Disciplinary Panel. Subject to paragraphs (c) and (d), the appointment of a member of a Disciplinary Panel will not expire until the relevant Disciplinary Proceedings are completed.

(c) If an individual selected is an Interested Person or if a member of a Disciplinary Panel later becomes an Interested Person, a replacement for such individual shall be selected by the Chief Compliance Officer. Except as may otherwise be provided in the Rules, the Board may at any time remove any member of a Disciplinary Panel for cause.

(d) Within ten (10) days of being notified of the appointment of a Disciplinary Panel, a respondent may seek to disqualify any individual named to the Disciplinary Panel for the reasons identified in Rule 206 by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the respondent will be deemed to have waived any objection to the composition of a Disciplinary Panel. The Chair of the Regulatory Oversight Committee will decide the merits of any request for disqualification within his or her sole discretion. Any such decision shall be final and not subject to appeal.

(e) All information, records, materials and documents provided to a Disciplinary Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a Company investigation or as otherwise required by law. No individual shall serve on a Disciplinary Panel unless that individual has agreed in writing that he or she will not publish, divulge, or make known in any manner facts or information regarding the business of any Person or other information which may come to his attention in his official capacity as a member of the Disciplinary Panel, except when reporting to the Board or to a Committee concerned with such information or to the Market Regulation Department, when requested by the CFTC or other Government Agency, or when compelled to testify in any judicial or administrative proceeding.

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

(a) Prior to the commencement of a hearing, each respondent will be given the opportunity, subject to paragraphs (b) and (c), to review all books, records, documents, papers, transcripts of testimony and other tangible evidence in the possession or under the control of the Company that the Market Regulation Department will use to support the allegations and proposed sanctions in the notice of charges or which the chair of the Hearing Panel otherwise deems relevant to the Disciplinary Proceedings. Unless determined otherwise by the chair of the Hearing Panel, all such requests for access to information must be made not less than ten (10) days prior to the scheduled hearing date. Notwithstanding the foregoing, a respondent shall not have the right to review, and the Company shall have no obligation to disclose, information that (i) is protected by attorney-client privilege or attorney work product; (ii) was prepared by an employee of the Company but will not be offered in evidence in the Disciplinary Proceedings; (iii) may disclose a technique or guideline used in examinations, investigations or enforcement proceedings; or (iv) discloses the identity of a confidential source.

(b) The Market Regulation Department may redact, edit or code data and information before furnishing it to the respondent if books, records, documents, papers, transcripts of testimony or other tangible evidence that would otherwise be required to be provided to a respondent contain data or information that could adversely affect the competitive position of the Person providing such data or information or if such data or information might compromise other investigations being conducted by the Market Regulation Department. For purposes of this Rule 711, data and information that could adversely affect a Person's competitive position include positions in Contracts, trading strategies, the identity of any Participant, Authorized Trader or Authorized User and the finances of the Person providing the information. Notwithstanding the foregoing, the Market Regulation Department shall not redact, edit or code competitive or investigative data or information contained in documents in a manner that materially impairs the respondent's ability to defend against the allegations or proposed sanctions in the notices of charges and shall provide the respondent with reasonable access to the information and portions of the documents that the Market Regulation Department intends to rely on to support the allegations or proposed sanctions in the notice of charges.

(c) The respondent shall treat as confidential all data and information provided to it pursuant to this Rule 711, and shall not disclose any such data or information, except as necessary to the respondent's defense of notice of charges and any appeal of the decision of the Hearing Panel.

### **Rule 712. Hearings**

(a) All Disciplinary Proceedings (except for summary impositions of fines pursuant to Rule 716) will be conducted at a hearing before a Hearing Panel, which will be convened promptly after reasonable notice to each respondent. Parties to a Disciplinary Proceeding shall include each respondent and the Market Regulation Department.

(b) At a hearing conducted in connection with any Disciplinary Proceeding, the Market Regulation Department will present its case supporting the allegations and proposed sanctions in the notice of charges to the Hearing Panel. If a respondent has timely filed an

answer to the notice of charges in accordance with Rule 708, the respondent shall be entitled to attend and participate in the hearing. All hearings will be conducted privately and confidentially.

(c) At a hearing conducted in connection with Disciplinary Proceedings, the Market Regulation Department and each respondent entitled to participate in such hearing may:

- (1) present evidence and facts determined relevant and admissible by the chair of the Hearing Panel;
- (2) call and examine witnesses; and
- (3) cross-examine witnesses called by other parties.

(d) If the respondent fails to file an answer, has filed a general denial, or if any or all of the allegations in the notice of charges are not expressly denied in the respondent's answer, the chair of the Hearing Panel may limit evidence concerning any allegations not expressly denied in determining the sanctions to impose. If, in such a case, the respondent appears at the hearing, the respondent may not participate in the hearing with respect to such allegations that the respondent failed to properly deny (unless such hearing is a hearing conducted pursuant to Rule 708(d)) by calling or cross-examining witnesses, testifying in defense, presenting evidence concerning the notice of charges or otherwise, unless the respondent's failure to properly deny the allegations was solely the result of respondent's failure to timely file an answer and the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer. If the Hearing Panel determines that the respondent had a compelling reason for failing to timely file an answer, the Hearing Panel shall adjourn the hearing and direct the respondent to promptly file a written answer in accordance with Rule 708.

(e) Any Person entitled, or required or called upon, to attend a hearing before a Hearing Panel pursuant to paragraph (c) above shall be given reasonable notice, confirmed in writing, specifying the date, time and place of the hearing. All Participants, Authorized Traders and Authorized Users who are called as witnesses are required to appear at the hearing and, where applicable, produce evidence. The Company shall make reasonable efforts to secure the presence of other Persons called as witnesses whose testimony would be relevant (as determined by the chair of the Hearing Panel). A Hearing Panel may appoint an expert to attend any hearing and assist in deliberations if such expert is made subject to appropriate confidentiality requirements.

(f) The Company will arrange for any hearing conducted in connection with Disciplinary Proceedings to be recorded verbatim, or substantially verbatim, in a manner capable of accurate transcription. If the respondent requests a copy of all or portions of the record, the chair of the Hearing Panel may require the respondent to pay the costs of preparing such transcript.

(g) The chair of the Hearing Panel may continue, adjourn or otherwise conduct the hearing as he or she may deem appropriate. The chair of the Hearing Panel will determine all procedural and evidentiary matters, including the admissibility and relevance of any evidence proffered. In determining procedural and evidentiary matters, the chair of the Hearing Panel may be counseled by the Company's legal advisors and shall not be bound by evidentiary or

procedural rules of law. Once admitted during the hearing, the Hearing Panel may consider, and attach the weight it believes appropriate to, evidence or other materials.

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

(i) The Hearing Panel may summarily impose sanctions on any Participant, Authorized Trader or Authorized User who impedes, delays or substantially disrupts the progress of a hearing.

**Rule 713. Decision of Hearing Panel**

(a) As promptly as reasonable following a hearing, the Hearing Panel will issue a written order rendering its decision based on the weight of the evidence contained in the record of the Disciplinary Proceedings. A decision by a majority of the Hearing Panel will constitute the decision of the Hearing Panel.

(b) The Company will provide a copy of the order of the Hearing Panel to the respondent and the Market Regulation Department. The order will include:

- (1) the notice of charges or summary of the allegations;
- (2) the answer, if any, or a summary of the answer filed by the respondent;
- (3) a brief summary of the evidence introduced at the hearing or, where appropriate, incorporation by reference of the Investigation Report;
- (4) findings of fact and conclusions concerning each allegation, including a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each allegation;
- (5) each specific Rule that the respondent is found to have violated; and
- (6) the imposition of sanctions, if any, pursuant to Rule 714, including the basis for such sanctions and the effective date of each sanction.

(c) A Hearing Panel shall be dissolved automatically when it has decided the matter for which it was appointed and has notified the respondent and the Chief Compliance Officer in writing of its decision.

(d) Unless a timely notice of appeal is filed pursuant to Rule 715, the order of the Hearing Panel will become final upon the expiration of twenty (20) days after the order is served on the respondent and the Market Regulation Department.



#### **Rule 714. Sanctions**

(a) In the event that a respondent is found in accordance with this Chapter 7 to have violated or to have attempted to violate a Rule or if sanctions are imposed pursuant to an accepted settlement offer, the Hearing Panel shall impose such sanctions as it deems appropriate, commensurate with the violations committed and sufficient to deter recidivism or similar violations by other Participants, Authorized Traders and Authorized Users. Any such sanctions shall take into account the respondent's disciplinary history (if any) and, in the event of demonstrated customer harm, shall include full customer restitution.

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

(1) a warning letter, provided that no more than one (1) warning letter may be issued to the same respondent found to have committed the same rule violation within a rolling twelve (12) month period;

(2) censure;

(3) limitation, restriction or qualification of Trading Privileges, ability to otherwise access the Trading System, and/or other activities, functions or operations;

(4) suspension, for a period not to exceed twelve (12) months, of Trading Privileges and/or ability to otherwise access the Trading System;

(5) termination of Trading Privileges and/or ability to otherwise access the Trading System;

(6) expulsion;

(7) a fine;

(8) restitution or disgorgement; or

(9) any other sanction or remedy deemed to be appropriate.

(c) The Company may impose a fine of up to \$100,000 for each violation of a Rule. A Participant will be responsible for paying any fine or other amount imposed on, but not paid by, any of its Authorized Traders or Authorized Users.

(d) A Hearing Panel may order a respondent to pay some or all of the costs associated with the Disciplinary Proceedings, including costs that the Hearing Panel believes were unnecessarily caused by the respondent. Costs may include costs associated with the inquiry or investigation, the prosecution by the Market Regulation Department or Regulatory Services Provider, legal and professional assistance, the conduct of the hearing, and administrative and other expenses incurred by the Hearing Panel.

**Rule 715. Appeal from Hearing Panel Decisions and Summary Actions (Other than Summary Impositions of Fines)**

(a) In the event that a respondent is found, pursuant to Rule 713, to have violated or to have attempted to violate a Rule:

(1) such respondent may appeal the decision within twenty (20) days of receiving the order of the Hearing Panel by filing a written notice of appeal with the Chief Compliance Officer;

(2) the Market Regulation Department may appeal all or any part of a decision of the Hearing Panel, including any sanctions that may or may not have been imposed by the Hearing Panel, within twenty (20) days of receiving the order of the Hearing Panel by filing a notice of appeal with the Chief Compliance Officer; and/or

(3) the Appeal Panel may, on its own initiative, order a review of any aspect of a decision by the Hearing Panel within twenty (20) days of the order of the Hearing Panel by filing a notice of appeal with the Chief Compliance Officer.

(b) While an appeal is pending, the effect of the order of the Hearing Panel (including any sanctions, remedies or costs imposed thereby) shall be suspended, except with respect to any denial or limit on Trading Privileges or ability to otherwise access the Company's Trading System

(c) The notice of appeal must state in writing the grounds for appeal, including the findings of fact, conclusions or sanctions to which the respondent objects. A respondent may appeal the order of the Hearing Panel on the grounds that:

(1) the order was arbitrary, capricious, an abuse of discretion or not in accordance with the Rules; or

(2) the order exceeded the authority or jurisdiction of the Hearing Panel, the Chief Compliance Officer or the Company.

(d) The Company will forward copies of any notice of appeal received by it to all parties to the hearing before the Hearing Panel except the appellant. On or before the twentieth (20<sup>th</sup>) day after filing a notice of appeal, the appellant must file with the Chief Compliance Officer and serve on all other parties a brief supporting the notice of appeal and documents supporting the brief. On or before the twentieth (20<sup>th</sup>) day after the date on which the appellant serves supporting brief, the appellee must file and serve its brief in opposition with the Market Regulation Department. On or before the tenth (10<sup>th</sup>) day after the date on which the appellee serves its brief in opposition, the appellant must file and serve a brief in reply with the Market Regulation Department.

(e) In connection with any appeal, the Company will furnish to the Chief Compliance Officer and to the respondent/appellant a transcript of the hearing, any exhibits introduced at the hearing, the notice of appeal and briefs filed to support and oppose the appeal.

(f) An Appeal Panel shall be composed of three (3) individuals that have been appointed by the Chief Compliance Officer. To the greatest extent practicable, the members shall be from diverse industry participant groups so that no group or class of industry participants dominates or exercises a disproportionate influence on the Appeal Panel. No individual shall be selected to serve on the Appeal Panel for any Disciplinary Proceeding if such individual has served on the Hearing Panel for such Disciplinary Proceeding.

(g) If an individual selected is an Interested Person or if a member of the Appeal Panel later becomes an Interested Person, a replacement for such individual shall be selected by the Chief Compliance Officer. Except as may be otherwise provided in the Rules, the Board may at any time remove any member of an Appeal Panel for cause.

(h) All information, records, materials and documents provided to the Appeal Panel and all deliberations, testimony, information, records, materials and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further a Company investigation or as otherwise required by law. No individual shall serve on an Appeal Panel unless that individual has agreed in writing that he or she will not publish, divulge, or make known in any manner facts or information regarding the business of any Person or other information which may come to his attention in his official capacity as a member of the Appeal Panel, except when reporting to the Board or to a Committee concerned with such information or to the Market Regulation Department, when requested by the CFTC or other Government Agency, or when compelled to testify in any judicial or administrative proceeding.

(i) Within ten (10) days of being notified of the appointment of the Appeal Panel, either party may seek to disqualify any individual named to the Appeal Panel for the reasons identified in Rule 206 by serving written notice on the Chief Compliance Officer. By not timely filing a request for disqualification, the parties will be deemed to have waived any objection to the composition of an Appeal Panel. The Chair of the Regulatory Oversight Committee will decide the merits of any request for disqualification within his or her sole discretion. Any such decision shall be final and not subject to appeal.

(j) The Appeal Panel may hold a hearing to allow parties to present oral arguments. Any hearing will be conducted privately and confidentially. Notwithstanding the confidentiality of hearings, the Appeal Panel may appoint an expert to attend any hearing and assist in the deliberations if such individuals agree to be subject to appropriate confidentiality agreements. In determining procedural and evidentiary matters, the Appeal Panel will not be bound by evidentiary or procedural rules or law.

(k) Except for procedural and evidentiary matters decided by the Appeal Panel pursuant to paragraph (j), unless such appellant otherwise consents, the entire Appeal Panel must be present in person during the entire appeal hearing and must be present, in person or by telephone, during any related deliberations.

(l) The Appeal Panel will only consider on appeal the record before the Hearing Panel, the notice of appeal, the briefs filed in support and opposition of the appeal, and any oral arguments of the parties. The Appeal Panel may only consider new evidence when the Appeals

Panel determines that good cause exists as to why the evidence was not introduced during the Disciplinary Proceeding.

(m) After completing its review, the Appeal Panel may affirm, modify or reverse any order of the Hearing Panel under appeal, in whole or in part, including increasing, decreasing or eliminating any sanction or remedy imposed, imposing any other sanction or remedy authorized by the Rules, remanding the matter to the same or a different Hearing Panel for further Disciplinary Proceedings, or ordering a new hearing.

(n) As promptly as reasonably possible following its review, the Appeal Panel will issue a written decision based on the weight of the evidence before the Appeal Panel. The decision of the Appeal Panel shall meet the same informational requirements as set forth in Rule 713(b).

(o) The Appeal Panel's written order will be the final action of the Company and will not be subject to appeal within the Company.

#### **Rule 716. Summary Imposition of Fines**

(a) The Chief Compliance Officer may summarily fine a Participant, Authorized Trader or Authorized User for failing to make timely and accurate submissions to the Company of notices, reports or other information required by the Rules or to keep books and records required by the Rules.

(b) The Market Regulation Department, acting on behalf of the Chief Compliance Officer, will give notice of any fine imposed pursuant to this Rule 716 to each Participant, Authorized Trader or Authorized User subject thereto. The notice will specify the violations of the Rules for which the fine is being imposed and the amount of the fine. The Participant, Authorized Trader or Authorized User, as the case may be, shall pay or cause the payment of the fine within twenty (20) days of the date of notice.

(c) The Company shall establish, and from time to time revise, schedules of fines to be imposed pursuant to this Rule 716. Such schedules of fines shall provide for progressively larger fines for recurring violations, with the maximum fine not to exceed \$5,000. Summary imposition of fines pursuant to this Rule 716 will not preclude the Company from bringing any other action against the Participant, Authorized Trader or Authorized User, as the case may be.

(d) Appeals of the summary imposition of fines imposed pursuant to this Rule 716 shall be heard by the Appeal Panel. The appellant shall be advised of its right to a prompt hearing before the Appeal Panel and its right to be represented, at its own cost, by legal counsel or any other representative at such hearing. The appellant may present evidence in support of its appeal. The Appeal Panel's decision shall be final. The Appeal Panel shall not set aside, modify or amend the summary fines imposed unless the Appeal Panel determines by a majority vote that the decision to impose the fine was either:

(1) arbitrary, capricious, or an abuse of the Chief Compliance Officer's discretion; or

- (2) in excess of the Chief Compliance Officer's authority or jurisdiction.

**Rule 717. Summary Suspensions and Other Summary Actions**

(a) Notwithstanding anything in the Rules to the contrary, the Chief Compliance Officer may, after consultation with the Regulatory Oversight Committee if practicable, summarily suspend, revoke, limit, condition, restrict or qualify a Participant's Trading Privileges and/or a Participant's or any other Person's ability to otherwise access the Trading System, and may take other summary action against a Participant, Authorized Trader or Authorized User in accordance with the Rules (including any imposition of a fine under Rule 716) if the Chief Compliance Officer reasonably believes that immediate action is necessary to protect the best interests of the public or the Company.

(b) Where practicable, the Company shall provide prior written notice to the party against whom action in accordance with paragraph (a) is to be taken. If prior notice is not practicable, the Company will give notice at the earliest possible opportunity. Any such notice shall describe the action taken or to be taken by the Company, the reasons therefor, the effective date, time and duration thereof, and advise the recipient of the notice of its right to a prompt hearing before a Hearing Panel and its right to be represented by legal counsel or other representative at such hearing. A request by a Participant or other person for such a hearing shall not delay the effectiveness of the summary action.

(c) At the request of the Company, a respondent against whom a summary action is brought pursuant to this Rule 717 shall provide books and records over which the respondent has access or control and shall furnish information to, or appear or testify before, the Market Regulation Department and a Disciplinary Panel in connection with the enforcement of any Rule.

(d) If a hearing is requested pursuant to paragraph (b), the Hearing Panel will promptly convene a hearing to be conducted in accordance with Rule 712.

(e) As promptly as reasonably possible after the hearing, the Hearing Panel will issue to the respondent a written order based on the weight of the evidence affirming, modifying, or reversing the summary action. The order will include a description of the summary action taken, a summary of the evidence introduced at the hearing, a statement of findings of fact and conclusions, a description of any action taken or to be taken by the Company, and the effective date, time and duration thereof.

**Rule 718. Rights and Responsibilities After Suspension or Termination**

(a) With respect to a Participant, Authorized Trader or Authorized User whose Trading Privileges and/or ability to otherwise access the Trading System have been suspended, none of its rights (including the right to hold oneself out to the public as a Participant, Authorized Trader or Authorized User, enter Orders and Indications of Interest into the Trading System and originate or respond to Requests for Quotes) will apply during the period of the suspension, except for the right of the Participant, Authorized Trader or Authorized User in question to assert a claim as provided in Chapter 8. Any such suspension will not relieve the Participant, Authorized Trader or Authorized User in question of its, his or her obligations under the Rules to perform any obligation incurred prior to the suspension, or for any Company fees,

costs, or charges incurred during the suspension. The Company may discipline a suspended Participant, Authorized Trader or Authorized User under this Chapter 7 for any violation of a Rule committed by the Participant, Authorized Trader or Authorized User before, during or after the suspension.

(b) When a Participant's, Authorized Trader's or Authorized User's Trading Privileges and/or ability to otherwise access the Trading System are terminated, all of its, his or her related rights will terminate, except for the right of the Participant, Authorized Trader or Authorized User in question to assert a claim as provided in Chapter 8.

(c) A suspended or terminated Participant, Authorized Trader or Authorized User remains subject to the Rules and the jurisdiction of the Company for acts and omissions prior to the suspension or termination, and must cooperate in any Disciplinary Proceeding or appeal of Disciplinary Proceedings as if the suspended or terminated Participant, Authorized Trader or Authorized User still had Trading Privileges or ability to otherwise access the Trading System.

#### **Rule 719. Notice of Disciplinary Proceedings**

The Company will provide written notice of final decisions in Disciplinary Proceedings to the parties to the Disciplinary Proceeding consistent with applicable CFTC Regulations and the Rules. Whenever the Company suspends, expels, fines or otherwise disciplines or denies any Person access to the ~~Company~~ Trading System, the Company will make any public disclosures required by CFTC Regulations.

#### **Rule 720. Regulatory Services Provider**

(a) Any of the functions of the Company under Chapter 4 and Chapter 5 or this Chapter 7 may be performed by a Regulatory Service Provider pursuant to a delegation of such functions by the Company to such Regulatory Services Provider, and references to the Market Regulation Department shall in such circumstances be deemed to be references to such Regulatory Service Provider. The Company may provide information regarding any Participant, Authorized Trader or Authorized User to the Regulatory Services Provider in connection with the performance by the Regulatory Services Provider of those functions. A failure to comply with a request or direction from the Regulatory Services Provider shall be deemed to be a failure to comply with a request or direction from the Market Regulation Department.

(b) The Company shall retain exclusive authority over all substantive decisions made by the Regulatory Service Provider (including decisions involving the cancellation of trades, the issuance of disciplinary charges, suspensions or terminations of Trading Privileges and/or ability to otherwise access the Trading System) and will document instances where its actions differ in any material respect from those recommended by the Regulatory Service Provider.

(c) The Company shall retain ultimate decision-making authority with respect to any functions that are performed by a Regulatory Services Provider, including the reasons for the course of action recommended by the Regulatory Services Provider and the reasons why the Company chose a different course of action.

## CHAPTER 8. ARBITRATION RULES

### **Rule 801. General**

(a) Participants, Authorized Traders, Authorized Users and other Persons subject to the Company's jurisdiction shall arbitrate through NFA's arbitration program all disputes, controversies or claims between or among themselves that relate to or arise out of any Contract or otherwise arise out of one or more transactions made or alleged to have been made on the Trading System or subject to the Rules and that are based upon facts and circumstances that occurred at a time when the parties were Participants, Authorized Traders, Authorized Users or otherwise subject to the Company's jurisdiction.

(b) Notwithstanding the foregoing, this Chapter 8 does not apply to disputes between Participants, Authorized Traders, Authorized Users and other Persons subject to the Company's jurisdiction that: (i) such Persons are required by the rules of a Self-Regulatory Organization to submit to the dispute resolution procedures of that Self-Regulatory Organization; or (ii) that such Persons have, by valid and binding agreement, committed to negotiate or litigate in a forum other than NFA.

(c) Notwithstanding the foregoing, this Chapter 8 does not require arbitration of claims alleging employment discrimination (including sexual harassment) in violation of Applicable Law.

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

NFA will conduct arbitrations described in this Chapter 8 pursuant to NFA's Member Arbitration Rules, as if each party to such arbitration was an "NFA Member," and references in the Member Arbitration Rules to an "Associate" of an "NFA Member" shall mean and include an Authorized User.

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

(a) A Participant, Authorized Trader, Authorized User or other Person subject to the Company's jurisdiction may initiate an arbitration claim by submitting the required documents and fees to the NFA.

(b) A Participant, Authorized Trader, Authorized User or other Person submitting an arbitration claim shall provide written notice of such claim to the Company.

### **Rule 804. Claims Relating to Trade Cancellations or Price Adjustments**

All claims relating to trade cancellations or price adjustments pursuant to Rule 526 shall be arbitrated in accordance with this Chapter 8.

### **Rule 805. Penalties**

(a) Any failure by a Participant, Authorized Trader or Authorized User subject to the Company's jurisdiction to arbitrate a dispute subject to this Chapter 8, or the commencement by

such a Person of a suit in any court prior to arbitrating a case subject to this Chapter 8, shall constitute a violation of these Rules and shall subject such Participant, Authorized Trader or Authorized User to Disciplinary Proceedings pursuant to Chapter 7. A Participant, Authorized Trader or Authorized User that does not arbitrate a dispute through the NFA's arbitration program as provided in Rule 801(b) or Rule 801(c) shall not be deemed to have violated these Rules.

(b) The Company may summarily suspend, pursuant to Rule 717, a Participant, Authorized Trader or Authorized User that fails to timely satisfy an arbitration award rendered in any arbitration conducted pursuant to this Chapter 8.



## CHAPTER 9. MISCELLANEOUS

### **Rule 901. Contract Specifications**

(a) Notwithstanding any provision of these Rules, the Contract Specification with respect to a particular Contract shall govern the applicability of the Rules to trading in such Contract and, in the event of any conflict between the Rules and the Contract Specification with respect to trading in such Contract, the Contract Specification shall govern.

(b) The Contract Specification for each individual Contract may specify: (i) whether such Contract may be settled via cash settlement, physical delivery of the underlying commodity, or by any other means, as applicable; (ii) the method for determining settlement prices; and (iii) such other terms as are determined by the Company to be relevant.

(c) The Contract Specifications for each Contract will be published by the Company on its website.

### **Rule 902. Legal Certainty**

No Contract listed for trading on the Trading System shall be void, voidable, subject to rescission or otherwise invalidated or rendered unenforceable as a result of either: (1) any violation by the Company of any provision of the CEA or CFTC Regulations; (2) any action taken by the CFTC that has the effect of amending, altering or supplementing the Rules or any of the terms or conditions of a Contract listed for trading on the Trading System; or (3) any other proceeding that has the effect of amending, altering or supplementing the Rules or any terms or conditions of a Contract listed for trading on the Trading System or requiring the Company to take or refrain from taking any specific action.

### **Rule 903. Trading by Company Officials Prohibited; Misuse of Material, Non-Public Information**

(a) No Company Official may trade, directly or indirectly any Contract or any commodity interest related thereto.

(b) No member of the Board, member of any Committee, Disciplinary Panel Member or Appeal Panel Member (each, a "Covered Person") and no Company Official may trade, directly or indirectly any Contract, any swap traded on another swap execution facility or other market, or any commodity interest related thereto where such Covered Person or Company Official has access to material non-public information concerning such Contract or commodity interest that was obtained as a result of the individual's duties and responsibilities as a Covered Person or Company Official, as applicable. Participation by a Company Official in a retirement plan sponsored by the Company shall not be deemed to constitute trading directly or indirectly in a Contract or commodity interest, notwithstanding such plan's trading of swaps or commodity interests.

(c) The Chief Compliance Officer (or, in the case of the Chief Compliance Officer, the Board) may grant exemptions from the provisions of paragraph (a) to Company Officials on

a case-by-case basis under circumstances that are not contrary to the purposes of this Rule and CFTC Regulation 1.59. Such circumstances may include, but are not necessarily limited to:

(1) participation in pooled investment vehicles where such Company Official has no direct or indirect control over transactions effected by or for the account of the pool;

(2) service by such Company Official as an executor or administrator of an estate;

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

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

(d) Any Company Official that has received an exemption under paragraph (c) must:

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

(2) inform the Chief Compliance Officer (or, in the case of the Chief Compliance Officer, the Board) within one business day of any material change of information that may affect such Company Official's qualification for such exemption.

(e) Covered Persons and Company Officials are prohibited from using or disclosing for any purpose other than the performance of their official duties and responsibilities material non-public information obtained as a result of their employment, agency relationship or engagement with the Company where the Covered Person or Company Official expected or should have reasonably expected that the information disclosed may assist a Person in trading any Contract, any swap traded on another swap execution facility or other market, or any commodity interest related thereto. Notwithstanding the foregoing, Covered Persons and Company Officials may disclose material, non-public information if required by law or a court order.

(f) Terms used in this Rule 903 and not otherwise defined in the Rules shall have the meaning set forth in CFTC Regulations 1.3 and 1.59.

#### **Rule 904. Proprietary Information; Use of Market Data**

(a) By accessing or otherwise using the Trading System, each Participant, Authorized Trader, Authorized User, ISV, Customer or other Person subject to the Company's jurisdiction hereby acknowledges and agrees that the Company owns and shall retain all right, title and interest in and to the Trading System, all components thereof, including all related applications, all application programming interfaces, user interface designs, software and source code and any and all intellectual property rights therein, including all registered or unregistered, as applicable

(i) copyright, (ii) trade mark, (iii) service mark, (iv) trade secret, (v) trade name, (vi) data or database rights, (vii) design rights, (viii) moral rights, (ix) inventions, whether or not capable or protection by patent or registration, (x) rights in commercial information or technical information, including know-how, research and development data and manufacturing methods, (xi) patent, and (xii) other intellectual property and ownership rights, including applications for the grant of any of the same, in or to the Trading System and all other related proprietary rights of the Company and/or any of its affiliates (together, with any and all enhancements, corrections, bug fixes, updates and other modifications to any of the foregoing and any and all data or information of any kind transmitted by means of any of the foregoing, including the Market Data, "Proprietary Information"). Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction further acknowledges and agrees that the Proprietary Information is the exclusive, valuable and confidential property of the Company. Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction acknowledges and agrees that it shall not and shall not permit other Persons affiliated it to, reverse engineer, copy, bug fix, correct, update, transfer, reproduce, republish, broadcast, create derivative works based on or otherwise modify, in any manner, all or any part of the Trading System or the Proprietary Information. Each Participant, Authorized Trader, Authorized User, ISV, Customer and other Person subject to the Company's jurisdiction further agrees to keep, and to cause each of its employees and agents to keep, Proprietary Information confidential and not to transfer, lease, loan, sell or distribute, directly or indirectly, all or any portion of the Trading System or any Proprietary Information except as may be expressly permitted in writing by the Company.

(b) Each Participant and each Authorized Trader retains such rights as it may enjoy under Applicable Law with respect to Market Data solely in the form such Market Data was submitted to the Trading System by such Participant or Authorized Trader or their respective Authorized Users. Except as may otherwise be permitted by Rule 905 or in any written agreement between the Company and a Participant or Authorized Trader, the Company shall not (i) use Market Data to compete directly with the Participant or Authorized Trader, or (ii) attribute Market Data to a Participant or Authorized Trader.

(c) Notwithstanding any other provision of this Rule 904, each Person subject to the jurisdiction of the Company hereby grants the Company a non-exclusive, perpetual, freely transferable, world-wide and royalty-free license to use, distribute, sub-license and disclose Market Data in any manner, media and jurisdiction as may be necessary for the operation of the Trading System or as may be required by CFTC Regulations.

(d) Subject to paragraph (b) or unless otherwise provided in the Participant Agreement, each Person subject to the jurisdiction of the Company hereby consents to the use by the Company for business or marketing purposes (including the sale, licensing or other commercialization) of Market Data, proprietary data and personal information that is collected or received from or on behalf of such Person.

(e) Each Person subject to the jurisdiction of the Company acknowledges and agrees that the Company may disclose and disseminate swap transaction and pricing data relating to Contracts executed on the Trading System or reported to the Company in accordance with

Chapter 6 to other Persons with access to the Trading System simultaneous with or subsequent to the Company's transmittal of such data to a Swap Data Repository.

(f) Each Participant and Authorized Trader represents and warrants that, to the extent it provides personal information to SwapEx the use and/or transfer of which is subject to regulation under the laws and/or regulations of the jurisdiction(s) from which such Participant or Authorized Trader or its Authorized Users are accessing SwapEx, it has obtained any and all consents and disseminated any and all disclosures, in each case as required under such laws and regulations, in order to provide SwapEx with such information.

**Rule 905. Confidentiality**

Except as provided in Rule 904, all non-public information provided to the Company by a Participant, Authorized Trader or Authorized User shall be held in confidence and shall not be made known to any other Person except as follows:

(a) with the consent of the Participant, Authorized Trader or Authorized User providing such information;

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

(c) pursuant to legal process;

(d) to a Derivatives Clearing Organization of which such Participant is a member or in connection with the clearing of a Contract;

(e) to a Swap Data Repository or other registered entity (as such term is defined in CFTC Regulations);

(f) subject to appropriate confidentiality requirements, to any Person providing services to the Company, including the Regulatory Services Provider;

(g) with respect to Market Data, in accordance with Rule 904(c);

(h) pursuant to an information-sharing agreement or other arrangement or procedures in accordance with Rule 907; and

(i) subject to appropriate confidentiality requirements, to the Board, any Committee, Company Officials, attorneys and auditors, and to agents and independent contractors that have been engaged by the Company who require such information in connection with the discharge of their duties to the Company; and

(j) as otherwise permitted under the Rules.

#### **Rule 906. Recording of Communications**

The Company and/or the Regulatory Services Provider may record conversations and retain copies of electronic communications between Company Officials and Participants, Authorized Traders, Authorized Users and Clearing Firms. Any such recordings may be retained by the Company and/or the Regulatory Services Provider in such manner and for such periods of time as the Company may deem necessary or appropriate, including as may be required by Applicable Law, but the Company assumes no obligation to Participants, Authorized Traders, Authorized Users or Clearing Firms to retain any such recordings. The Company and/or the Regulatory Services Provider may disclose such recordings as required by Applicable Law or regulation or upon the request of any Government Agency. This Rule 906 shall be deemed to constitute the consent of each Participant, Authorized Trader, Authorized User and Clearing Firm to such recording and a waiver of any tone or other notice requirement in the State or country of such Person's residence, place of organization or place of business.

#### **Rule 907. Information-Sharing Agreements**

(a) The Company may enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets. As part of any such information-sharing agreements or other arrangements or procedures adopted pursuant to this Rule, the Company may:

- (1) provide market surveillance reports to other markets;
- (2) share information and documents concerning current and former Participants, Authorized Traders and Authorized Users with other markets;
- (3) share information and documents concerning ongoing and completed Disciplinary Proceedings with other markets; and/or
- (4) require Participants and Authorized Traders to provide information and documents to the Company at the request of other markets with which the Company has an information-sharing agreement or other arrangements or procedures.

(b) The Company may enter into any information-sharing agreement or arrangement with any Person or body (including the NFA, any Self-Regulatory Organization, any exchange, market, clearing organization, foreign regulatory authority, data repository or third-party reporting service) if the Company considers such information-sharing agreement or arrangement to be in furtherance of the Company's purpose or duties under the Rules or any law or regulation applicable to the Company's operation of swap execution facility.

(c) The Company will not disclose any non-public information of any Participant, Authorized Trader, Authorized User or Customer pursuant to any information-sharing agreement or arrangement entered into in accordance with Rule 907(a) and (b) without a corresponding confidentiality agreement, unless the Person requesting the information is a Government Agency or the regulatory authority of any foreign jurisdiction or such disclosure is otherwise required by Applicable Law.

**Rule 908. Force Majeure**

Notwithstanding any other provision of the Rules, any delay in or failure by the Company to perform its obligations under the Rules or any agreement with a Participant (including exhibits and schedules thereto) will not be considered a breach and will be excused to the extent that such delay or failure is caused by any event beyond the reasonable control of the Company, including, without limitation, acts of God, acts of civil or military authorities, strikes or other labor disputes, fire or other natural disasters, interruption in telecommunications or internet or network provider services, acts or omission of a third party hardware or software supplier or a third party communications provider, power outages and governmental restrictions.

**Rule 909. Extension or Waiver of Rules**

The Company may, in its sole discretion, waive, or extend the time period for performing, any act or acts designated by the Rules, but only to the extent such waiver or extension is not inconsistent with the CEA or CFTC Regulations.

**Rule 910. Effect of Amendment, Repeal or New Rule**

(a) The Company may, in compliance with the CEA and CFTC Regulations, amend or repeal any Rule and/or adopt new Rules.

(b) Except as provided in Rule 910(c), any such amendment or repeal of a Rule or adoption of a new Rule, shall, as of the effective date of such amendment, repeal or adoption, as applicable, be binding on all Persons subject to the jurisdiction of the Company and all Contracts.

(c) If an amendment or repeal of a Rule or adoption of a new Rule materially changes the terms or conditions of a Contract or affects the value of open Contracts, then the amendment or repeal of a Rule or adoption of a new Rule will be binding only on Contracts entered into on or after the effective date of such amendment, repeal or adoption, unless otherwise specifically approved by the Board or required by the CFTC.

**Rule 911. Signatures**

Rather than rely on an original signature, the Company may elect to rely on a signature that is transmitted, recorded or stored by any electronic, optical, or similar means (including telecopy, imaging, photocopying, electronic mail, electronic data interchange, telegram or telex) as if it were (and the signature shall be considered and have the same effect as) a valid and binding original.

**Rule 912. Governing Law; Legal Proceedings**

(a) The Rules, and the rights and obligations of the Company, Participants, Authorized Traders and Authorized Users under the Rules, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed wholly within the State of New York, without regard to any provisions of New York law that would apply the substantive law of a different jurisdiction.

(b) Subject to Rule 527, any action, suit or proceeding against the Company, its officers, directors, limited liability company members, employees, agents, or any member of any Committee must be brought within one (1) year from the time that a cause of action has accrued. Any such action, suit or proceeding shall be brought in the State or Federal courts located within Borough of Manhattan in the City of New York. Each Participant and Authorized Trader expressly consents, for itself and its Authorized Users, to the jurisdiction of any such court, waives any objection to venue therein, and waives any right it may have to a trial by jury.

### **Rule 913. 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 (including Core Principle 8 and Part 40). If the Chief Executive Officer (or, in the event that the Chief Executive Officer is unavailable, the Chairman) determines that Emergency Rules must be implemented with respect to an Emergency before a meeting of the Board can reasonably be convened, the Chief Executive Officer (or, if applicable, the Chairman) shall have the authority, without Board action, to implement Emergency Rules with respect to such Emergency as he or she deems necessary or appropriate to respond to such Emergency. The Company may take such other action as may be directed by the CFTC in response to an Emergency.

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

- (1) suspending or curtailing trading or limiting trading to liquidation only (in whole or in part);
- (2) extending, limiting or changing expiration dates or Trading Hours for one or more Contracts;
- (3) in coordination with applicable Derivatives Clearing Organizations, ordering the liquidation or transfer of Contracts or the reduction of positions;
- (4) temporarily modifying or suspending any provision of the Rules;
- (5) in coordination with applicable Derivatives Clearing Organizations, requiring additional Margin to be collected from Customers;
- (6) imposing or modifying price limits, position limits or intraday market restrictions;
- (7) in coordination with applicable Derivatives Clearing Organizations, transferring Customer contracts and related Margin and/or altering any Contract's settlement terms or conditions; and/or

(8) providing for the carrying out of any actions under this Rule 913(b) by the Regulatory Services Provider.

(c) The Company will use reasonable efforts to notify the CFTC prior to implementing, modifying or terminating an Emergency Rule. If such prior notification is not practicable, the Company will notify the CFTC as soon as reasonably practicable, but in all circumstances within twenty-four (24) hours of the implementation, modification or termination of such Emergency Rule.

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

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

(f) Upon taking any action in response to an Emergency, the Company shall document the decisions and deliberations related to such action. Such documentation will be maintained for at least five (5) years following the date on which the Emergency ceases to exist or to affect the Company, and all such documentation will be provided to the CFTC upon request.

#### **Rule 914. Indemnification**

The Company will indemnify, defend and hold harmless each Participant from and against Direct Losses to the extent arising out of any claim, action or allegation brought against such Participant under the laws of the United States of America by any third party that the use of the Trading System by such Participant violates the copyright, patent or other intellectual property rights of such third party, provided, however, that such Participant (a) gives prompt written notice to the Company of any such claims, actions or allegations against it, (b) allows the Company to take control of the defense and settlement thereof at the sole expense of the Company and (c) does not agree to any settlement without the prior written consent of the Company. The obligation of the Company to provide the foregoing indemnity will not apply to the extent that (i) any software or hardware supplied to such Participant in respect of the Trading System is modified by persons or entities other than the Company and the alleged violation relates, directly or indirectly, to such modification, (ii) any such software or hardware is combined with other products, processes or materials not supplied or recommended in writing by the Company and such alleged violation would not have arisen but for such combination, (iii) any such software or hardware is modified by the Company in compliance with the directions of such Participant and the alleged violation relates to such modification, (iv) such Participant continues to use such software or hardware after the Company has made available a non-infringing alternative to such Participant or (v) the Direct Losses arise as a result of the fraud or willful misconduct of such Participant or any of its Authorized Traders or any of its Authorized Users or a breach of the terms of the Participant Agreement or the Rules by such Participant, any of its Authorized Traders or its Authorized Users.



## CHAPTER 10. CLEARING

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

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

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

Contracts executed on or through the Trading System that are required to be cleared under Section 2(h) of the CEA or that are voluntarily cleared by the counterparties to such Contract ("Cleared Contracts") shall be cleared through a Derivatives Clearing Organization. The Company shall submit Cleared Contracts entered into on or pursuant to the Rules to a Derivatives Clearing Organization on behalf of the parties to such Cleared Contracts.

### **Rule 1003. Clearing Firm Representation**

Each Participant that is not a Clearing Firm must ensure and, upon request from the Company, provide evidence satisfactory to the Company that a Clearing Firm has, subject to such Clearing Firm's credit limits and/or risk controls, guaranteed to the relevant Derivatives Clearing Organization the transactions in Cleared Contracts executed for the account(s) of the Participant, its Authorized Trader(s) and/or its or their Customer(s), as applicable.

### **Rule 1004. Responsibility of Participants and Authorized Traders**

Participants and Authorized Traders must, if requested, assist their respective Clearing Firms and the relevant Derivatives Clearing Organization in the clearing of its transactions in Cleared Contracts.

### **Rule 1005. Rules of the Derivatives Clearing Organization**

The clearing services provided by the Derivatives Clearing Organization with respect to any Contract, and the rights and obligations of purchasers and sellers under Cleared Contracts (including rights and obligations in respect of clearing and settlement, variation payments and performance at maturity), will be governed by the rules of the Derivatives Clearing Organization.